

Is that smoke? That'll be \$50

About 150 violators of no-burn days can pay up or attend air district class

By SARAH RUBY, Californian staff writer

Bakersfield Californian, Thursday, Jan. 12, 2006

Nearly 150 people face "no-burn" tickets in the San Joaquin Valley so far this year.

That's how many people were caught illegally burning wood fireplaces when doing so was banned by the San Joaquin Valley Air Pollution Control District.

In Kern County, the district caught -- or thinks it caught -- 36 folks lighting up illegally in November and December. They were caught during 13 no-burn days this season, which stretches until February.

Last year, the eight-county district handed out 10 tickets in Kern all season. The district had only two no-burn days, thanks to wind and rain that pushed pollution from this otherwise air-tight valley.

Sharrie Jackson, 48, has paid her \$50 fine for burning wood on Dec. 9, the first of a 10-day string of unhealthy air that threatened to darken hearths on Christmas.

"I did it. I am guilty," she said humorously. "My 16-year-old, she kept warning me, 'You've got to check the paper, Mom.'"

She doesn't run the heater because it's too expensive, she said. Her winter ritual is to light the fireplace at her Olive Drive home, warm up and then get the paper, which runs no-burn day advisories on the cover of the Local section. She'll have to do it the other way around, she said.

Jackson is all for cleaner air, but she'd like to see statistics showing how much the fireplace ban is helping, she said. It could be "just another chance to gouge us," she said.

The fireplace ban does help, according to the district, which points to studies of urban Fresno's air quality that show wood burning has contributed a third to a half of microscopic particulate pollution on bad days. Particulates, which are mostly dust and soot, can aggravate asthma, heart disease and trigger death, according to university studies.

"On the days there's really bad air quality we have to do everything we can," said Wayne Clarke, a compliance manager in the district's Fresno office.

The air district declares no-burn days when the next day's air quality forecast is unhealthy for everyone. The fireplace ban is meant to prevent bad air from getting worse, and help the district meet a federal air quality standard it has a chance of meeting for the first time this year, according to air district staff.

Fireplace enforcement is not an exact science, and at least three locals say they were wrongly cited for burning wood on a no-burn day.

"I am not guilty of a burn in my fireplace," Beth Zoesch, 78, wrote in a letter to the district, which she said is dropping the charge. "I am very mindful of the air quality in the valley and would not think of using my fireplace without looking at *The Bakersfield Californian*, which I receive daily."

When she got a ticket, Jean Hoffmann, 68, sent the district a copy of the receipt for her gas log, a permanent heating device that does not involve wood. The district is dropping the ticket, she said. While she doesn't burn wood herself, she doesn't see what's so wrong with it, especially "when you see these women sitting in front of a school for 15 minutes in these big SUVs, talking on cell phones," she said.

Mistakes do happen, Clarke said. The district grants exemptions to people with broken gas heaters or no gas service at all, he said, and photos aren't foolproof. He encouraged locals to call the air district at 326-6900 if they're wrongly cited.

The district's 40 fireplace investigators take pictures of chimneys as evidence and to clear up misunderstandings, he said.

People with legitimate tickets can choose to pay \$50 or attend a traffic-school style air-quality class that eliminates the fine. The class takes place in March.

Last year, residential wood burning was a hot topic despite the few no-burn days. The district used heat-sensing gadgets to catch violators, a technique inspectors abandoned amid claims it was an illegal search. The fireplace rule, which is meant to attack particulate matter, is helping the district meet a federal standard for PM 10, or microscopic particles 10 micrometers in diameter or less. Despite a stagnant winter of high air quality readings, the district is waiting on news of whether it survived without a PM 10 violation. If so, it will finish off the district's third year without a violation -- a major air quality hurdle.

Unofficial air quality results can be as much as 30 percent off, said Scott Nester, director of planning for the district. The lab is rushing the official results, he said, which should be ready in the next six weeks.

While it would be a milestone, the district will have to keep up its air quality progress, Nester said. In the future, a single violation would set the three-year clock back to zero.

The basics: The air district's fireplace rule bans wood burning if air forecasts are unhealthy for everyone.

Exceptions: If you live above 3,000 feet in elevation, if wood is your only source of heat, if you don't get natural gas service or if you're burning wood for cooking.

Find out if it's a no-burn day: Check www.valleyair.org, call (800) SMOG-INFO or check the cover of the paper's Local section.

