

Governor vows to help Valley

Schwarzenegger signs order to extend group

By Jake Henshaw, Sacramento Bureau
Visalia Times-Delta, Wednesday, Nov. 29, 2006

SACRAMENTO — Gov. Arnold Schwarzenegger renewed Tuesday a campaign to boost the economy and quality of life in the San Joaquin Valley.

In a ceremony in Fresno, the governor signed an executive order to extend the life of the San Joaquin Valley Partnership until Dec. 31, 2008.

Created in 2005, the 26-member partnership is a joint venture of state and Valley officials to identify major needs of the Valley and to develop a plan to meet them.

"My love for the Valley is just simply because the Valley has been left behind, and I think the Valley deserves better," Schwarzenegger said. "We in the state have a responsibility to help the Valley."

Tulare County Supervisor Connie Conway, who is deputy chairwoman of the partnership, thanked the governor and said his latest executive order moves the partnership's effort into phase two.

"In the original order, it was about the quality of life, it was about economic development," Conway said. "It's so much more. It's about our very being here in the Central Valley."

Sunne Wright McPeak, secretary of the state Business, Transportation and Housing Agency and partnership chairwoman, said the group this week is giving state officials the final version of its Strategic Action Proposal, which lays out its goals for the second phase.

"The plan we are delivering to the governor and transmitting to the Legislature this week says California's 21st Century opportunity is the San Joaquin Valley," McPeak said.

In his remarks, the governor outlined the conditions in the eight-county region of 3.4 million residents that the partnership is trying to overcome. Compared to the state average, the valley's:

- Per capita income is 32 percent lower;
- College attendance is 50 percent lower;
- Violent crime is 24 percent higher;
- Air quality is among the worst in the nation.

The new plan targets such goals as education, health, transportation, clean air and programs to train a diverse, skilled work force.

As an example of the kind of program the partnership wants, nursing students attended the signing ceremony, and Schwarzenegger said the goal is train 250 to 300 more nurses every year to meet Valley needs.

"I believe that there is tremendous potential that the Valley has. It not only is number one [in] agriculture in the world, but we can diversify the economy," said Schwarzenegger, who one official said has visited the Valley more than 30 times as governor.

"We can improve also health care here in the Valley and build a model education system here and secure a cleaner and more sustainable future," he added.

The 2006-07 budget includes \$5 million to support the partnership's work. The new executive order also calls on the group to hold annual summits open to the public to evaluate and adjust its work.

Governor extends valley partnership to '08

Funds not confirmed, but support promised

By JEFF ST. JOHN - THE FRESNO BEE
In the Modesto Bee, Wednesday, Nov. 29, 2006

FRESNO - Gov. Schwarzenegger on Tuesday pledged continued support for a partnership he formed last year to improve the economic vitality and quality of life of the San Joaquin Valley.

Flanked by state and valley leaders and nursing students at Fresno City College, Schwarzenegger signed an executive order extending until 2008 the mandate of the California Partnership for the San Joaquin Valley, which was to expire this year.

"We as a state have the responsibility to help the valley," he said, referring to the partnership's "strategic action plan" for steps to improve the valley's economy, infrastructure and environment. "That is exactly what I am committed to."

The 26-member group of government, nonprofit and private leaders was created by executive order in June 2005 and has spent the past year and a half meeting throughout the eight-county region to collect comments from residents and business and government leaders on the valley's most pressing needs. The partnership's strategic action plan, published this month, used the comments to lay out major goals.

Schwarzenegger reiterated his commitment to several key goals, including the creation of a "model educational system," efforts to diversify the region's economy beyond agriculture, steps to fix valley air and water-quality problems and plans to develop a "cleaner, more sustainable future" for the region.

Prior to the partnership, "The state did not pay enough attention to the valley, and the valley was falling behind," Schwarzenegger said. To back that up, he listed valley statistics that he called "unacceptable" - among them a per-capita income 32 percent lower than the statewide average, college attendance rates at half the statewide average and violent crime 24 percent higher than the statewide average.

"Because we formed this partnership, this area will get much more attention," he said.

The governor's press office pointed to accomplishments engendered by the partnership's members, including the state's plan to spend \$6 billion over the next 10 years to improve Highway 99 and \$5 million to fund an education program at the University of California at Merced.

That program also could serve as a center for a network of valley health care providers, said Sunne Wright McPeak, state secretary of business, transportation and housing. "The San Joaquin Valley is California's 21st-century opportunity," said McPeak, a valley native who stepped down from leading the partnership this month.

She said efforts to improve air and water quality also could play into the development of clean energy as "one of the key economic development strategies for the valley."

Efforts by the partnership also secured \$500,000 in state funding to improve nursing training in the valley, said Victoria Bradshaw, state secretary of labor and work force development.

"We are going to make the San Joaquin Valley a center of nursing education," she said.

