

San Joaquin air regulations upheld by court

By Bob Egelko, staff writer

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A federal appeals court has upheld San Joaquin Valley air-quality rules limiting harmful emissions from housing developments and other construction projects, a decision that could boost similar plans in the Bay Area.

The National Association of Home Builders challenged regulations passed in 2005 by the San Joaquin Valley Air Pollution Control District for eight counties, from San Joaquin to Kern, that have some of the nation's dirtiest air.

The rules require developers to cut emissions substantially - by 45 percent below the average amount of particulates typically spewed by construction equipment - or pay a fee.

The builders said the district was trying to set emissions standards for trucks and other construction vehicles, which are regulated solely by the federal government.

But the Ninth Circuit Court of Appeals in San Francisco ruled 2-1 on Tuesday that the district's limits were based on the amount of air pollution from each development site, not individual vehicles.

Although the rules may affect engine emissions or encourage developers to use lower-polluting vehicles, they are part of a local agency's authority to regulate land use, the court said.

A state appellate court and a federal judge also had upheld the rules. The builders association could ask the full appeals court for a rehearing or appeal to the U.S. Supreme Court. The state attorney general's office and environmental groups filed arguments supporting the district.

Attorney Paul Cort of Earthjustice, which represented Environmental Defense and several Sierra Club chapters, said the ruling was the first on the issue from a federal appeals court and "will empower other areas to follow suit."

Locally, the Bay Area Air Quality Management District is considering its own limits on emissions from new development and construction, spokeswoman Lisa Fasano said Wednesday.

The district is monitoring the San Joaquin Valley's approach "to provide some guidance about how we might move to a similar rule," she said.

But the district is about a year away from adopting regulations and has not decided whether to propose project-by-project emissions limits or other features of the valley's rules, Fasano said.

The Bay Area suffers from some of the same pollutants as the San Joaquin Valley, such as airborne particulates, but it comes from different sources - more from diesel trucks, overall traffic and winter wood-burning and less from farms and dairies, she said.

The court ruling nonetheless "will bode well for the Bay Area," Fasano said.

Kettleman City residents skeptic of state report

By Rebecca Plevin

Vida En El Valle Wed., Dec. 8, 2010

KETTLEMAN CITY -- Last Thursday evening, Maura Alatorre listened carefully as state officials discussed the possible environmental causes for a rash of birth defects in her tiny community.

Alatorre heard that the community's wells and taps have levels of arsenic higher than state standards.

She also heard that just days earlier, the U.S. Environmental Protection Agency had fined Chemical Waste Management more than \$300,000 for failure to properly manage PCBs, a suspected carcinogen, at its Kettleman Hills Facility, a hazardous waste facility located about 3-1/2 miles from Kettleman City.

Finally, at the end of the almost three-hour meeting, Alatorre stood up and asked a simple question.

"My question is, is it safe to live in this community?" said Alatorre, the mother of one of the 11 babies born with birth defects during 2007 and March 2010 in this farmworker community of about 1,500 people.

Joan Denton, director of the state Office of Environmental Health Hazard Assessment, responded to Alatorre's question, and did her best to reassure the young woman.

"I cannot stand here and tell you that your community is completely safe and completely healthy - no one can say that about anywhere -- because there are so many things we don't know," Denton said.

"What I can tell you, though, is we did a more thorough investigation in your community, in Kettleman City, than any other place I know of in California. The only thing we found of health concern in the entire community were the arsenic levels of the water."

During the public meeting, representatives from the state Environmental Protection Agency and Department of Public Health said that after testing the air, water, and soil around the community, agricultural operations, the Kettleman Hills facility, the Kettleman City Elementary School, and illegal dump sites, they found no common cause for the elevated number of birth defects in the rural Kings County community, which is about 93 percent Latino.

Gov. Arnold Schwarzenegger ordered the state agencies to investigate the birth defects in January.

"Honestly, we really tried hard to find what could be the root cause, or if there is a root cause, in terms of environmental conditions, to this very severe pain that this community has experienced," Denton said.

But the investigation's conclusion provided little comfort to some Kettleman City residents.

Some community members, like longtime Kettleman City resident Dolores Moreno, expressed specific concern that the drinking water could be contributing to health problems. Along with having unsafe levels of arsenic, lead was found in one of the town's wells, and in the well that provides water for the local elementary school.

Moreno said she does not drink her tap water, which once contained bacteria, and now has arsenic and lead. Still, she said, she must use tap water to wash beans, wash the dishes, brush her teeth, and shower.

