

## **Pass the proposal**

**If there are holes in the plan, fix them in time to meet EPA deadline.**

(Published Thursday, June 19, 2003, 4:40 AM)

The San Joaquin Valley Air Pollution Control District's board will hold one of its most crucial meetings today when it considers a plan to clean up the Valley's air, which is contaminated with dust, soot and other microscopic pollution.

If the air district board doesn't pass the proposal, the district is in jeopardy of not getting it to the U.S. Environmental Protection Agency by the Aug. 28 deadline. That could be disastrous, with sanctions expected from the EPA that would raise costs for new and expanding businesses. If the plan is still not approved in February, the EPA would take it over, and \$2 billion in road-building funds for the Valley would be held up.

The California Air Resources Board, which must approve the district cleanup plan before it can go to the EPA, will meet in Fresno on June 26. The timing is tight, but the plan must meet the EPA deadlines, or the region will suffer both economic consequences and continued health problems.

Environmental leaders have raised questions about whether the proposed plan is strict enough to meet clean-air rules, while air district officials contend that they are making progress and the plan will reduce enough particle pollution to achieve health standards by 2010.

There's reason for cynicism among critics. Over the past dozen years, three plans for particulate cleanup have not reached the attainment standard. That's not a good record, and we can't afford another failure.

There's no doubt that this region must clean up the air to make it a healthier place to live. This plan is a start, but we must do more to ensure that it's successful. For too long, Valley leaders have mostly dodged the clean-air issue, and that has made it more difficult to solve the problem.

We have a dreadful childhood asthma rate in the Valley. An estimated 16% of children here have the disease, compared with fewer than 10% statewide and about 5.5% nationally. We must do better by our children.

If the district's plan has holes in it, we must identify them and fix them as quickly as possible. We need to submit a responsible plan to the EPA by the deadline.

Let's end the rhetoric and clean up the air.

## **Air board bill a tight fight**

### **Machado seeks votes to expand pollution panel**

By Will Shuck

Capitol Bureau Chief

Stockton Record - Published Thursday, June 19, 2003

SACRAMENTO -- State Sen. Michael Machado is trying to reform the Valley's air-quality board so the body will be less likely to cave in to pressure by polluters.

Machado's effort stalled Wednesday, however, when his Senate Bill 999 fell two votes short in an Assembly committee. The bill would add four appointed members to the 11-member panel that makes air regulations for a region that has some of the worst air pollution in the nation. His bill is scheduled for reconsideration in two weeks.

Machado, D-Linden, says the delay will give him more time to seek support for the hotly contested plan to expand the San Joaquin Valley Air Pollution Control District board.

During the protracted hearing Wednesday afternoon, supporters of the change said the air board's efforts to combat pollution have been "pitiful" in recent years.

Board members and their supporters called Machado's bill "a slap in the face" of local government and said they've made big improvements to Valley air quality.

On the surface, Machado's bill seems simple, if not mundane. He would let the governor appoint two members to the board and let the Assembly and Senate each appoint one. That way, he said, local interests would have less clout to slap down stricter air regulations.

But local representatives, especially the county supervisors who comprise the board, see it as the iron hand of state government moving in to enact the will of big-city politicians from the north and south.

"They would be political pigeons," said Assemblywoman Bonnie Garcia, R-Cathedral City, who voted against the bill. "They are going to fly in and carry the message of the governor or the Assembly or the Senate."

"I respect your comments," Machado said, "but I would hardly think the appointees would be pigeons."

His bill requires that one of the appointees be a physician with expertise in respiratory health. But the other three could be anyone who lives in the Valley.

The senator said the board needs outside help to do its job.

The current members, he said, "represent a particular area, and they are very captive of that particular area."

"What I think you've got to have is somebody who can stand back and look at the whole region," Machado said. "Somebody that's elected from the 4th District of San Joaquin County who represents the east side of (Highway) 99, is going to be focused on air-pollution problems that comes from that county."

San Joaquin County Supervisor Jack Sieglock, who represents that particular area, was one of several officials who wrote letters opposing the bill.

The current board "has resisted a lot of progress over the years," said Tim Carmichael, executive director of the Coalition for Clean Air. He said the board's efforts have been "pitiful" and that they've "not done all they could do."