New executive named

Also Tuesday, the partnership announced that Ashley Swearengin has been named its lead executive. She is director of the Office of Community and Economic Development at California State University, Fresno, and chief operating officer of the Regional Jobs Initiative, a grass-roots partnership aimed at boosting job growth in the region.

Swearengin's new role is tied to the partnership's recent decision to make CSU Fresno the lead agency to coordinate the work of the partnership's board of directors and 10 work groups centered around various topics.

"We bring expertise in key issues like economic development, K-12 education, water, air quality, health care," Swearengin said after Tuesday's event.

Although Schwarzenegger promised to keep supporting the partnership, his office has not made any firm commitments to future budget requests for the group, which appeared close to losing funding for this budget year until lobbying by valley leaders secured \$5 million for it.

Darrel Ng, Schwarzenegger's chief deputy press secretary, said the governor's budget proposal would be made public in January and that specifics couldn't be addressed until then.

"The governor is committed to continuing the work of the partnership," Ng said.

Fresno Mayor Alan Autry said that without efforts such as those promoted by the partnership, the Central Valley is in danger of becoming "the biggest welfare state within a state that the world has ever seen."

Efforts to increase above-ground water storage and improve air quality need support from the federal government as well as the state, he added.

Tulare County Supervisor Connie Conway, a partnership member, said Tuesday that proof of the state's commitment to the valley would come only with implementation of the partnership's recommendations.

"I look at this as phase two, governor," Conway said. "That's what we hope we're moving to with this new executive order."

Rethinking Antibiotics

By George Lurie

Valley Voice Newspaper, November 29, 2006

Tulare County - While area health officials have long known that poor air quality in the San Joaquin Valley causes nearly one in five children growing up here to develop childhood asthma, area doctors are paying particularly close attention to a recent study linking a significant increase in cases of childhood asthma to babies who are treated with antibiotics during their first year of life.

Researchers at a Canadian university recently looked at eight separate asthma-related studies from around the world involving a total of more than 12,000 children. Their startling findings: children treated with antibiotics during their first year of life were twice as likely to develop childhood asthma.

Dr. Thomas Kim, chief medical officer for the Family Health Care Network, has reviewed the new Canadian study and agrees with its findings.

"Use of antibiotics in the first year of childhood definitely increases the occurrence of childhood asthma," Kim said. Physicians and other medical care providers at Family Health Care Network, Kim added, "are very prudent about how we use antibiotics."

Kim said certain genetic, ethnic and socioeconomic factors can increase a child's likelihood of developing childhood asthma.

"Unfortunately, a high percentage of Hispanic and black children have childhood asthma issues," he said. "Asthma is one of the top chronic childhood diseases we treat at Family Health Care Network."

Childhood asthma in the Valley is quickly reaching epidemic proportions. At over 20 percent, Fresno and Kings counties currently have the highest rates of childhood asthma in the state. (The state average is 13.6 percent.) Tulare County's childhood asthma rate is just under 20 percent.

More than 15 million Americans annually are diagnosed with asthma, including almost 5 million children, almost half under five years of age. Today, childhood asthma is the most common chronic illness in children.

Asthma is a continuing chronic inflammation of the bronchial passageways, which are the tubes that carry air from outside the body to the lungs. Symptoms of asthma include coughing, wheezing, chest tightness and shortness of breath.

In its most severe form, an asthma attack can be fatal.

According to the San Joaquin Valley Health Consortium, asthma is the leading cause of school absenteeism throughout the Valley, accounting for 10 million lost school days, 12 million bed rest days, and 24 million restricted activity days per year.

An estimated 4 million children under 18 years old have had an asthma attack in the past 12 months, according to the American Lung Association. Many other children have "hidden" or undiagnosed asthma.

In light of the recent Canadian study and the fact that Hispanic male children are among the most vulnerable to childhood asthma -- a number of local doctors are reexamining their methods for treating mild to moderate infections in area infants. Many now believe that antibiotic use in infancy may actually hamper the development of a baby's immune response system.

Kim said certain problems, "like significant ear infections," still need to be treated with antibiotics but he believes health care providers need to do more "teaching and talking" to parents about the potential dangers of over use of antibiotics.

"In an emergency room at two o'clock in the morning, when a doctor tells a parent his child has a viral infection and all the child needs is lots of fluids, [the diagnosis] is hard for some parents to accept," said Kim. "Some parents will hop around [from physician to physician] until they get a doctor to prescribe what they think their child needs."

Dr. Jatinder Chopra, a Visalia physician who specializes in treating allergies and pulmonary conditions, had not yet seen the Canadian study but believes the study's startling findings "make sense."

