

## Valley is a smoggy second

By Mark Grossi / The Fresno Bee  
Saturday, September 30, 2006

For the second consecutive year, the San Joaquin Valley is the second-worst smog offender in the country, and that's actually looking like two years of improvement.

But air officials agree it's a far cry from healthy air.

The Valley had been the worst from 1999 to 2004, replacing the South Coast Air Basin as the nation's perennial smog kingpin. But South Coast took back the distinction in 2005 and kept it this year, recording more violations than the Valley.

The Valley's two-year progress means pollution control plans are showing results, says the San Joaquin Valley Air Pollution Control District.

"Our atmospheric scientists are telling us that our [smog] peaks are lower now," district planning director Scott Nester said.

As the smog season fades into autumn, the violation tally this year is 83, which is considered a notable reduction from the 100-plus annual average before 2005. But to have healthy air, the Valley must drop dramatically to one violation per year.

Sierra Club member Kevin Hall of Fresno said this is no time to celebrate.

"We're having 80 times more violations than they allow," he said. "This is like saying we're drowning in 8 feet of water instead of 10. You're still drowning."

A massive campaign will be needed to clean the air by the 2013 federal deadline, Nester said. Officials already have warned that the Valley will not make the deadline unless more than 50% of smog-making pollution is eliminated.

Said Nester, "It will take a lot of work and a lot of money to make that deadline. We're working on a new plan right now."

Smog has been a problem for decades in the 25,000-square-mile Valley, which stretches from Stockton to Bakersfield. The area's bowl shape holds vehicle exhaust, chemical fumes and other pollutants for days.

The Valley's long warm season and lack of strong wind make ideal conditions for ozone, the main ingredient of smog. Ozone corrodes lungs and triggers many kinds of breathing problems, such as asthma.

There are two key ingredients in ozone: nitrogen oxide from vehicles and other combustion sources and reactive organic gases from such sources as paint fumes and dairy waste. The ingredients bake together in the sun to become ozone.

Before 2005, the Valley's smog violated the federal standard almost daily from June to late September.

Windy, cool weather makes it difficult for ozone to form. In 2005, cool, breezy conditions continued through May and early June. That year, the area had an all-time record low number of violations — 72.

The district's rules for local businesses have made a difference, too, Nester said. The district recently has required better pollution control on such sources as large dairies, glass melting furnaces and gas turbines.

"We're seeing evidence of progress," Nester said.

Sierra Club member Hall said state and federal regulations on fuels and engine manufacturing have had a bigger effect. As people buy new cars and trucks, the cleaner-burning engines are replacing older polluting engines, he said.

Said Hall: "It's the state and federal rules, not the local ones, that are making the important reductions."

## **Trend a breath of fresh air**

### **Number of Spare the Air days remains far below 2003's tally**

by Michael G. Mooney

Modesto Bee, Saturday, September 30, 2006

Spare the Air 2006 was a mix of good and bad.

The bad: San Joaquin Valley dwellers experienced 23 Spare the Air days over the summer, five more than 2005.

The good: Even with the increase, the 2006 total still was well below the 41 recorded in 2003.

"During the past couple of years," said Jaime Holt, a San Joaquin Valley Air Pollution Control District spokeswoman, "we have had an unprecedented low number of Spare the Air days."

The district covers eight counties: Stanislaus, Merced, San Joaquin, Madera, Fresno, Kings, Tulare and the valley portion of Kern.

Still, Holt said, this year's ozone season (which began June 8 and ends today) is "something valley residents can look at as an example of our progress."

In the Northern San Joaquin Valley, the worst months for ozone (smog) are July, August and September.

Pollutants that help form smog come from a number of sources: cars, trucks, buses, factories, dairies and even charcoal-fueled grills.

A Spare the Air day is declared when the ozone rises to a health-threatening level. When that happens, residents are asked to voluntarily cut back on driving and using other emission-producing devices or appliances.

Pollution forms when sunlight reacts with chemicals contained in those emissions to create ground-level ozone.

Ozone can become suspended in the air when the wind is light or nonexistent.

A bad situation can be made worse when an inversion layer forms — high, warm air that acts like a lid and holds ozone at or near ground level.

Typically, people living at the southern end of the San Joaquin Valley suffer more than those in the north.

"The primary reason," said Holt, "is the topography and meteorology of the valley. The pollution moves slowly to the south and gets stuck."

Without the coastal breezes or other winds common to the north end of the valley, Holt said, there is no effective way for ozone and other pollutants to be dissipated.

From time to time, she said, someone will propose a project — building and operating giant fans or cutting a slot in the Te-hachapi mountain range — to solve the problem.

Such ideas, Holt said, either have engineering and/or financing issues that make them impossible to pursue.

"The real solution," she said, "is to create less pollution."

Holt said the district is making progress on that front, too.

Earlier this year, the district learned that valley air was in compliance with federal standards for particulate pollution — tiny airborne specks of potentially harmful matter such as dust, soot and smoke.

## **Firefighters gain on blaze blowing smoke our way**

Bee Staff reports

Modesto Bee, Friday, September 29, 2006

Firefighters have achieved 63 percent containment on a three-week-old wildfire in Ventura County that's created air-quality concerns as far north as Merced County.

The Day fire has grown to more than 160,500 acres, or 250 miles.

"There really is no active fire," fire spokesman Dan Bastion said. "The only thing that's going to be burning is some unburned islands of fuel well within the interior."