But adding political appointments "would do nothing to clean up the air," Madera County Supervisor Vern Moss countered. "It's clearly another attempt to undermine local authority. It doesn't do anything to clean it up, it just gives us the Big Brother effect."

"It's a slap in their face," Kings County Supervisor Alene Taylor said.

Several members of the Assembly Committee on Local Government agreed, and Machado found himself without the support needed to move the bill forward. It has already been approved by the full Senate but has several hurdles to go -- including another vote in this committee -- if it is to make it to the governor's desk.

Machado, however, was optimistic about finding the two votes he needed to move to the next committee.

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## Deal settles Sierra Club suit

By JAMES BURGER, Californian staff writer

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Tuesday June 17, 2003, 11:10:00 PM

The Sierra Club and a pair of northeast developers have settled an environmental lawsuit over a tract of new homes planned on the Kern River bluffs.

The deal institutes a historic "air quality mitigation fee" that will charge each of the 316 homes in the project \$1,200 that will help pay for preventing air pollution.

City of Bakersfield Development Services Director Jack Hardisty said such a fee has never before been imposed in Bakersfield.

"It would be the first time that a set amount fee for air quality mitigation has been settled on," he said.

Sierra Club spokesman Gordon Nipp said money raised by the fee would be managed by a five-member committee and used to pay for projects that reduce air pollution -- such as the purchase of low-emissions vehicles.

Representatives from the Sierra Club, the developer, the Center for Race, Poverty and the Environment, the San Joaquin Air Pollution Control District and the city of Bakersfield would sit on the committee, he said.

Local developer Tom Carosella said he and partner Craig Carver agreed to the fee and several other concessions to Sierra Club concerns as part of the settlement of the lawsuit against their project.

The lawsuit claimed the city of Bakersfield and the developers did not prove that building the 316 homes wouldn't have a significant impact on air quality and traffic congestion. The settlement clears the way for construction of the homes on a ridgeline above Alfred Harrell Highway just north of Highway 178.

But Carosella said he may not be the one to do that building. A sale may take place.

"I'm not sure how far we're going to take it within this partnership," he said. "It very well may be a merchant builder who does this project."

Nipp said the settlement is a victory for his organization -- which filed a lawsuit against another nearby housing development on Monday.

The two lawsuits, and challenges to two other housing tracts on the bluffs, are part of Sierra Club's push to change the way local government controls land development.

Nipp said he hopes the mitigation fee will soon be routinely imposed on projects across the metropolitan area.

"We're pretty excited about all these things," Nipp said after listing concessions the club had gotten from Carosella and Carver.

"We're hoping the city and the county will follow suit and impose these things on developers."

In addition to the air quality mitigation fee the settlement requires the project builder to offer solar panels as an option for homebuyers.

"We got money to pay for a study to find suitable blunt nosed leopard lizard habitat," Nipp said.

And Carosella said he agreed to donate land for a 9,000-square-foot "park and ride" facility that will allow people to park and carpool from the development.

But, for the Sierra Club, the fight isn't over yet.

It has filed a similar lawsuit against a tract of 558 homes planned by Sage Community Group of Newport Beach on a big wedge of land just west of Rio Bravo Country Club.

And the club has appealed two other housing tracts to the Bakersfield City Council after the projects, located north along Alfred Harrell Highway, were approved by the Bakersfield Planning Commission.

Carosella said he is a little frustrated that the Sierra Club has begun attacking projects in northeast Bakersfield but hasn't raised the same challenges against the swiftly moving development that is paving over agricultural land in west Bakersfield.

But he believes that the scenic appeal of the Kern River bluffs will override the additional lawsuit costs on his land when he tries to market it to someone who builds homes.

"I don't think it will make it harder to sell," he said. "It really is a beautiful site."

## **Council pulls plug on leaf-blower study**

By Pablo Lopez - The Fresno Bee

June 18, 2003

The Fresno City Council on Tuesday rejected a proposal to direct staffers to gather information about the polluting effects of gas-powered leaf blowers and mowers.

Council Member Brian Calhoun initiated the proposal because of residents' complaints about noise and dust. He said there also have been "reports and letters to the editor about the negative impact of gas-powered lawn equipment."

A council majority of Tom Boyajian, Mike Dages, Brad Castillo, Jerry Duncan and Henry T. Perea, however, voted against the idea; Council Member Cynthia Sterling supported Calhoun.

