Low-cost state loans aid growth of dairies

Program criticized, reforms urged over effect on air pollution in Valley.

By Mark Grossi
The Fresno Bee, Tuesday, Oct. 12, 2004

State Sen. Dean Florez called Monday for reform of an obscure state agency approving pollution-control loans with few strings for large dairies, which are considered major air pollution sources in the San Joaquin Valley.

Florez, D-Shafter, said he wants to immediately freeze millions of dollars in tax-exempt, low-interest loans administered by the California Pollution Control Financing Authority under State Treasurer Phil Angelides.

"We want to set up an environmental screen for the authority," said Florez, who pushed through a series of air quality laws for the Valley last year. "You've got a bunch of finance people who aren't seeing the forest for the trees."

Florez said the Valley's air is among the most polluted in the country, and it needs better protection.

Angelides was not available to comment, but he announced in the Los Angeles Times on Monday his own plans to freeze $24 million in loans that had been approved this year for dairies.

Angelides, according to the Times, criticized his own agency's handling of $70 million in loans over the past four years.

Environmentalists did not want to comment on whether they would take legal action, but sources said they are considering it.

Dairy officials Monday responded that many loans were made four years ago, before dairies had entered the air pollution discussion.

The focus was on spreading cow manure on larger tracts of land so it would not concentrate in one area and pollute the underground water. As for air pollution, research has not yet established how much of the problem is coming from dairies, said J.P. Cativiela, representing Community Alliance for Responsible Environmental Stewardship, a dairy advocacy group.

"We don't know the overall emissions from dairies," he said. "We don't know exactly where on the dairies that emissions come from. The science isn't there yet."

But the Times reported that Angelides decided to pull the plug on the remaining dairy loans after receiving an Aug. 30 letter from Sierra Club official Vicki Lee of the Mother Lode chapter in Sacramento.

The letter protested the loan program, which operates with a state bond. In the program, dairies are considered small businesses.

The Sierra Club criticized the program for enforcing a requirement to keep cow manure from being sent to landfills.

"Dairy owners don't send manure to landfills anyway," Lee said. "They send the waste to lagoons."

Florez had another concern. He does not want to see the loans used for helping dairies move from Chino in Southern California to the Valley, which amounts to moving pollution from one area to another.

Dairies set up business with up to 14,000 cows in the Valley, the Times reported.

"Let me get this straight," Florez said. "The dairymen sell their prime developable property in Chino for $60,000 an acre; move to the Valley and buy land for $3,500 an acre; then use a low-interest loan from the state, meant to curtail air pollution, to build even bigger dairies. Something is very wrong with this program."

One dairy owner defended the loans. David Albers, a Bakersfield lawyer who operates a dairy on Fresno County's west side in Burrel, received a $5.8 million loan while building a new dairy two years ago. He said dairy farm families "have done nothing wrong."

He said his loan helped him do a better job of "capturing all the manure" and separating it so solid manure could be composted and applied to fields. That, he said, has greatly reduced the risk of polluting groundwater and reduced air pollution.

"These loans are based on the notion that dairies are a good thing, that family farms are producing nature's perfect food," he said. "When you have good things that benefit all of society, shouldn't all of society help bear some of the portion of the cost?"

Albers has 2,000 milk cows and another 2,000 young animals at his Vintage Dairy, which produces about 9,000 tons of sewage a year.

He said he has purchased 2,500 acres of corn, wheat and alfalfa where the manure can be used as fertilizer. Albers said he spent "millions" for that land, but none of the money came from the loan.

Florez is concerned that the state-approved loans allowed dairies to expand: "If you have more land, the temptation is to have more cows."

The San Joaquin Valley's dairy industry has grown to almost 2 million cows - nearly 600,000 of them in Tulare County alone.

Researchers at the University of California at Davis and California State University, Fresno, are studying cow emissions. Preliminary results suggest the current emission estimates are overstated, but the work probably won't be finished until next year.

The numbers will be crucial in fighting smog or ozone in the Valley, which has 685 violations of the daylong ozone standard since 1999. No other place in the country has more violations over the last six summers.