Calm winds slowed the flames as crews dug 34 miles of fire lines on Thursday, leaving just 19 miles to clear.

Because of the fire's size, combined with winds continuing to come from the south and southwest, the smoke is expected to bring bad air in the next several days to Merced, Tulare, Kings, Fresno, Kern and Madera counties.

"In general, if you can smell smoke, then it's probably at a strong enough concentration to cause health effects," said Shawn Ferreira, a San Joaquin Valley Air Pollution Control District meteorologist. He added that the duration of the problem depends on wind conditions and how long the fire burns.

Residents are advised to use caution when smoke is present. For more information, call the air district at 557-6400 or go online to [www.valleyair.org](http://www.valleyair.org).

## **Take a free ride**

Written by Tracy Press/Press staff report

Monday, October 2, 2006

Tracy's bus service is offering free rides to encourage more travelers to use public transportation.

Public transportation will be free within Tracy for five hours daily, beginning Monday until the end of this year.

The Tracer bus service, which carves routes to and from downtown, West Valley Mall, Prime Outlets, the Altamont Commuter Express train station and many streets and stops in between, will not charge for tickets between 9 a.m. and 1 p.m. until January.

Fares at other times range up to \$1 for an adult, and day passes range up to \$2.50. Seniors and students receive discounts.

Rod Buchanan, deputy director of Tracy's Department of Parks and Community Services, said the city aimed for 100,000 passengers this year.

"We want to try to encourage people to ride the bus and learn about our system," he said. "Getting people on the bus has a lot of advantages — there's less pollution in the air and less traffic and congestion. We have a great system, and we want more people to try it out."

The five routes run from 7 a.m. to 7 p.m. weekdays and from 9 a.m. to 5 p.m. Saturdays.

Most of the buses run on clean-burning natural gas, and they are all wheelchair-accessible.

## **Schools seek developers' money early**

By John Saiz

Patterson Irrigator, Saturday, Sept. 30, 2006

Patterson's City Council last week gave "conceptual approval" for the local school district to receive \$12 million in fees from a proposed 3,100-unit residential project in northeast Patterson. The decision comes almost two months before the council is set to review development plans.

Patterson Unified School District representatives said they wanted to raise the issue with the council early on, because money needs to be secured early in the development process to meet education demands created by a large housing development.

With a 3-1 vote, the council decided the district should receive \$12 million in Mello-Roos fees from the proposed Villages of Patterson project, though the council members made it clear that the vote would not commit them to that figure.

"(Conceptual agreement) is by no means a guarantee," cautioned Councilwoman Nancy Brown, who voted in favor of the proposal.

The school district has negotiated with the project's developers and discussed the matter with the district's board of trustees during closed-session meetings to figure out how much Mello-Roos the project should contribute.

The council meeting was the first time the negotiations were publicly discussed. The secretive nature of the negotiations was one reason Councilwoman Becky Campo opted to cast the only "no" vote.

"Obviously, they've been doing back-door negotiations," Campo said. "Their board hadn't even (discussed) it in open session. Why couldn't they go to open session before bringing it to the council?"

Campo also had concerns about "conceptually" agreeing to a figure before the council had discussed the project.

"Seems like the school district wanted to push the issue before we had anything in front of us," she said.

Patterson's Planning Commission is scheduled to review Villages of Patterson development plans Nov. 2, and the council is set to review the project Nov. 9.

Mello-Roos fees are the tax the city charges on most of the new housing developments in Patterson. Those fees have contributed to sewer plant expansions, the community pool, schools and the City Hall, among other projects.

The city sells bonds that Mello-Roos fees pay off over time. The city receives money in the early stages of development through bond sales to build infrastructure - such as schools, sewers and roads - before the development and its accompanying growth are complete.

The school district wants to secure funding early so it can have classrooms ready for the 2,000 students the Villages of Patterson expects to add to the district, Superintendent Patrick Sweeney said.

"We're asking developers to support schools, so our schools can be built in time to meet the needs of more students," he said.

The school district intends to build two elementary schools and a middle school, as well as expand the city's traditional high school, with the fees collected from Villages of Patterson, Sweeney said.

"It would be very difficult to build a school on the east side (of Patterson) without (the Villages) project," Sweeney said at the Sept. 19 council meeting.

State law limits the amount of money a school district can impose through impact fees. However, cities can decide what type of Mello-Roos fees are collected from developments, and the developers of the Villages have agreed to pay more than the law requires, said Joe Hollowell one of the project's developers. Still, he said, they probably would not have agreed to the greater fees if the district had not threatened to bog down the planning process.

District staff has complained about environmental issues facing other developments, such as air quality and traffic, but have withdrawn those concerns after developers agreed to increase fees.

A 36-unit residential project planned at First Street and Walnut Avenue received complaints from the district before it went to Patterson's Planning Commission Aug. 3. The district withdrew those complaints after the development negotiated to pay fees to the school district greater than what state law requires.

The district also voiced objections to a 154-unit residential project at Ward Avenue and Ninth Street. In that case, the developer refused to give more fees to the school district. At a Planning Commission meeting Aug. 24, it accused the district of raising false concerns just to pull more money from the project.

Sweeney said the money the district can collect under the state guidelines would not adequately fund school expansions, nor would it be received soon enough.

"We use both the legal and political mechanisms we can use," Sweeney said. "Most developers are very cooperative, and we've been able to reach agreements."