Calhoun's response: "Essentially what happened today on a Spare the Air Day, was the council ducked an opportunity to evaluate a potential measure to keep us from taking that 'Last Gasp' that we read about every day."

During the debate, Duncan argued that the San Joaquin Valley Air Pollution Control District was planning to study the effects of gas-powered leaf blowers in the near future.

Perea then said it would be unwise for staff to duplicate the study.

Boyajian also questioned whether the city staff had the expertise to do the study. He believed air district staff would be better equipped.

City Manager Dan Hobbs concurred: "I don't want us casually doing studies."

Hours after the vote, however, the air district's spokeswoman, Josette Merced Bello, said the district wasn't planning to study leaf blowers anytime soon, or even this year.

She said Duncan had called the district, but possibly was misinformed about a potential leaf blower study.

Duncan confirmed: "We were told they would look at it in 2006. Nevertheless, it is still important that decisions regarding air-quality improvements that can have a significant impact on our citizens ... should be based on data and measurable results.

"There seems to be a lack of any reliable information on the impact of leaf blowers on air quality that would drive us to do anything at this time," Duncan said.

But Calhoun said he "wasn't asking staff to only focus on one study from the air district. I understand there are studies on leaf blowers; I just don't know how timely they are or what they conclude."

Air quality has been a priority among council members.

In May, Calhoun wrote a council resolution that passed unanimously directing staff to reduce emissions by 6% over three years. "We directed staff that no air pollution mitigation measure was sacred and that all options were to be on the table," he said. "In this case, why would we not evaluate effects of lawn mowers and leaf blowers on our environment, which would allow the citizens to participate?"

He then criticized the council majority, and singled out Perea, saying they "didn't care what this [air] board had to say when [Perea] was proposing a ban on fireplaces!"

Shortly after taking office in January, Perea persuaded his colleagues to ban wood-burning fireplaces and stoves in new homes.

Calhoun said: "I asked staff to do an evaluation of all information that is out there on this topic. Other cities have adopted full bans on gas-powered blowers."

The goal, he said, was to find out what information other cities relied on to ban leaf blowers.

## **\$2.6m pledged for Crippen fire** **State board earmarks funds for cleanup at Fresno recycler.**

By Russell Clemings

The Fresno Bee

June 19, 2003

Warned by its staff that temperatures were rising again in the debris piles at Archie Crippen Excavation, a state waste board voted Wednesday to set aside more than \$2.6 million for cleanup and other expenses at the southwest Fresno recycling yard, scene of a smoky monthlong fire last winter.

The additional funds will be added to a growing stack of bills -- already approaching \$3 million before Wednesday's action -- that federal, state and local agencies have run up since the fire ignited spontaneously Jan. 11 in a moist pile of wood and other debris covering nearly 5 acres at the site at Marks and Nielsen avenues.

"I'm not real happy that we've got to kick in more state money to clean this up. But I think there's a necessity and I think the public health and safety is at risk," said Steven R. Jones, a member of the state's Integrated Waste Management Board, which voted unanimously for the new spending.

Before the vote, the board's permitting and enforcement branch manager, Scott Walker, warned that temperatures inside the three remaining piles of debris at the Crippen site had recently been measured at 120 to 130 degrees -- lower than the 160 degrees that could cause reignition, but still high enough for concern.

Walker said it is possible that a fire could reignite as the pile is excavated and exposed to oxygen.

As a result of the fire risk, the board voted to hold in reserve \$1 million of the \$2.6 million for possible firefighting costs. It also directed its staff to seek more money from Fresno city officials and other local agencies to ensure that there will be enough money to finish the cleanup even if another fire does break out.

"If that fire comes up and we have to help attack it, we're not going to have enough money to clean that thing up," Jones said. "Be clear that this is a message that we need you to continue to figure out what you can do to help."

That request may be unlikely to bear fruit.

In earlier testimony, Fresno Mayor Alan Autry told the board that the city was tapped out already, as a result of more than \$600,000 in overtime and other firefighting costs and a \$354,000 appropriation in next year's budget for stepped-up code enforcement.

"Everybody's having budget problems up and down the state," Autry said, "but we're really looking under the cushions for every penny and dime we can."

Similarly, Archie Crippen's attorney, Charles Doerksen, said the chances of the state recovering significant amounts of money from Crippen or his business were minimal. He asked the board to delay a cleanup until more funding from other sources can be found.

