

San Joaquin Valley Air Pollution Control District approves commute plan

By the Associated Press

In the Lodi News Sentintel, Fri., December 18, 2009

Businesses across the San Joaquin Valley will soon have to follow new rules to help their employees cut down on their daily commute.

As regulators try to improve air quality in the valley — where the most polluted air in the nation is often reported — the board of the San Joaquin Valley Air Pollution Control District approved a plan Thursday requiring companies to reduce the number of miles employees have to drive.

Options include posting a ride-share bulletin board, installing a lunchroom and even selling stamps on site.

Only companies with more than 100 employees will have to adopt the programs, which will be phased in over three years.

The air district covers eight counties including San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and a portion of Kern.

Farming town demands answers on birth defects

By Noaki Schwartz, Associated Press

In the Contra Costa Times & Tri-Valley Herald and other papers, Tues., Dec. 22, 2009

KETTLEMAN CITY, Calif.—Maricela Mares-Alatorre was well aware of the industrial and agricultural pollutants that surrounded her as she grew up in this tiny farm town just three miles from the largest toxic waste dump in the West.

Her parents had founded People for Clean Air and Water two decades ago to successfully fight a proposed incinerator at the dump. It was an early but defining struggle for the environmental justice movement.

Years later, with infant deaths and birth defects mounting in this Spanish speaking community, Mares-Alatorre worried that those same poisons would damage her unborn baby.

Now she and other activists will take the battle to the Kings County Board of Supervisors Tuesday, urging a rejection of the proposed expansion of Chemical Waste Management Inc.'s 1,600 acre facility. In addition to recent infant deaths and birth defects, they point to the high asthma and cancer rates in this largely Latino town of 1,500 people.

Of 20 children known born here between September 2007 to November 2008, five had a cleft in their palate or lips, according to a health survey by community activists. "That just raises a red flag," said Mares-Alatorre.

Owners of the waste facility have offered to fund a health study, but they say there's no evidence linking the dump to the maladies. Other potential culprits are pesticides sprayed on nearby fields, discolored drinking water and exhaust from Interstate 5, the West Coast's major north-south highway, that borders the town.

Mares-Alatorre, 37, had a healthy baby girl but one of her relatives wasn't as fortunate.

"A month before my child was born I was told he was going to have problems—he was going to be born with cleft palate, some deformity in his nose and part of his brain missing," said Maura Andrade-Alatorre, 25.

Andrade-Alatorre's son was born with severe birth defects. He survived but three infants born with similar problems have since died. Clefts of the lip or palate routinely occur in fewer than 1-in-800 births in California, according to state health statistics.

Activists say the birth defects bolster their argument that the facility should not be allowed to grow pending an investigation. The Board of Supervisors recently directed the county health

department to ask the state to oversee that study, but any results will not be known prior to Tuesday's board vote on the expansion.

Chemical Waste's proposed growth has been slowly moving through a permitting process that involves local, state and federal regulators. Activists say they are prepared to sue if the supervisors approve the project.

For their part, Chemical Waste officials say they support a health probe but not a delay in the approval process. The company says it's been working to be more open and engaged with the community, trying to get a medical clinic in town and pledging \$500,000 so the water district can provide cleaner water.

"The hard part is there's a legacy of bad feelings, there's a high degree of complexity," said Chemical Waste spokeswoman Katherine Cole.

Years of public battles have hardened activists who have accused the company and public agencies of holding meetings at inconvenient times and places too far away and refusing to translate documents into Spanish.

Kings County Supervisor Richard Valle said the recent vote asking the state to investigate "shows the county is listening."

Chemical Waste is the county's biggest business, contributing as much as \$3 million a year to the county's general fund. Kettleman City community leaders complain that little of the money comes back to town.

Streets lack sidewalks and stop signs. Dogs roam freely. Water is often murky when it flows from the tap, forcing many to rely on bottled water. The air can be hard to breathe because of dust and pesticides. Residents say their clothes reek of chemicals after being outside.

About 400 truckloads of waste are hauled per day to the dump. In 2007, the last year for which complete statistics are available, that meant more than 3 million pounds of lead compounds, nearly 2 million pounds of asbestos and more than 118,000 pounds of arsenic, according to the Environmental Protection Agency. It's the state's only facility that accepts cancer-causing PCBs.

