

Valley air officials will vote again whether to add \$2 vehicle fees

By MARK GROSSI - THE FRESNO BEE

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Valley air officials turned down the chance for almost \$5 million to clean up some of the nation's dirtiest air, but they will get another opportunity next month.

In a split vote this week, the San Joaquin Valley Air Pollution Control District board refused to impose an additional \$2 on vehicle registration fees, asking for more details about how the revenue would be spent.

Vehicle registration fees to fight smog are not new. The valley board last year approved a \$1 fee, and since 1990 valley residents also have paid a \$4 vehicle registration surcharge for air quality programs.

The new fee would help buy farm engines and school buses that produce less pollution, and possibly scrap older cars. Authorized for air districts throughout California by Assembly Bill 923, it could annually eliminate 800 tons of valley pollution.

The board's vote surprised fee supporters, including Joe Bjerke, director of transportation for the Clovis Unified School District.

"I thought it was a no-brainer," said Bjerke, who wants to replace diesel buses in his fleet. "You could get \$4 million or \$5 million for air quality. At least it's not a done deal."

Following the vote, board members unanimously agreed to revisit the fee at next month's meeting. District staff is due to present background on how such fee money has been spent in the past and possible details for using the revenue from the additional \$2.

Thursday, the board voted 5-5 on the fee; the board has 11 members, and six votes are needed to approve motions. One board member was absent: Stanislaus County Supervisor Tom Mayfield. Contacted by The Modesto Bee, Mayfield said he missed the meeting because he was at a funeral. Asked how he might vote when the fee proposal returns to the board, he said he would "wait and see."

Kern County Supervisor Barbara Patrick, air board chairwoman, voted for the fee. "It's \$2 a year. That's less than the price of a gallon of gas."

Motorists drive more than 80 million miles daily in the valley, state figures show. Air district staff members said pollution from vehicles amounts to almost 60 percent of the valley's air problem.

The fee would pay part of the purchase price for cleaner-burning engines for farm well pumps and for cleaner-running school buses and other heavy-duty machinery. State officials are still talking about how much of the purchase would be covered, but some amounts could be as much as 50 percent.

One other feature makes the \$2 fee attractive to some.

The fee would take care of the local fund raising that the state requires before it will contribute about \$12 million to the valley for the Carl Moyer Program, which has replaced hundreds of farm diesel engines.

Board member Mike Maggard, a Bakersfield City Council member, said he was not convinced that the additional \$2 fee would be used in the most efficient way. He and other dissenters said they wanted to make sure they were getting the most pollution reduction per dollar spent.

"Just because we can charge the fee," Maggard said, "doesn't mean we should."

Besides Maggard, board members Tony Barba of Kings County, Michael G. Nelson of Merced County, Dan Prince of Ripon and Jack A. Sieglock of San Joaquin County voted against the fee.

Joining Patrick in support were Susan B. Anderson of Fresno County, Ronn Dominici of Madera County, Sam Armentrout of Madera and J. Steven Worthley of Tulare County.

Public comment was sparse, but it supported the fee. The backing came from farm and oil industry representatives as well as the Clean Cities Coalition, a locally based industry-government partnership encouraging alternative fuels.

"This is a societal issue we're supporting," said Dennis Tristao, a member of many farming organizations, including the California Farm Bureau Federation.

"Private vehicles are not subject to shutdown when the standards change, but equipment at business facilities are."

Panel Rejects Fee to Reduce Air Pollution

From Wire Reports, Los Angeles Times, November, 6, 2004

San Joaquin Valley officials decided not to impose a \$2 vehicle registration fee on motorists. The nearly \$5 million raised by the fee could have been used to clean up some of the nation's dirtiest air by buying cleaner farm diesel engines and school buses, among other measures.

But the San Joaquin Valley Air Pollution Control District board rejected the fee in a split vote Thursday.

News from the San Joaquin Valley

The Associated Press, published on FresnoBee.com, Fri., Nov. 5, 2004

FRESNO, Calif. (AP) - Valley air officials decided not to impose a \$2 vehicle registration fee on motorists.

The nearly \$5 million raised by the fee could have been used to clean up some of the nation's dirtiest air by buying cleaner farm diesel engines and school buses, among other measures.

But the San Joaquin Valley Air Pollution Control District board rejected the fee in a split vote Thursday, agreeing to revisit it at next month's meeting.

"I thought it was a no-brainer," said Joe Bjerke, director of transportation for the Clovis Unified School District, who supported the fee. "You could get \$4 million or \$5 million for air quality. At least it's not a done deal."

According to state figures, motorists drive more than 80 million miles daily in the Valley, and air district staffers say pollution from the vehicles amounts to almost 60 percent of the Valley's air problem. Six votes are needed to approve a board motion on this board, and the vote Thursday was split 5-5, stalling the fee. An 11th board member was absent.

Planners OK 829 new homes

They make up first two phases of a 3,000-home project in north Fresno.

By Russell Clemings / The Fresno Bee

Sat., Nov. 6, 2004

Years of controversy have followed the giant Copper River Ranch project on Fresno's northern fringe.

But Wednesday night, detailed plans for its first two phases were approved unanimously by the city Planning Commission with no sign of public opposition.

Two of the city's busiest home builders won endorsement of plans for 829 new homes organized into eight "villages" on the western half of the 710-acre Copper River tract between Friant Road and Willow Avenue north of Copper Avenue.

The plans call for elaborate street designs, a trail network and, in many cases, smaller-than-usual lot sizes for the villages, which will have the greens and fairways of the existing Copper River Country Club golf course weaving around them.

"We have a visionary project," said Farid Assemi of Granville Homes. "I think it is something that the city will be proud of." Granville and builder Gary McDonald are developing Copper River's housing; a third partner, Lyles Diversified, is in charge of its commercial areas.

The lack of opposition Wednesday was a contrast to the City Council's June 2003 vote to approve rezoning for the project, which is eventually scheduled to have almost 3,000 homes and apartments along with a hotel, shopping and other commercial development.

After testifying in opposition to that earlier vote, two local advocacy groups — Medical Advocates for Healthy Air and the League of Women Voters of Fresno — sued to overturn the city's action.