"This floor is cleaner than our water," Moreno said, as she motioned toward the elementary school's cafeteria floor. "I become scared everytime I turn on the tap."

That is one condition that could be alleviated within a year, Dr. Kevin Reilly, chief deputy director of Policy and Programs for state health department, said in a phone interview Monday.

The state health department has recommended drilling a new groundwater well in the community, a project that would cost an estimated \$6,035,000. That cost would be paid through federal, state, and local funds, he said.

Maricela Mares-Alatorre, a spokesperson for the community group El Pueblo Para el Aire y Agua Limpio/People for Clean Air and Water, said she is concerned that the contaminated water, combined with other environmental problems and pollution sources, could be jeopardizing the health of community residents.

Mares-Alatorre described Kettleman City as a "toxic soup," since it has contaminated drinking water, and is located near the hazardous waste landfill, agricultural operations, and the intersection of State Route 41 and Interstate 5.

"The fact remains that we are disproportionately affected by multiple sources of pollution," Mares-Alatorre said.

"The one thing these moms had in common was their contaminated environment," she said. "Let's respect their suffering and not add a burden to our town -- please."

Dr. Dan Wartenberg, an epidemiology specialist from the Robert Wood Johnson Medical School who is consulting with the community, said it is time for state agencies to stop investigating the birth defect cases in Kettleman City, and begin resolving the obvious environmental factors that endanger residents' health.

"We know the stuff in the water is bad for people, we know the stuff in the air is bad for people, the pesticides cause diseases," Wartenberg said in a press conference before the public meeting. "Why aren't we dealing with those (problems)?"

"I think it is pretty clear what the problems are, at least on the first pass, and that's what where we need to be taking action on, and immediately."

Central Valley growers find success in marketing almonds

By John Holland

Modesto Bee and Sacramento Bee, Thursday, December 9, 2010

John Rotticci stands ready with his steel-braced plywood bins to help move a bumper almond crop to market.

His company, International Wood Industries of Turlock, is one of many that have benefited from the success of Central Valley growers in marketing the nuts.

"They're selling what they're producing, which makes a good market," Rotticci said Wednesday at the annual meeting of the Almond Board of California.

The two-day event, which concludes today, is expected to draw as many as 2,500 people to Modesto Centre Plaza.

Some of them are growers from around the valley, which produces about 80 percent of the world's almonds. Some are providers of goods and services the growers need, from fertilizer and tractors to insurance and loans.

The exhibit hall, with more than 150 booths, is an exhibit itself of how growing a single crop can create income for many other businesses.

"Agriculture is the heartbeat of this valley, and that's what fuels us," said Ron Nydam, chief executive officer of Waterford Irrigation Supply. "When the farmers are doing well, our business does well."

Almonds are second only to milk in gross income in the Northern San Joaquin Valley, bringing an estimated \$835 million to growers last year, according to county crop reports.

But with dairy farmers still struggling with milk prices and feed costs, almonds have emerged as the shining star of agriculture in the past couple of years.

The income to the north valley economy is especially welcome in light of the continued fallout from the housing downturn that started five years ago. Job losses spread from construction to retail to government, but almond and other food processors continue to be major employers.

Almond Board Chairman Mike Mason, in a morning speech, said the industry a decade ago feared the prospect of a 1 billion-pound crop. He said promotion efforts and the nut's growing reputation as a healthy food have the industry confident about selling this year's bounty.

"Almonds have become very important to the state and the national economy," said Mason, who farms in Kern County. "Today, our industry is doing very well in spite of challenging economic times."

He cited emerging markets such as China, India, Russia, Brazil and Southeast Asia. China's middle class is 300 million strong, equal to the entire U.S. population, he said.

Some of the product goes into snack bags, some to packages for home cooks, but most ends up at companies that put the nuts into candy, baked goods, cereal and many other items.

The price of nonpareil almonds, the most popular variety, is about \$2.20 a pound, said Ripon-area grower Arvin Boersma. A decade ago, prices dropped to less than \$1, less than the cost of production.

"It's excellent," Boersma said of the 2010 market. "The demand and shipments have been fantastic."

Harvest wraps up

The statewide harvest, which just wrapped up, was projected at 1.65 billion pounds by the National Agricultural Statistics Service. Some industry people think it might fall a little short.

Phillip Stine, a grower around Waterford and Hickman, said the China market and the health message have boosted the industry.