Most of the waste comes from California, with smaller amounts from other states and even Mexico.

One example of what is buried here is part of 2,000 tons of battery waste hauled from an American-owned recycling plant in Mexico. For years, piles of the rusted batteries had leaked toxins in Mexico.

Residents rose up to complain of children born with lead poisoning and, even, missing brains because of waste plant pollution there. Eventually the Mexican government and the EPA stepped in and paid to have some of the waste sent back to the U.S. where part of it was buried in Kettleman.

While Chemical Waste officials say the battery waste was carefully disposed of—California's hazardous waste regulations are the nation's most stringent—the irony of it going from one struggling Spanish-speaking community rife with birth defects to another was not lost on activists.

Andrade-Alatorre is raising her son, Emmanuel, 2, who is doing better than predicted. He is a slight boy whose upper lip is marked with a puckered scar. He has started to walk but struggles to control the right side of his body and falls a lot.

"It's really hard when you have a son that's born with problems," she said, adding she still considers the family lucky. "Thank God that my son is better now and my family sees him and they don't say anything about him."

Calif. county considers toxic waste dump expansion

By Noaki Schwartz, Associated Press

In the Modesto Bee and Merced Sun-Star, Mon., Dec., 21, 2009

LOS ANGELES -- Officials overseeing a tiny farming community in central California are expected to make a decision Tuesday on the proposed expansion of the largest toxic waste dump in the West amid growing concerns about a spike in the town's number of birth defects.

Chemical Waste Management Inc. wants to increase the size of its 1,600-acre facility near Kettleman City, a town of 1,500 about three hours north of Los Angeles in the San Joaquin Valley. The proposal is slowly moving through a permitting process that includes local, state and federal regulators.

It faces a Tuesday vote by the Kings County Board of Supervisors. Community members have been urging the board to reject the proposal after discovering an alarming increase in birth defects and infant deaths.

Of 20 children known born in Kettleman City between September 2007 and November 2008, five had a cleft in their palate or lips, according to a health survey by activists. Three of those children have since died. Statewide, clefts of the lip or palate routinely occur in fewer than one in 800 births, according to California health statistics.

Besides these health problems, activists point to the high asthma and cancer rates in this largely Spanish-speaking farming community.

"Why in a town of 1,500 were five babies born with clefts? It's totally unacceptable," said Maricela Mares-Alatorre, 37, who heads People for Clean Air and Water. "Who's responsible? What's happening?"

The dump's owners support a health study and have even offered to pay for one, but say there's no evidence linking the facility to the birth defects. Other potential culprits are pesticides sprayed on nearby fields, discolored drinking water and exhaust from Interstate 5, the West Coast's major north-south highway, which borders the town.

After years of fighting Chemical Waste, activists have become distrustful. They have accused the company and public agencies of holding meetings at inconvenient times and places and refusing to translate documents into Spanish.

They have also threatened to sue if the supervisors approve the project.

Chemical Waste is Kings County's biggest business, contributing as much as \$3 million a year to the county's general fund. Kettleman City community leaders complain that little of the money comes back to the town, which has no sidewalks or stop signs.

About 400 truckloads of waste are hauled to the dump each day. In 2007, the last year for which complete statistics are available, that meant more than 3 million pounds of lead compounds, nearly 2 million pounds of asbestos and more than 118,000 pounds of arsenic, according to the Environmental Protection Agency. It's the state's only facility that accepts cancer-causing PCBs.

Most of the waste comes from California, with smaller amounts from other states and even Mexico.

NM energy project spokesman reacts to fed decision

The Associated Press

In the Contra Costa Times & Tri-Valley Herald, Tues., Dec. 22, 2009

ALBUQUERQUE, N.M.—A spokesman for the planners of a northwestern New Mexico power plant says he's disappointed that the Bureau of Indian Affairs has withdrawn a biological assessment for the Desert Rock Energy Project proposed on Navajo Nation land.

"It is a huge disappointment to see outside environmental groups and the governor rejoice at keeping the Navajo Nation from pursuing economic opportunities, tax revenue and a better way of life," Frank Maisano said.

Gov. Bill Richardson had called the decision positive for air and water quality.

The BIA last week withdrew the assessment over "significant concerns" about the impact of mercury and selenium on two endangered fish species in the San Juan River.