## **UOP students, staff campaign for local environmentalism**

Alex Breitler

Stockton Record, September 30, 2006

STOCKTON - It started with Al Gore's global warming film, "An Inconvenient Truth."

University of the Pacific geology assistant professor Laura Rademacher saw the movie. So did her students. And so did the new vice president for student life, Elizabeth Griego, who calls herself a "lifelong environmentalist."

Now the two women - with other faculty, staff and a growing group of activist students - hope to bring environmentalism back to the Pacific campus in a two-week campaign that starts this weekend. Gore's film is featured today and Sunday, followed next week by an all-organic food day and spirited debates on recycling, air pollution and water quality, among other topics.

It's the first time such a campaign has been held here, officials say. Even in the 1960s and '70s, the Pacific campus was a relatively quiet place when it came to environmentalism.

"But I think it has always been here," said Ryuko Fujita, a senior studying international environmental policy. She heads Students for Environmental Action, a 15-member group that meets weekly.

"Right now, we have pretty great support, a unified body of students," Fujita said. "And I believe there are departments that are very active."

Organizers originally hoped to lure Gore himself for a special screening of his movie. That didn't work, but plans went ahead for the campaign, designed not only to raise environmental awareness but also to highlight the work of many university researchers and scientists, Griego said.

Things are changing on campus, she said.

A farmers market is held each week featuring locally grown produce. Fujita, meanwhile, said students are trying to improve the universitywide recycling system.

Decades ago, the Pacific campus saw activist groups like Let Us Vote, which worked during the winter of 1969 to lower the voting age from 21 to 18, a university historian said. A couple of years later, the People's Alliance for Peace met often to discuss conflicts in Vietnam and Cambodia.

But there is little record of environmental activism, though the university did occasionally host guest speakers like Ralph Nader of Green Party fame.

The events will continue Tuesday with organic meals served by Bon Appetit, the university's food service provider. Ingredients will nearly all be purchased from farms and ranches in the Stockton area.

The one exception? Salt, said Sia Mohsenzadegan, general manager of Bon Appetit, which serves a number of other college and universities nationwide and promotes local products on those campuses as well.

Carved turkey, heirloom potatoes and roasted vegetables will be on the menu, with a dessert of strawberries and cream.

"It shows that you can really depend on your own city," Mohsenzadegan said. "You can really live like the old way."

Over the next couple of weeks, noontime courtyard gatherings will focus on an array of hot topics. On Thursday, for example, students can take a quiz to determine the size of their "ecological footprints" - how their individual lifestyles affect Earth.

The events are free and open to the public.

"These are all issues that concern me," said Griego. "I hope we can take a look at them and help students become knowledgeable about their environment."

## **IN BRIEF/Los Angeles County/LOS ANGELES L.A. Basin Is Again Nation's Smog Capital**

From Times Wire Reports

L.A. Times, Friday, September 29, 2006

The Los Angeles Basin is once again the smog capital of the U.S., beating out Houston and the San Joaquin Valley, air officials said Wednesday.

As of Sept. 27, the Southland exceeded the federal ozone health standard on 86 days, compared with 83 days during 2005 and 88 days in 2004, according to the South Coast Air Quality Management District.

Houston exceeded the ozone standard on 34 days, the San Joaquin Valley on 82 days. Ground-level ozone, which is different from the protective ozone layer in the stratosphere, damages cells and may be linked to lung damage.

The L.A. Basin led the list despite having the nation's strictest air quality requirements.

## **Steel foundry to try filtering smelly effluent**

By Carolyn Jones, staff writer

S.F. Chronicle, Monday, October 2, 2006

Anyone who's been to West Berkeley knows the stench -- a conversation-stopping cross between burning pot handles and an engine fire.

"It smells like something's wrong with your car," said Mary Ann King, who works at REI a few blocks away. "You're like, 'Is my car leaking something?' But then the smell goes away and you realize it's not your car, it must be something else."

That something else is Pacific Steel Casting Co.'s Plant No. 3 at Second and Gilman streets, which has been emitting foul-smelling and possibly toxic fumes -- without any pollution controls -- for years. The U.S. Environmental Protection Agency called it the 12th-worst polluter in the Bay Area, ahead of the Chevron refinery and Dow Chemical.

The odor has become even worse since Pacific Steel Casting started making parts for the Bay Bridge reconstruction in 2002, spewing exhaust for 16 hours a day five or six days a week.

But after numerous lawsuits, dozens of complaints and years of negotiations, the issue may finally be heading for a resolution. Or at least the beginning of one.

In response to a suit from the Bay Area Air Quality Management District, Pacific Steel Casting has agreed to put a \$2 million carbon filter on Plant No. 3 as early as this week, which most believe will eliminate the acrid smells. But the filter probably won't screen out the toxic emissions, said Michael P. Wilson, a public health researcher at UC Berkeley who's studied Pacific Steel Casting.

"The plant has real public health problems. They're not imagined," Wilson said. "And the filter won't solve all those problems. There's a lot of manganese, for example, that's being emitted from Pacific Steel's other two plants that already have filters."

Using data provided by the Bay Area Air Quality Management District, Wilson deduced that the factory emits about 500 pounds of manganese a year. Manganese, in high doses, can damage the central nervous system and cause Parkinson's disease, according to the EPA. Phenol emissions, which cause the foul smells, have more than doubled since 2002.

