DEPARTMENT: AIR POLLUTION  
BY: C. B. MOSHER, MD, MPH, H.O.  
AIR POLLUTION CONTROL OFFICER  
PHONE: 209-966-3689

RECOMMENDED ACTION AND JUSTIFICATION:

Information about State banning of burn barrels and Federal designation of Mariposa County as “Non-Attainment” for ozone.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

SEE MEMO

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

SEE MEMO

Financial Impact? ( ) Yes (x) No  
Current FY Cost: $  
Annual Recurring Cost: $  
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded  
Amount in Budget: $  
Additional Funding Needed: $  
Source:  
Internal Transfer  
Unanticipated Revenue  4/5’s vote  
Transfer Between Funds  4/5’s vote  
Contingency  4/5’s vote  
( ) General ( ) Other

CLERK'S USE ONLY:
Res. No. 429  
Ord. No.  
Vote – Ayes:  
Noes:  
Absent:  
( ) Approved  
( ) Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date:  
Attest: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California  
By:  
Deputy

COUNTY ADMINISTRATIVE OFFICER:
Requested Action Recommended  
☑ No Opinion  
Comments:

CAO:  

Date: 21/1/04  

Revised Dec. 2002
December 10, 2003

TO: Members, Board of Supervisors

FROM: Charles B. Mosher, MD, MPH, Health Officer
       Air Pollution Control Officer

SUBJECT: Information about State banning of burn barrels and Federal
designation of Mariposa County as "Non-Attainment" for ozone

At the Board's request, the following issues are addressed:

I. Banning of Burn Barrels:

The Board may recall that on January 16, 2002, the Health Department/Air
Pollution Control District set up a public hearing on this topic in Mariposa
County for the benefit of the citizens here. Representatives of the State Air
Resources Board (ARB) came to the County and discussed the reasons
behind, and the mechanics of, the impending banning of burn barrels across
the State.

I have told the Board before that ARB is one of the few State agencies that is
assiduously careful about basing its regulatory rules upon science. The
science behind this issue is that, household rubbish burned in either burn
barrels or piles in the back yard achieves relatively low temperatures (seldom
exceeding three to four hundred degrees). This can produce toxic chemicals.
Chief among these is dioxin which is produced by burning plastics at these
low temperatures. While some people may be careful not to throw any
plastic, cellophane or more obviously plastic items such as disposable
diapers into a fire, there is often plastic where we are unaware of it including
that found on milk cartons (that is why they don't leak) and multi colored
boxes.
The State's analysis is that burn barrels have historically been utilized to burn household rubbish and, to eliminate the danger of producing chemicals such as dioxin, the barrels should be eliminated. This ban takes place in January of 2004. Dioxin is very persistent in the environment (not unlike MTBE) which means that, once generated, it does not spontaneously biodegrade over time and, therefore, accumulates in the environment.

At the request of many, including Mariposa County, the State has been working hard to develop informational and educational items on this topic, copies of which are enclosed for your information.

Burning of brush piles will continue to be allowable and are, of course, a traditional weekend activity in Mariposa County. The caveat, of course, is that no household rubbish or wood containing toxic chemicals (such as chemically treated wood, painted wood or wood with glues, including plywood) should be burned. Your Air Pollution Control District (the Health Department) has been working on educational efforts to inform people of these impending regulations, beginning with the public hearing mentioned above and more recently, educational interactions with the public during the Christmas weekend parade.

2. The Board may remember that nearly three years ago (3/14/00), we discussed the impending “non-attainment” status that would be imposed on Mariposa County’s Air Pollution Control District by the Federal EPA because of exceedences in the eight hour ozone readings from the County’s two monitors. These monitors are located in Jerseydale and in Yosemite National Park and are maintained by the State.

There has been a long silence since we last talked about it because of lawsuits pending at the Federal level, which had to be resolved before they could go forward. However, during that time, small county Air Districts, including Mariposa, made the case with the State ARB that we do not generate significant amounts of ozone (the indicator chemical for smog) but rather are the downwind recipients (aka victims) of the smog blown up from the Central Valley.