Echoing a warning recently issued by the Center for Disease Control, Chopra says: "There is too much over utilization of antibiotics. Studies have been done that show that kids who get infections during childhood tend to develop helper cells that end up boosting their immunity systems. But a lot of parents are requesting antibiotics for [treatment of] viral infections" Chopra adds, treatments which ultimately decrease the child's ability to develop the helper cells.

"Even the CDC is recommending that we cut down on our use of antibiotics," says Chopra. "Even with adults, the over utilization of antibiotics tend to kill good bacteria, especially in the intestines. And then any infections that they develop in the future, especially in their respiratory tracts, are even more resistant to antibiotics and we have to use stronger and stronger doses."

Stephanie Moen, director of community respiratory services at Tulare District Hospital, said the number of children coming through that facility with asthma and other respiratory problems is "constantly increasing."

"According to a recent study," Moen added, "twenty-three percent of children ages 5-17 in our area have had problems with asthma" which, Moen said, was nearly four times higher than the national average.

Keys to combating asthma attacks, said Moen, include:

Decreasing the amount of dust, chemicals and other allergens around the home;

Avoiding the use of "chemical triggers" like smoke, perfume or scented candles.

"Anything that has a strong scent can trigger asthma," said Moen. "For each person, the trigger is different."

Area hospitals, including Tulare District, are coordinating with air-quality officials to alert Valley schools when air quality is particularly harmful.

"We are working with area schools to make sure that kids do not go outside for PE or recess during bad air-quality days," said Moen.

"Asthma is not curable but it is completely controllable," said Moen. "If patients are on the right medication regimen and, together with their doctor, develop an asthma-action plan, they can often manage their condition quite well."

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Supreme Court to hear greenhouse warming case

By Deborah Zabarenko, Environment Correspondent, Reuters

Published in the Washington Post and NY Times, Wednesday, Nov. 29, 2006

WASHINGTON (Reuters) - Greenhouse gases that spur global warming are on the docket at the Supreme Court on Wednesday in a case that pits environmental groups against the U.S. agency meant to shield Americans from pollution.

The case, known as Massachusetts v. EPA, was brought by a dozen states and 13 environmental organizations against the Environmental Protection Agency. The plaintiffs argue that the greenhouse gas emissions from cars, trucks and factories should be regulated by the U.S. government.

The EPA, along with 10 states, four motor vehicle trade associations and two coalitions of utility companies and other industries, maintain the agency lacks the authority to limit emissions of greenhouse gases such as carbon dioxide.

Both sides were scheduled to make oral arguments before the high court on Wednesday morning. A ruling is expected by mid-2007.

At the heart of the case is a dispute over whether greenhouse gases fit the federal Clean Air Act's definition of a pollutant. The plaintiffs argue that if they do, the EPA then has the power to regulate them.

Emissions have risen steeply over the past century and many scientists see a connection between this rise and an increase in global average temperatures and a related increase in extreme weather, wildfires, melting glaciers and other damage to the environment.

This case is not a debate about whether these emissions are linked to global warming. The Bush administration, and in fact President George W. Bush himself, have acknowledged this link, and Bush told a summit of industrialized nations this year that human activities play a role in world climate change.

At issue is whether the U.S. government has the power to cap these emissions. Industry groups argue that it doesn't, and that carbon dioxide is a naturally occurring gas that does not fit the U.S. Clean Air Act's definition of a pollutant.

The Bush administration has consistently rejected capping greenhouse gas emissions as bad for business and U.S. workers.

High court dips its toe into global warming

Landmark case may put heat on California

By Michael Gardner, UNION-TRIBUNE COPLEY NEWS SERVICE
and Bruce Lieberman, STAFF WRITER

San Diego Union-Tribune, Wednesday, Nov. 29, 2006

SACRAMENTO - The U.S. Supreme Court will hear arguments today in a landmark case that could complicate California's campaign to slow global warming by dramatically curbing greenhouse gas emissions.

Depending on the court's decision and its reach, the ruling could hand automakers powerful ammunition in their legal challenge to California's 2002 law that requires a reduction in emissions starting with the 2009 model year.

In turn, that could push California to pressure industries such as refineries and utilities to cut pollution faster than what's being called for in separate legislation signed into law this year.

The Supreme Court case also is expected to spur the incoming, Democratic-controlled Congress to pass legislation that would force polluters to cut greenhouse gases.

"If the Supreme Court case goes well, it will make Congress and other states recognize that what California is doing is clearly the wave of the future," said Dan Kamman, an energy policy expert at the University of California Berkeley. "If the Supreme Court goes badly, it will give the auto industry another excuse to go slow, which is exactly what we don't need."

California is part of a coalition of 12 states and environmental groups imploring the court to tell the Bush administration that its Environmental Protection Agency has the authority and responsibility to regulate greenhouse gases emitted by new cars.

The EPA has balked for years, saying the Clean Air Act does not allow it to step in. The hands-off policy has pushed a growing number of states, including California, to develop initiatives to regulate carbon dioxide and other greenhouse gases.