Pacific Steel Casting says it's not exactly sure what's coming from Plant No. 3 because different operations take place there. Shifting winds, emissions from places other than smokestacks and other sources of pollution -- such as the adjacent eight-lane Interstate 80 freeway, an asphalt factory, train tracks and other industry -- also make it hard to get precise data, company spokeswoman Elisabeth Jewel said.

Furthermore, Pacific Steel Casting -- the nation's third largest steel foundry and employer of 500 union members -- is tired of being picked on.

"They feel embattled," she said. "They feel like they're making a good-faith effort to be a good neighbor, but, realistically, they do manufacture steel in the middle of a neighborhood. They've been there since 1934 -- to anyone who moves there it shouldn't be a surprise."

Pacific Steel Casting came within hours of shutting Plant No. 3 entirely a few weeks ago after an environmental group asked a judge for an injunction. The request was denied.

When the company opened in 1934, West Berkeley was crowded with factories, plants and other heavy industry. But the factories gradually gave way to artists' studios, lofts and cafes, leaving Pacific Steel Casting amid a trendy shopping and residential area.

Even though much of the steel industry in the United States has moved to China, Pacific Steel and its 625 workers have stayed put.

"The owner is committed to staying in Berkeley. They are a healthy, \$100 million company employing generations of the same family in well-paying union jobs," Jewel said. "It would be devastating if they were forced to close or move."

Neighbors say they don't want Pacific Steel to move, they just want the company to control its emissions.

"We don't want them to go to another community that isn't aware of the problems," said Janice Schroeder of the West Berkeley Alliance for Clean Air and Safe Jobs, a neighborhood group. "We want to preserve safe jobs in the East Bay but prevent noxious pollution."

Schroeder and other neighbors say they suffer from nausea, headaches, tightness in the chest and irritated eyes because of the smell.

The city doesn't want it to leave, either. In a letter to Mayor Tom Bates, Wilson, the UC Berkeley researcher, suggested that Pacific Steel can clean up its emissions by updating its technology, substituting nontoxic chemicals for toxic ones and using improved ventilation and filtration systems.

"The big question is, what is their long-term plan?" Wilson said. "Because let's face it, emitting toxic chemicals in a dense urban environment is inappropriate and needs to be corrected."

### **Pacific Steel Casting**

Employees: 625 (500 in union)

Plants: Three, all around Second and Gilman streets

Rank among U.S. steel foundries: Third largest

Manufactures: Large steel parts for trucks, buses, bridges

Capacity: 2,000 tons a month, for castings up to 7,000 pounds

Rank in the Bay Area for top polluters: 12, out of 2,171 companies surveyed by the U.S. EPA

Web site: [www.pacificsteel.com](http://www.pacificsteel.com)

### **Annual emissions from Pacific Steel Casting**

500 pounds of manganese (as of 2003), 1,800 pounds of carbon monoxide, 709 pounds of formaldehyde, 22 pounds of lead, 39 pounds of nickel, 600 pounds of benzene, 2,176 pounds of phenol.

Source: Bay Area Air Quality Management District

### **10,000 more hybrids OKd for carpool lanes**

by Mark Martin, Chronicle Sacramento bureau  
S.F. Chronicle, Saturday, September 30, 2006

**Sacramento** -- Gov. Arnold Schwarzenegger rejected legislation Friday that would have required kids 8 years old and younger to sit in backseat booster seats in cars, and he signed a bill expanding the number of hybrid cars allowed to use carpool lanes.

Nearing a deadline today to sign or veto bills sent to him this year by the Legislature, Schwarzenegger also approved legislation to measure the pervasiveness of toxic chemicals in volunteers' bodies and one to require drug companies to give discounts on prescription drugs to the poor and uninsured.

As of Friday night, the governor had signed 800 bills and vetoed 189, with 175 more to decide on by the midnight deadline today.

The booster-seat legislation would have revised current California law requiring kids up to age 6 or weighing less than 60 pounds to use a booster seat. The bill called for kids 8 years old or younger to sit in booster seats in the backseat of a car. Democrats who supported the bill argued they were proposing to implement a recommendation from the National Highway Safety Administration.

In his veto message, Schwarzenegger said that "parental responsibility is the key to protecting our children" and said more education about the current law would better protect kids.

Schwarzenegger also signed a bill that will allow 10,000 more hybrid cars to obtain permits to drive in carpool lanes.

The governor signed the bill despite concerns from state highway officials that carpool lanes are becoming increasingly congested. But the new law will increase the number of hybrids allowed into the lanes from 75,000 to 85,000.

Schwarzenegger signed the original legislation allowing cars that get at least 45 mpg into HOV lanes in 2004, and the administration was a sponsor of the new bill, AB2600, by Assemblyman Ted Lieu, D-Torrance.

A report by Caltrans this year noted that about 10 percent of the state's car-pool lanes operate under slow conditions, including Interstates 80 and 880 and Highway 101 in the Bay Area and some Bay Area environmental and transit advocates have opposed the idea, saying one person in a hybrid still contributes more to air pollution than two or three people in a car pool.

The legislative session was marked this year by several deals reached between majority Democrats and the Republican governor, and on Friday the governor continued to highlight his new and improved relationship with the Legislature, and particularly Democratic leaders. When asked about the turnaround this year, Schwarzenegger noted at a press conference Friday morning that Assembly Speaker Fabian

Núñez had taken him out to dinner and taken him out for drinks, and then he joked that the two planned to go dancing this weekend.