The State ARB was quite reasonable, understood the argument and believed it, and drafted recommendation to the Federal EPA that Mariposa County be united with Tuolumne County in one non-attainment area and, that Calaveras and Amador Counties be clumped together in another non-attainment area, and that the San Joaquin Air Pollution Control District be its own non-attainment area. The State further recommended to the EPA that, since the above-mentioned four mountain counties could do very little to impact the amount of ozone experienced in their counties, that developing and implementing a plan to reach “attainment” (i.e., lower the amount of ozone in the air) would be the responsibility of the San Joaquin Air District as the
upwind producer of ozone which was then "transported" to the Mountain Counties.

The EPA, however, announced a couple of weeks ago that it was not going to follow the State's recommendations but rather would link Mountain County Air Districts to the upwind producers of oozes in what they called "Transport Couples". That is, Mariposa is "coupled" with the San Joaquin Air Pollution Control District inasmuch as one produces the ozone and the other has ozone exceedences because ozone has been transported there from the producing area.

All of these decisions, quite frankly, are to be made by the Federal Government and we, therefore, have little control over these decisions. The State has proven to not have a great deal of control either. Through the State Air Pollution Control Officers organization and through the Mountain Counties Air Basin organization (composed of multiple foothill and mountain counties) we will have our voice heard. However, in the end, it is quite likely the Mariposa Air Pollution Control District will have to develop a plan, or at least write an applicable part of the plan that the San Joaquin Unified Air District has to write, and new regulations are a possibility.

Implications:

1. If we balk and refuse to proceed reasonably, the Feds are threatening to withhold millions of dollars of transportation money.

2. Being coupled with San Joaquin Unified probably means a much longer timeframe in terms of planning for and implementing regulatory changes.

3. People are always interested in the possibility of smog reduction inspections. The exact nature of any regulatory changes is not clear at this time.

4. The County's movement into electric cars and hybrid vehicles certainly is a step in the right direction.

I have attached a letter from the EPA, which triggered the most recent discussions.

Encl
Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Building  
Sacramento, California 95814

Dear Governor Schwarzenegger:

We appreciate California's recommendations on 8-hour ozone air quality designations, made by the State earlier this year. This is an important step in providing citizens of California with information on air pollution levels where they live and work. The purpose of this letter is to inform you that although we agree largely with California's 8-hour ozone boundary recommendations, we currently intend to modify some of the recommendations, in making our final designations in April 2004. We are willing, however, to review any additional information you have that might impact our final decision. We currently disagree with California's recommendation to separate mountain counties (Nevada, Amador, Calaveras, Tuolumne and Mariposa Counties) from the upwind Sacramento and San Joaquin Valley nonattainment areas, the recommendation to split the Western Mojave Desert nonattainment area, and the recommendation to designate as attainment the San Francisco Bay Area and Yuba City areas, considering 2003 air monitoring data we received after California's July, 2003 recommendation (see enclosed). Also, please note that EPA will address designations of Indian country lands through a concurrent process with the Tribes in California.

Levels of ground-level ozone, a major constituent of smog, have improved significantly since the Clean Air Act (CAA) was amended in 1990, at which time 135 areas were designated as not attaining the 1-hour ozone standard. Since that time nearly half those areas (67) have cleaned up their air to meet the 1-hour ozone standard and have been redesignated as attaining that standard. However, many areas have still not met the less stringent 1-hour ozone standard and, in 1997, the United States Environmental Protection Agency (EPA) promulgated a more stringent 8-hour ozone national ambient air quality standard. Thus, much work remains to be done. Under the CAA, EPA is required to promulgate designations for new or revised standards, such as the 8-hour ozone standard. Earlier this year, after several public interest groups filed a lawsuit claiming EPA had not met the statutory deadline for designating areas for the 8-hour ozone standard, we entered into a consent decree that requires us to promulgate designations by April 15, 2004.