The lawsuit was settled late last year with an agreement by the developers to pay air-pollution impact fees, provide 100 units of low-cost housing, and help fund a farmland preservation effort.

In their latest action, city officials attached 191 conditions to their project approval, addressing issues ranging from streets and signs to the design of fences, hedges and walls.

The development will have its own sewage treatment plant on the north side of Copper Avenue east of Cedar Avenue.

It also will have flexibility on lot sizes and street designs to accommodate special features that are intended to enhance the project's walkable "village" design, city planning manager Darrell Unruh told the commission.

"It's not simply one-street-fits-all," Unruh said. "This is really going to have quite a bit of distinctive identity from one village to another ... Some of these street designs may incorporate median islands in local streets, which are not typically seen."

Parts of the commission's action will be reviewed by the City Council. And even after that, the design may change, insofar as the commission's action permits the builders to move lots around in response to market trends or other factors.

But Granville's Jeff Roberts said the project's basic character would remain.

"This kind of illustrates where we're headed with this," he said. "This document provides the basis to move forward for several years."

In other action, the commission recommended that the City Council approve rezoning and a general plan amendment for 254 single-family homes on an L-shaped 58-acre parcel south of Dakota Avenue between Hayes and Polk avenues for Central Valley Land Development.

The plan amendment was required to accommodate an electric transmission line easement that crosses the site. The commission also approved a map for the development.

Sounding the smog horn

Old, sooty buses still threatening kids' health

By Kerry Cavanaugh, Staff Writer

Los Angeles Daily News

Monday, November 08, 2004 - Despite a year-old effort to get rid of its exhaust-belching buses, Los Angeles Unified still has 1,200 old buses on the road that emit more diesel soot and put children's health at risk, officials said.

The problem is one facing school districts across Southern California, where exhaust from the familiar yellow buses contributes to smog and unhealthy ultrafine particulate matter. A recent

UCLA study found that youngsters who ride old, smoky buses are exposed to 70 percent more unhealthy diesel soot than those who ride in passenger cars.

But buses are expensive -- from \$65,000 to \$135,000 each -- and the cash-strapped Los Angeles Unified School District doesn't have money in its general fund to replace its buses. Officials rely on grants for the purchases, but are looking for other options, including charging various programs a fee for the use of the vehicles.

"I drive downtown every day, and you can't help but notice the black smoke fumes," said school board member Marlene Canter. "Money is tight, but you can't sacrifice the health of our kids."

Canter last year spearheaded the Health Breathing Initiative, which requires private contractors to provide buses manufactured in 1994 or later, or to install particulate traps on older-model vehicles.

And, beginning in fall 2006, contractors will have to provide buses that meet 2004 emission standards, having 76 percent less smog-forming pollution and 99 percent less particulate matter than buses built in the 1980s.

The requirements have bumped up the cost of school bus contracts by 10 percent.

The district's buses are an average of 15 years old -- too old to be modified with pollution-control equipment that can cut toxic diesel particles by 99 percent, officials said.

But with no money allocated in its general fund to replace the buses, the district is vying with other districts for grant money.

Last week, the district received funding to buy five compressed natural gas buses for \$25,000 each, with the South Coast Air Quality Management District kicking in \$110,000 toward the cost of each vehicle.

The LAUSD could have bought as many as 17 buses under the one-time grant program, but didn't have the money to match the grant.

Those grants are among the \$55 million that has been doled out to school districts over the past four years to buy low-pollution, alternative-fuel buses and particulate-matter traps.

However, environmentalists said they lost an important tool to clean up buses earlier this year, when the U.S. Supreme Court struck down the South Coast Air Quality Management District rule requiring district and private contractors to buy only alternative-fuel buses when funding is available.

California is considering asking the federal government for a special exemption so Southern California can reinstate the alternative-fuel school bus rule.

"We need to make sure the fleet rule stays in place," said Julie Masters, senior project attorney with the Natural Resources Defense Council.

"Our recommendation has always been that for all new buses, the cleanest choice out there is natural gas. It's the cleanest, the least toxic choice that's going to be the best for our children."

Money is the biggest hurdle. Unlike transit buses, in which the federal government pays 80 percent of the cost, school districts buy their own buses. The LAUSD has little money of its own to buy new buses, which run \$65,000 for a new diesel bus to \$135,000 for a new natural gas bus.

To create a new permanent source of money for new buses, Antonio Rodriguez, director of the LAUSD's transportation branch, has proposed charging a small, several-dollar internal fee to specific district programs, such as special education, for their bus trips.

The money would go into a fund to replace 900 of the oldest, dirtiest buses in 15 years at a cost of \$98 million.

In addition, Gov. Arnold Schwarzenegger approved a bill by Assemblyman Marco Firebaugh, D-South Gate, this year that allows regions to tack on an extra \$2 motor vehicle registration fee beginning in April to fund replacement of old heavy-duty diesel equipment.

Most people know intuitively the black cloud left by an old diesel school bus is unhealthy. Researchers, however, have sought to understand the seriousness of the problem by driving school buses along LAUSD school bus routes and measuring the pollution inside the cab.

In a study released last October, University of California researchers found children riding in the oldest, smokiest buses were exposed to up to 70 percent more black carbon than children riding in a passenger car. The exposure in an average diesel bus was 34 percent higher than in a passenger car. Black carbon is used as an indicator of diesel particulate matter, which can worsen or trigger asthma attacks, as well as raise the risk of developing cancer.

Researchers and educators were troubled to see buses appeared to be leaking exhaust into the cab, giving students a potent punch of toxic diesel emissions on the oldest, dirtiest buses.

Those UCLA and UC Riverside researchers last week began part two of their school bus studies and will drive buses on Los Angeles highways and streets to investigate how exhaust ends up in bus cabs.

"School buses do not seem as well built to us as a transit bus, and that's kind of ironic because it's our children on our buses," said Arthur M. Winer, a UCLA professor of environmental health sciences who worked on the school bus research. "I'm really appalled that school districts across Southern California, even in affluent communities, have a certain fraction of polluting school buses."