To report a violator: Call (800) 926-5550.

To challenge a fine: Call 326-6900 and ask the receptionist for help.

Pollution suit

by Bob Brownne

Tracy Press, Thursday, Jan. 12, 2006

Three groups have joined forces to file a new lawsuit against the U.S. Environmental Protection Agency.

The groups claim that the EPA and local air pollution regulators have an inadequate plan to reduce some types of air pollution, but the government agencies responded that the plan in place has been successful in reducing pollution.

Attorneys from Earthjustice's Oakland office sent out a statement Tuesday on behalf of Medical Advocates for Healthy Air of Fresno, the Sierra Club and the Latino Issues Forum that said the EPA has failed to follow through on backup plans to control particulate matter pollution - including dust, soot and smoke - in the San Joaquin Valley.

The EPA has given valley officials until 2010 to reduce the amount of particulate matter in the air to standards outlined in the Clean Air Act.

Rules that the San Joaquin Valley Air Pollution Control District added recently include restrictions and, in some cases, bans on wood fires in homes. The district also does not allow farmers to burn debris from fields and orchards and farm fields and recently established fees imposed on the construction industry for its contribution of dust and smoke to the valley's air.

But if these rules don't reduce pollution enough, the groups want even stricter rules to become effective automatically. Paul Cort, one of the attorneys for Earthjustice, said a 2003 plan for the San Joaquin Valley Air Pollution Control District should include a contingency if the district falls short of goals outlined by the federal Clean Air Act.

"Rather than tell the district to go back and redo the backup plan, they've been sitting on it because it's politically unacceptable to go back and tell the district to do a better job," Cort said.

Scott Nestor, director of planning for the San Joaquin Valley Air Pollution Control District, said the lawsuit appears to be based on unfounded assumptions.

"The claim that we don't have a contingency plan is flat wrong," he said. "Our plans always have contingency measures."

Those include stricter rules on how farms control dust or surcharges on sales of cars and trucks that add large amounts of particulate matter to the air.

Nestor said these measures would take effect if the district was to miss any of its pollution reduction targets, but so far that hasn't happened.

"The bottom line is it looks like we're in attainment of our standard in advance of the 2010 deadline," he said. "The work that we've been doing has really paid off for us."

Kerry Drake, associate director for the EPA's air division in San Francisco, said wood fires, construction and farm dust restrictions are just the start of what the agency requires.

"There are probably 100 different methods that have been employed," he said. "We are greatly encouraged that the standard is within reach of being attained."

Fresno school district simplifies schedule with two-calendar system

By Anne Dudley Ellis / The Fresno Bee
Thursday, January 12, 2006

The Fresno Unified School District will run its nearly 100 campuses on just two calendar schedules starting with the next school year, which officials hope will eliminate confusion, cut back on student absences and boost learning.

The district governing board approved the simplified schedule Wednesday, establishing a single calendar for traditional schools and another for the district's 14 year-round campuses.

The move eliminates the modified schedules used by 15 schools.

As Fresno Unified focuses on improving student achievement, the streamlined calendar eliminates the distraction of varying schedules and will make it easier to coordinate staff training, said Gloria Watts, a district administrator who coordinated a 48-member calendar committee.

"It will make a lot of difference," Watts said.

Key changes for schools used to a traditional schedule are expanding the winter break from 10 days to 15 days and adding three days to the Thanksgiving vacation.

With an Aug. 21 start - similar to what it has been in recent years - the schedule will not appease those wanting to push the first day back to when the area's air quality is better.

The board, on a 5-2 vote with trustees Pat Barr and Valerie Davis opposed, chose the schedule over another option that retained the two-day Thanksgiving break but started school a week later in August.

Both proposals came from the calendar committee, which has been meeting since October.

The district targeted a new schedule in hopes of boosting attendance, giving students more learning time and maximizing funding it gets from the state based on the hours students are in school.

The expanded vacations should combat high student absences that have plagued the district during Thanksgiving week and the week after New Year's Day.

The district expects to capture nearly \$300,000 a year in state attendance money with the change.

The board unanimously approved a new schedule for year-round schools that differed from another option by giving teachers of all tracks a day to prepare their new rooms upon returning from vacation.

In consolidating the district's schedules, it will simplify the calendar for families, make transition easier for transient students and more closely match schedules in the neighboring Clovis and Central districts, officials said.