The Valley also is one of the nation's worst places for particle pollution, known as particulate matter. Dairies send out ammonia, which combines with oxides of nitrogen from vehicles to form a tiny but potent particle in winter.

Florez said he would arrange a Senate Select Committee hearing on the subject of the loans.

"We have a very difficult air-quality problem in this Valley," he said. "We need to revise the law governing these loans."

Nine Kern dairies got millions in state funds

By VIC POLLARD, MARYLEE SHRIDER and GRETCHEN WENNER, Californian staff writers
Bakersfield Californian, Tuesday, Oct. 12, 2004

Nine Kern County dairies received some $37.4 million in state low-interest loans in the past four years, money meant to help clean up the air.

Instead, the money was used to move the dairies to Kern County.

Six of them -- two Borba family operations along with Western Sky, Carlos Echeverria & Sons, T&W Farms and Bidart dairies -- are so-called "mega-dairies" south of Bakersfield.

The other three, Poso Creek Family Dairy, JDS Ranch and Southern Cross Dairy, are large operations located near Wasco, Delano and Buttonwillow, respectively.

In all, some $70 million in tax-exempt bond money, meant to support pollution control efforts, was channeled to dairies by a "staff error," state Treasurer Phil Angelides told the *Los Angeles Times*, which reported the story Monday.

Angelides chairs the Pollution Control Financing Authority, which authorized the loans.

News of the loans didn't appear to change any minds in Kern County. Dairymen supported the loans, while critics generally seethed.

The environmental whistle-blower who first raised questions about the dairy financing program said she discovered it by accident.

"One night I was talking to a friend and he mentioned that he worked in the treasurer's office and they fund dairies," said Vicki Lee, a Sacramento Sierra Club activist.

In an Aug. 30 letter to Angelides protesting the program, she said air and water pollution regulators in the valley told her they were not aware of the program, either.

Well before that, Lee was an active critic of mega-dairies moving into the rapidly growing suburban area between Sacramento and the San Francisco Bay Area.

She said it's no accident dairies being driven out of the Chino area are moving to the Central Valley.

"They're shopping around for a culture where the elected officials don't bother them and the regulators don't bother them," she said.

Industry response

Local operators who received the low-interest loans either were unavailable for comment Monday or declined to speak with reporters.

John Bidart of Bidart Dairy, which moved operations from Chino to Bakersfield about a year ago, said company officials didn't know about the *Times* story until it came out Monday.

Bidart declined to detail his farming practices, but said, "we are doing everything we can" to control pollution.

Longtime dairyman Ralph te Velde, whose Bear Mountain Boulevard facility is within a mile or two of several new mega-dairies, said he has no problem with fellow operators taking advantage of low-interest loans to which the state said they were entitled.

He's visited all the new dairies and found them more environmentally sophisticated than those in Chino.

"They have millions of dollars tied up in pollution control," te Velde said. "If they get a little help doing it, good for them."

John Dunlap III of the recently formed Dairy Action Network, an industry group that includes many dairymen with facilities proposed in Kern, said the group will "examine what the rules were for the funds, what the expectations were for their use and how our industry can meet those expectations. "It is our intent to be model users of those resources -- that's our goal," Dunlap said.

Other reactions

The loans have angered some critics, including Fresno attorney Joseph Uremovic, who represents a defunct onion packing firm that's suing Western Sky Dairy.

"I think there's quite an irony in this, that these people polluted in one area of the state, went to the taxpayers to get $5 million to move to another location and immediately started polluting that area," he said. "They've got a lot of chutzpah."

Western Sky operator George Plantenga got a $5 million low-interest loan through the program in 2001.

Owners of Kophamer Farms, a packing plant on Old River Road, say they were driven out of business after Western Sky moved next door in 2002.

The suit, still in progress, claims flies and manure dust led to maggots and dung-covered onions that Kophamer's commercial customers stopped buying. Western Sky's lawyer denies the dairy caused the onion firm's problems.

Shafter resident Tom Frantz of the Association of Irritated Residents, which has filed numerous environmental lawsuits against dairies, said the industry is "ripping off the public again."