EPA Director Hangs Back on Ordering Mercury Studies

At issue is controlling power-plant pollution. Critics say the agency fears the findings.

By Alan C. Miller, Los Angeles Times, November 6, 2004

WASHINGTON - Despite an earlier promise, the head of the Environmental Protection Agency hasn't yet ordered new studies to help resolve a controversy over controlling mercury emissions.

The reason, said EPA Administrator Michael O. Leavitt, was that he had doubts about the assumptions the agency made in arriving at its conclusions. He said he was challenging the way the EPA determined how rapidly it could reduce pollution.

How quickly the government can cut mercury pollution from power plants without causing economic harm is of great interest to the utility industry, public health officials and environmentalists, and has prompted divisions between EPA career staffers and political appointees.

"This is a big decision and it's one that I very much want to be done properly," Leavitt said in a recent interview. The process, he added, would be "very open, inclusive and rigorous."

Critics, inside and outside the EPA, said Leavitt's failure thus far to order the studies he promised suggested that the administration was still reluctant to do its own analysis for fear that the results would justify deeper and faster reductions than it favored.

"We get talk but no action from the administrator," said a longtime EPA staffer who spoke on the condition of anonymity. "Decisions about the proposed regulation were made before he came to EPA. He has been here for almost a year and the agency has still not done the work that is necessary to produce a better regulation."

Mercury released into the atmosphere from the nation's 1,100 coal-fired power plants is the largest single source of the neurotoxin in the United States.

Mercury has found its way into rivers and lakes, and an EPA analysis has found that about 600,000 babies born in the U.S. annually may be exposed to dangerous levels of mercury in the womb, chiefly as a result of their mothers having eaten fish. Exposure can cause neurological

and developmental damage. Nearly a year ago, the EPA proposed a flexible, market-based plan to reduce emissions.

The administration initially said its proposal would cut mercury spewed from power plants by 70% in 15 years.

But a bipartisan coalition of lawmakers, public health advocates and environmentalists said this approach would delay significant reductions in mercury for decades. At the same time, they said, it would save the power and coal industries - major campaign backers of President Bush - billions of dollars.

The Times reported in March that the administration's proposal used verbatim language provided by utility lobbyists. The paper detailed how longtime agency professionals had been told not to undertake scientific and economic studies to determine how big a mercury reduction was feasible. An EPA-appointed advisory panel that had requested the information was shunted aside in April 2003.

Subsequently, at the request of seven senators, the EPA's inspector general opened an investigation into how the mercury proposal was developed. Completion of the inquiry is expected early next year.

Leavitt, who took office only a month before the rule was proposed last December, rebuffed a call by lawmakers in April to scrap the plan. But he agreed to delay its deadline three months - to March 15, 2005 - and said the EPA would further study how best to regulate mercury.

Leavitt said he had become so deeply immersed in the mercury debate that he was examining the assumptions that were fed into the agency's computer model. The model makes projections about such things as the price of coal and the cost and availability of mercury-control technologies for various kinds of power plants. The model is used to assess how far, fast and at what cost pollution can be reduced.

In August, Leavitt outlined five principles the agency said would "provide a context for additional inquiry and narrow the focus of agency deliberations." They include concentrating "on the need to protect children and pregnant women from the health impact of mercury," encouraging "early adoptors of new technology" and maintaining "America's competitiveness."

Leavitt said he was spending considerable time discussing these matters with EPA's career scientists, engineers and modelers. He expected to order new studies "based on assumptions that I have chosen in concert with broad discussions with other career scientists," Leavitt said. Computer models, he added, "enlighten our thinking; they are not a substitute for our policy judgments."

Of complaints about the delay, he said some staffers "may be accustomed to an administrator who takes their word for the assumptions." Two veteran staffers expressed concern that the administrator's role in devising new assumptions could politicize the EPA's analysis.

Leavitt said he would make the final decision on the mercury rule in consultation with the White House and other agencies.

The proposed rule includes two approaches. The option preferred by the administration would set a national cap on emissions and then permit individual companies to choose whether to reduce their emissions or buy "credits" from other companies to do that. The EPA and industry maintain this would provide an incentive to cut emissions quickly without imposing burdens on utilities.

When it announced its proposal, the EPA said this would reduce the current 48 tons of emissions annually by 70% by 2018. But Leavitt acknowledged in March that this reduction would be achieved only when the rule was "fully implemented." EPA models suggest this would be 2025, or later.

The second proposal would mandate reductions at all plants. The Clinton administration determined in 2000 that mercury was a toxic substance and therefore subject to strict regulation under the Clean Air Act. Advocates of this approach said it would produce dramatic reductions in three years.

The Clean Air Task Force, an environmental group, has concluded the EPA could require a 75% reduction by 2008 and achieve health benefits that far outweigh the relatively modest costs to industry, said Martha Keating, a task force senior scientist and former EPA staffer.

Pollution-control equipment manufacturers say that, with existing technology, they could reduce emissions 50% to 70% by 2008 to 2010. "We can go further, faster," said David Foerter, executive director of the Institute of Clean Air Companies, which represents air pollution control equipment manufacturers.

Industry representatives countered that technology that could assure deeper reductions with different types of coal under all conditions was not yet proven. They warned that requiring such reductions could have dire economic consequences, including prompting a shift from coal to more costly natural gas.

"[This] would mean a significant impact on the price for electricity generation, home heating and food production, the very sectors of greatest concern to consumers who can least afford price increases," said Scott Segal, director of the Electric Reliability Coordinating Council, a group of power-generating companies.

G.O.P. Plans to Give Environment Rules a Free-Market Tilt

By FELICITY BARRINGER and MICHAEL JANOFISKY
New York Times, Nov. 7, 2004

WASHINGTON, Nov. 7 - With the elections over, Congress and the Bush administration are moving ahead with ambitious environmental agendas that include revamping signature laws on air pollution and endangered species and reviving a moribund energy bill that would open the Arctic National Wildlife Refuge to energy exploration.

In addition, the administration intends to accelerate conservation efforts by distributing billions of dollars to private landowners for the preservation of wetlands and wildlife habitats. The White House also plans to announce next month a new effort to clean up the Great Lakes.