BIA Director Jerry Gidner said the decision allows more time for coordination among federal agencies.

Report: New Mexico's Greenhouse Gas Emissions Up

By the Associated Press

In the N.Y. Times and other papers, Tues., Dec. 22, 2009

ALBUQUERQUE, N.M. (AP) -- An inventory of New Mexico's greenhouse gas production shows residents have reduced their average emissions from gasoline use over a seven-year period, but they're consuming more energy to heat, cool and power their homes.

Despite efforts by Gov. Bill Richardson's administration to address climate change and lower greenhouse gas emissions, a draft inventory prepared by the state Environment Department shows New Mexico's total direct emissions increased by about 4 percent between 2000 and 2007 to 80 million metric tons.

Richardson has signed several executive orders aimed at curbing the pollution blamed for global warming. He has appointed advisory groups to come up with recommendations and mandated that state government become more energy efficient.

However, environmentalists say the inventory is evidence that the state needs to do more to regulate emission sources.

"We should be concerned because the governor has stated his goal of reducing greenhouse gas emissions, and if we're increasing emissions, we're not on the right track. Pure and simple," said Jeremy Nichols, the climate and energy program director for environmental group WildEarth Guardians.

Despite the increase, state officials argued Monday that the inventory shows the policies the administration began implementing in 2005 are beginning to have an impact.

Between 1990 and 2000, greenhouse gas emissions jumped more than 20 percent -- more than five times the increase seen over the last seven years, said Jim Norton, director of the Environment Department's Environmental Protection Division.

"The goal here is to slow, stop and reverse the growth of greenhouse gas emissions. We haven't stopped the growth yet but we're certainly on that path," Norton said. "We're about to reach that cusp that we've all been waiting for where we hit the peak and we start to move back down."

State officials expect the reduction in greenhouse gas emissions to be even more significant in the next few years thanks to New Mexico's renewable energy portfolio standard, which requires utilities to produce a certain percentage of electricity from renewable sources, and more stringent emission standards for cars and trucks beginning with the 2011 model year.

Richardson also has proposed developing recommendations for reducing emissions from existing coal-fired power plants and establishing an emission performance standard for new fossil-fueled generating facilities.

According to the inventory, the largest source of greenhouse gas emissions is electricity production at 39 percent. About 90 percent of these emissions come from coal-fired power plants, but the state says emissions per megawatt-hour of electricity produced have decreased by almost 7.5 percent since 2000 due to increases in energy from by wind, solar and natural gas.

The inventory also shows New Mexico's population grew 6.7 percent from 2000 to 2007 but gasoline emissions dropped 2.5 percent. Officials say higher gas prices, more public transportation and newer, more efficient vehicles could have played a role.

Still, people are using more electricity at home. Officials say that may be due to greater use of air conditioning, electric heat and appliances.

Nichols said the challenge for New Mexico and other states will be controlling emissions as populations and energy demands continue to grow.

"What this underscores is the need to be more aggressive in developing renewable energy and to go further when it comes to efficiency and conservation," he said.

Mich. files suit in US high court over Asian carp

By John Flesher, AP Environmental Writer

In the San Diego Union-Tribune, Tues., Dec. 22, 2009

TRAVERSE CITY, Mich. AP - Michigan asked the U.S. Supreme Court on Monday to sever a century-old connection between the Great Lakes and the Mississippi River system to prevent Asian carp from invading the lakes and endangering their \$7 billion fishery.

State Attorney General Mike Cox filed a lawsuit with the nation's highest court against Illinois, the U.S. Army Corps of Engineers and the Metropolitan Water Reclamation District of Greater Chicago. They operate canals and other waterways that open into Lake Michigan.

Bighead and silver carp from Asia have been detected in those waterways after migrating north in the Mississippi and Illinois rivers for decades.

Officials poisoned a section of the Chicago Sanitary and Ship Canal this month to prevent the carp from getting closer to Lake Michigan while an electrical barrier was taken down for maintenance.

But scientists say DNA found north of the barrier suggest at least some of the carp have gotten through and may be within 6 miles of Lake Michigan. If so, the only other obstacle between them and the lake are shipping locks and gates, which open frequently to grant passage for cargo vessels.