"It's unbelievable the state has overlooked this scheme of cheap money for getting nothing in return," Frantz said.

Bill Descary of Bakersfield, a retired city treasurer who's recently become a dairy industry watchdog, said a state auditor needs to "tackle this immediately -- what is in fact required for obtaining low-interest loans."

Elected officials also had strong reactions.

"It's absolutely appalling that government funds are being spent in this manner," said Supervisor Barbara Patrick.

"It's no wonder some government programs get a bad name."

Patrick, along with board chairman Jon McQuiston, voted unsuccessfully in August for a temporary ban on new dairy applications. The county has been deluged with dairy applications of late, with about two dozen or so, with an estimated 214,000 cows, now on the books. Kern is already home to 55 dairies with an estimated 290,000 animals.

Supervisor Pete Parra, who with Ray Watson and Don Maben successfully voted down the ban, had a different take.

"From the standpoint of the county, we're requiring dairies through their (conditional use permits) to install the latest technology and pollution controls," Parra said, adding that the cost of that equipment won't be as big a stumbling block if dairies can use such bond funds to help pay for it.

But State Sen. Dean Florez, D-Shafter, reacted angrily to the revelations. Florez, who wrote legislation last year requiring dairies and other agriculture operations to help clean the valley's air, called for a moratorium on the financing program and proposed reform measures.

"Something is very wrong with this program," Florez said. "The dairymen sell their prime developable property in Chino for $60,000 an acre, move to the valley and buy land for $3,500 an acre, then use a low-interest loan from the state meant to curtail air pollution to build even bigger dairies."

He said he plans to introduce a bill requiring dairymen to use the funds to install anti-pollution technology, such as methane digesters and manure lagoon liners.

Florez, who is running for the treasurer's office himself, added, "With so much manure being spread around, it just stinks."

Most of the big new dairies in the valley are located on the west side, in the 20th Congressional District. That's where current State Sen. Roy Ashburn, R-Bakersfield, and Democrat Jim Costa, a former state senator from Fresno, are locked in an election battle to replace Rep. Cal Dooley.

Ashburn defended the dairies.

"Why single out dairies for criticism?" Ashburn said. "What other businesses received the same kinds of funding?"

Costa chose his words carefully.

"I think the treasurer should follow the law and implement it properly," Costa said. "He's obviously taking another look at it, and he's put a moratorium on it. That's probably the appropriate thing to do."

Paper says dairies misused millions to expand operations

Associated Press
Modesto Bee, Tuesday, Oct. 12, 2004

LOS ANGELES - Nearly $70 million in state bond money earmarked for reducing pollution was used by California dairies to expand their operations, which resulted in more air pollution, the Los Angeles Times reported Monday.

The result, the newspaper said, is that the air in California's dairy-rich San Joaquin Valley is now among the dirtiest in the nation, recording more eight-hour ozone level violations than Los Angeles.

State Treasurer Phil Angelides, who as head of the Pollution Control Financing Authority approved the loans, now says the money was misspent. The environmental impact of large dairies should have been studied more closely before the loans were OK'd, he said.

"We're going to stop financing dairies until we can do a comprehensive review," Angelides said. "In the future, I'm going to press hard to make sure that any dairy we finance will be taking steps to resolve environmental problems, not contribute to them."

He said none of the 18 dairies receiving loans since 2001 offered any plans to use new air pollution control technology.

The dairies qualified for the money through tax-exempt, low-interest loan programs by stating in their applications that expanding operations would provide an "environmentally sound method of disposing of animal waste" by spreading cow manure across a greater area and thus decreasing its impact on groundwater supplies.

But while some of the expanded dairy operations have been successful in increasing groundwater protection, the Times said, dairies that expanded their herds to as many as 14,000 cows also put much more methane gas into the air.

"It's hard to believe that lowinterest loans set aside by California to fight pollution are instead being used to expand some of the biggest polluters in agriculture," said Brent Newell, an attorney for the Center on Race, Poverty & the Environment, which has joined with the Sierra Club in fighting the expansion of industrial dairies.