We have reviewed the State's letter of July 15, 2003, submitting recommendations on air quality designations for the 8-hour ozone standard, as well as the Air Resources Board's Staff Report ("Recommended Area Designations for the Federal Eight-Hour Ozone Standard") from March 2000. Consistent with section 107(d)(1) of the CAA, this letter is to inform you that,
based upon the information submitted, and in the absence of additional substantiation for the State's recommendations, EPA intends to make modifications to California's recommended designations and boundaries.

The CAA defines a nonattainment area as "any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant." (CAA §107(d)(1)) EPA guidance indicates that California should use the larger of the Consolidated Metropolitan Statistical Area (CMSA), Metropolitan Statistical Area (MSA), or the 1-hour ozone nonattainment area as the presumptive boundary for 8-hour ozone nonattainment areas. The guidance provides 11 factors that California should consider in determining whether to modify the presumptive boundaries. We have reviewed California's information supporting either expanding or contracting the presumptive nonattainment areas. The enclosure to this letter provides a table in which EPA identifies the counties (and any parts thereof) that should be included in each nonattainment area. We also provide a written summary of our reasoning for modifying California's recommendations, explaining why we believe the recommendation is not consistent with the statutory definition of a nonattainment area in light of the 11 factors provided in our guidance.

EPA believes that breathing unhealthy levels of ozone and ozone transport is a serious regional air pollution problem. Except in very limited circumstances, such as unusually large counties, or portions of a county lying in a different airshed due to a geographical feature such as a mountain range, designating a partial county as nonattainment would not reflect the area that is either experiencing a violation of the ambient air quality standard or contributing to a violation of the air quality standard in a nearby area. Therefore, absent a convincing rationale that the excluded portion of the county is neither experiencing a violation nor contributing to a violation in a nearby area, designating the full county as nonattainment is the appropriate designation. California's recommendation and supporting material include a number of partial counties as nonattainment. We believe that your submittal generally presents a convincing case that the excluded portions of counties are not experiencing violations of the air quality standard, are not contributing to violations of the air quality standard in nearby areas, and/or are separated by a geographical feature.

EPA has been tracking 2003 ozone monitoring data and its impact on areas' preliminary 2001-2003 design values. Where preliminary 2001-2003 ozone monitoring data indicates that an area's attainment status will differ from California's recommendation based on 2000-2002 monitoring data, the enclosure indicates where EPA intends to modify the State's designation recommendation. EPA will continue to closely review monitoring data for additional differences that may occur throughout the remainder of the 2003 ozone season or as a result of data handling procedures to determine if it might affect the State's recommended designations. It is critical for California to expedite submittal of 2003 monitoring data to EPA so that air quality designations and classifications for the 8-hour ozone standard will accurately reflect the State's air quality.

If you would like to provide additional information about the areas in question, please
provide this information by February 6, 2004. Also, please submit your final 2003 8-hour ozone monitoring data into the Air Quality System as quickly as possible, if it has not already been done. In addition, please submit the 8-hour and 1-hour design values and the average expected 1-hour exceedance rate to John Kennedy, Technical Support Office Chief (415-947-4129), by official letter by December 17, 2003 to advance the designations and classifications process.

We look forward to a continued dialog with California as we work to finalize the designations for the 8-hour ozone standard. We appreciate your efforts and will review any future supporting information California wishes to submit on these recommendations. If you have any questions, please do not hesitate to contact Steven Barhite, Air Planning Office Chief, at (415) 972-3980.

Sincerely,

Wayne Nastri
Regional Administrator

Enclosure

cc: Alan Lloyd, ARB
    Catherine Witherspoon, ARB
    Stew Wilson, CAPCOA
Enclosure

The following table identifies the individual areas and counties comprising those areas within California that EPA intends to designate as nonattainment. Following the table is a description of those areas where EPA intends to modify the California recommendation as well as the basis for the modification. EPA intends to designate as attainment/unclassifiable all California counties (or parts thereof) not identified in the table below.