The groundwork for the push was laid down in the past four years even as environmental groups, Congressional moderates and the courts put the brakes on major changes. But the election returns that gave Mr. Bush a clear victory and expanded the Republicans' majorities in Congress have emboldened those determined to hard-wire free-market principles into all environmental policy.

"The election is a validation of our philosophy and agenda," Michael O. Leavitt, administrator of the Environmental Protection Agency, said in an interview. "We will make more progress in less time while maintaining economic competitiveness for the country. That is my mission."

Representative Joe L. Barton of Texas, chairman of the Committee on Energy and Commerce, said he was eager to get the process started and encouraged the environmental groups and Democrats who typically oppose Republican initiatives "to come out of the trenches and meet me halfway."

But with industry groups anticipating relaxed regulations and environmental groups fighting to retain stiff regulations, the environmental debate over the next four years could be contentious.

"What you're going to see is an administration focused on setting broad goals and then letting states and companies and individuals work to achieve those, within an economic framework," said Charles Wehland, a lawyer for Jones Day in Chicago who represents clients like the OGE Energy Corporation and the Great Lakes Chemical Corporation. But Phil Clapp, president of the National Environmental Trust, a nonprofit group, warned the White House and Congressional leadership that it would be risky to further push the agenda of the last four years.

"George Bush doesn't have to run again, but Republican lawmakers do," Mr. Clapp said. "They know there is a cost to their political association with rolling back environmental laws."

Nationally, the environment was a sleeper issue that never awoke. But concern for environmental and conservation issues was sometimes visible at the local level. Montana voters, for instance, rejected an initiative to overturn a ban on a form of mining cyanide, effectively blocking a large new mine on the Blackfoot River.

Bush administration officials say that among the first measures moving toward enactment will be those that govern air pollution levels. The administration initiative known as Clear Skies, which generated lukewarm support in Congress during Mr. Bush's first term, is about to come out of mothballs. Will Hart, a spokesman for Senator James M. Inhofe, an Oklahoma Republican who is chairman of the Committee on Environment and Public Works, said it was Mr. Inhofe's "No. 1 environmental issue."

Clear Skies establishes lower emission standards for pollutants like nitrogen oxide, sulfur dioxide and mercury, but environmental groups complain that it does not reduce them as much or as soon as levels set forth in a competing bill or by enforcement of the Clean Air Act.

Senator James M. Jeffords, the Vermont independent who is the ranking minority member of the committee and a co-sponsor of the competing bill, said it saddened him that Mr. Bush was leading efforts to undermine air standards that his father, the first President Bush, supported. Citing the new alignment in the Senate - 55 Republicans, 44 Democrats and himself - Mr. Jeffords said, "We have the power to block any measure detrimental to the environment."

But even if a Clear Skies bill fades again, Mr. Leavitt said he intended to enact its regulatory equivalent, the Clean Air Interstate Rule, a "cap-and-trade" approach to lowering emissions that would set pollution levels for 29 Eastern states and the District of Columbia, by the end of the year. Such approaches allow companies flexibility on how to meet standards, including trading pollution credits.

For now, the Bush administration has no intention of regulating the heat-trapping gases, like carbon dioxide, which scientists believe contribute to global warming.

A top priority of powerful Congressional Republicans is the 31-year-old Endangered Species Act. Representative Richard W. Pombo of California, chairman of the Committee on Resources, has made efforts to raise the hurdles that scientists must clear to ensure a government determination that a species is endangered and cut back the amount of critical habitat required. Habitat designations pave the way for land use controls.

"We will put these back together and really start trying to figure out how we can put together a bipartisan compromise," Mr. Pombo said in a recent interview.

On issues like ranching, hydropower and logging, he said, humans are competing with other species in the same territory. "It's unrealistic to say that humans are not part of the environment and are not going to have an impact," he said. "We need to say, 'These two trains are on the same track; how do we get them not to crash?'"

The energy bill will pass, he said, adding that any bill produced in the House would open 2,000 acres of the Arctic National Wildlife Refuge for energy exploration.

A third priority, Mr. Pombo said, is a package of legislation dealing with ocean resources, including issues like the controls appropriate for commercial and sport fisheries, the protection of endangered marine mammals and the mandate of the National Oceanographic and Atmospheric Administration.

Dana Perino, a spokeswoman for the White House Council on Environmental Quality, said in an interview on Friday that the administration, like Mr. Pombo, put a high priority on the energy bill and the oceans issue. Ms. Perino also said the administration was eager to disburse the unspent portion of the \$40 billion appropriated by Congress for conservation initiatives undertaken by farmers and private landowners.

Interior Secretary Gale A. Norton, through her spokeswoman, Tina Kreisher, declined to be interviewed about her agency's top priorities until Mr. Bush decided who would serve in his new cabinet.

Several pending actions to open up wild areas of the West to energy development could be made final in the coming weeks, touching on areas like Roan Plateau in Colorado and Otero Mesa in New Mexico.

David Alberswerth, an expert on public lands issues with the Wilderness Society, agreed that the Republican gains in Congress had increased the difficulty of blocking a law opening the Alaska refuge, but he cautioned that some Bush voters already opposed energy development projects in their regions.

"When the Bush administration came into office four years ago, you didn't have ranchers and farmers and hunters and anglers upset about their energy agenda," Mr. Alberswerth said. "The administration will continue to pursue the same policies they have pursued, and I'm confident that if they do, they will encounter opposition from that quarter."

Jim Range, the chairman of the Theodore Roosevelt Conservation Partnership, a coalition of hunting and fishing groups whose members include some staunch conservatives who are also conservationists, said energy development would be "an issue that hits the ground running."

Mr. Range's group is split over the Alaska issue and would probably sit out that debate, he said. "But in regard to other energy development, particularly on federal lands," he said, "there's a consensus that we ought to do energy development but we ought to do it right."

From Pool Guy to the Halls of Power

Terry Tamminen, actor, author and tree-hugger, has held many jobs. His next: Cabinet secretary.

