Dairy project cleared for loans

GRETCHEN WENNER, Californian staff writer
Bakersfield Californian, Thursday, Sept. 8, 2005

The first giant dairy project to tap controversial state bond funds in almost a year -- ever since a political uproar temporarily shut off access to millions in cheap loans -- successfully received its initial OK last week. The decision split three of the biggest names in state politics: Gov. Arnold Schwarzenegger, Controller Steve Westly and Treasurer Phil Angelides.

Angelides, outvoted by representatives of the other two -- all three men sent representatives -- wasn't happy with the outcome.

"It defies common environmental sense," Angelides said Wednesday about the Sept. 1 meeting of the California Pollution Control Financing Authority. "The controller and the governor should join me in putting a halt to new financing until new air and water standards are in place."

Angelides, who chairs the financing authority, had asked to renew a previous moratorium that prevented dairies from accessing the tax-exempt, low-interest financing. But the request died.

The three-member authority later approved, 2-1, the preliminary OK for $8.4 million in loans to a Fresno County project, the Charles Van Der Kooi Dairy.

"This is the foot in the door," Angelides said. "I can see the authority is getting a whole new wave of dairy applications."

The funding came under fire last October when the Los Angeles Times reported that nearly $70 million had gone to large dairies in the previous four years, essentially helping fund an industry migration from Southern California to the polluted Central Valley.

Dairy applications of that period falsely claimed the financing would cut down on manure sent to landfills. But industry spokesmen admitted dairymen rarely send manure to landfills because it's too expensive to do so. Now, dairymen applying for the money no longer make the landfill-reduction claims, according to the industry.

More than half of the disputed money, about $37.4 million, went to nine Kern County dairies, including the twin Borba-family facilities south of Bakersfield, each permitted for up to 14,000 cows. Together, those operations got almost $12 million of the bond money.

The funds are meant to finance pollution-cutting projects. The state allows access to the low-interest loans, while the money comes from private lenders.

Environmentalists were angered by the loans. A public financing mechanism meant to cut down on pollution was, in their eyes, paying to build so-called "mega-dairies" that increased air and water pollution in the valley.

Now they're angry again.

"It's premature for the state of California to be effectively providing a gift of public funds for the implementation of pollution control measures when we don't even know what those measures should be," said Mark Murray, executive director of the Sacramento-based environmental group Californians Against Waste.

"We're disappointed that the state controller, who initially voiced support for the moratorium, has reversed course and is now supporting funding for the dairy projects," added Murray, who attended and spoke at the authority's meeting last week.

But dairy industry spokesman Michael Boccadoro said dairymen shouldn't be denied access to the bonds.

"This was very much an appropriate action," said Boccadoro, executive director of the Community Alliance for Responsible Environmental Stewardship, a Sacramento-based industry group.

Boccadoro disagreed with assertions pollution-control measures are not in place for the industry. New dairies must have so-called "best available control technology," or the newest equipment, in place before getting water and air permits required for the financing, he said.

He also disputed some critics' claims that dairies aren't doing anything more than what's minimally required to access the loans.

"If you can explain to me how to go above and beyond (best available control technology), I'd sure like to hear it," he said.

Technology requirements will evolve as regulations evolve, Boccadoro said, and will by definition be rolled into funding requirements.

"Frankly, this whole (debate) has been more about politics than public policy," he said. "The board is proceeding on a very sound public policy basis."

Russ Lopez, spokesman for Westly, said the controller is working on a legislative fix to clear up what companies must do about pollution.

"It's tantamount: We must clarify the loan language," Lopez said, adding: "It's not just dairies. We're talking about any other industry the authority has control over."

State Sen. Dean Florez, the Shafter Democrat who has a bill on the books that would eventually tighten access to the loans, said the financing authority isn't asking enough from the industry.

"We're sending the wrong signal to dairies," Florez said. "We're going to pay for, at a minimum, what they should be doing themselves. We want to do things to clean the air."

