



# Air Resources Board



**Matthew Rodriguez**  
Secretary for  
Environmental Protection

**Mary D. Nichols, Chairman**  
1001 I Street • P.O. Box 2815  
Sacramento, California 95812 • [www.arb.ca.gov](http://www.arb.ca.gov)

**Edmund G. Brown Jr.**  
Governor

October 8, 2012

Mr. Steve Collup  
Engineer-Manager  
Arvin-Edison Water Storage District  
20401 Bear Mountain Boulevard  
Arvin, CA 93203-0175

Dear Mr. Collup:

We are writing to request that the Arvin-Edison Water Storage District (Arvin-Edison) reconsider its decision prohibiting the California Air Resources Board (ARB) from continuing to collect air quality data on Arvin-Edison's property. The remainder of this letter explains the negative consequences for the citizens of Kern County and California that flow from Arvin-Edison's decision and expands upon Arvin-Edison's obligation to California's citizens.

In July 2009 the managers of Arvin-Edison informed ARB that Arvin-Edison was no longer willing to lease ARB a portion of Arvin-Edison's land located at 20401 Bear Mountain Boulevard in Arvin, California. ARB vacated Arvin-Edison's property in December 2010. ARB had maintained an air quality monitoring station on this leased land since 1989. Due to Arvin-Edison's decision, ARB was forced to relocate its monitoring station to a location that provides air quality data that diverge from the levels historically recorded on Arvin-Edison's property. This change jeopardizes U.S. Environmental Protection Agency's (U.S. EPA) ability to determine whether the region meets federal air quality standards.

Prior to its closure, the Arvin-Edison monitoring station recorded the highest ozone concentrations in the San Joaquin Valley (Valley). Although the Valley was required to attain the 1-hour ozone standard by 2010, the Arvin-Edison monitor showed that the site continued to violate the 1-hour ozone standard at the time of its closure. Due to this "failure to attain" approximately \$38 million in annual penalty fees are being imposed on Valley residents through increased vehicle registration surcharges under section 185 of the Clean Air Act. These penalties will be imposed until the area is reclassified to "attainment" for the federal ozone standard. ARB and U.S. EPA agree that to demonstrate attainment of the federal ozone standard – and the removal of the section 185 penalties that fall on Valley residents including those in your district – the Arvin-Edison monitoring site must be reestablished.

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.*

California Environmental Protection Agency

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We want to emphasize the minimal scope of ARB's request to lease a portion of Arvin-Edison's land and ARB's willingness to pay any reasonable fee Arvin-Edison feels appropriate. The monitoring station that ARB wants to maintain on Arvin-Edison's property is in a shipping container that would sit on a concrete pad measuring 14 feet by 34 feet (476 square feet). ARB personnel would need to access the monitoring station approximately once per week for one to two hours. Please note that ARB is willing to work collaboratively with Arvin-Edison to address any concerns that Arvin-Edison has regarding ARB's proposed access.

Arvin-Edison's powers, including the ability to own property, flow directly from California law. (Cal. Water Code section 43500.) As you are aware, the State's grant of powers to Arvin-Edison also includes the levying of assessments on land within the district, a power that is generally the sole preserve of government. California's Supreme Court has found that with the grant of such extensive powers comes a responsibility to the citizens of California. "The property held by the [Water Storage District] is in trust for the public, and *subject to the control of the state.*" (In re Madera Irrigation Dist. (1892) 92 Cal. 296, 322-23, emphasis added.) The court made clear that this obligation is based upon the extensive grant of governmental power (e.g. the right to levy assessments on land within the district) that the legislature provided Water Storage Districts (*Id.* at p. 321).

We very much hope that Arvin-Edison will be willing to work with ARB to find an acceptable solution for all involved. If an acceptable agreement cannot be reached, ARB will be forced to explore alternate options that unfortunately would likely demand more time and expense from all who would be affected if Arvin-Edison does not change course.

Please contact Daniel Whitney, Staff Counsel, at (916) 445-5514 or [dwhitney@arb.ca.gov](mailto:dwhitney@arb.ca.gov) should you have any questions.

Thank you for your full consideration of the situation.

Sincerely,



Mary D. Nichols  
Chairman

cc: See next page.

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cc: Mr. Jared Blumenfeld  
Regional Administrator  
Region 9  
U.S. Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, CA 94105

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