By Miguel Bustillo, Los Angeles Times, November 6, 2004

Thirteen years ago, Terry Tamminen was a Malibu pool cleaner and part-time actor with a gift for charming influential people and a resume that chronicled more rambling than a Jack Kerouac novel.

Tamminen had sold condos in Florida, managed a sheep ranch in the Midwest, helped start a bottle recycling program in Nigeria, dabbled in Shakespearean acting and measured chlorine levels for such celebrities as Madonna and Johnny Carson. His peripatetic career had taken him from California to Australia to Europe and back again.

In his 40s and still unfulfilled, Tamminen began moving more purposefully in a direction that ultimately brought him to the attention of Gov. Arnold Schwarzenegger. Last year, Schwarzenegger appointed him environmental protection secretary. On Friday, he named Tamminen his Cabinet secretary. The \$123,000-a-year job makes him chief liaison between the governor and the heads of the major state agencies.

Among the most liberal of Schwarzenegger's advisors - a self-described "tree-hugger," Tamminen has won the Republican governor's confidence for his bipartisan negotiating skills and loyalty to Schwarzenegger's agenda.

"Terry, I have to say, is one of the jewels of my administration," Schwarzenegger said in a recent interview. "He gets along with Democrats and Republicans alike. He is extremely respected by everyone. I think the world of him."

Bonnie Reiss, Schwarzenegger's longtime friend and now senior advisor, said Tamminen and the governor "had good energy together. Terry had a lot of vision on what new technology can bring, from solar to wind to hydrogen, and that really connected with the governor. They are renaissance guys."

Tamminen's unlikely rise began in 1991 when he persuaded the late Disney President Frank Wells to finance Santa Monica Baykeeper, part of a national network of environmental groups dedicated to protecting oceans and rivers. The network is headed by Robert F. Kennedy Jr., a cousin of California First Lady Maria Shriver.

The pool-keeper thus became bay-keeper. When Dustin Hoffman later ran into Tamminen at an environmental fundraiser, Tamminen said the actor told his former pool man, "Glad to see you finally cleaning up the big pool."

A decade later, Tamminen made a similar impression on Schwarzenegger when he helped write his environmental platform during last year's recall election. With promises to cut air pollution in half and put solar panels on the roofs of a million homes within a decade, Tamminen's aggressive green agenda was the most left-leaning element of Schwarzenegger's pro-business platform.

Schwarzenegger appointed Tamminen head of the California Environmental Protection Agency over the strong objections of more conservative advisors, including Rep. David Dreier (R-San Dimas), head of Schwarzenegger's transition team.

Though he now wears blue and gray business suits and spends long hours helping Schwarzenegger in Sacramento, Tamminen, a Coast Guard-licensed sea captain, retires at night to his boat, docked on the Sacramento River.

"There's toads croaking and birds chirping and all the sounds of the river at night," Tamminen said. "And in the morning, I get up and go back to work in an office building again."

Those who have known Tamminen since his pool cleaning days marvel at the meteoric success enjoyed by the 52-year-old Santa Monica conservationist, calling it the kind of story that could happen only in California.

"If Terry is not the embodiment of the American dream, I don't know what is," said Mark Gold, director of the Santa Monica environmental group Heal the Bay.

Born in Wisconsin, Tamminen moved often as a child with his mother and stepfather, living in Las Vegas; Corpus Christi, Texas; and even Mexico before landing in Los Angeles in the early 1960s. Inspired by the television adventures of Mike Nelson in "Sea Hunt," Tamminen was enchanted by the ocean. For his 12th birthday, he received scuba lessons that culminated with a dive off the Palos Verdes Peninsula.

When it came time for Tamminen to attend high school, the family was on the move again - to Australia, where the government was paying families to move to populate the vast country. After graduation, Tamminen traveled through Europe, paying his way by working as a desk clerk and bellman, before returning to California to attend Cal State Northridge and pursue acting dreams.

"I was always a free spirit. It was, 'Let's go out and see the world,' " Tamminen said, explaining his wandering ways, which he characterized as a lifelong quest for knowledge that still continues.

A few years later, he moved to Florida, where he befriended a developer and went to work for him converting old apartments into condos. The developer owned a sheep ranch, billed as the largest east of the Mississippi, and Tamminen briefly managed it before returning to California in the early 1980s. He used his modest Florida earnings to buy a small pool-cleaning business in Malibu that catered to a celebrity clientele.

It was far from a glamorous existence. Tamminen lived in a trailer off Pacific Coast Highway with the family of his business partner, a competitive weightlifter he had met in Florida. Palisades Malibu Pools eventually grew tenfold, expanding into Beverly Hills and serving a stable of showbiz luminaries.

"There wasn't anyone in the celebrity world whose pool we were not cleaning at one time," said Tamminen's former partner, Ritchie Creevy, 61, who is still competing in state and national power-lifting events.

After selling the business, the ever-resourceful Tamminen parlayed his knowledge into "The Ultimate Pool Maintenance Manual," now in its second edition. Around the same time, he began playing William Shakespeare in a children's play that he wrote and has since performed in New York and abroad.

Busy as he was, Tamminen still hadn't found his stride.

"At that point, I was in my mid-40s, and maybe it was a midlife crisis, but I wanted to do something more," he said. "I had done the business thing; it was not that rewarding to me. I decided to do something with the rest of my life that I was passionate about."

Within a year, Tamminen had become the head of Santa Monica Baykeeper, a self-styled "aqua cop" who would boat around in search of water polluters big and small. He sought to educate boaters about the damage done by casual pollution by handing out fake tickets.

"He was right out of Central Casting," said Mary Nichols, former resources secretary under Gov. Gray Davis. "It clearly suited his personality. He had his boat and whatnot, and that was the mystique of the organization: that you literally had someone out there patrolling the body of water."

One of Tamminen's first efforts as head of Cal-EPA was to make sure that California continued developing regulations for the water pollutant perchlorate. In the process, he stood firm amid lobbying pressure from a coalition of defense contractors who were responsible for much of the contamination.

Tamminen proved adept at the political art of give and take, helping to mold a consensus from an

unlikely alliance that included the oil industry and environmentalists to raise more than \$150 million in new fees to help clean up air pollution.