Michael Marsh, chief executive officer of Modesto-based Western United Dairymen, said he hadn't heard of any dairies using the money to expand herds.

"There's not a dairy in the state that milks 14,000 cows," Marsh added.

The largest dairy in the state milks about 7,500 cows, Marsh said. Joseph Gallo Farms in Merced County has "probably 25,000 to 30,000 cows, but they are spread over five different dairies," Marsh said. "No one is milking 14,000 cows in one operation."

The state average for dairies is 750 cows, Marsh said.

Turlock dairy farmer Ray Souza, a past president of Western United Dairymen and current president of Western States Dairy Producers Trade Association, said the term "expansion" was a misnomer.

"What we are seeing is consolidation," Souza said. The industry has gone from 20,000 dairy farmers just after World War II to less than 2,000 today, he said. The number of cows has not increased dramatically over that time, according to Souza.

Efficiency has increased significantly, however, Souza said, with more milk being produced by fewer cows. That makes the industry cleaner, because it is using fewer animals to produce larger amounts of milk, he said.

Souza said the state money was a good investment in the $4 billion dairy industry.

Banks don't recognize the value in making loans for items like methane digesters, which convert cow waste to methane, which then is used to generate electricity, Souza said.

Angelides, meanwhile, has frozen $24 million in dairy loans that were approved earlier this year.

One of the farmers who received a low-interest loan last year said he got the money "fair and square" and that his expanded operation does indeed pose less risk to groundwater.

"We have about twice as many acres as we need to handle the manure that we produce. The chances of our new dairy polluting the groundwater are slim and none," said David Albers, whose 4,000-cow dairy in Fresno County received a $5.8 million loan with a 1 percent interest rate.

He acknowledged, however, that like other dairy farmers he continues to use an old recycling system that shunts waste into open-air lagoons, where it bakes in the sun. The result, say regulators with the San Joaquin Valley Air Pollution District, is millions of pounds of smog-forming gases being emitted into the air each year.

"The state has missed a major opportunity to push these big dairies in the direction of new pollution control methods," said Vicki Lee, a Sierra Club member who questioned the dairy loans in an Aug. 30 letter to Angelides. "The dairies haven't taken a single step to justify this financing."

Dairy loans tied to air pollution

Farms expanded using state money earmarked for clean air.

Associated Press
In the Orange County Register, Tuesday, Oct. 12, 2004

LOS ANGELES - Nearly $70 million in state bond money earmarked for reducing pollution was used by California dairies to expand their operations, which resulted in more air pollution, the Los Angeles Times reported Monday.

The result, the newspaper said, is that the air in California's dairy-rich San Joaquin Valley is now among the dirtiest in the nation. The region records more eight-hour ozone-level violations than Los Angeles.

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But while some of the expanded dairy operations have successfully increased groundwater protection, dairies that expanded their herds to as many as 14,000 cows also put much more methane gas into the air.

One farmer who received a low-interest loan last year said that he got the money "fair and square" and that his expanded operation poses less risk to groundwater.

"We have about twice as many acres as we need to handle the manure that we produce. The chances of our new dairy polluting the groundwater are slim and none," said David Albers, whose 4,000-cow dairy in Fresno County borrowed $5.8 million at 1 percent interest.

State money helped air-polluting dairies expand, report says

By Associated Press
Tri Valley Herald, Oct. 12, 2004

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"The state has missed a major opportunity to push these big dairies in the direction of new pollution control methods," said Vicki Lee, a Sierra Club member who questioned the dairy loans in an Aug. 30 letter to Angelides. "The dairies haven't taken a single step to justify this financing."

Valley targets fireplace pollution

To light or not to light: Restrictions start Nov. 1

By DENNIS WYATT, Managing Editor
Manteca Bulletin, Tuesday, Oct. 12, 2004

The South County could face between four to 25 days of wood-burning restrictions for residential fireplaces and wood stoves this winter.

The San Joaquin Valley Air Pollution Control District is stepping up publicity about the program before it goes into effect Nov. 1 through Feb. 28. The district will ban the burning of solid fuel in fireplaces and heaters when air quality is expected to be unhealthy. That translates into an Air Quality Index of 151 or higher.