<table>
<thead>
<tr>
<th>Area</th>
<th>California Recommended Nonattainment Counties</th>
<th>EPA Intended Nonattainment Counties (modifications in bold)</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Coast Air Basin (Los Angeles)</td>
<td>Los Angeles (South Coast Air Basin portion which includes Santa Catalina and San Clemente Islands), Orange, San Bernardino (South Coast Air Basin portion), Riverside (South Coast Air Basin portion)</td>
<td>Los Angeles (South Coast Air Basin portion which includes Santa Catalina and San Clemente Islands), Orange, San Bernardino (South Coast Air Basin portion), Riverside (South Coast Air Basin portion)</td>
</tr>
<tr>
<td>San Joaquin Valley</td>
<td>San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, Kern (San Joaquin Air Basin portion)</td>
<td>San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, Kern (San Joaquin Air Basin portion), Amador, Calaveras, Tuolumne, Mariposa</td>
</tr>
<tr>
<td>Sacramento Region</td>
<td>Sacramento, Yolo, Solano (Sacramento Valley Air Basin portion), El Dorado (Sacramento Valley Air Basin portion), Placer (Sacramento Valley Air Basin portion)</td>
<td>Sacramento, Yolo, Solano (Sacramento Valley Air Basin portion), El Dorado (Sacramento Valley Air Basin portion), Placer (Sacramento Valley Air Basin portion), Nevada (Sacramento Valley Air Basin portion)</td>
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<tr>
<td>Western Mojave Desert (San Bernardino part county and Los Angeles part county)</td>
<td>San Bernardino (Mojave Desert Air Basin portion)</td>
<td>San Bernardino (Mojave Desert Air Basin portion), Los Angeles (Antelope Valley portion aka Mojave Desert Air Basin portion)</td>
</tr>
<tr>
<td>Coachella Valley (Riverside part county)</td>
<td>Riverside (Salton Sea Air Basin portion)</td>
<td>Riverside (Salton Sea Air Basin portion)</td>
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<td>Ventura County</td>
<td>Ventura</td>
<td>Ventura</td>
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<tr>
<td>Eastern Kern County</td>
<td>Kern (Eastern Kern aka Mojave Desert Air Basin portion)</td>
<td>Kern (Eastern Kern aka Mojave Desert Air Basin portion)</td>
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<td>--------------------------------------------------------</td>
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<tr>
<td>San Diego County</td>
<td>San Diego</td>
<td>San Diego</td>
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<tr>
<td>Antelope Valley</td>
<td>Los Angeles (Antelope Valley portion aka Mojave Desert Air Basin portion)</td>
<td>(Included in Western Mojave Desert)</td>
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<td>Imperial County</td>
<td>Imperial</td>
<td>Imperial</td>
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<tr>
<td>Western Nevada County</td>
<td>Nevada (Sacramento Valley Air Basin portion)</td>
<td>(Included in Sacramento Region)</td>
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<tr>
<td>Central Mountain Counties</td>
<td>Amador, Calaveras</td>
<td>(Included in San Joaquin Valley)</td>
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<tr>
<td>Southern Mountain Counties</td>
<td>Tuolumne, Mariposa</td>
<td>(Included in San Joaquin Valley)</td>
</tr>
<tr>
<td>Chico (Butte County)</td>
<td>Butte</td>
<td>Chico (Butte County)</td>
</tr>
<tr>
<td>San Francisco Bay Area</td>
<td>(Not recommended: clean 2000-2002 violating 2001-2003)</td>
<td>San Francisco, Marin, southern Sonoma (San Francisco Bay Air Basin portion), Napa, western Solano (San Francisco Bay Air Basin portion), Contra Costa, Alameda, Santa Clara, San Mateo</td>
</tr>
</tbody>
</table>

**Mountain Counties**

The State recommended a separate nonattainment areas for Nevada County. We intend to add Nevada County to the Sacramento Region nonattainment area. The State recommended separate nonattainment areas for Amador and Calaveras Counties (Central Mountain Counties), and Tuolumne and Mariposa Counties (Southern Mountain Counties). We intend to add Amador, Calaveras, Tuolumne, and Mariposa Counties to the San Joaquin Valley nonattainment area. While these counties are outside of the presumptive boundary, the counties have violating monitors. The mountain counties have low population and emissions compared to the upwind nonattainment areas, and appear to be part of the Sacramento and San Joaquin Valley airsheds. A regional approach therefore appears to be best suited to addressing the air quality of both the upwind San Joaquin Valley and Sacramento Region nonattainment areas, and the downwind...
mountain counties. We welcome any information that will support the State’s recommendation. As stated elsewhere, this information needs to address the 11 factors in our guidance.