The EPA's approach has frustrated environmentalists and the majority of climate scientists, who say rising levels of greenhouse gases are the driving force behind global warming. "Increases in greenhouse gases will almost certainly affect global climate and pose risks to human societies," a group of climate scientists, including UC San Diego researcher Mario Molina, wrote in a brief to the Supreme Court.

"Earth's climate is changing in ways that risk significant adverse impacts on public welfare," the brief states.

Climate shifts caused by continued warming could raise sea levels and endanger coastal properties, squeeze supplies of fresh water, intensify droughts and heat waves, create tinderboxes in forests and reduce crop yields, most researchers agree.

Petitioners in the case want the EPA to set national regulations that limit the release of four greenhouse gases from new vehicles: carbon dioxide, methane, nitrous oxide and hydrofluorocarbons. They argue that the Clean Air Act enables the agency to regulate the gases and requires it to take steps to reduce air pollutants that "may reasonably be anticipated to endanger public health and welfare."

The Bush administration contends that it does not have the power to regulate greenhouse gases, and that even if it did, it would not exercise it. The government says carbon dioxide and other greenhouse gases are not "air pollutants" as the Clean Air Act defines them.

The government also argues that the court should dismiss the case because the petitioners do not have standing to sue. In other words, they cannot show that greenhouse gases emitted by vehicles in the United States - and not other sources worldwide - are responsible for the potential "injuries" caused by global warming.

David Doniger, who oversees climate policies for the Natural Resources Defense Council, said the administration was picking and choosing where it wanted to have domain.

"In other cases, it acts like Superman. Here, it acts like the 97-pound weakling," Doniger said.

Carbon-dioxide emissions from motor vehicles in the United States account for 6 percent to 7 percent of worldwide emissions of greenhouse gases, so reducing the gases that come out of tailpipes would matter, said David Bookbinder, a senior attorney for the Sierra Club, which is a plaintiff in the case. The proportion is much higher in California, petitioners have said.

In the absence of federal actions to set emissions standards for greenhouse gases, California has taken the lead among the states.

Gov. Arnold Schwarzenegger and state lawmakers have embarked on a campaign to roll back greenhouse gas emissions to 1990 levels, a 25 percent reduction by 2020.

In a national TV interview Sunday, Schwarzenegger reiterated his commitment to addressing global warming. The governor was sharply critical of Sen. Jim Inhofe, R-Okla., who helped scuttle efforts to regulate greenhouse gases.

"There's always, in history, been people that are back with their thinking in the Stone Age. . . . The science is in. We know the facts," Schwarzenegger said.

The governor's course relies on the full implementation of California's auto-emissions law, which was signed by then-Gov. Gray Davis in 2002. Automakers are challenging that legislation in a separate lawsuit.

If California cannot win the auto-emissions case, it might have to clamp down harder or faster on stationary sources of air pollution, said Linda Adams, secretary of the state's Environmental Protection Agency.

But first, she said, the state does have other pollution-reducing measures aimed at vehicles. For example, it could step up its campaign for alternative fuels, such as ethanol and biodiesel, to reduce carbon dioxide emissions.

Outgoing Assemblywoman Fran Pavley, D-Agoura Hills, said she had no intention of punishing other industries if automakers escape tougher regulations. She wrote the 2002 auto-emissions law.

"We carefully put into (the bill) flexible compliance strategies. (Automakers) will still have to do their fair share," Pavley said.

Frank O'Donnell, president of Clean Air Watch in Washington, said he expected the upcoming session of Congress to address regulation of greenhouse gases regardless of how the Supreme Court rules.

"It's a go signal," O'Donnell said.

State Attorney General Bill Lockyer said the stage was set for national regulations even if President Bush blocked Congress from acting over the next two years.

"It would clear the deck so the next president can be more proactive," Lockyer said.

However, a Supreme Court victory for the petitioners could make congressional action less necessary. It would be likely to sap the strength of the automakers' lawsuit against California and boost the momentum for other states to toughen their own emission standards for vehicles.

"If they rule for us, the car companies' case will be gravely wounded and will probably collapse," Doniger said.

The Alliance of Automobile Manufacturers said its court challenge centered on what it viewed as California's end-run bid to impose fuel economy standards - the purview of the federal government.

The industry supports efforts to encourage cleaner alternative fuels rather than changing engine systems, said Gloria Bergquist, a spokeswoman for the alliance.

"Then we can continue to give consumers the vehicles they want and continue to address the need for alternative fuels and clean the air," she said.

The automakers' case is scheduled to be heard in January in federal court in Fresno.

A ruling in the broader U.S. Supreme Court case is not anticipated until spring, at the earliest.

"This could very well be a turning point for how we deal with climate change," said Joe Mendelson, legal director for the International Center for Technological Assessment, one of the petitioners.