Serious Money Prompts Dairy Interests To Back Off Fight On Emissions

Valley Voice Newspaper, Sept. 8, 2005

Tulare County - The dairy industry led by two coalitions of trade groups appear to be on the same page and trying to work with the valley air district on air pollution permits for new and expanding dairies.

Gone now is the harsh rhetoric and veiled threats of lawsuits.

One group, Western United Dairymen, had sued the district but later came to a settlement agreement with them on how to come up with an emission factor that would estimate how much pollution cows generate -- a highly contentious issue. But this agreement gave the Executive Officer for the district the power to come up with that number after weighing the evidence. He did and many in the dairy industry, including Western United, cried foul. Critics cited the research used for coming up with the factor noting it was generated in a test tube in England.

But sources say because Western United had agreed to the formula giving the executive officer the power to make this decision and another lawsuit was unlikely.

Enter a second coalition of dairy interests led by the California Dairy Campaign and Milk Producers Council. This group met with district officials last month and appeared to work out a deal that called for cooperative spirit in forging ahead.

So what’s going on here?

“There is some serious money waiting in the wings,” says a local farm lobbyist, “over $1 billion worth,” he says.

Indeed, Dave Warner of the SJAPCD says some 60 new and expanding dairies are in some stage of permitting and 30 have applications in the district’s office. These days a dairy can cost $20 million to build. “These guys can’t keep waiting forever,” says the source as debate over the emissions factor goes on and on.

One compromise to come out of the decision appears to be a fast track approach to emission research in several key issues. “We know there were holes in our research that need more work,” says Warner. Studies at Fresno State and UC Davis continue with oversite by the state ARB, with the implication that the emission factor could be reduced if research confirms less volatile compounds coming off varying dairy practices and settings.

In the meantime, the district is working with the 30 applications "on an individual basis" to try to work out what could be considered Best Available Technology to reduce emissions, says Warner.

Warner says one costly technology that may not be as widely implemented as believed before the research -- is methane digesters on covered lagoons because pollution from lagoons "was less than we thought it would be."

Regarding pollution control technology on existing dairies -- the tougher political issue -- Warner says an advisory group will be making recommendations on how dairies can comply with the new emission factors and would be in place next July.

Meanwhile Warner says the district believes it can issue air pollution permits for new dairies in as little as 60 days meaning dairy construction may move forward here after being blocked on many fronts for years. In Kings County, where CEQA issues have been largely put to bed, the trend may be most visible in coming months.

Air cleanup deadline set

Juliana Barbassa - Associated Press
Modesto Bee and Tracy Press, Thursday, Sept. 8, 2005

FRESNO - A federal appeals court upheld a judge's decision giving San Joaquin Valley air regulators until 2010 to clean up soot and other particles that help make the area one of the nation's most polluted air basins.

Environmental groups had sued the U.S. Environmental Protection Agency, arguing that to comply with the federal Clean Air Act, the EPA had to require the local air district to bring the region's air into compliance with the federal standards by 2006.

The 9th U.S. Circuit Court of Appeals ruled Tuesday the San Joaquin Valley Air Pollution Control District's new deadline fell within the guidelines established by the Act, contrary to allegations by the Sierra Club, the Association of Irritated Residents, Latino Issues Forum, and Medical Advocates for Healthy Air.

"The local air district doesn't have the authority to adopt all of the measures necessary to control particulate pollution by 2006," air district spokeswoman Kelly Malay said.

The suit dealt with microscopic particles of dust, soot, or chemicals that can build up within the lungs over time and lead to premature deaths, heart attacks, strokes and asthma, according to research.

Several of the largest generators of the tiny particles of pollution -- cars, trucks and agriculture - cannot be regulated by the district, Malay said.

The plan the district adopted last year "aggressively pursues the measures we have authority to adopt," Malay said.

EPA officials were not able to comment in detail because they hadn't yet reviewed the decision, but spokeswoman Lisa Fasano said the agency was pleased with the ruling.

"This decision supports the EPA's plan approval for addressing particulate matter in the Central Valley," she said.

But the clean air advocates who brought the suit said the decision allowed a delay that will directly impact the health of the valley's residents.