Núñez noted that the governor had moved toward Democrats this year.

"He wrapped himself in a Democratic flag, and we're taking advantage of that," he said.

Schwarzenegger held ceremonies to announce the signing of two bills that contained Democratic ideas he had rejected in the past -- an effort to force drug companies to provide discounts on prescription drugs to the poor and uninsured, and the legislation to set up a statewide program that supporters say will help scientists understand how chemicals affect people.

That legislation, SB1379 by Senate President Pro Tem Don Perata, D-Oakland, and Sen. Deborah Ortiz, D-Sacramento, calls for state public health officials to find volunteers who would agree to have their blood, urine and other body fluids tested for toxic chemicals and other pollutants.

The program, referred to as biomonitoring, will be the first of its kind in the country, and proponents say it will allow for better studies on how chemicals accumulate in our bodies.

"We monitor our air, water and how much mercury is found in fish, but tens of thousands of chemicals that we are exposed to every day have not been tested to determine their toxicity to humans," Ortiz said.

The legislation was co-sponsored by the Breast Cancer Fund, a San Francisco nonprofit that focuses on environmental causes of cancer.

Sponsors hope the state will be able to test 2,000 volunteers from around the state of various ages and ethnicities to develop a baseline, and then allow for more specific or localized studies.

Schwarzenegger vetoed a similar bill last year.

The governor also ended a three-year battle with Democrats Friday by signing legislation that will allow as many as 5 million people to get cheaper prescription drugs. Schwarzenegger and the Democrats announced an agreement on the bill last month.

The legislation, similar to a bill the governor vetoed two years ago, would require drug manufacturers to provide discounts of up to 40 percent on brand-name drugs and 60 percent on generics. Those who would get the discounts are uninsured families earning less than \$60,000 per year; some seniors not

covered by other government programs; and people earning less than \$72,000 who spend more than 10 percent of family income on medical expenses.

Manufacturers would have three years to voluntarily comply with the mandate. After that, the state could punish companies that didn't offer discounts by restricting their sales to the 6.8 million enrollees of the Medi-Cal health care system for the poor, disabled and elderly -- a \$2 billion market.

### **Signed into law**

Other bills Gov. Arnold Schwarzenegger signed on Friday include:

Pretexting: SB202 outlaws pretexting -- or obtaining phone records by fraud or deceit. The bill also makes it illegal to buy or sell a consumer's phone records without written consent.

Animal evacuations: AB450 requires the Governor's Office of Emergency Services to work with local officials to implement procedures for rescuing pets into the statewide standardized emergency management system.

Hazing: SB1454 increases the penalties for college hazing from a misdemeanor to a felony in some cases.

For updates and an extended list of signings and vetoes, go to The Chronicle politics blog at [sfgate.com](http://sfgate.com).

## **L.A.'s Decision to Keep Coal Plant Still Generates Criticism**

**The 2001 sale of only half of DWP's interest in a Nevada power facility that has since closed remains controversial.**

By Evelyn Larrubia, Times Staff Writer  
L.A. Times, Sunday, October 1, 2006

S. David Freeman calls it "an 'L.A. stupid' story," a missed opportunity that cost taxpayers millions and made it easier for the DWP to put off finding more environmentally friendly fuels.

Ron Deaton, on the other hand, defends it as a decision rooted in logic: In the face of a statewide energy crisis, never turn your back on a cheap source of electricity.

Here's what happened: Five years ago, when Freeman still managed the Los Angeles Department of Water and Power, officials made a remarkable decision to get rid of its interests in a coal-burning Nevada power plant partly responsible for sullyng the skies above the Grand Canyon.

The Mohave Generating Station produced more than a million tons of carbon dioxide a year and caused further environmental harm by using a pristine waterway to float coal from a mine to the plant. Federal regulators were pushing hard on the operators — one of which was the DWP — to shut down the plant or spend \$1 billion on emission scrubbers and other pollution controls.

At the time, California was suffering from an energy crisis that caused scattered blackouts across parts of the state; power was at a premium. But because the DWP had more than enough, having restarted several local natural-gas plants, Freeman decided the time was right to cash out Mohave to make room for cleaner fuels and upgrade local gas-powered plants.

"It's a project that I knew was sick, and [I] persuaded the City Council to sell it while prices were high," Freeman said.

But after the council approved the deal, Deaton — then the city's chief legislative counsel, and City Administrative Officer Bill Fujioka convinced council members that it was a mistake to sell a source of cheap power.

Following that advice, they reneged on the deal, selling only half of the DWP's 20% interest, in November 2001, for \$95.2 million. The city kept the remaining 10% interest.

Jump ahead to Jan. 1, 2006: The still-polluting coal plant was ordered closed. For months, operators struggled to find a profitable way to reopen, but they announced in June that the plant would never burn coal again.

Had the DWP sold all of its Mohave interests, it would have made an additional \$94.8 million.

"How many solar projects could we have put up for that?" asked Rhonda Mills of the Center for Energy Efficiency and Renewable Technologies, an advocacy group.

Deaton, now the DWP's general manager, counters that it's indisputable that in 2001 it made financial sense to keep at least a share of Mohave — it gave the city cheap power for four more years. Selling it to someone else would not have improved the environment, he said.

"There wasn't going to be any difference in air quality," he said. "The question was whether the city was going to get the financial benefits ... or somebody else."