In other board action, trustees approved several administrators key to new Superintendent Michael Hanson's reorganization, including hiring Linda Hauser, an assistant superintendent for the Clovis Unified School District, as chief academic officer.

The district also promoted Hoover High School Principal Doug Jones to assistant superintendent in charge of special education; John Marinovich to assistant superintendent in charge of grades 9-12; and Kim Mecum to associate superintendent for human resources and labor relations.

Trustees hired Fresno Bee reporter Erin Kennedy as chief information officer and filled several other administrative slots as well.

EI Dorado seeks own answers to asbestos

by Cathy Locke

Sacramento Bee, Thursday, Jan. 12, 2006

Citing significant discrepancies between federal government studies and mining industry studies of naturally occurring asbestos in El Dorado Hills, the El Dorado County Board of Supervisors will seek its own experts.

"There is a public health and safety issue, and a fiduciary responsibility on the county's part to get an independent analysis of the data," Supervisor Helen Baumann said Tuesday.

The board authorized Baumann to send a letter to Wayne Nastri, Environmental Protection Agency regional administrator in San Francisco, requesting postponement of a risk assessment based on agency data, pending review of a report commissioned by the National Stone, Sand & Gravel Association.

The board also directed Baumann and Supervisor Rusty Dupray to work with Chief Administrative Officer Laura Gill to arrange for an independent analysis of the data. Jere Johnson, site assessment manager for the EPA, said Wednesday that she had not seen the letter. She said the risk assessment is under way, but the agency welcomes additional analyses.

"The more we can learn about asbestos and the science around it is a good thing. ... The important thing to remember is that we're looking at evaluating good science," she said. The industry-funded analysis was conducted by the RJ Lee Group using soil samples the EPA collected from school and park sites in El Dorado Hills.

The EPA reported that tests done in October 2004 by agency technicians wearing personal air monitors showed that children's activities such as baseball, basketball and hopscotch significantly elevated an individual's exposure to tremolite and actinolite, particularly toxic forms of asbestos. Asbestos' needle-shaped fibers can remain in the lungs, causing disease decades after they are inhaled.

But the RJ Lee Group reported that its tests indicated 63 percent of the particles the EPA identified as "asbestos" contained too much aluminum to form asbestos fibers. The remaining 37 percent, the report said, were outside the range of particle dimensions specified in the regulatory definition of "asbestos."

The EPA, in a written statement, said many of the central claims in the RJ Lee report are similar to assertions the firm made as an expert hired by WR Grace Co., the defendant in litigation involving asbestos contamination in Libby, Mont.

The courts found for the EPA in that case, Johnson said.

Vicki Barber, county superintendent of schools, and representatives of the Rescue Union and Buckeye Union school districts, traveled to Washington, D.C., last month to discuss the RJ Lee report with lawmakers and regulators. Supervisor Charlie Paine said the EPA and RJ Lee reports are "180 degrees different."

"I don't have the expertise to say which is right," he said. "We need to evaluate which is correct because that determines what we do as a county."

He said it is important in assessing scientific reports to keep in mind who paid for them. The supervisors noted that the county Office of Education submitted the RJ Lee report to three university-based experts who backed the consultant's findings. But Baumann said that for every list of experts who say one thing, there is a list of experts who disagree. Board members said it is important to accurately assess the risks, not only to protect public health, but to protect the county's economy.

Last summer, El Dorado County implemented a construction-dust monitoring program, along with more stringent dust-control measures to reduce risks emanating from naturally occurring asbestos. The supervisors said those measures will remain in place until more definitive data are available.

Board members also asked Gill to prepare a report on the economic impact of the measures, particularly increased costs for construction projects.

"In my book, the whole thing (economic impact) is worse than what you folks have said," board Chairman Jack Sweeney told fellow supervisors.

He said contractors have told him that costs are as much as 20 percent higher in El Dorado County than in surrounding areas.

Some of those measures were instituted following community meetings with the EPA and other agency representatives in June, which drew about 1,000 people. At the time, supervisors noted, the EPA promised to convene a panel of experts to evaluate how naturally occurring asbestos affects the lives and health of foothill residents.

along with a plan to measure asbestos exposure in other California communities with rocks containing the hazardous mineral.