Western Mojave Desert

The State recommended splitting northeastern Los Angeles (Antelope Valley) and western San Bernardino Counties into separate nonattainment areas. We intend to modify the State’s recommendation because we believe this region should continue to be treated as one nonattainment area. The State provided no justification for this split. The areas clearly constitute a single airshed and the designation should reflect this.

San Francisco Bay Area

The State recommended attainment for the San Francisco Bay Area based on air quality data from 2000-2002. Our evaluation shows that, when considering 2001-2003 monitoring data, this area now contains a violating monitor. Therefore, we intend to modify the State’s recommendation, as shown in the table above.

The presumptive nonattainment area is the entire CMSA. Given the topographic characteristics along the coast, we believe that north Sonoma County and Santa Cruz County are not part of the San Francisco Bay Area airshed. We therefore do not intend to designate as nonattainment the north Sonoma portion of Sonoma County and Santa Cruz County. We exclude eastern Solano County from the San Francisco Bay Area nonattainment area, because we agree with California’s recommendation that eastern Solano County is part of the Sacramento Region airshed. We will therefore designate eastern Solano County nonattainment along with the Sacramento Region nonattainment area. It is important for California to expedite submittal of 2003 monitoring data in order to accurately reflect the air quality in this area because it is critical to the designation and classification process.

Yuba City

The State recommended that this area be attainment. Considering 2001-2003 monitoring data, this area now contains a violating monitor. We intend to designate the entire MSA nonattainment. It is important for California to expedite submittal of 2003 monitoring data in order to accurately reflect the air quality in this area because it is critical to the designation and classification process.
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: CHARLES MOSHER, Health Officer

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: STATE BANNING OF BURN BARRELS AND FEDERAL DESIGNATION OF MARIPOSA COUNTY AS “NON-ATTAINMENT” FOR OZONE Resolution 04-11

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on January 6, 2004

ACTION AND VOTE:

2:13 p.m. Charles Mosher, Health Officer;

MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT
Information about State Banning of Burn Barrels and Federal Designation of Mariposa County as “Non-Attainment” for Ozone

BOARD ACTION: Dr. Mosher provided information relative to the State’s ban on burn barrels and changes in the Federal designation of the County for “non-attainment” for ozone. He advised that February 6th is the deadline to provide comments to the Federal Government relative to placement of the County in the San Joaquin Air Pollution Control District. Discussion was held relative to the monitoring stations and data that is collected. Supervisor Pickard suggested that consideration be given to requesting a presentation for staff or the Air Resources Board, and involve our federal legislative representatives, relative to concerns with the proposal to place the County with the San Joaquin Air Pollution Control District; and he suggested that we work with the other mountain counties. Discussion was held. (M)Stetson, (S)Pickard, Res. 04-11 was adopted directing that a strong letter be sent relative to the proposal to place the County with the San Joaquin Air Pollution Control District; that our federal legislative representatives and the mountain counties be involved; and that Dr. Mosher draft the letter and route it to the Board members before sending it out. Ayes: Unanimous. Further discussion was held relative to the ban of the backyard burn barrels and options, including the possibility of compost barrels and education. The Board concurred with Dr. Mosher proceeding with the program in the best way he sees fit. Supervisor Bibby initiated discussion as to whether an exemption could still be obtained and relative to the status of burn permits.

Ken Melton commented on the County and State issues of air pollution.
Paul Chapman noted that the California Department of Forestry and Fire Protection issued three-year burn permits and asked what the status of the permits is with the change. Chairman Parker noted that would be a State issue.

cc: File