Tamminen also has been willing to cross his old friends in the environmental movement. He led the administration's successful campaign to block legislation that would have capped air pollution emissions at the ports of Los Angeles and Long Beach. The governor's opposition was one of the reasons the California League of Conservation Voters gave Schwarzenegger a middling 58% grade on its environmental scorecard last month after giving former Gov. Gray Davis a 100% grade a year earlier.

But it solidified Tamminen's standing as a Cabinet member loyal above all to Schwarzenegger.

"Terry comes into this with an open mind," said Mike Chrisman, a Central Valley rancher who serves as Schwarzenegger's resources secretary. "He has very strong views, but he understands that in government sometimes you have to compromise, and he looks for the best compromises."

Tamminen came to the attention of Schwarzenegger through Kennedy, one of the nation's leading environmental activists. After he became the head of Santa Monica Baykeeper, Tamminen took a crash course in environmental advocacy under Kennedy at Pace Law School.

Days after Schwarzenegger announced his run for governor on the "Tonight Show With Jay Leno" last year, Kennedy put in a strong word for Tamminen when he saw Schwarzenegger at a Kennedy family retreat in Hyannis Port, Mass. Within days, Tamminen was in an office above Schwarzenegger's Santa Monica restaurant, Schatzi on Main, sounding out the candidate on his environmental views.

"Arnold asked me to help him prepare a team of Republican and Democratic environmentalists," Kennedy said, "and the first person I called was Terry. Terry fit that bill because he had basically done everything. As a Shakespearean actor, I knew Terry would be good at articulating policy."

Tamminen spends weekends at home in Santa Monica with his wife, Karen, a theatrical representative for the Screen Actors Guild, where he still finds time to write. He is working on a fictional diary of Shakespeare. It is inspired by "I, Claudius," the Robert Graves novel that tells the story of ancient Rome through a fictional autobiography of one of its rulers. The walls of his study are lined with maps of old London that he has marked up as he tries to link Shakespeare's writings with real places.

In another book project, one that displays his militant side, Tamminen calls for an end to the oil age. He said he described the recently completed manuscript to the governor, who did not object if it were published.

"Oil has advanced our human cause for 100 years, but it's a dinosaur," Tamminen said. "The book lays out the economic and environmental cost of our dependence on oil, and, frankly, likens it to tobacco. We pay a lot more than \$2.50 for a gallon of gas, and it's not all at the pump."

Former employee in dairy death case seeks new hearing

By MIKE CONWAY - BEE STAFF WRITER
Saturday, Nov. 6, Modesto Bee

After two workers died in an accident at Aguiar-Faria & Sons Dairy in Gustine, prosecutors made an offer to the man in charge of the dairy herd at the time:

Three years of probation but no jail time if he pleaded no contest to a felony count of violating a state safety regulation. Alcino "Ralph" Souza Nunes, 46, took the deal — and two charges of involuntary manslaughter went away.

That was in early April. Then, in September, dairy co-owner Patrick J. Faria went on trial on the same charges: involuntary manslaughter and a safety violation.

A Merced County Superior Court jury acquitted him on all counts. Now Nunes is asking the court to reduce his conviction to a misdemeanor and to end his probation. The motion is due to be heard Nov. 19.

"He's a good working man, a good family man," said Nunes' attorney, Michael Fagalde. "He's as clean as a whistle. No record at all."

A criminal law professor, Frank Zimring, put himself in the defense attorney's shoes: "I would say, 'Look, the owner has already gotten off. Now the question is, what about the herdsman who is considerably farther down the food chain?"

"You don't want to have one kind of criminal law for the owners and another for employees," added Zimring, who teaches at Boalt Hall at the University of California at Berkeley.

"These aren't bank robberies; these are blue-collar, not white-collar, industrial crimes."

The tragedy at Aguiar-Faria & Sons occurred Feb. 22, 2001. Jose Alatorre, 24, and Enrique Noquez Araiza, 29, climbed down a pipe, going 30 feet to the bottom where they had the task of cleaning a sump pump.

Hydrogen sulfide gas overcame the men, and they drowned in cow waste.

Nunes and Faria were accused of allowing the men to go into the pipe without the right training and safety equipment. The California Division of Occupational Safety and Health requires that people with this kind of job take classes about working in confined spaces, and use climbing harnesses, ropes, breathing gear and air-testing equipment.

Offer was hard to refuse

It was Faria's acquittal that triggered the motion, Fagalde said, adding that in April the offer to Nunes seemed a lot better than it does now.

"They gave him an offer of no jail, straight probation, and it's kind of hard to turn that down," Fagalde said. "That and the cost of going further; there's attorney's fees, plus the emotional wear and tear and the time off work."

The Aguiar-Faria & Sons Dairy is closed. Nunes works as a herdsman at another dairy in northern Merced County, Fagalde said.

Fagalde cited two other reasons for seeking a reduction in Nunes' conviction:

A surprise witness who testified that he had climbed into the same pit without safety equipment to repair a gate on the sump pump.

District Attorney Gordon Spencer's decision, based on the outcome of the Faria trial, not to prosecute a case involving a similar death on another Gustine dairy. Spencer said there wasn't a "reasonable likelihood of conviction."

Fagalde acknowledged that while the grand jury indicted Nunes and Faria on the same charges, the circumstances were different — and that is why Nunes agreed to plead no contest.

Directing the workers

Faria was in the Bay Area when the workers went into sump pump, while Nunes was at the dairy.

"He had a discussion about the task that was done and in some way directed them," Fagalde said.

Spencer said his office prosecuted Faria because he had been a volunteer firefighter and had gone through a class on the hazards of confined spaces.

Fagalde said testimony from a welder bolstered Nunes' argument that the hazards of fumes were not well known when Alatorre and Araiza died.

The welder, Steve Lemos of Gustine, was called for jury duty in the Faria trial, and dismissed because of a conflict. Later he testified for the defense, saying that his company dispatched him to Aguiar-Faria & Sons a year before the two men died in the sump pump.

Nunes made his plea "without knowing there was another guy who went in there, without the equipment and stuff, and got out of there alive," Fagalde said.