"We certainly look forward to the time when mandatory reductions in greenhouse gases will become the law of the land, because we can't wait any longer," he said.

S.D. council bans supercenter-size stores

By Craig Gustafson, STAFF WRITER

The San Diego Union-Tribune, Wednesday, Nov. 29, 2006

San Diego vs. Wal-Mart.

In a move that pits the city squarely against the nation's largest retailer, San Diego yesterday joined a growing list of cities nationwide to place restrictions on large retail developments.

The City Council voted 5-3 to ban stores with more than 90,000 square feet that use 10 percent of their space to sell groceries and other merchandise not subject to sales tax.

The council also agreed to place additional scrutiny on stores with more than 50,000 square feet.

The ban targets Wal-Mart Supercenters, which have been lauded nationwide for low prices and one-stop shopping but also criticized for destroying small businesses and creating traffic congestion.

The ban excludes membership stores, such as Costco and Sam's Club, which sell grocery items in bulk.

Mayor Jerry Sanders plans to veto the council's decision, preferring regulation of large retail stores case by case.

"Consumers should have choices," he said. "I don't believe that the role of local government is to control choices by banning where people are allowed to shop. We shouldn't act to outlaw an entire class of businesses."

The mayor's veto would be largely symbolic because the council can override it with the five votes used to approve the ban. The council would hold a hearing to consider the veto.

However, in response to Sanders' position, the council unanimously approved his proposal to strengthen design and landscape standards for those large retail stores that will still be allowed.

Councilwoman Toni Atkins, who supported the ban, emphasized that the city has nothing against Wal-Mart but wanted to limit how its stores affected neighborhoods and small businesses.

"This policy is not going to affect negatively people's ability to choose where they want to shop. If they want to shop at Wal-Mart, please do," Atkins said.

Council President Scott Peters and council members Donna Frye, Ben Hueso and Tony Young also supported the ban. Hueso said the city needed it so Wal-Mart couldn't skirt the mayor's proposal by expanding on a current site.

Councilman Jim Madaffer, who opposed the ban, said the city has no business limiting competition. He also said he worried about the city opening itself up to litigation. Wal-Mart has sued other jurisdictions over land-use restrictions.

"I just don't see what makes us think that we can limit competition and how that can be good for the economy," Madaffer said. "It's not fair. It's not just."

Joining him were Councilmen Kevin Faulconer and Brian Maienschein.

Although the council is nonpartisan, the vote was along party lines. Those supporting the ban are Democrats; those opposed are Republicans. Sanders also is a Republican.

A group of labor leaders and grocers proposed the ban three years ago, while pro-business organizations, including the San Diego Regional Chamber of Commerce, fought it.

Kevin McCall, a Wal-Mart spokesman, said each Supercenter would potentially create 350 jobs and sell groceries at prices up to 20 percent below what traditional supermarkets offer.

"Why would this council turn away a company that is seeking to bring full-service grocery stores to communities with limited shopping options?" he asked.

Sanders said the ban sends the wrong message about the city. "We would in essence be telling retailers that we don't want you here, that San Diego doesn't have a business-friendly environment."

This was the second public hearing in three months on whether to place restrictions on those retailers, and many of the same issues have been raised repeatedly.

Art Castanares, who served as Hueso's election campaign manager, has long advocated for the ban.

"The issues haven't changed. It's still about visual blight of the large unattractive boxes," he said. "It's still about the lack of landscaping and open space and acres of parking and the devastation of the local economy when you build these huge stores."

Former City Councilwoman Valerie Stallings said she reluctantly supported the construction of a Wal-Mart in Serra Mesa while in office because she was convinced it would not hurt local businesses. After watching a number of businesses fold in Wal-Mart's wake, she said that she made the wrong decision.

"It's true that the big boxes may be less expensive and they do offer affordable prices to many families, but they do not provide the kind of friendly and individual service that a smaller business can," she said.

Beijing '08 Progress on Track but Pollution a Worry: IOC

By REUTERS

In the N.Y. Times, Wednesday, Nov. 29, 2006

KUWAIT CITY (Reuters) - Preparations for the Beijing 2008 Olympics are well on schedule but pollution is still a concern, the International Olympic Committee said on Wednesday.

Following a report by the Beijing Games organizers and the IOC chief inspector Hein Verbruggen, the IOC said work was still needed to improve air quality in the Chinese capital.

"Yes it is a specific concern," IOC Olympic Games Executive Director Gilbert Felli said, citing recent complaints by athletes who competed in Beijing, and other officials.

"The important thing for us is to understand exactly what it is...and to understand what it will be at the time of the Games," he said.

Earlier Verbruggen told reporters environmental pollution was an issue that needed to be addressed.