"Particulate matter pollution kills people," said Brent Newell, attorney with the Association of Irritated Residents. "We're a long way from cleaning up this problem."

According to a study by the California Department of Health Services in 1999, particle pollution contributes to or causes about 9,340 deaths annually in the state.

The EPA approved the San Joaquin Valley's current plan to clean up particle pollution in 2004, after the region went years without a workable plan to cut down the airborne particles.

The air district has missed or rescheduled deadlines in the past, and submitted plans that didn't meet federal guidelines, and the EPA failed to impose penalties.

Now, many of the current plan's provisions are being implemented, and together with other clean-air measures required by the state Legislature, they're improving air quality, air officials said.

Airborne particles are monitored during the winter, and on days when officials expect a high level of particle matter to be in the air, residents are asked to keep from burning wood in their fireplaces.

Agriculture, long exempted from the air pollution regulations that applied to industry and municipalities, now has to comply with laws that require farmers to adopt techniques that reduce dust and other airborne particles.

But activists like Newell were unconvinced, and said decisions like Tuesday's show the importance of reforming the air district body so it will create "more effective policy from the beginning rather than trying to correct policy through the courts."

"Time is something we can't afford to lose," Newell said.

California May Temporarily Relax Air Standards

Regulators' plan, rooted in the loss of Gulf Coast petroleum imports, could help deter more gas price hikes. Others doubt proposal's need.
By Tim Reiterman, Times Staff Writer
Los Angeles Times, Thursday, Sept. 8, 2005

SAN FRANCISCO - California air quality regulators want to temporarily relax gasoline pollution standards to help avert possible shortages and more price hikes stemming from the loss of petroleum imports from hurricane-battered Gulf states.

At a hearing today in Sacramento, the California Air Resources Board is scheduled to consider an emergency action reducing the standards normally in place until Oct. 31 in most parts of the state.

Essentially, the action would permit the early sale of so-called winter gasoline and waive the requirement to sell summer gasoline during the remainder of the high-ozone season.

Following Hurricane Katrina - which damaged oil rigs, refineries and other production facilities - the U.S. Environmental Protection Agency announced that it would allow the nationwide distribution of gasoline with a lower evaporative standard than some states, including California, require.

Georgia, Arizona, Nevada and Washington were among states that subsequently moved to relax their standards.

On Tuesday, California air board staff members recommended similar action, saying the state is faced with a potential loss of 5% to 10% of its gasoline supplies because of its reduced ability to import what's known as finished gas and blend stocks.

"The decrease in supply would be expected to have a significant adverse effect on the availability and price of gasoline in California and surrounding states," a staff report said.

The proposal calls for increasing the allowable Reid Vapor Pressure -- a measure of evaporation -- from about 7 pounds per square inch to 9 pounds per square inch, meaning more gasoline vapor would escape into the atmosphere.

The result, said air board spokesman Jerry Martin, would be an increase of 50 tons daily of hydrocarbon emissions statewide - a boost of about 6% or 7%.

The board's staff also calculated that the ozone level would increase by about 1%.

"Potentially, on a very hot day in the Central Valley or Southern California, with very stagnant air, it might lead to a violation of federal ozone standards," Martin said.

"But this is an emergency situation…. And the consequences of the hurricane here are minor compared with what is happening in the Mississippi Delta."

Sierra Club senior representative Bill Magavern said: "We do not think Californians want our air to be smoggier than it already is. I am skeptical of the need to weaken our air quality standards."

The hurricane has resulted in about a 10% loss of the nation's oil refining capacity -- and California regulators fear that without an increase in in-state production, gas prices could hike even higher and shortages could occur until imports from the Gulf Coast are restored to normal levels.

Scott Folwarkow, director of governmental affairs for Valero Energy Corp. in Sacramento, said the proposal is a good one because it gives oil companies the flexibility to expand supplies by adding chemicals such as butane, which is normally removed from summer gasoline.

Folwarkow said the company's refinery in St. Charles, La., one of nine refineries knocked out by the hurricane, is beginning to produce oil and should be operating fully by the end of the week.