

Los Angeles Times

AUGUST 29, 2005

Gov. Leans Toward a Paler Shade of Green

Schwarzenegger looks to industry, not activists, for recent appointments to environmental posts.

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SACRAMENTO — Gov. Arnold Schwarzenegger, who enthused activists and unnerved business leaders with many of his early appointments to top environmental slots, is increasingly favoring industry officials for key jobs protecting California's forests, air and water.

Schwarzenegger's effort to be a green Republican has been one of the principal ways the governor has depicted himself as being above Sacramento's traditional partisan divides. But in a reversal from the beginning of his tenure, it is now environmentalists who are objecting that Schwarzenegger has bent too far to one side.

The complaints mirror a larger one that has been leveled against the governor all year: that he has become too closely aligned with the business interests that are underwriting his November special election.

After simmering for months, tension about his appointments has erupted over Schwarzenegger's choice for one of the most important environmental positions in California: chief regulator of the state's air quality.

Cindy Tuck, who has been chairwoman of the Air Resources Board since Schwarzenegger appointed her in June, is the first former industry lobbyist to head the body that decides how much

pollution cars, factories and farms can emit. For 15 years, Tuck had worked either directly for or on behalf of an oil and energy industry trade group that opposed California legislation intended to restrict greenhouse gases, railroad emissions and acid rain.

With the Senate Rules Committee scheduled to vote Wednesday on whether to confirm Tuck, business and environmental interests are mounting aggressive campaigns to influence the outcome. Tuck's record has been parsed with the type of intensity usually reserved for candidates for elective office or judgeships.

"The environmentalists might be concerned because they want someone who is prejudiced to their views," said George J. Gomes, administrator of the California Farm Bureau Federation, which has been campaigning for Tuck. "We are not looking for someone who is prejudiced to our views. We are looking for someone that's going to act based on the facts and the science."

The dynamics are substantially different from the governor's early days, when business groups were grumbling that the governor had chosen Terry Tamminen, the director of a Santa Monica environmental nonprofit, as secretary of the state Environmental Protection Agency and Bonnie Reiss, a Hollywood environmental activist, as his senior advisor.

"We have seen a change in the wrong direction," said Bill Magavern, the lob-

byist for the Sierra Club California. "On the whole, he's really had an eclectic mix of appointees to environmental positions, but we've seen an inclination recently to appoint people from the polluter lobbies to positions overseeing the industries they used to represent."

For a commission that helps plan for the disposal of low-level radioactive waste, Schwarzenegger tapped two people who sat on the board of the lobbying group for companies and institutions that generate such waste. The appointees, Donna Earley and James Tripodes — who handle waste disposal issues at a hospital and a nuclear laboratory, respectively — are scheduled for confirmation votes in the Senate committee Wednesday.

Last fall, Schwarzenegger hired Timothy Swickard as chief counsel for the department that oversees toxic waste and its cleanup. Swickard had previously been an environmental lawyer who represented public agencies and agricultural businesses, and had managed a rancher's real estate for 15 years.

The governor in June elevated him to director of the Department of Toxic Substances Control, but Swickard last week withdrew his nomination after Senate Democrats complained that he had insufficient experience with toxins and had written in a Sacramento newspaper that "science has irrefutably proven" that homosexuality, like alcoholism, could be "overcome" with determined effort.

Swickard has returned to his previous job, but the administration is now trying to have him appointed as the chief lawyer for the state board that oversees the quality of California's waters, according to two officials familiar with the effort.

One of the people Schwarzenegger already has appointed to that board is Jerry Secundy, who spent most of his career as an oil company executive and also was a board member of the California Council for Environmental and Economic Balance, the industry group for which Tuck worked.

The administration cited several recent appointees with strong credentials and support among environmentalists. They include Bridgett Luther Thompson, a North Carolina public land trust official and a leader of Republicans for Environmental Protection, to head the state Department of Conservation, and Gary Petersen, a Santa Barbara nonprofit recycler, to the Integrated Waste Management Board.

"There's nobody like a Terry Tamminen, but you have to look at things in total rather than the last piece out there," said Alan Lloyd, secretary of the California Environmental Protection Agency. He assumed the position after Tamminen was made the governor's Cabinet secretary.

Lloyd, a former Air Resources Board chairman who is widely respected by environmentalists, said nominees should not be rejected simply because of their work history. "We should pride ourselves that in California we give people a chance," Lloyd said. "To not give somebody a chance to demonstrate what they can do, I think that's most unfortunate."

A number of Schwarzenegger's criticized nominees do have experience beyond working for industry.

Secundy, for instance, was executive director of Audubon California for two

years. And some doubters have been won over by other industry appointments, including that of Mary-Ann Warmerdam, a veteran lobbyist for agriculture and an electric company whom Schwarzenegger hired as the state's top regulator of pesticides.

"The quality of the people he's been picking, even if people disagree with their philosophy, has been very good," said Sen. Roy Ashburn (R-Bakersfield), who sits on the Senate Rules Committee. "His selections have reflected a cross-section of California and haven't been skewed."

But increasingly, fights over environmental positions have led to angry standoffs between the governor and Senate Democrats.

After the Senate rejected his choice for the state board that oversees California's forests because environmentalists said she was too sympathetic to the timber industry, the governor next offered Democrats a candidate they welcomed even less warmly.