## **Smoke From Indonesian Fires Spreads**

By ZAKKI HAKIM

The Associated Press

Monday, October 2, 2006; 10:11 AM

JAKARTA, Indonesia -- Smoke and ash from land-clearing fires in Indonesia blanketed a large swath of the country's west on Monday, sending air quality levels plummeting there and in neighboring Singapore and Malaysia, officials said.

The smoke was shrouding an estimated 215,000 square miles of land on Indonesia's islands of Sumatra and Borneo, forcing many residents to wear protective masks and delaying flights, officials and media reports said.

"The haze has persisted for a whole week," said Frans Tandipau, a senior official tasked with extinguishing forest fires on Sumatra.

Fires from land-clearing activities in Sumatra and Borneo, and to a lesser extent Malaysia, have occurred almost every dry season since the late 1990s. They are typically set by people looking for a cheap way to clear brush for plantations.

In Singapore, air quality dropped to "moderate" on Monday from "good" on Sunday, due to the fires in Indonesia, the National Environment Agency said. Residents complained the air was "hazy."

Malaysia's Department of Environment said that seven of its 51 monitoring stations nationwide recorded "unhealthy" air quality levels, 11 were "moderate," and the remaining 33 had "good" air quality.

All seven worst-hit districts were on the Malaysian side of Borneo island.

Air quality levels had reached "dangerous" levels, from "unhealthy" last week, according to a monitoring station in Palangkaraya, state news agency Antara reported.

Indonesia has often been criticized by its neighbors for not tackling the problem.

President Susilo Bambang Yudhoyono has vowed to crack down on landowners who set fires illegally, but inefficient and corrupt local authorities are apparently unable or unwilling to stamp out the problem.

[Modesto Bee, Guest Commentary, Saturday, September 30, 2006](#)

## **On Spare the Air day, schools should spare students' lungs**

By CRAIG MELLO

Over the past couple of weeks, wildfires near Sacramento and east of Stockton have forced valley residents to endure several days of horrible air quality. Granted, our air is never good, but on these days the visibility was so bad that it appeared foggy outside and even inside the air reeked of smoke.

As an educator and parent, I probably worry more than most about the consequences of pollution as it pertains to kids. But when our public schools appear completely indifferent to such hazardous conditions, one has to draw the line.

The 245 schools in Stanislaus County have a flag system that keeps parents, kids and school officials aware of the air quality each day (green for healthy, yellow for moderate, orange for sensitive, and red for unhealthy). But what happens after we hoist the flag?

If it were storming outside, you wouldn't expect your son or daughter to be sent out to the playground to frolic in the rain. Why, then, are Spare the Air days treated as business as usual?

On Sept. 22, the air was so bad that it was given a red-flag designation, which means it was hazardous for everyone to breathe — not just for those who are sensitive to respiratory aggravation. How many schools kept their students inside? I can guarantee it wasn't 245, though it ought to have been.

Aside from not having a concrete plan for such days, there is a communication breakdown that prohibits schools from acting swiftly even if they want to — consider it another roadblock to protecting our kids.

Certain districts wait for the Stanislaus County Department of Education to notify them of air-quality issues. SCOE bases its updates on the San Joaquin Air Pollution Control District Web site. The air district does actual air-quality testing. Ironically, however, the Web site is only changed after the home office in Fresno is notified of the test results and then gets around to updating the site.

When I woke up last Friday morning the Sacramento fires were already burning, but the Fresno office of the San Joaquin Air Pollution Control District didn't update its Web site until after noon — seven hours later.

Guess what, the day's already over at school! Most kids had already gone outside for two recesses by that point.

Friday evening I finally got a call back from a representative with the agency who apologized for their tardiness in updating the site. She said that though hundreds of schools rely on their updates, everyone from her office had been tied up in meetings.

It really comes down to common sense.

When there's a fire in your home, or you burn your dinner and the house fills up with smoke, you don't sit around with your children waiting for a \$2 smoke alarm to go off; you open your windows and go outside until the smoke clears. Why, then, are we incapable of making an equally intelligent decision with kids in schools?

Let's put a plan together to keep kids inside on Spare the Air says.

Our smoke alarm isn't working.

*Mello is a teacher in Modesto and a former visiting editor with The Bee.*

[Letter to the L.A. Times, Sunday, October 1, 2006:](#)

### **Lockyer's Lawsuit Is Legally Sound**

Climate change is the most serious environmental problem the world has ever faced. For the Los Angeles Times to label the lawsuit filed by Atty. Gen. Bill Lockyer against the auto manufacturers silly is irresponsible ("How Evil Are Cars?" Editorial pages, Sept. 22).

The lawsuit rightfully seeks accountability under the law on public nuisances from some of the world's largest greenhouse gas polluters, which have obstructed progress on regulating emissions for years. The World Health Organization estimated in 2000 that more than 150,000 lives were already being lost annually because of global warming, which also threatens to eradicate one-third of all living things on Earth by 2050.

If we fail to act now to curb our emissions by 80% or more, our children will live on a very different planet.

While the state defends its efforts to regulate greenhouse gas emissions in court and the Bush administration remains hostile to the regulation of these emissions, the attorney general is applying well-established principles of common law to recover damages for the injuries the automakers are inflicting on the public.

The attorney general should be applauded for his work on behalf of all Californians.

