

Jury says Central Calif. chicken egg farm is foul

By Tracie Cone - Associated Press

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SAN FRANCISCO -- Neighbors of a massive Central California egg farm complained for years about eye-burning ammonia fumes and a horrific foul stench. This week, a federal jury awarded them \$500,000 after finding the place a nuisance.

The Humane Society of the United States brought the case in 2008 on behalf of eight neighbors, who complained that a 13-acre waste lagoon serving 600,000 chickens at Olivera Egg Ranch near French Camp fouled the air.

While the animal welfare advocates fought the case on federal air pollution violations, it was part of their larger mission to focus attention on a plethora of problems they say are created by factory farming.

"There is a link between massive, intensive confinement of hundreds of thousands of animals and the type of pollution and nuisance presented in this case," said Jonathan Lovvorn, the Humane Society's senior vice president and chief counsel for animal protection litigation. "The reality is that these facilities are bad for the animals, bad for the environment and bad for the community."

The original complaint also accused Olivera Egg Ranch of a violation of federal hazardous waste statutes. Defense attorney Russ Wunderli stressed that Sacramento-based U.S. District Court Judge John Mendez dismissed that part of the claim before it went to the jury.

"We feel at least grateful that the court decided in our favor in the emissions of hazardous substances," he said.

The jury also awarded far less than the \$4.8 million plaintiffs originally sought, Wunderli noted.

The chickens at Olivera generated about 133,000 pounds of manure daily. The ammonia released as it breaks down in the nearby lagoon is considered hazardous to people and animals.

For years neighbors had complained about the stench, and about burning eyes and nausea they said was caused by fumes emanating from the lagoon.

Attorneys said the plaintiffs, who were assigned damages by the jury based on their proximity to the lagoon, could not comment until the entire case is resolved. They plan to ask the court for injunctive relief to force changes.

Changes already are taking place, Wunderli said. Owner Edward Olivera is researching technology that could add a methane digester to convert the waste into fuel.

"He has been and continues to be making things better out there," Wunderli said.

Originally the Hayers Egg Farm, the land has been home to laying hens since the 1970s. In the 1990s, Olivera bought the farm and began expanding the facility, which now can hold up to 700,000 hens.

As far as recent changes, Lovvorn said that none have resulted yet in changes that have improved the lives of his clients.

"There's only so much you can do with a facility of that size," he said.

Residents win egg ranch suit

French Camp farm hit with \$544K judgment over fumes from lagoon

By Reed Fujii

Stockton Record, Thurs., May 26, 2011

A federal jury ruled this week that ammonia and other smells arising from a manure pond at a French Camp egg farm constituted a nuisance under California law and ordered the operator of Olivera Egg Ranch to pay \$544,000 in damages to neighbors.

The judge in the case earlier tossed out charges brought by the Humane Society of the United States that the farm violated federal laws governing releases of hazardous materials, in this case ammonia.

It left both sides declaring victory.

"The day of reckoning has finally come for one of the Central Valley's most notorious air polluters," said Jonathan R. Lovvorn, a humane society senior vice president and chief counsel for animal protection litigation.

Lovvorn said Wednesday, a day after the verdict was reached, that he anticipated additional legal wrangling. "The next step is, what are they going to do about it. ... How are we going to get these neighbors relief from the suffering they have endured for so long?"

Representing Olivera Egg Ranch, Russ J. Wunderli, an attorney with the Porter Scott law firm in Sacramento, said the court found insufficient evidence to support claims under federal statutes that the facility produced and failed to report hazardous-material emissions.

He also noted that the Humane Society and neighbors had sought \$4.8 million in damages under the state nuisance law, and at one point the egg ranch had offered to settle the matter for more than the final award.

"They got much, much less than they were asking for, and less than what we were willing to offer to avoid the cost of the trial," Wunderli said Wednesday.

He also suggested the jury award might be reduced during post-trial proceedings.

Wunderli said farm owner Ed Olivera has been making changes to improve conditions at the ranch housing 600,000 hens.

That includes possible installation of a digester system that would convert manure into electricity, announced last summer.

"That is one of the things that he's looking into," Wunderli said.

Lovvorn said Olivera's actions had not improved life for neighbors of the egg ranch, but instead made them worse.

And the manure digester remains an unfulfilled promise.

"Nobody knows right now if will actually work," he said.

The case was heard by U.S. District Court Judge John A. Mendez in Sacramento.

BP, Rio Tinto back off proposed Kern hydrogen plant

By John Cox, Californian staff writer

Bakersfield Californian, Thurs., May 26, 2011

Multinational partners behind a \$2 billion hydrogen energy plant in western Kern County have arranged to sell the project after determining that it "didn't make economic sense" for them. Terms of the proposed transaction were not disclosed.

The sale leaves in doubt hundreds of millions of federal dollars set aside to engineer and design what has been considered an environmentally advanced project that could yet generate more than 1,000 construction jobs and \$1 million in annual tax revenues.

The prospective new owner, Massachusetts-based SCS Energy LLC, plans to proceed with a modified version of the project that would produce a hydrogen-based fertilizer ingredient in addition to the plant's originally proposed output of electricity and carbon dioxide for local oil production.

It was unclear Wednesday how much electricity the plant would generate. The president of SCS said it would produce some power almost constantly even as market conditions would dictate

how much of the plant's production would be geared toward power generation. The plant was initially expected to power 150,000 homes.

Already the project has received \$54 million in federal stimulus money as part of a 2009 award that at that time made it the county's single largest recipient of federal stimulus dollars. Project officials expressed hope that the proposal would qualify for another \$354 million in federal assistance.

A spokeswoman for the U.S. Department of Energy, which has channeled much of the project's federal money, declined to answer questions about the project Wednesday.