He appointed Ron Nehring, a Republican Party leader and anti-tax activist who has been a supporter of an upcoming ballot initiative that would restrict unions' use of member dues for political purposes.

State law requires all members of the Board of Forestry to have "general knowledge of, interest in and experience with, problems relating to watershed management (including hydrology and soil science), forest management practices, fish and wildlife, range management, forest economics or land use planning." The administration says Nehring's expertise derives from almost losing his home in the 2003 San Diego fires.

"This is like poking us in the eye and saying, 'Look at how bad I can be, and if you don't like this, I can be even worse,'" said state Sen. Sheila Kuehl (D-Santa Monica), who heads the chamber's en-

vironmental panel.

But that clash pales in comparison with the fight over Tuck's appointment to the Air Resources Board. Business leaders are pressing for an outpouring of support and say that although she represented industry's side in lobbying, Tuck proved skillful in forging compromises and sometimes persuading her own side to agree to concessions.

"I find opposition to her disturbing," said Allan Zaremborg, president of the California Chamber of Commerce. "It can only be because she is balanced as opposed to having a bias. What seems to be most disturbing is that they opposed anyone who was not a lackey for the environmental groups. Cindy is not a lackey for anybody."

While acknowledging that Tuck is personable, environmentalists say that the importance of the Air Resources Board warrants an appointee with experience beyond industry's vantage. Since its creation in 1967, the board has adopted countless pioneering measures to address California's notoriously chronic air pollution, often leading the way for other states and countries to follow and forcing wholesale changes in such industries as auto manufacturing.

"The chair of the air board is the big kahuna," said Ann Notthoff, California advocacy director for the Natural Resources Defense Council.

In 1971, for example, the board adopted the nation's first regulations limiting automobile emissions of nitrogen oxides, one of the two main classes of pollutants that form smog. In 1975, automobiles began featuring pollution-reducing catalytic converters as a result of state regulations, technology now routinely installed in cars all over the world. Last year, the board tackled global warming, adopting regulations that seek to reduce automobile emissions of carbon dioxide and other greenhouse gases nearly 30% by

2017.

The board has traditionally been led by environmentalists or scientists with in-depth knowledge of air pollution issues. Its first chairman, for example, was Arie J. Haagen-Smit, a Caltech professor who was the first to identify the causes of smog.

At her confirmation hearing, Tuck can expect to be grilled over her past criticisms of the "precautionary principle," an approach to regulation that places the onus on businesses to show that their activities and products will cause no harm.

"This is a very bad signal, if the governor thinks a lobbyist is in the same league as someone who has run a program, who's had actual experience with the legal or technical aspect of dealing with pollution," said Mary Nichols, who was chairwoman of the Air Resources Board in the 1970s and later worked in former Gov. Gray Davis' Cabinet.

"A lobbyist by definition is a hired mouthpiece," Nichols said. "This particular hired mouthpiece has spent her career working to undermine the laws that she will now be enforcing. Even if all she does is carry on the program, there is not a shred of evidence that there is any commitment to the cause."

Tuck did not respond to a request for an interview. But Lloyd said that although he was originally skeptical of Tuck, he became convinced after interviewing her for the job that she could transcend her background.

"Of all the candidates, Cindy did the best in the interview. I didn't in all honesty expect that," Lloyd said. "From her commitment to the governor's plan, to changing careers and dedicating herself to public service, I became convinced she'd be a wonderful candidate."

Environmental advocates said they would

have preferred several other candidates they proposed for the air board. Those included Byron Sher, a former Democratic state Senator who wrote the state's Clean Air Act and was the Legislature's recognized expert on the environment until term limits forced him out last year; Jason Grumet, executive director of the National Commission on Energy Policy; and UC Davis professor Dan Sperling, director of the Institute of Transportation Studies.

"The people who were put forward were not hacks or enviro crazies," said V. John White, a Sacramento lobbyist and executive director of the Center for Energy Efficiency and Renewable Technologies. "These were all deemed not viable."

Contested nominees

These are some of Gov. Arnold Schwarzenegger's environmental appointees whose confirmations are likely to be disputed in the California Senate.

Cindy Tuck

Chairwoman, Air Resources Board
Appointed: June 2005
Background: lobbyist lawyer for the California Council for Environmental and Economic Balance; lobbyist for three law firms that represented manufacturers and others.
Party: Declined to state

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Jerry Secundy

Member, State Water Resources Control Board
Appointed: February 2005
Background: Atlantic Richfield Corp.; California Council for Environmental and Economic Balance board member; executive director of Audubon California.
Party: Democrat

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Ron Nehring

Public member, State Board of Forestry

Appointed: July 2005

Background: Vice chairman of the California Republican Party and a senior consultant to Americans for Tax Reform, the conservative Washington, D.C., group run by Grover Norquist.
Party: Republican

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Donna Earley

Member, Southwestern Low-Level Radioactive Waste Commission
Appointed: October 2004
Background: Cedars-Sinai Medical Center official; board member of the California Radioactive Materials Management Forum
Party: Declined to state

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James Tripodes

Member, Southwestern Low-Level Radioactive Waste Commission
Appointed: October 2004
Background: Lawrence Livermore National Laboratory official; former board member of the California Radioactive Materials Management Forum
Party: Republican

Sources: Governor's Office; California Senate