*Julie Teel, Staff Attorney, Center for Biological Diversity  
San Diego*

[Letter to the Editor, published in both the LA Times and Sacramento Bee, Sunday, October 1, 2006](#)

### **Polluting the courtroom**

Atty. Gen. Lockyer's "nuisance" lawsuit against automakers will generate more pollution in the courtroom than it will clean up outside ("California Sues Over Vehicle Emissions," Sept. 21).

After trying to blame bad air on the people who make cars, will he next sue the millions of Californians who are guilty of turning on their cars' ignitions every day? This lawsuit is another example of wasteful litigation that drains time and money that could go into research, product development and marketing that will actually produce cleaner technologies and get them out to the public.

It is amazing that the attorney general has been telling the Legislature and governor that he needs a law, SB 1489, to force defendants to give him more money to use on lawsuits.

Lawsuits like this one? It may be election season, but give us a break.

[Sacramento Bee, Commentary, Sunday, October 1, 2006](#)

### **Should state haul big oil and auto giants to court?**

By Stuart Leavenworth

Ten years ago, when Arnold Schwarzenegger was enhancing his movie career with "Jingle All the Way," his future environmental adviser Terry Tamminen was working as a pool-cleaning expert, water cop and would-be Bard of the Bay.

As Santa Monica Baykeeper, Tamminen spent his days tooling around in his boat harassing litterbugs. He also was promoting copies of his book, "The Ultimate Pool Maintenance Manual," while playing the role of Shakespeare in a children's play he wrote.

His life has since taken several dramatic turns. Tamminen became director of a leading environmental foundation, and he and Schwarzenegger bonded during the actor's successful run for governor during the 2003 recall election. The two then produced an environmental platform that surprised skeptics.

Over the objections of some Republican advisers, Schwarzenegger appointed Tamminen as secretary of the California Environmental Protection Agency. Then he became the governor's cabinet secretary, and later, a special adviser, before he left the state payroll in August.

Now Tamminen is about to launch a new crusade, one that few would expect from a close adviser to a Hummer-driving governor. In a few weeks, bookstores will begin stocking copies of "Lives Per Gallon," a book by Tamminen that examines America's petroleum addiction and launches a blistering attack on the practices of the world's oil and automobile industries.

In the 250-page book, Tamminen argues these companies are perpetrating frauds similar to the tobacco industry by employing hired-gun experts and front groups to fight regulation and sidestep the health and environmental costs they impose on society. These two industries, he argues, are deserving of the same forceful litigation and taxation that has successfully reduced smoking rates in the past decade.

The timing of "Lives Per Gallon" could give the book a wide readership and make it an issue in the governor's campaign. Don't be surprised if Schwarzenegger's opponent, Treasurer Phil Angelides, starts waving "Lives Per Gallon" in the governor's face and pressuring him to endorse Proposition 87, a proposed severance tax on California oil production that Tamminen supports.

"Lives Per Gallon" also will give cover to California Attorney General Bill Lockyer, who last month filed a lawsuit against major automobile manufacturers. Lockyer alleges that auto industry products are contributing to air pollution and global warming, and therefore they constitute a public nuisance.

Some quickly dismissed the suit as a publicity stunt with no legal foundation. The Los Angeles Times editorial page called it a "silly legal battle" that tries to hold "law-abiding companies liable for the government's past failures" to regulate emissions.

Tamminen strongly disagrees. In his book, he notes that the lead paint industry and other companies have been successfully sued for nuisance even though they were obeying the law. In nuisance cases, a plaintiff does not need to prove that an activity is illegal, only that the harm it poses to the public outweighs any benefits.

Tamminen also takes issue with claims the automobile and oil industries have obeyed state and federal laws, especially in the realm of air pollution, one focus of Lockyer's suit.

"My books lays out that, for the last 60 or 70 years, these industries have not been law-abiding," Tamminen said in a recent interview. "They have used every tool in the book to deceive regulators and deceive the public."

In writing an environmental exposé, Tamminen probably couldn't have picked a bigger target than the oil and automobile industries. In 2005, the top 10 companies in these two industries reported revenues of nearly \$2 trillion and profits of almost \$100 billion.

Granted, their combined clout wasn't sufficient to block Schwarzenegger from signing Assembly Bill 32, which requires California to cut its global warming emissions by 25 percent. But AB 32, despite its historic significance, doesn't pose much of an immediate threat to Big Oil and Big Auto. A former Cal-EPA secretary laying out a road map for litigation could be a different story.

Tamminen, 54, says his environmental passions were stirred in his early 20s, when he returned to Southern California after college and went scuba diving in waters he explored as a teenager.

His favorite underwater spots, which once glistened with towering kelp beds and abalone, had become a wasteland of barren rock and Styrofoam cups. His activism intensified when his father, Art Arndt, died of emphysema at age 70. Tamminen blames his father's death on smoking and living in Milwaukee, which he says was "covered much of the time in green-gray smoke" from industries and automobiles.

After a number of odd jobs, including working on a sheep ranch in the Midwest, Tamminen moved back to Southern California in the 1980s and purchased a pool business in Malibu. He cleaned pools for the rich and famous, including Madonna and Johnny Carson, which is how he met Frank Wells, the late president of Walt Disney Co. and an ardent conservationist.

With the help of Wells and his family, Tamminen became the first Santa Monica Baykeeper, part of a national network of water cops led by Robert F. Kennedy Jr., a cousin of Maria Shriver. In 1999 Tamminen became director of Environment Now, a Wells foundation that supports green causes across the state.

Tamminen quickly saw a connection between all the issues the foundation was tackling, including smog, urban sprawl and groundwater contamination.