The lawsuit asks for the locks and waterways to be closed immediately as a stopgap measure, echoing a call by 50 members of Congress and environmental groups last week. But the suit goes further, also requesting a permanent separation between the carp-infested waters and the lakes.

That would mean cutting off a link between the Mississippi and Great Lakes basins created more than 100 years ago, when Chicago reversed the flow of the Chicago River and began sending sewage-fouled Lake Michigan water south toward the Mississippi River.

"The Great Lakes are an irreplaceable resource," Cox, who is seeking the Republican gubernatorial nomination in Michigan, said at a news conference in Detroit. "Thousands of jobs are at stake and we will not get a second chance once the carp enter Lake Michigan."

He likened the notorious fish to "nuclear bombs." The biggest Asian carp can reach 4 feet in length and weigh 100 pounds while consuming up to 40 percent of their body weight daily in plankton, the base of the Great Lakes food chain.

Cox went directly to the Supreme Court because it handles disputes between states.

Michigan is seeking to reopen a case dating back to 1900, when Missouri filed suit against Chicago over its re-engineering of the river.

After that issue was resolved, several Great Lakes states - including Michigan - renewed the suit with a new complaint: Chicago's diversion of water away from the basin was harming the lakes by lowering water levels.

The high court has ruled on the matter numerous times, setting ceilings on the amount of Lake Michigan water Chicago could divert. The present limit is 2.1 billion gallons per day.

Michigan's suit argues that continued operation of the locks represents another potential injury to the lakes. It asks the court to immediately order them closed, and to create new barriers to prevent the carp from entering the ship canal from nearby waterways during floods.

Obama administration officials last week pledged \$13 million to prevent carp from bypassing the electronic barrier by migrating between the Des Plaines River and the canal.

The lawsuit also asks the Supreme Court to require a study of the Chicago waterway system to define where and how many carp are in those waters and to eradicate them.

Noah Hall, an assistant professor at Wayne State University's law school, said Michigan has a good chance of prevailing if it can show the potential harm posed by Asian carp would outweigh the benefits of keeping the locks open.

"The carp invasion is a good textbook example of irreparable harm," Hall said.

Illinois Attorney General Lisa Madigan's office was reviewing the suit and had no immediate comment, spokeswoman Natalie Bauer said.

Metropolitan Water Reclamation District spokeswoman Jill Horist said, "It's unfortunate that there would be an assumption that this would make some positive resolution come sooner than is truly feasible. Even if the locks were closed there's still a variety of ways for DNA or Asian carp to enter Lake Michigan."

Spokeswoman Lynne Whelan said the Army Corps could not comment on pending litigation.

Democratic Gov. Jennifer Granholm and Rep. Candice Miller, a Michigan Republican, praised the lawsuit.

"There is nothing more pressing than stopping this aggressive invasive species from entering Lake Michigan and threatening our lake's environment and all the states' economies in the Great Lakes Basin," Miller said.

Environmentalists said closing the locks would be a temporary fix, but the only long-term solution would be restoring the natural separation between the Great Lakes and the Mississippi River system, which Michigan is now seeking.

"The Chicago diversion was a 19th century solution to an environmental problem. Now it's causing a 21st century emergency," said Andy Buchsbaum, director of the National Wildlife Federation's Great Lakes center.

American Waterway Operators, a trade group of U.S. barges and tugs that haul cargo on the waterways, said closing the locks even temporarily "would be very devastating for our industry ... but also for people in the Chicago region."

It would force vessels to offload their cargo onto trucks or rail cars, boosting transportation costs and air pollution, vice president Lynn Muench said.

Michigan's lawsuit said losses to barge traffic and recreational boats would be "relatively minor and finite." In contrast, it said, "If the Asian carp enter the Great Lakes system, the damage to the environment and economies of the Great Lakes states and Canadian provinces will be staggering with no practical end in sight."

Still unresolved, Tennessee coal-ash spill only one EPA hurdle

By David A. Fahrenthold, Staff Writer
Washington Post, Tues., Dec. 22, 2009

When the dam broke -- a year ago Tuesday, a little after midnight -- Sandy Gupton thought she was hearing two trains colliding. It wasn't until morning that she saw what had really happened near Kingston, Tenn.

It looked, Gupton said, "like a volcano had erupted."