"What Mr. Crippen is obviously looking for is a remediation effort that doesn't bankrupt him," Doerksen said.

Crippen already faces a claim from the board for \$681,000 in firefighting costs, as well as bills from the city, the San Joaquin Valley Air Pollution Control District and the federal Environmental Protection Agency, his lawyer said.

Meanwhile, before the meeting, Doerksen said that he will soon file a lawsuit on Crippen's behalf against the city of Fresno, which rejected his claim for more than \$10 million in damages resulting from what Crippen alleges was a botched firefighting effort in the early hours of the blaze. Crippen also has sued the city over its decision last month to revoke the land use permits required for him to operate his business.

In addition to the \$2.6 million set aside by the board, \$300,000 more has been pledged toward the Crippen cleanup by the federal EPA, the board was told Wednesday. But an offer by Fresno County to waive disposal fees at its American Avenue landfill was rejected by the board on the recommendation of its staff, which said that the offer would have required the Crippen site's debris to be processed for use as daily cover material in the landfill. That requirement would have resulted in a total cleanup cost that was \$610,000 more than a state contractor would be expected to charge.

The board gave its staff two weeks to seek additional funds from the city before beginning the cleanup. After that, the work is expected to take about one month to complete if no new fires occur.

## **Council pulls plug on leaf-blower study**

By Pablo Lopez

The Fresno Bee

(Published Wednesday, June 18, 2003, 7:48 AM)

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Perea then said it would be unwise for staff to duplicate the study.

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City Manager Dan Hobbs concurred: "I don't want us casually doing studies."

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significant impact on our citizens ... should be based on data and measurable results.

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Air quality has been a priority among council members.

In May, Calhoun wrote a council resolution that passed unanimously directing staff to reduce emissions by 6% over three years. "We directed staff that no air pollution mitigation measure was sacred and that all options were to be on the table," he said. "In this case, why would we not evaluate effects of lawn mowers and leaf blowers on our environment, which would allow the citizens to participate?"

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The goal, he said, was to find out what information other cities relied on to ban leaf blowers.

## **Diesel pollution draws senator's ire**

In today's Modesto Bee local section

By MARK GROSSI

Published: June 19, 2003, 06:48:26 AM PDT

State Sen. Dean Florez is attacking Caterpillar Inc. for selling heavy-duty diesel truck engines that don't meet a federal standard imposed in October.

The Shafter Democrat said he will amend one of his air pollution bills to bar the state from buying Caterpillar and other engines that pollute beyond standards. It will include a "substantial penalty" for manufacturers selling such engines to the public.

"We want to make a statement," said Florez, leading a legislative charge to improve the San Joaquin Valley's air quality, among the worst in the country. "We have too much to lose."

Caterpillar missed the October deadline on an industry-approved standard for oxides of nitrogen, one of two key ingredients in smog. But a company official said Caterpillar is merely following federal guidelines that let companies delay and pay a penalty until emissions-reduction technology is complete.

Ten Northern San Joaquin Valley distributors sell Caterpillar engines, according to the Illinois-based company. That includes Valley Peterbilt of Turlock, which was surprised by Florez's attack on the company.

"Caterpillar is in the process of coming out with an engine that will far surpass air pollution requirements," said Fred Troesch, the service and warranty manager for Valley Peterbilt. "The federal government is OK with their engines; otherwise they wouldn't be able to sell them."

Valley Peterbilt and other distributors sell Caterpillar engines for tractors and trucks.

"I'd like to know why he's going after Caterpillar, when it's invested so heavily into this new technology," Troesch said.

Some manufacturers, such as Volvo, Cummins and Detroit Diesel, have built cleaner engines to comply with the deadline. Caterpillar opted to pay penalties until its "breakthrough" technology is complete in October.

One company official said the delay would bring good results.

"We will have some of the lowest emissions in the industry," spokesman Carl Volz said.

Firms paid federal fines

Diesel manufacturers agreed to the standard in a settlement with the federal government, which had accused the companies of selling engines that didn't meet pollution standards.

Manufacturers admitted no intentional wrongdoing but agreed to pay \$83 million in fines. The federal government allowed those that could not meet the deadline to pay penalties.

Volz said Caterpillar is doing nothing wrong.