Proposed to be built on 463 still-vacant acres near Tupman, Hydrogen Energy California is a Long Beach-based joint venture between energy giant BP and mineral company Rio Tinto. It is expected to run on coal and petroleum coke after its expected opening in 2016 or 2017.

Though not technically a renewable energy project, HECA would be considered clean-burning because about 90 percent of the carbon dioxide produced by the plant would be buried underground in a way that would increase nearby oil production.

If built as originally proposed, the plant was to create up to 1,500 construction jobs and up to 100 permanent jobs.

State officials said the project continues to proceed with various approvals and a feasibility study, and that the change in ownership has little bearing on that process.

Representatives of SCS and HECA denied that recently low natural gas prices played a significant role in their respective decisions.

HECA spokeswoman Tiffany Rau said the gas prices -- way down because of huge shale deposits discovered in Pennsylvania and elsewhere in the United States -- were not a factor in the sale because BP and Rio Tinto were looking at a 20-year horizon in which the relative advantage of one commodity price over another plays a small role.

SCS Energy's president and chief operating officer, Tim Bauer, said inexpensive natural gas was not an option for fueling the plant because the company's interest was in finding a feedstock with a minimal carbon footprint. He said natural gas produces more greenhouse gases than the process HECA proposes to use with coal and petcoke.

Rau said company officials determined late last year that the project "didn't make economic sense for BP and Rio Tinto," but that it might work for SCS because it has an additional revenue stream in the fertilizer ingredient.

"In today's power market structure, we couldn't sell the power cost-effectively," Rau said Wednesday, adding that public subsidies would be necessary to make HECA financially viable under BP and Rio Tinto.

Bauer said Wednesday that his company will make some changes in the project's design but will not change what the plant would do other than also produce urea, which is made from hydrogen and carbon dioxide. Though generally imported from China, urea is widely used locally in fertilizers; it also is used in trucks and power plants to reduce emission of nitrogen oxide, a common air pollutant.

How much hydrogen is produced for sellable power versus urea production "depends on the markets," Bauer said.

"We can make more urea in the off-peak (hours) because urea is storable and electricity clearly is not," he said.

SCS has developed or helped develop four power plant projects, all of them on the East Coast. Three of these run on natural gas and are now owned by other companies. The fourth, located in Linden, N.J., would be fueled by coal and produce power in addition to urea, ammonia and sulfuric acid.

White House unveiling plans to curb regulations

By Alan Fram, Associated Press

Contra Costa Times, San Diego Union-Tribune and other papers, Thurs., May 26, 2011

WASHINGTON—The White House would eliminate requirements for trapping polluting vapors at gasoline stations and let employers and hospitals file fewer reports as part of a plan it announced Thursday to ease regulatory burdens on business.

More than four months after President Barack Obama ordered agencies to weed out rules that stifle economic growth, the administration on Thursday released some details of hundreds of regulatory changes that the White House said could save businesses billions of dollars and tens of millions of hours of work.

Cass Sunstein, the White House's regulatory chief, told the conservative American Enterprise Institute that 30 departments and agencies had submitted plans for regulatory changes aimed at saving money and aiding economic growth.

"Complexity and redundancy are often the enemy of innovation," he said in a speech to the group.

The proposals would help reduce costs for companies and state and local governments while "maintaining the critical health and safety protections that Americans deserve," the White House said in a statement.

Obama issued an executive order in January requiring agencies to hunt for regulations that are outdated or could cost jobs. It came amid a sluggish recovery from the worst recession since the 1930s and just as Republicans took over the House, pledging to shrink government and kill regulatory burdens that hinder businesses from operating efficiently.

It also came as the president began trying to improve his relationship with the business world, with whom he spent much of 2009 in clashes over revamping the nation's health care system and the government's oversight of financial markets. With the 2012 elections approaching, Obama must walk a fine line between satisfying his liberal Democratic base and not allowing Republicans to portray him as defending regulations that hurt job creation. Congressional Democrats have accused Republicans of ignoring the health and environmental benefits that many regulations provide.

The White House initially provided few details about the scope of its proposal. On Wednesday, consumer and business lobbyists said they were uncertain about how far the administration plan would go and whether it would focus on specific rules or simply create a process for identifying regulations to be erased or altered.

The White House said examples of proposed regulatory changes include:

- The Environmental Protection Agency will eliminate requirements in some states for vapor recovery systems at gas stations, which are "redundant" because of improved air pollution controls in vehicles, saving \$67 million annually.
- The Health and Human Services Department will consider easing the amount of information doctors and hospitals must file to medical databases.
- The Occupational Safety and Health Administration will reduce over 1.9 million hours a year of reporting requirements for employers, saving over \$40 million. And the agency will also make hazard labels on some products match labels used by other countries for an annual saving of \$585 million.
- The Transportation Department would apply certain railroad safety equipment rules "only where they are actually needed," saving up to \$1 billion over 20 years.
- The government would streamline the Commerce and State departments' regulatory requirements for exports and for the Interior Department's process for listing species as endangered.

Most proposals announced Thursday are not final and will be updated to reflect public comment, the White House said. That process is expected to last into the summer, said lobbyists who had been told about the plan.

In the EPA's plan, the agency would allow electronic reporting of pollution information, ending the inefficient and ineffective paper reporting. More information would be publicly disclosed to provide communities with better information on environmental quality.

The EPA would no longer rely on time-consuming inspections of single facilities, nor would it address contaminants one-at-a-time. Contaminants would be addressed as a group, including their health risks.

The Defense Department will review its regulation for an annual screening of the Ready Reserve to assess readiness for active duty and to ensure that the reservists possess the skills that would be needed.

The Department of Homeland Security promised to produce less confusing rules on immigration and streamline disaster relief rules to provide quicker assistance to victims.