"Environment is certainly an issue but they (Chinese organizers) are looking into it," said Verbruggen. "A lot of things are being done. We still remain confident."

He said the sheer size of the country and the rapid economic growth was adding to the problem.

Verbruggen added Beijing had committed itself to more than 350 steps to improve the environment, backed by a budget of \$12.3 billion, and so far was working on every single one of them.

"There were 350 commitments made and we cannot find one they do not live up to," he said.

In their progress report to the IOC Executive Board in Kuwait, Beijing Games organizers said they had specific measures which will come into force in order to improve air quality ahead of the Olympics.

They said thousands of taxis and buses with "excessive emissions" would be replaced and the large Shougang steel plant in Beijing would cut steel and coke production by 50 percent by 2007.

"They (Chinese organizers) also talked about relocation and renovation of polluting industries and a plan for an intensified air quality at Games time and that is what they are studying with the University," said IOC Director of Communications Giselle Davies.

[S.F. Chronicle commentary, Wednesday, Nov. 29, 2006:](#)

OPEN FORUM

Why we sue over soot

By Terry Tamminen

Let us say Bob's BBQ opens next to your home. Bob refuses to do anything to stop the greasy soot and the smell of burning ribs that pour into your windows each night, because he has permits and operates lawfully. Technically he may be right, but if you take him to court there's a good chance he will be found guilty of creating a nuisance and ordered to direct his chimney smoke away from your windows so you can resume the normal use and enjoyment of your home. If Bob's smoke was affecting your property value and health, your case would be even stronger.

That's why the state of California is suing auto manufacturers on behalf of the public, seeking compensation for global warming pollution that is known to aggravate heat waves, wildfires and coastal flooding. Whether it is BBQ soot or tailpipe emissions, federal law guarantees the opportunity to seek redress against public nuisances -- acts or circumstances that interfere with our right to use or enjoy our surroundings or community.

Take, for example, that in February 2006, a jury in Rhode Island, decided that three paint companies were guilty of creating a "public nuisance" because of lead in their products that, although sold when lead paint was legal, continued to poison the state's children.

In North Carolina, the state's attorney general sued 11 power plants in early 2006 for creating a "public nuisance" that causes respiratory illness, kills trees and fouls waterways. He asked the court to mandate pollution control-devices on the coal-fired plants. Sounds a lot like Bob's BBQ, eh?

When California Attorney General Bill Lockyer sued automakers this September for contributing to global warming, he followed a well-worn path that leads to fairer and more equitable use of our commonwealth, in this case, our state treasury. His suit seeks to compensate taxpayers for some of the costs of dealing with climate change and comes only after trying other means to abate the threat posed by vehicle emissions.

California has long recognized the threats posed by global warming, which range from sea-level rise to deadly heat waves. Last year, researchers from the Scripps Institution of Oceanography at the University of California-San Diego identified climate change as a leading driver of larger wildfires.

In 2002, California enacted legislation that would require a reduction in greenhouse-gas emissions from cars sold in the state. But automakers have sued in court to overturn that law, wanting instead to continue an ongoing nuisance that interferes with the public's ability to use and enjoy its surroundings and community.

The law is like a polite request to Bob to clean up his BBQ. If Bob decided to ignore that request, you might turn to the courts. In the case of California, the state is arguably obliged to use the courts to terminate the nuisance created by the automakers who refuse to address pollution.

Some have questioned Lockyer's motives, but that was to be expected. Mississippi Attorney General Mike Moore was also skewered when he brought the first case against tobacco companies for the harms they inflicted on the public and the state treasury. After hundreds of billions of dollars in settlements with every state in the union, no one doubts Moore's tactics now.

The comparison of tobacco and auto companies is fitting, because the toxins that emanate from your tailpipe are remarkably similar to tobacco smoke. In effect, this makes all of us victims of secondhand smoke and causes tens of thousands of illnesses and deaths each year akin to those common in smokers.

Moreover, automakers have taken a page from the tobacco company playbook, lying to the public and government regulators for decades about the dangers of their products, and the cleaner and safer models that they could have introduced to the marketplace long ago.

California and 11 other states have convinced the U.S. Supreme Court to look into whether the federal government must regulate the amount of greenhouse gases that comes from vehicles. Hearings before the court begin today.

And as other states calculate the true cost of our oil addiction and discover the billions of taxpayer dollars that go up in smoke for health care, pollution cleanup and responding to climate change, their attorneys general may follow California's lead and tackle the problem in the same way. That is, of course, unless Bob comes to his senses and fixes the BBQ joint before the jury makes him do it.

Terry Tamminen, who served in the Schwarzenegger administration first as secretary of the California Environmental Protection Agency and then as the Cabinet secretary, is the author of "Lives Per Gallon: The True Cost of Our Oil Addiction" (Island Press, 2006).

