


DISTRICT 1  
JOHN R. RENISON

DISTRICT 2  
JACK TERRAZAS

DISTRICT 3  
MICHAEL W. KELLEY

DISTRICT 4  
GARY WYATT

DISTRICT 5  
RAY CASTILLO



**Board of Supervisors**  
County of Imperial

COUNTY ADMINISTRATION CENTER

940 MAIN STREET, SUITE 209  
EL CENTRO, CA 92243-2871  
TELEPHONE: (760) 482-4220  
FAX: (760) 482-4215

November 17, 2011

Honorable Fred Upton  
House Energy & Commerce Committee  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Subject: Support for H.R.1633 and Need to Address SIPs

Dear Chairman Upton:

We are writing to inform you that the Imperial County Board of Supervisors unanimously supports passage of H.R. 1633, the Farm Dust Regulation Act of 2011.

At the same time, we strongly urge the Energy and Commerce Committee to add a necessary provision to close a gaping loophole in the current legislation with regard to pending State Implementation Plans (SIPs).

Whenever the Environmental Protection Agency (EPA) changes dust standards or requires additional control measures, it imposes uncertainty and costs upon farmers across this nation. The impact is further compounded by the resulting economic damage thrust upon farm based counties. The Imperial County story dramatically illustrates how EPA, within the SIP process, urged adoption of a specific set of dust control measures in 2005. Relying upon EPA's guidance stated agreement on proposed rules and commitment to expeditiously approve said fugitive dust rules, in 2006 the fugitive dust rules and the incorporated control measures were implemented and have clearly demonstrated clean air benefits (two out of the last three most recent years with no exceedences, the only exceedance year was due to exceptional events and transport from Mexico). Then in 2010, EPA insisted that costly new and additional farming dust measures be added to the existing rules if Imperial County was to be granted SIP approval by EPA, this with no real potential of improving air quality in the region to come into attainment of the National Ambient Air Quality Standard (NAAQS).

While H.R. 1633 addresses only "new" standards, farmers and communities will continue to be exposed to the ever changing whim of EPA in imposing new and additional dust control measures through the SIP process. Based on EPA testimony, we understand that there currently may be as many as 41 open SIP processes. We strongly urge the Committee to adopt an amendment that would close this open door for EPA changes in control measures on dust through the SIP process.

**The Imperial County Story:** Farming is vital to the Imperial Valley and accounts for at least 50 percent of all employment in the County, where one out of every five families live below the poverty line, and where unemployment percentage consistently ranks among the highest in the nation. Abundant farming thrives in the area because of the irrigation supplied from the Colorado River. It is estimated that more than two-thirds of the vegetables consumed in the United States during the winter months are grown in the Imperial Valley.

In its natural state, the valley is one of California's hottest and driest desert areas, receiving less than three inches of rainfall per year. Not surprisingly, the County struggles each year with windblown dust whipped up from dry and undeveloped desert lands. The problem is significantly aggravated by uncontrolled dust, smoke, and soot originating across the border from Mexicali, Mexico. Mexicali is a densely populated metropolitan area of over one million people, where dust from unpaved roads and particulate matter (PM) from open burning of trash, tires, and other waste materials is a daily occurrence. There is no denying that if the entire County were to be paved over, there would still be uncontrolled air transport emanating from Mexicali that would continue to be a direct cause of transport exceedances and the yearly high wind events that we experience would continue to occur causing exceptional exceedances in the County.

Nonetheless, Imperial County enforces some of the most aggressive air pollution control laws anywhere in the country, and over the last decade has been at the forefront of the battle over controlling PM from a variety of sources within its jurisdiction. Since 2004, the County has fully collaborated with EPA, California Air Resources Board (CARB), industry, health officials and the public in a transparent and exhaustive SIP development process. This process provided numerous opportunities for comment and participation from all interested parties and multiple EPA field visits. Additionally, many technical and scientific discussions were held and a long series of EPA clarifications were accepted by the local air board.

Both EPA and CARB reviewed draft documents and on multiple occasions provided comments and changes that were incorporated into the proposed rules. This expensive and intensive effort successfully culminated on November 8, 2005 with the EPA representative for Region IX testifying in a public hearing. His testimony reaffirmed that if the rules and the plan were adopted by the local air control board, EPA would act expeditiously to approve it. That plan was adopted by the local air board and all measures have been successfully implemented since January, 2006, three years in advance of being required. However, EPA failed in its commitment to provide final approval. ***That was over five years ago!***

EPA finally took action in early 2010 on the pending rule, disapproving portions of it and seeking a variety of new and additional measures ***before*** it would even consider approval of the 2005 plan submittal. Some of the issues are as basic as the meaning or definition of terms -- issues that should and could have been raised and resolved in 2005.

The new measures perpetuate uncertainty and high costs for the community, especially for farmers in the Imperial Valley. For example, the original rule covers farms of 40 acres or more, which is 97 percent of all farmland in the Valley. EPA now insists that be changed to "all farms of 10 acres or more" - and for what purpose? This imposition creates a hardship on small farming operations and will not enhance air quality in the Valley.

The new measures will impose even stricter controls on our farmers, providing little or no benefit towards Imperial County's effort to meet attainment of the NAAQS for PM10. It seems clear that there is absolutely no justification for imposing requirements that would have a negative impact on the

economy and employment in the County, when the rules and controls would not change the ability of the County to meet the standards on the few high PM days that are caused by exceptional events or transport from a foreign country. Inexplicably, EPA has disagreed and is now threatening sanctions if the County does not change its rules.

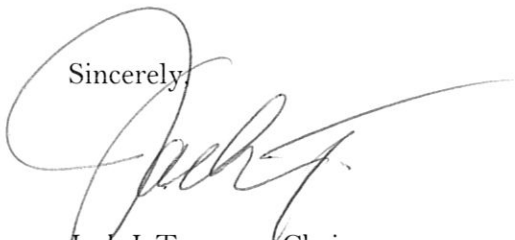
**Action Requested:** While this is the Imperial County story, is it not unique to us. All across the country, especially in the arid regions of the West the storyline is the same. We strive for clean air and are committed to implement measures that aim to deliver cleaner air. Our farmers and communities need to be guided by certainty and cost-effective measures to accomplish this task.

H.R. 1633 in its current form fails to address this open range of persistent new mandates on communities and farmers through the SIP process. Consistent with the original intent of H.R. 1633, we urge Congress to add language providing a temporary one year prohibition on the following:

- EPA disapproval of SIPs in areas that receive less than 10 inches of precipitation per year;
- EPA sanctions for such areas; and,
- Use of federal funds by EPA or other federal agencies for purposes of litigation against such jurisdictions.

On behalf of Imperial County and its farmers, as well as all farming communities with similar experiences, we thank you for your consideration and urge responsive action.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack J. Terrazas", written over the word "Sincerely,".

Jack J. Terrazas, Chairman  
Imperial County Board of Supervisors