Fire Chief George Quaresma indicated that Manteca did not have any days with burn restrictions during the 2002-03 season. Historically, however, different counties within the air pollution control district have between four and 25 days of wood burning restrictions each season.

Solid fuels that are affected by days when wood burning is prohibited include wood, pellets and manufactured logs. The restrictions don't apply to propane or natural gas devices. The burning of other debris, trash, garbage more refuse is strictly prohibited at all times.

Exemptions include homes in which wood burning is the sole source of heat and no other heating device is built into the home as well as areas where natural gas is not available.

Residents can find out San Joaquin County's daily-wood burning status starting Nov. 1 by calling 1-800-SMOG-INFO (765-4463) or logging on to the Valley Air Pollution website at www.valleyair.com.

Air district inspectors will perform surveillance and investigate complaints. The complaint line for violations is 1-800-281-7003.

The wood burning restrictions are just part of a multifaceted attempt at fight air pollution from wood stoves and fireplaces.

The district's current residential wood-burning rule was adopted in 1993 to protect Valley residents from airborne particulate matter. Particulate matter, which is primarily a wintertime problem, is composed of nitrates, microscopic pieces of fly ash, tiny droplets of liquid, dust, smoke and soot. The San Joaquin Valley air basin doesn't meet federal or state standards for particulate matter air pollution. High particulate concentrations can reduce lung function, exacerbate bronchitis, and trigger asthma and heart attacks.

Residential wood burning is a significant source of particulates in the Valley. In fact, on the worst winter nights, wood smoke can be responsible for up to one-third of the particulate air pollution in urban areas.

The existing wood-burning rule prohibits the retail sale of anything but the cleanest wood-burning units on the market. In February 2002, the U.S. Environmental Protection Agency determined that the rule doesn't fully comply with federal Clean Air Act requirements and must be made more stringent.

A number of Manteca, Lathrop and Ripon home sellers have been hit with the requirement that fireplaces or stoves out-of-compliance must be retrofitted or removed before property can close escrow.

This component of the rule requires that any non-certified wood-burning stove or insert be upgraded to EPA-certified Phase II wood-burning devices or to natural gas or propane devices prior to the sale or transfer of property.

The non-certified devices could be removed or rendered inoperable permanently.

In new residential developments with more than two dwellings per acre, no wood-burning devices are being allowed. In new developments with one or two dwellings per acre, only one wood-burning device are allowed in each dwelling.

Manteca new home developments typically have four to five homes per acre. That means none of those homes could have any type of wood burning device including wood stoves. Many larger homes on estate-style lots have two or more fireplaces.

There are rarely any new Manteca homes built with fireplaces, however, that aren't fired by natural gas.

Shell could reach deal on refinery

Agreement with EPA could help pave way to keep facility running into 2005

By ERIN WALDNER, Californian staff writer
Bakersfield Californian, Tuesday, Oct. 12, 2004

The U.S. Environmental Protection Agency expects to reach an agreement with Shell Oil Co. this month that would keep the company's Bakersfield refinery operating into next year, according to a report from Reuters.

The news service quotes California EPA spokeswoman Lisa Fasano as saying: "We're actively in discussions; it's an effort to accommodate the state's desire to keep Bakersfield open. We expect we will be wrapping it up by the end of the month, if not sooner."

The EPA could not be reached for comment on Monday.

Shell conceded to the California Attorney General's office in August that it would continue operating the Rosedale Highway refinery at least until Dec. 31 to give the facility time to sell. The Attorney General's office and the Federal Trade Commission are investigating Shell's decision to close the refinery for possible antitrust violations.

Shell originally planned to close the refinery on Nov. 1, citing continuing production declines in San Joaquin Valley heavy crude oil.

The Attorney General's office said in August that Shell would keep the refinery running until March if the EPA agreed to modify a consent decree it has with Shell. The contract stipulates Shell will be fined unless it reduces pollution from the refinery's boilers and heaters by a certain amount by Dec. 31.