Johnson said the EPA is reviewing the RJ Lee report and has requested assistance from experts with the U.S. Geological Survey in Denver. If errors are found in the EPA data, the risk assessment could be modified, she said.

However, Baumann argues in her letter to EPA regional administrator Nastri that the RJ Lee analysis indicates there are problems with the EPA samples themselves that may render any subsequent assessment invalid.

"The residents of El Dorado Hills will be ill served by having a premature risk assessment completed based on questionable samples," she said.

Groups want plant closure proceeds invested in renewable energy

By Terence Chea, Associated Press Writer

In the S.F. Chronicle, Thursday, January 12, 2006

San Francisco (AP) -- Tribal leaders and environmental groups asked California energy regulators to take sale proceeds from the closure of a Nevada power plant and reinvest them in renewable energy projects.

Leaders of the Navajo and Hopi tribes in Arizona, along with representatives of the San Francisco-based Sierra Club and other environmental groups, filed the petition Wednesday with the California Public Utilities Commission.

On Dec. 1, operators of the Mohave Generating Station near Laughlin, Nev., closed the 1,580-megawatt power plant rather than install pollution control equipment estimated to cost \$1.1 billion.

The station, about 100 miles south of Las Vegas, used coal from Black Mesa Mine in Arizona and served electricity customers in California.

The station's owners, including Southern California Edison, were expected to receive tens of millions of dollars from the sale of pollution credits that allowed the release of 53,000 tons of sulfur dioxide.

The tribes and environmental groups want those proceeds to be invested in energy projects that will help tribal communities affected by the plant's closure. About 200 mostly Navajo coal mine workers lost their jobs when the plant was shut down, according to the Just Transition Coalition, which filed the petition.

The groups seek funding from Southern California Edison's sale of about \$40 million per year in pollution credits to be used to clean up contamination, create jobs and develop renewable energy sources for the region.

"This is a way to bring about renewable energy such as wind and solar and a stronger economy for people who really need it," said Andy Bessler, southwest representative for the Sierra Club.

On Wednesday, PUC President Michael Peevey received the petition, and the commission would evaluate it, said PUC spokesman Susan Carothers.

Southern California Edison, which owns 56 percent of the station, was also evaluating the proposal and would not comment on it, said spokesman Gloria Quinn.

In 1999, environmental groups won a consent degree that required the plant, which was blamed for contaminating the region's air, to upgrade its pollution controls or close by Jan. 1 this year.

Indians Seek Funds From Edison

- A coalition that includes Arizona Navajo and Hopi members seeks up to \$40 million a year in compensation after the closing of a power plant.

By Marc Lifsher, Times Staff Writer

LA Times Thurs. Jan. 12, 2006

Members of two Arizona Indian tribes asked regulators Wednesday to order Southern California Edison Co. to pay them as much as \$40 million a year to make up for job losses and other economic fallout from the shutdown of the massive Mohave power plant on Dec. 31.

A coalition that includes Navajo and Hopi Indians as well as environmental groups said the money also would compensate tribal members for "a long history of sacrifices" made on behalf of Edison customers who benefited from cheap power from the Mohave plant since it opened in 1971.

The plant in Laughlin, Nev., generated electricity for the Los Angeles Basin using coal dug from the Black Mesa mine on tribal lands in northeast Arizona. Losing its sole customer curtailed production and forced layoffs at Black Mesa, costing the Indians 200 high-paying jobs and \$20 million in annual mining royalties.

The Mohave plant, one of the biggest sources of sulfur dioxide pollution in the West, was closed after Edison failed to meet a deadline for installing expensive pollution-control equipment as required in the 1999 settlement of an environmental lawsuit.

In a motion filed Wednesday, the coalition asked the California Public Utilities Commission to order Edison to give the Indians money the utility is expected to earn by selling pollution credits created by mothballing the 1,585-megawatt power plant. Edison, which operated the plant and is its majority owner, relied on Mohave for 7% of its electricity.

The request for financial restitution, which has not been endorsed by the two tribal governments, is legally unprecedented, some energy experts said.

"They are plowing new ground, and it's going to be a tough argument to make," said Michael Shames, a veteran advocate for energy users with the Utility Consumers' Action Network.

Edison, a unit of Rosemead-based Edison International, declined to comment on the Indians' motion, saying it needed to review the document.