"The penalty is allowable under the guidelines," Volz said. "We aren't sure why (Florez) is singling out Caterpillar."

In a letter to Caterpillar, Florez asked the company to impose a six-month moratorium on California sales of its diesel engines.

He said it's not right to ask agriculture and other industries to take responsibility for their emissions while Caterpillar is allowed to pay a penalty and sell engines that aren't up to code.

"Nonconformance penalties confer a de facto 'right to pollute' that is not acceptable anywhere in California," Florez said. "But it is especially controversial in the San Joaquin Valley."

Bee staff writer Richard T. Estrada contributed to this report.

## **Florez attacks engine maker**

By Mark Grossi

The Fresno Bee

(Published Wednesday, June 18, 2003, 7:40 AM)

State Sen. Dean Florez Tuesday attacked Caterpillar Inc. for selling popular heavy-duty diesel truck engines that don't meet a federal standard that was imposed in October.

The Shafter Democrat said he will amend one of his eight air pollution bills to bar state agencies from purchasing Caterpillar and other engines that pollute beyond standards.

The amendment also will include a "substantial state penalty" for diesel manufacturers selling such engines to the public.

"We want to make a statement," said Florez, who is leading a legislative charge on San Joaquin Valley's air pollution problem, ranked as one of the worst in the country. "We have too much to lose."

Caterpillar missed the October 2002 deadline on an industry-approved standard for oxides of nitrogen, one of two key ingredients in smog. But a company official said Caterpillar is merely following federal guidelines, which allow companies to delay and pay a penalty until emissions-reduction technology is complete.

Florez, in a letter to Glen A. Barton, Caterpillar chief executive officer based in Peoria, Ill., said that approach won't work.

"Caterpillar's dismal record of compliance in meeting agreed to clean-diesel deadlines is especially troubling," Florez wrote.

Some manufacturers, such as Volvo, Cummins and Detroit Diesel, have produced cleaner engines to comply with the deadline. Caterpillar opted to pay penalties until its "breakthrough" technology is complete this October.

The amount of the penalties was not immediately available Tuesday, but one company official said the delay would bring good results. "We will have some of the lowest emissions in the industry," said spokesman Carl Volz.

Diesel manufacturers had agreed to the new standard and 2002 deadline as part of a settlement with the federal government, which had accused the companies of selling engines that didn't meet pollution standards.

Manufacturers admitted no intentional wrongdoing but agreed to \$83 million in fines for selling engines that polluted too much. The federal government allowed payment of late penalties for those that could not meet the deadline with new engines.

Volz said Caterpillar is doing nothing wrong.

"The penalty is allowable under the guidelines," Volz said. "We aren't sure why [Florez] is singling out Caterpillar. We want to continue a dialogue with the senator."

Florez wants the dialogue to happen soon. He asked company officials to attend a Senate field hearing on truck and vehicle emissions at 10 a.m. Friday in Hanford's county government building, 1400 W. Lacey Blvd.

In his letter, Florez also asked Caterpillar to impose a six-month moratorium on California sales of its diesel engines.

He said it is not right to ask agriculture and other Valley industries to take the responsibility for their emissions while Caterpillar is allowed to pay a penalty and sell engines that don't meet standards.

"Nonconformance penalties confer a de facto 'right to pollute' that is not acceptable anywhere in California," Florez said. "But it is especially controversial in the San Joaquin Valley."

'Environmental justice'

Modesto Bee, June 19, 2003

Young people are invited to the Environmental Youth Forum from noon to 5 p.m. at Modesto Junior College. Organizers said the free program is for people ages 12 to 22. One workshop will address "environmental justice," which the U.S. Environmental Protection Agency defines as "fair treatment for people of all races, cultures and incomes" regarding people's proximity to pollution sources. Another workshop is titled "What You Can Do About It." Sessions on art and poetry will follow. The forum is sponsored by Associated Students of MJC, the Environmental Justice Club of Patterson High School, the Grayson Neighborhood Council, the Hispanic Task Force and Greenaction. The latter is a San Francisco-based organization that has worked with West Side residents who successfully opposed proposals to greatly expand the Fink Road Landfill and to import medical waste to the garbage-burning plant next to the landfill. Today's forum will take place in the Student Center on the MJC East Campus, 435 College Ave. For more information, call 575-6000, Ext. 4244.