[N.Y. Times commentary, Wednesday, Nov. 29, 2006:](#)

The End of Ingenuity

By THOMAS HOMER-DIXON

MAYBE Malthus was on to something, after all.

First, some background: Twenty-six years ago, in one of the most famous wagers in the history of science, Paul Ehrlich, John Harte and John P. Holdren bet Julian Simon that the prices of five key metals would rise in the next decade. Mr. Ehrlich and his colleagues, all environmental scientists, believed that humankind's growing population and appetite for natural resources would eventually drive the metals' costs up. Simon, a professor of business administration, thought that human innovation would drive costs down.

Ten years later, Mr. Ehrlich and his colleagues sent Simon a check for \$576.07 - an amount representing the decline in the metals' prices after accounting for inflation. To many, the bet's outcome refuted Malthusian arguments that human population growth and resource consumption - and economic growth more generally - would run headlong into the limits of a finite planet. Human inventiveness, stimulated by modern markets, would always trump scarcity.

Indeed, the 1990s seemed to confirm this wisdom. Energy and commodity prices collapsed; ideas (not physical capital or material resources) were the new source of wealth, and local air and water got cleaner - at least in rich countries.

But today, it seems, Mr. Ehrlich and his colleagues may have the last (grim) laugh. The debate about limits to growth is coming back with a vengeance. The world's supply of cheap energy is tightening, and humankind's enormous output of greenhouse gases is disrupting the earth's climate. Together, these two constraints could eventually hobble global economic growth and cap the size of the global economy.

The most important resource to consider in this situation is energy, because it is our economy's "master resource" - the one ingredient essential for every economic activity. Sure, the price of a barrel of oil has

dropped sharply from its peak of \$78 last summer, but that's probably just a fluctuation in a longer upward trend in the cost of oil - and of energy more generally. In any case, the day-to-day price of oil isn't a particularly good indicator of changes in energy's underlying cost, because it's influenced by everything from Middle East politics to fears of hurricanes.

A better measure of the cost of oil, or any energy source, is the amount of energy required to produce it. Just as we evaluate a financial investment by comparing the size of the return with the size of the original expenditure, we can evaluate any project that generates energy by dividing the amount of energy the project produces by the amount it consumes.

Economists and physicists call this quantity the "energy return on investment" or E.R.O.I. For a modern coal mine, for instance, we divide the useful energy in the coal that the mine produces by the total of all the energy needed to dig the coal from the ground and prepare it for burning - including the energy in the diesel fuel that powers the jackhammers, shovels and off-road dump trucks, the energy in the electricity that runs the machines that crush and sort the coal, as well as all the energy needed to build and maintain these machines.

As the average E.R.O.I. of an economy's energy sources drops toward 1 to 1, an ever-larger fraction of the economy's wealth must go to finding and producing energy. This means less wealth is left over for everything else that needs to be done, from building houses to moving around information to educating children. The energy return on investment for conventional oil, which provides about 40 percent of the world's commercial energy and more than 95 percent of America's transportation energy, has been falling for decades. The trend is most advanced in United States production, where petroleum resources have been exploited the longest and drillers have been forced to look for ever-smaller and ever-deeper pools of oil.

Cutler Cleveland, an energy scientist at Boston University who helped develop the concept of E.R.O.I. two decades ago, calculates that from the early 1970s to today the return on investment of oil and natural gas extraction in the United States fell from about 25 to 1 to about 15 to 1.

This basic trend can be seen around the globe with many energy sources. We've most likely already found and tapped the biggest, most accessible and highest-E.R.O.I. oil and gas fields, just as we've already exploited the best rivers for hydropower. Now, as we're extracting new oil and gas in more extreme environments - in deep water far offshore, for example - and as we're turning to energy alternatives like nuclear power and converting tar sands to gasoline, we're spending steadily more energy to get energy.

For example, the tar sands of Alberta, likely to be a prime energy source for the United States in the future, have an E.R.O.I. of around 4 to 1, because a huge amount of energy (mainly from natural gas) is needed to convert the sands' raw bitumen into useable oil.

Having to search farther and longer for our resources isn't the only new hurdle we face. Climate change could also constrain growth. A steady stream of evidence now indicates that the planet is warming quickly and that the economic impact on agriculture, our built environment, ecosystems and human health could, in time, be very large. For instance, a report prepared for the British government by Sir Nicholas Stern, a former chief economist of the World Bank, calculated that without restraints on greenhouse gas emissions, by 2100 the annual worldwide costs of damage from climate change could reach 20 percent of global economic output.

Humankind's energy and climate problems are intimately connected. Petroleum's falling energy return on investment will encourage many economies to burn more coal (which in many parts of the world still has a relatively good E.R.O.I.), but coal emits far more greenhouse-inducing carbon dioxide for every unit of useful energy obtained than other energy sources. Also, many potential solutions to climate change - like moving water to newly arid regions or building dikes and relocating communities along vulnerable coastlines - will require huge amounts of energy.