'An effort to be fair'

Spencer said he had not seen Fagalde's motion for a reduced conviction and no more probation for Nunes. "I can assure you we will look at the motion and evaluate it in an effort to be fair," Spencer said.

Judge Frank Dougherty, who handled the Nunes and Faria cases from the time of the grand jury indictments until Faria's acquittal, has been assigned to hear the motion.

Zimring said the judge has some discretion, ranging from vacating the plea to leaving everything alone.

"No harm was intended here, and everybody is quite clear on that," Zimring said. "This is a combination of some negligence and terrible luck. ... This kind of industrial accident is on the border of criminal law."

Phaseout is causing concerns

By TIM MORAN - BEE STAFF WRITER

Saturday, Nov. 6, Modesto Bee

Methyl bromide is a chemical fumigant used to sterilize the soil for field crops like strawberries and to kill pests on export crops like walnuts and almonds.

It has also been identified as a contributor to ozone depletion in the atmosphere, so an international group of more than 180 countries called the Montreal Protocol is trying to ban its use around the world.

Facing a January 2005 deadline to phase out the chemical, state, federal and international agencies are continuing to sort out rules for getting rid of it — and who can use it after the deadline.

But the phaseout is already reducing the use of methyl bromide.

In Stanislaus County, for instance, growers used 243,620 pounds of methyl bromide in 2000. By 2002, the most recent statistics available from the Department of Pesticide Regulation, the county used 72,983 pounds — a 70 percent reduction.

However, developed countries are allowed exemptions for agricultural uses in which a suitable alternative can't be found. Less-developed countries also have longer to phase out the chemical.

One of the exemptions allowing continued use of methyl bromide in the Central Valley is for sterilizing commodities for export.

"There's really no viable alternative, from a time standpoint and cost-effectiveness," said Steve Slacks, vice president of Frazier Nut Farms in Waterford.

Frazier pumps methyl bromide into a vacuum chamber full of walnuts, then uses air to clean the fumigant off the nuts, Slacks said.

The process takes about four hours, compared with three to seven days for an alternative chemical fumigant, Slacks said.

Some methyl bromide does get into the atmosphere, he said, but new fumigation chambers are now required to have air scrubbers to burn off any chemical residue before it is released.

The chamber is inspected annually and certified by either the county or state, Slacks said.

Another obstacle to switching to an alternative chemical is that some countries specifically require imported walnuts to be treated with methyl bromide, Slacks said.

Without the treatment, that export business would be lost, he said.

Rodger Wasson, president of the California Strawberry Commission, also sees problems with the phaseout.

Strawberry growers cover fields with plastic and inject methyl bromide into the soil to combat pests that attack the roots of the plants.

Strawberries are allowed to use 3.2 million pounds of methyl bromide next year, down from 3.7 million pounds in recent years, Wasson said. An additional 20 percent reduction has been recommended for 2006, he said.

About a third of California's strawberry acreage is using alternative chemicals, but not everyone can, Wasson said.

Factors such as the slope of the land and soil conditions can make alternatives more or less effective, he said. Growers will have a learning curve to find the best methods for applying new chemicals, he said.

Playing field isn't level

The strawberry industry also has competitive issues with the phaseout, Wasson said. China, as a developing country, has 10 more years to stop using methyl bromide — and is exporting frozen strawberries to the United States.

"The concern is that they don't have to go by the same rules we do," Wasson said.

California's Department of Pesticide Regulation approved new regulations for methyl bromide last week which are focused on limiting the amount of the chemical that gets into the air, rather than the amount used.

The state regulations, unrelated to the federal and international efforts to ban methyl bromide, make more sense, Wasson said.

Strategies such as drip application of methyl bromide can reduce the amount that gets into the atmosphere, he said.

Not everyone is happy with the exemption process.

David Doniger of the Natural Resources Defense Council contends that the United States is asking for exemptions in 2005 that would exceed the total use of methyl bromide in 2003.

"I'm not saying there are no critical uses, but we don't want to go backwards," Doniger said. "The numbers requested are drastically excessive. Somewhere closer to zero is where the exemption should be," he said.

The U.S. Environmental Protection Agency says the 2005 exemption is for 35 percent of the 1991 use, a figure it called "robust."

Wasson commented that farmers won't use more than they have to, given the phaseout.

"If they find an alternative is working well, growers will switch," he said. "Just because it is being requested doesn't mean it will be used."

Doniger is skeptical. People don't like change, he said, and will stay with something they are familiar with unless cost or regulation forces them into alternatives.

In the meantime, researchers and growers are working on pest treatment alternatives, and the EPA is evaluating them.

AT A GLANCE

Methyl bromide is an effective fumigant used to control insects, nematodes, weeds and pathogens in more than 100 crops.

Besides agricultural applications, it also is used in forest and ornamental nurseries and in wood products.

Primary ag uses include soil fumigation, post-harvest protection and quarantine treatments.

The United States uses about 60 million pounds of methyl bromide each year.

Of that amount, about 75 percent is to fumigate soil before planting crops, about 11 percent to fumigate harvested crops; and about 6 percent to fumigate structures: food processing plants and warehouses. The remaining 8 percent goes into the production of other chemicals.

It's even used to fumigate museums and antiques.

More than \$431 million in U.S. exports were treated with methyl bromide in 1994 (the latest year for which figures are available).

Required by the importing countries, the fumigated crops include apples and cherries going to Japan, cotton and peaches to Mexico, oak logs to Europe and strawberries to Australia.

The fumigant also is used extensively at ports of entry on commodities found to be infested with exotic pests that might pose a threat to U.S. agriculture.

News in Brief

S.F. Chronicle, Monday, Nov. 8, 2004

RENO, Nev. (AP) -- Health officials are hoping rising heating costs won't mean dirtier winter air in the Reno area.

Andrew Goodrich, director of the Washoe District Health Department's air quality division, said the soaring costs could prompt more people to burn wood for heat.

"We're obviously concerned," Goodrich said. "If a lot of people start burning more wood, it could result in violations of the federal health standard, and that's what we're really trying to avoid."