An earth-and-ash dam holding back 1 billion gallons of waterlogged ash from a nearby power plant had failed, and the slurry flowed out to choke the Emery River and cover 85 acres of land.

One year later, most of the ash on the land is still there. And the problem of similar coal-ash ponds still sits on the long and fast-expanding to-do list of President Obama's Environmental Protection Agency.

Now -- after a year in which a climate-change summit in Copenhagen fell short of most expectations, and with a climate bill stalled in the U.S. Senate -- the EPA might shoulder more of the burden for an administration with historic environmental ambitions.

It has already laid plans to tackle greenhouse gases, smog, "mountaintop" coal mining, and the long-running fight to save the Chesapeake Bay. But the difficulties of dealing with coal ash illustrate why such problems can linger unsolved.

In the case of the Kingston spill, the agency first announced that it would rewrite the rules for handling coal ash. Industry groups protested, saying that if the EPA began defining coal ash as hazardous waste, that decision could backfire -- choking off a trade that recycles the material into concrete, and creating even more unwanted ash.

On Thursday, the agency announced that it would not meet its own year-end deadline for issuing a new rule to govern the handling of coal-ash storage. The decision would be delayed, the EPA said, "for a short period due to the complexity of the analysis the agency is currently finishing."

The agency said it remains committed to staying the course on its broader agenda.

"EPA under the Obama Administration has promised change and is working to deliver it through a rededication to science, transparency and the rule of law," EPA spokeswoman Adora Andy said in a statement Monday.

Many environmental groups have applauded the scope of the EPA's efforts in the past year, saying they were necessary to overcome what they characterized as years of inaction under President George W. Bush.

Some industry groups, however, have said the agency is overreaching, and that its new efforts will cost businesses and consumers.

"I don't think I've ever seen this many major proposals coming out this quickly," said Jeffrey R. Holmstead, who headed the EPA's air-pollution efforts under Bush, and works for the law firm Bracewell & Giuliani.

Under Administrator Lisa P. Jackson, the EPA has inserted itself more deeply into the debate over mountaintop mines in Appalachia, even threatening a rare veto for a mine permit. It has also made an unprecedented threat to states in the Chesapeake Bay watershed, warning that they could be punished if they lag behind pollution-cutting targets.

And, most prominently, the agency has threatened to crack down on greenhouse-gas emissions if Congress doesn't do it first. The EPA issued a finding this month that the emissions pose a danger to public health, which would trigger a responsibility to regulate the gases in the same way as the ones that create smog.

That would be a key test for an agency that has sometimes struggled with a reputation as an environmental "nanny." Delegates gathered in Copenhagen and bickering senators have struggled to find a politically palatable way of imposing emissions cuts. Doing it by bureaucratic fiat won't be popular.

"They're going to need lots of staff. They're going to need an enormous effort, the likes of which I think they've never seen, in such a short period," said Eileen Claussen of the Pew Center on Global Climate Change and a former EPA staffer.

Even Jackson has said she would prefer that Congress approved another method for regulating emissions.

The story of the Kingston coal-ash spill underscores the difficulties facing the agency.

The spill was caused by a failure at a dam holding coal ash from a Tennessee Valley Authority power plant. No one died, but 26 homes were damaged, and residents complained of health problems afterward.

In response, the EPA conducted a survey of similar coal-ash storage facilities, finding 431 of them nationwide and 49 classified as "high hazard," where a failure could endanger human life.

The EPA's delay in issuing a new rule governing the handling of coal ash has environmentalists and business leaders worried.

Among industry groups, the concern is that the EPA will decide to treat coal ash as hazardous waste. That, they say, would curtail reusing it in cement and concrete. And, wouldn't they be sued for knowingly using hazardous waste?

"Defending something like that just scares the industry to death," said Thomas Adams of the American Coal Ash Association.

But Jeff Stant of the Environmental Integrity Project said it was crucial for the EPA to treat the waste as hazardous, which would require new protections to keep it from spreading into rivers and groundwater. He said he was concerned that the delay meant the administration was bending under industry pressure.

While the fight goes on, the EPA, the Tennessee Valley Authority and state officials have not figured out how to remove the ash that covers parts of Gupton's farm. Although the ash is topped with a protective barrier and kept moist to hold down dust, she and her husband each recently received a diagnosis of asthma.

"I don't think they will ever get it cleaned up," she said Monday.