Without a doubt, mankind can find ways to push back these constraints on global growth with market-driven innovation on energy supply, efficient use of energy and pollution cleanup. But we probably can't push them back indefinitely, because our species' capacity to innovate, and to deliver the fruits of that innovation when and where they're needed, isn't infinite.

Sometimes even the best scientific minds can't crack a technical problem quickly (take, for instance, the painfully slow evolution of battery technology in recent decades), sometimes market prices give entrepreneurs poor price signals (gasoline today is still far too cheap to encourage quick innovation in fuel-efficient vehicles) and, most important, sometimes there just isn't the political will to back the institutional and technological changes needed.

We can see glaring examples of such failures of innovation even in the United States - home to the world's most dynamic economy. Despite decades of increasingly dire warnings about the risks of dependence on foreign energy, the country now imports two-thirds of its oil; and during the last 20 years, despite increasingly clear scientific evidence regarding the dangers of climate change, the country's output of carbon dioxide has increased by a fifth.

As the price of energy rises and as the planet gets hotter, we need significantly higher investment in innovation throughout society, from governments and corporations to universities. Perhaps the most urgent step, if humankind is going to return to coal as its major energy source, is to figure out ways of safely disposing of coal's harmful carbon dioxide - probably underground.

But in the larger sense, we really need to start thinking hard about how our societies - especially those that are already very rich - can maintain their social and political stability, and satisfy the aspirations of their citizens, when we can no longer count on endless economic growth.

Thomas Homer-Dixon, director of the Trudeau Center for Peace and Conflict Studies at the University of Toronto, is the author of "The Upside of Down: Catastrophe, Creativity and the Renewal of Civilization."

[Fresno Bee editorial, Wednesday, Nov. 29, 2006:](#)

Supremes take the heat

Nation's High Court is to decide if EPA must regulate CO₂.

California's trailblazing effort to reduce gases that cause global warming now sits at the doorstep of the U.S. Supreme Court.

The court is scheduled today to hear oral arguments on whether the federal government - and in turn, individual states - have the legal authority under the Clean Air Act to regulate carbon dioxide and other greenhouse gases spewed by automobiles. A decision is expected by next summer.

The stakes are high. Evidence continues to mount that Earth is warming and that greenhouse emissions from vehicles are a prime contributor. Because President Bush refuses to lead a global effort to combat this warming, a dozen states have passed their own laws regulating greenhouse gases.

California has led this fight and for good reason: Its water supply and public safety are directly threatened. With increased global warming, more of our winter precipitation would fall as rain instead of snow, increasing the chance of flooding and diminishing summer water supplies.

Four years ago, state lawmakers passed legislation that led to rules limiting greenhouse gases from new vehicles sold in California starting in 2009. In 2003, California also joined Massachusetts and 10 other states in suing the U.S. Environmental Protection Agency, claiming it had shirked its authority and responsibility to regulate greenhouse gases under the Clean Air Act.

The states argue that under that landmark 1970 law, a pollutant is defined as "any physical, chemical [or] biological ... substance or matter which is emitted ... into the ambient air." Carbon dioxide and other greenhouse gases meet this definition.

Lawyers for the Bush administration's EPA take a more narrow view. They say the Clean Air Act was intended to regulate pollutants that are directly dangerous to breathe, such as ozone. The EPA also claims it has broad discretion to forgo regulation.

Court watchers doubt the Supreme Court will rule completely in the favor of the states. That would involve ordering the EPA to expand its regulatory jurisdiction.

There's the possibility that the court will split the difference, ruling that the EPA has the authority to regulate greenhouse gases but also the latitude not to act immediately. That would leave California to pursue its own law on automobile emissions.

Global warming threatens our health. Motor vehicles and power plants generate two-thirds of the nation's emissions, and the EPA has refused to regulate both of those sectors. Until it does, it will be up to the states - and the courts - to protect the public interest.

[Letter to the Fresno Bee, Wednesday, Nov. 29, 2006:](#)

Solar the way to go

I think it's a very bad idea to put a nuclear power plant in Fresno. The serious problems far outweigh the benefits.

I built a 2,600-square-foot home with a solar energy system last year. The system cost me \$19,000 (after a \$9,000 rebate).

My electric bills are half those of my next-door neighbor, whose house is smaller than mine (2,200 square feet). This neighbor works for the utility so he gets a discount.

This is the Valley! Solar is undoubtedly the way to go. Of course, the big energy companies don't like solar because they can't charge us for it.

Solar is a win-win-win situation: We reduce fossil fuel dependence, improve the environment and save money. Nuclear energy plants have the potential to have nuclear accidents. Why should we put ourselves in harm's way, when we have other options?

Donald Ajluni, Visalia