Shell spokesman Stan Mays said Monday the company is still in discussions with the EPA, but that Shell was optimistic they'll reach an agreement.

Bob van der Valk, who works in the oil industry in Los Angeles and has been following the refinery's future, said with gasoline selling for more than $2 a gallon, Shell would be "crazy" to close the refinery any time soon.

"There's no better time to be in the refining business in California," van der Valk said.

Jamie Court, a spokesman for the Foundation for Taxpayer and Consumer Rights in Santa Monica, said extending the refinery's operations until March "is a needed building block to making sure the refinery stays open."

Meanwhile, Mays said Shell is continuing its discussions with companies that bid on the refinery and that no agreement has been reached. He would not say how many companies submitted bids or when the process might conclude.

New ozone control plan brings hope, uncertainty

By Matt Weiser, Californian staff writer
Bakersfield Californian, Saturday, Oct. 9, 2004

Valley air quality officials on Friday approved a new plan to control ozone pollution that includes controversial strategies to reduce smog caused by urban development and dairies.

The plan aims to ring the valley into compliance with the federal one-hour ozone standard by 2010. It does this by eliminating 110 tons a day of pollution from the valley's skies through a variety of new controls.

"I think this is making progress toward protecting the health of all people in the valley," said Christine Foster of the Tulare County Asthma Coalition.

The previous compliance deadline was 2005. But in an unprecedented move last year, the San Joaquin Valley Air Pollution Control District delayed compliance by opting for "extreme nonattainment" status under federal law, the worst category. Los Angeles is the only other region of the country in this category.

About one-third of the pollution cuts in the plan depend on rules that still have not been adopted by the air district, including the dairy and development rules. Both are contested by industry groups, but their inclusion in the ozone plan helps ensure they'll eventually be adopted.

Some critics labeled the plan approved at Friday lame-duck. That's because in June 2005, the Environmental Protection Agency will revoke the one-hour ozone standard and replace it with a more stringent eight-hour rule. This requires a new plan, due in 2007, with a compliance deadline of 2013.

But all the pollution control measures in the one-hour plan will be required under the new standard.

"It keeps us moving forward while we're in this transition period toward the eight-hour standard," said Don Hunsaker, the district's rule development supervisor.

The extreme designation lowers the threshold at which a business is considered a "major polluter" – from the previous 25 tons per year of emission to 10 tons. This means about 150 existing businesses in the valley must obtain pollution permits at a cost of about $5,000 each.

The designation also may bring higher permit costs for new and expanding businesses.

The rule affecting urban development is slated for adoption in about six months. It works by imposing a fee on new construction based on how many vehicle trips the project causes. It is expected to eliminate 4 tons of pollution from the valley's air daily, the fourth-largest reduction in the plan.

Money collected under the rule would pay for other clean-air projects. Builders could get discounts by adopting so-called "smart growth" principles, such as increased density, pedestrian paths, more shade trees and other measures to discourage driving.

The building industry has been fighting the proposal, fearing it could set a precedent statewide. A few California counties have similar rules, but the valley's proposal would be the first application on such a large scale.

Tim Coyle, senior vice president of the California Building Industry Association, said contesting the fee is a "pretty high" priority for his organization.

"It's patently unscientific to suggest that houses pollute," said Coyle. "If they're concerned about emissions, then go after the offending activities. Tax the tailpipe."

The dairy rule is expected to bring the most significant pollution cuts – nearly 16 tons per day. Fumes from dairy waste contribute to ozone formation, and the rule would require devices to treat these fumes.

How that will occur is the subject of much debate. The air district is waiting for new studies and the rule is slated for adoption in early 2006.

Brent Newell, an attorney representing the Shafter-based Association of Irritated Residents, said the public can take heart that rules adopted under this plan must be retained under the new eight-hour rule. But he noted that there are no penalties if the air district fails to attain the one-hour standard after the new rule takes effect.

"There's a lot of uncertainty in terms of how this plan is actually going to play out," he said.

The California Air Resources Board meets in Fresno on Oct. 28 to approve the valley's plan. It will then be referred to the EPA for review.