Meanwhile, the utility and Peabody Energy, the world's largest coal-mining company and operator of the Black Mesa mine, continue to negotiate with the two tribes' governments over contracts for coal and water supplies needed to possibly reopen the Mohave plant.

It's unclear how many Hopi and Navajo are actually active in the newly formed Just Transition Coalition, which also includes the Grand Canyon Trust and the Sierra Club among its members.

Beth Sutton, a spokeswoman for Peabody Energy, described the coalition as "a few vocal extremists" and said its PUC motion was "yet another red herring to divert attention from real solutions to minimize Mohave's shutdown."

The coalition wants the PUC to track Edison's sales of pollution credits and to make the funds available to the tribes for job creation and economic development, including solar and wind energy projects.

Under the federal Clean Air Act, owners of older power plants receive credits that allow them to continue operating without being fined for emitting excessive amounts of sulfur dioxide. Those credits can be sold to other polluters if the original owner reduces or eliminates its smokestack emissions.

The credits are traded on the open market and currently sell for about \$1,300 per ton of sulfur dioxide. Mohave annually poured about 53,000 tons a year into the atmosphere and potentially could earn \$65 million a year for its owners.

In addition to Edison's 56% stake, the Los Angeles Department of Water and Power and two Arizona utilities hold minority shares in the plant.

"It's wrong to allow [Edison] to reap hundreds of millions of dollars in new, unearned revenues from the sale of sulfur allowances," said Leonard Selestewa, a Hopi with a group called the Black Mesa Trust. "Millions of people have benefited from Mohave; now it's our turn."

PUC President Michael Peevey, who met with Selestewa and other coalition members, said he was sympathetic with the tribes' grievances.

"We've never been confronted with anything like this," he said.

Pollution credits collected by a utility typically belong to ratepayers, Peevey noted, and the commission will need to examine whether it's legal for revenue from the sale of those credits to be shared with outside groups.

The PUC also must consider the Indians' claims that they suffered financial hardships because of unfair contracts with Peabody and Edison, and weigh those against the benefits they received from royalty payments and job creation, Peevey said.

The Indians have as much claim to the revenue from Mohave emission credits as Edison ratepayers, and economic restitution would be "appropriate and just," said Sara Steck Myers, attorney for the Just Transition Coalition.

"There's been a contribution made by the Navajo and the Hopi nations to the welfare and benefit of California ratepayers as well as to Edison itself," she said.

Restitution payments to the Indians could pay off for California electricity consumers if they are invested in alternative energy projects that send power back to Los Angeles, said Roger Clark of the Grand Canyon Trust in Flagstaff, Ariz. The trust brought the original lawsuit against the Mohave plant, contending that its pollution was obscuring views of the renowned national park.

Development of alternative energy projects also would provide needed local power and jobs for the 8,000 Hopi and 250,000 Navajo tribal members, who suffer unemployment rates of close to 50%, Indian coalition members said.

Past royalty payments have not been "trickling down to the community level," said Marshall Johnson, a Navajo who lives near the Black Mesa mine.

The Indians make a strong argument for getting at least some financial support, said Matt Freedman, an analyst with the Consumer Reform Network, a ratepayer advocacy organization that regularly appears before the PUC.

"I think there's an obligation to provide a transition plan for the Hopi and Navajo people to help them move away from a reliance on dirty coal," Freedman said.

**[Letter to the Fresno Bee, Thursday, January 12, 2006:](#)
Governor must learn need for high-speed rail**

Gov. Arnold Schwarzenegger's bold proposals to revitalize California's infrastructure are commendable. Most of what he favors looks toward the future.

However, there is one major exception: transportation. Here he looks to the 1950s and '60s, when people believed that more and more highway lanes would prevent road congestion. That obviously is not the case (see Los Angeles).

Instead of committing billions mainly to highway capacity expansion, we need to invest instead in the California high-speed rail system. To claim, as the governor's office did, that the project is too futuristic shows ignorance. High-speed trains have been running for decades in other countries.

Our Valley needs high-speed rail to help reduce air pollution, for efficient transportation of people and goods, for economic prosperity and to keep land from being covered forever by concrete.

I urge our state and local legislators, up and down the Valley, to take up the cause of high-speed rail and present powerful, fact-based arguments to the governor to help him look to the future of transportation, not to the past.

United and enthusiastic we can succeed. Or should we just sit by and again be neglected in a vital matter?

Werner J. Lipton, Fresno