"It's doing fine," he said. "The big thing is they are marketing it. It is selling."

Boersma said the weak dollar, which makes U.S. exports attractive, has helped.

"The almond industry over the years has had dips, but they are usually not too long," he said. "On the average, it's probably done as well as any crop, or better."

Some of the almonds will go to buyers in bins from the Turlock company, including a 4-foot-tall sample on display at the conference. It holds a ton of nuts.

Rotticci, general manager of operations at the company, said its work force roughly doubles to about 150 during peak production.

Some growers at the gathering complained about increased regulation, including rules aimed at preventing water and [air pollution](#).

But here, too, businesses can step up with services that help the growers. DiAnna Built ShredAll of Modesto sells machines that shred pruned limbs that used to be burned before that practice was mostly phased out.

"We're providing a machine that can go in the field and shred the brush," said Gideon Wolff, who works in marketing for the company. "You don't have to pull it (the brush) out of the field and burn it."

Waterford Irrigation Supply, which was previously owned by Stine, employs 12 people. The company helps growers save water by matching irrigation to site conditions with high-tech equipment.

Office manager Christina Etcheverry sees these customers as vital to keeping the region's economy going.

"Farmers still have their way of pushing forward," she said.

[Contra Costa Times Commentary Wed., Dec. 8, 2010](#)

Opinion: California board shouldn't retreat on diesel pollution reductions

By Joe Kubsh and Nidia Bautista

Special to the Mercury New

California has succeeded in environmental protection where few other states dared go by clamping down on pollution while building a mighty economy over the past 50 years.

In choreographed synchronicity, air quality improved, jobs multiplied and technology flourished. California not only allowed people to breathe better, but it also enabled innovations such as hybrid cars, low-emitting power plants, and clean paints and solvents. The brilliance of California's environmental leadership is that regulation has created new markets, which in turn created jobs and saved lives.

So it is profoundly disappointing that the state Air Resources Board is poised to retreat from this formula and roll back health-protective pollution controls that target the most conspicuous pollutant -- sooty emissions from big diesel-powered trucks, buses, bulldozers, backhoes and other equipment.

On Dec. 17, the air board will consider repealing its own rules, forgoing diesel pollution reductions that would benefit the breathing public. Specifically, the board proposes to eliminate all requirements for existing diesel-powered construction fleets to reduce their particulate matter footprint; delay compliance so most vehicle fleets do nothing until 2017; and push back deep cuts in smog-forming nitrogen oxide emissions five years until 2022.

Even worse, the proposal would eliminate requirements to retrofit diesel-powered equipment with state-of-the-art filters that are cost-effective, reliable and can immediately make old equipment nearly clean as new by knocking down diesel soot almost 90 percent. That proposal alone represents not only a threat to public health, but a mortal danger to a fast-growing clean technology sector that supports more than 4,000 green jobs and counting in California alone. That provision means that about 250,000 diesel engines that could be cleaned up now will instead be left unregulated until they are retired from service, adding about 35,000 tons of smog-forming nitrogen oxide annually, according to estimates by the air board.

Why would the air board do such a thing? The agency says explicitly that the change is needed to help alleviate hardship on the recession-ravaged construction industry. The air board staff says it will make up the increases in emissions in the short term with gains over the long term.

But that's small consolation to Californians who breathe the most polluted air in the nation. By the air board's own estimates, about 9,200 Californians die from air pollution annually, and diesel soot accounts for most of the risk. Much of the burden falls on low-income families living near major highways or ports, warehouses or railways. Preliminary estimates show that the rule changes could potentially result in up to 30 percent more diesel pollution in the Los Angeles basin.

Meanwhile, the proposed diesel rule amendments will have a chilling effect on investors, including banks and venture capitalists. Investors have poured more than \$2 billion nationwide into clean diesel technology, but they will have little incentive to continue under the proposed rule changes. The result: a lost opportunity for more than 10,000 additional jobs in the diesel filter retrofit industry. It hardly seems fair politics or prudent public policy to change the rules in midstream to benefit one industry while ruining another.

Green jobs and protecting the planet from climate change were constant themes for both the outgoing Republican governor and the incoming Democratic governor in California during the recently concluded election campaign. California would do well to heed those calls and adhere to its history of smart regulations that grow jobs as it weighs amendments to the diesel pollution regulation next week.

JOE KUBSH is the executive director of the Manufacturers of Emission Controls Association. NIDIA BAUTISTA is policy director of the Coalition for Clean Air.