"So many things that the foundation was working on came back to petroleum," he said. "The more I looked at our addiction to oil, the more I became angry and felt compelled to write the book."

Tamminen was halfway into the project when the recall election turned his life upside down. Schwarzenegger was looking for an environmental guru, and Kennedy urged him to meet with Tamminen. The two dined at the actor's Santa Monica restaurant, Schatzi on Main, and they quickly hit it off.

In a matter of few days, Schwarzenegger, Shriver and Tamminen hammered out an eight-page environmental action plan. At the top of the list: "Cut air pollution statewide by up to 50 percent and significantly reduce California's dependence on foreign oil before the end of this decade."

Tamminen says he told Schwarzenegger about the book project in 2003 and never heard any flak about it. In fact, he says, the governor once bragged to a group of environmentalists at a party that Tamminen was writing a book about the nation's over-dependence on petroleum.

"Lives Per Gallon" starts out gently enough with President Bush's infamous quote: "America is addicted to oil."

The book then launches into a retrospective of the petroleum and automobile industries, with chapter titles borrowed from Shakespeare and Pliny. In one chapter, "Wealth Seems Rather to Possess Them," Tamminen notes how these industries worked to stifle competition, avoid regulation and secure subsidies from the federal government. He rehashes how Detroit maneuvered to eliminate street cars in several cities, kill the electric car mandate in California and block tougher fuel economy standards.

None of this will be startling to students of the petroleum economy. But Tamminen also includes some interesting touches, including a section analyzing how cigarette smoke and petroleum pollution are remarkably similar in their chemical makeup.

"Whether you inhale from a cigarette, breathe in secondhand tobacco smoke, or simply breathe the air in most parts of the industrialized world, you are inhaling benzene, polycyclic aromatic hydrocarbons, carbon monoxide and host of other toxins," he writes.

Tamminen cites studies, including some from the University of California, Davis, reporting that petroleum pollution causes an estimated \$54.7 billion to \$672.3 billion in direct health care costs each year. He cites reports showing that diesel exhaust and other pollution has led to an increase in childhood asthma, cancers, birth defects and other ailments.

The most charged chapter of Tamminen's book focuses on strategies to make these industries pay for their hidden costs. Tamminen analyzes how oil and auto industries could be vulnerable to lawsuits over fraud and manipulation, antitrust, product liability and public nuisance, similar to the tobacco industries. Some will undoubtedly question if Tamminen is going overboard by comparing these corporations with the tobacco giants. After all, smoking offers no real societal benefits, whereas petroleum gives us transportation, vital chemicals, plastics, life-saving pharmaceuticals and other products.

For a nuisance case to be successful, a plaintiff would have to demonstrate that the harm caused by the petroleum industry's activities was "unreasonable," taking into account any benefits to society from those activities, said Sean Hecht, a UCLA law professor. It would not be enough, he said, just to establish that petroleum was causing harm.

In addition, Hecht said, Tamminen is treading some new ground by suggesting these industries could be sued under the public trust doctrine, which environmentalists successfully used to save Mono Lake in

California. It's possible, he said, that regulators could be sued for failing in their role as trustees over air quality, but such an approach would be novel, he said, and its success uncertain.

Tamminen nonetheless maintains that environmentalists may need to explore various legal avenues if they hope to address air pollution and global warming. He also says it is "totally valid" to compare Big Oil and Big Auto with Big Tobacco.

People who die from secondhand cigarette fumes, he said, are similar to millions of Americans who try to lead an environmentally healthy life but still end up paying for the consequences of air pollution and climate change.

"Even if you don't drive a car or don't use petroleum power in any way, you are still forced to breathe that secondhand smoke," he said. "That it is a direct result of those conspiracies and lobbying and shenanigans that I outline in the book."

Ever since Tamminen announced his resignation in August, environmentalists have fretted that Schwarzenegger will become a much less-green governor if he wins a second term. Some have speculated that Tamminen was forced to leave because of the strident environmentalism apparent in his book.

Not true, he says. Although he acknowledges several frustrating battles in Schwarzenegger's inner circle, Tamminen insists he was not pressured to go and plans to keep advising the governor and help with his campaign. Assisted by foundation money, he is also collaborating with officials in Arizona, New York and other states to create a consortium with California to fight global warming.

Tamminen, however, acknowledged that the release of "Lives Per Gallon" factored into his decision to leave Schwarzenegger's administration. The book could end up being controversial for his friend and former boss, he said, and he didn't want to stay on the state payroll in such a situation.

"I am sure it has caused a little heartburn for him (Schwarzenegger), because his campaign has freaked out a little bit," Tamminen said. "They don't want to piss off their base ... They don't want controversy during the campaign and I can understand it."

Already, the book is getting some national buzz. The Washington Post listed it as one of their most anticipated books of the season, and Island Press is planning a promotional tour.

The real test of Tamminen's book, of course, will be if it prompts changes in either industry behavior or the tactics of the environmental movement. Tim Carmichael, director of the Los Angeles-based Clean Air Coalition, said the premise of Tamminen's book is strong, but lawsuits could be costly and time consuming, which is one reason that environmentalists haven't talked extensively about them.

Lockyer's lawsuit against the auto companies will be pivotal, said Hecht, who previously worked in the attorney general's office. Although the state's case faces some hurdles, he said, "lawyers for these companies should not be so quick to dismiss the risks."