Hoping to ensure a decade-long streak of avoiding unhealthy levels of wintertime air pollution, the department has activated its color-coded program.

It tells residents when it's OK to burn wood and when the air is too dirty to put more smoke in the air.

Air pollution is a problem in Reno during the winter months when temperature inversions trap pollution-rich cold air close to the ground.

It's been nearly a decade since Reno's air was polluted to unhealthy levels and all burning was prohibited.

[Fresno Bee column, Sunday, Nov. 7, 2004:](#)

Board's five erred badly on air vote

By Bill McEwen / The Fresno Bee

I'm mailing a crisp, new \$2 bill to the local air pollution control board.

Some of you -- particularly those who think like newspaper columnists -- will conclude the worst: that I'm trying to buy off a politician.

Nothing could be further from the truth.

I'm hoping five of the board members take the two bucks and buy themselves a bucket of brains and a dose of political courage.

That's a lot to ask of \$2. But \$2 can do amazing things.

Gov. Schwarzenegger signed legislation in September that lets air districts add \$2 to motor vehicle registration fees.

The extra money -- about \$4.8 million a year in the area regulated by the San Joaquin Valley Air Pollution Control District -- would be used for such things as reducing agricultural emissions, retrofitting school buses and taking old belching cars off the street.

Given that we breathe some of the nation's dirtiest air, you'd think approving the \$2 surcharge would be a piece of cake, right?

Not for this group.

With one member absent, the board split 5 yes, 5 no.

You know how in football a tie is said to be like kissing your sister?

This tie was like kissing an exhaust pipe.

You're asking yourself: How could five people vote down a \$2 surcharge -- less than a gallon of gasoline -- to help agriculture, business and public health?

My suspicion is the five were playing a game known by at least three schoolyard names: chicken, bluff, double-dare-ya.

Each of them, figuring the item would pass, voted no.

Most likely because they feared future political opponents might finger them for the greatest perceived sin of all -- RAISING THE CAR TAX!

The board is scheduled to reconsider the surcharge next month, so I'll explain in simple words to the No-On-Clean-Air Quintet how they can vote yes and not worry about losing their high-backed chairs.

Voting no is anti-ag.

Voting no is anti-business because as long as we don't meet federal air standards, industry must pay extra fees to expand.

Voting yes adds your signature to two air-improvement programs endorsed by the Governor.

I'd also like the board members to spend part of my \$2 on a handy-dandy pocket dictionary. That way, they could look up the word "leverage."

Remember the \$4.8 million raised by the extra \$2?

If the board approves the surcharge, the district becomes eligible for another \$12 million annually from the state. Meaning: the five dissenters turned down about \$17 million a year for clean air.

By now, you might be wondering the identities of these clean-air obstructionists.

They are Bakersfield City Council Member Mike Maggard, Kings County Supervisor Tony Barba, Merced County Supervisor Michael G. Nelson, Ripon City Council Member Dan Prince and San Joaquin County Supervisor Jack A. Sieglock.

Each should consider whether he's committed to improving our quality of life. Anyone who's not should resign from the board.

That \$2 bill? I really mailed it.

But I'm confident it'll be stamped "return to sender."

These guys have shown they can't answer a \$2 question, much less sign off on \$17 million in pollution reduction.

[Monday, Nov. 8, Modesto Bee, Opinions](#)

The more air regs change, the more pollution stays the same

By MARCIA BOER, Bee columnist

The air-quality issues facing almond growers, and all farmers in the Central Valley, are becoming increasingly intrusive on all operations.

In order to comply with all the new laws and guidelines, a farmer must spend hours going over the fine print and often confusing regulations. Many of the ideas being implemented are well and good, but some are just trading one problem for another.

The idea of shredding or chopping brush has been around for many years, but now that the Air Pollution Control District is phasing out burning, many farmers have once again turned to this option. This has created another "problem" - what happens to the chips?

One way to get rid of the chips is to disc them into your orchard. This creates another trip through the orchard with your tractor, burning more diesel and compacting the soil. This would have to be done at least twice during the winter and spring, then the orchard would need to be made flat for the next harvest.

In essence, this would create up to three more trips down each row for the diesel tractor, polluting the air that way. If a farmer chose not to disc in the chips, he would still have to mow the orchard as many as three times to help them deteriorate. He may mow anyway, or apply chemicals to control weeds.

The chips that did not disappear by the next harvest would be swept into the windrow with the nuts then shipped to the huller. As the nuts are being hulled and shelled, the wood chips either go into a stick pile or into the hull pile. If too many go into the hull pile, it diminishes the value of the hulls to the huller, who sells them as cattle feed. This just moves it from being a grower problem to being a huller problem.

Almond wood is hard and does not deteriorate quickly. The amount of wood chips in an orchard could quickly build up if chipping was done every year. If an orchard is flood irrigated, many chips would float to the end of the field and become a problem with harvest and fieldwork.

Burning was seen as a way to dispose of prunings completely. General burning will phase out on July 1; orchard removal burning will end July 1, 2007; and "harvested prunings" cannot be burned after July 1, 2010.

Recently enacted Senate Bill 700 requires farmers with 100 acres or more to file a Conservation Management Practices plan that details their efforts to reduce airborne dust particles of 10 microns or less.

Farmers have always sought to control dust. Mites love dusty trees and damage the next year's crop. Many farmers live in their orchards. They understand firsthand the health risks involved. Unfortunately, smoke and dust are by-products of farming. When you are dealing with dirt, there is bound to be some dust.

[Editorial in the Modesto Bee](#)
[Saturday, Nov. 8](#)

It's another distinction we want no part of. Regardless, the San Joaquin Valley — stretching from Stockton to Bakersfield — has the worst air in the nation. Again. This is based on the number of times we have exceeded the "8-hour" smog standard. It is the most important standard for air because it measures levels of continuous pollution — the smog that is most harmful. Los Angeles exceeded the 8-hour standard 88 times last year; Houston had 44 violations. Our valley had 104.

The clock is running. We're not just talking about the federal deadline of 2013 to make our air cleaner; we're talking about the clock on our health. With the highest childhood asthma rates in the nation, we must act more forcefully to solve this problem.