

We're breathing easier

Many factors fueled drop in dangerous smog days

By Stacey Shepard, Californian staff writer
Bakersfield Californian, Sunday, Sept. 29, 2007

Despite wildfires that created noticeably dirty skies, Bakersfield made significant strides in air quality this summer.

Bakersfield violated the federal limit for smog on 15 days this summer -- the lowest number in two decades, preliminary air quality data shows.

By comparison, the city had 54 violations last summer and 33 in 2005. The highest number of violations recorded in Bakersfield in the past 20 years was 78 in 1988, the earliest year for which data was available.

Smog levels are typically at their highest during summer months because higher temperatures and sunlight are needed for chemicals in the air to react and form smog.

When federal limits are surpassed, the air becomes unhealthy to breathe.

At these levels, smog is more likely to trigger asthma attacks, damage lung tissue and aggravate a host of other lung ailments.

Arvin -- which tallied the most smog violations of any city in the country last year -- also saw a decrease in smog, from 61 violations last year to 40 this year, data showed.

In doing so, it has apparently passed on its dubious title of smoggiest city to Crestline, a city in San Bernardino County, which racked up 62 violations.

Weather's role

Air quality experts said it's too soon to know what contributed most to this year's good performance.

But early analysis suggests several factors were at play, said Shawn Ferreria, a meteorologist with the San Joaquin Valley Air Pollution Control District.

Temperatures were close to normal this year, Ferreria said. In contrast, the last two years were marked by above-average temperatures that promote smog formation by creating stagnant air that traps emissions. Last July, for example, temperatures on average were nearly five degrees higher than normal.

Major cuts in pollution

Regulations that cut emissions from the largest polluters, such as factories, oil fields, farms and vehicles, also helped to bring down smog.

Refineries and oil producers -- once the largest source of smog-forming emissions in the valley portion of Kern County -- have cut emissions by about 85 percent since 1990, according to state data. Emissions from diesel-powered farm and construction equipment are down 30 percent to 40 percent since then. And while the number of cars in Kern County has gone up, newer engines mean they're spewing 70 percent less pollution than they did 17 years ago.

Overall, almost all sources of pollution in the county are down, the data showed, with a few major exceptions. Pollution from long-haul, 18-wheel trucks has nearly doubled in that time and are now single largest source of pollution in Kern County and the San Joaquin Valley.

Smokey shield

In an interesting twist, smoke from the Zaca fire may have helped reduce smog in Bakersfield this summer.

While the Santa Barbara County forest fire rained ash over some of Bakersfield and streaked skies with gray clouds for weeks, the smoke appears to have prevented smog formation by shielding out the sun, Ferreria said. In addition, because smoke from Zaca Fire stayed relatively high in the air, it didn't mix with ground-level air, where it likely would have contributed to more smog than normal.

However, wildfires can be a double-edged sword. As the Zaca fire showed, even though smoke remains high in the atmosphere, pieces of ash made their way to the ground.

These large particles are a health concern on their own, but can become even more dangerous as they break apart into smaller particles on the ground. Medical studies have shown the tiny specs can lodge deep in the lungs and have adverse health affects.

The impact of smoke on air quality also depends on wind and weather patterns. More recent fires burning north of Sacramento and in the Bay Area did contribute to elevated smog levels in Bakersfield because that smoke didn't stay aloft but mixed with ground-level air, Ferreria said.

For Linda Urata, a member of Kern County advocacy group Project Clean Air, fewer smog violations is good news. But there's still a lot more to be done to clean the air, she said.

"Improvements in air quality always mean better health for people living here," she said. "But is it a celebration that we're there? No, not by any means."

Summer air better in San Joaquin

Valley ended season with warning issued for only one day

By Aaron Swarts, staff writer

Tri-Valley Herald, Friday, September 28, 2007

The latest statistics show that San Joaquin County residents have done more than their share to spare the air in the Central Valley this summer.

According to the San Joaquin Valley Air Pollution Control District, the eight-county region recorded the second fewest number of Spare the Air days since the program was initiated in the early 1990s, with San Joaquin County leading the way with only one such designation.

"I want to give credit where its due, which is to Valley residents and businesses, who have really stepped up to the challenge of reducing their emissions," Air District Director Seyed Sadredin said.

During the summer last year, 10 Spare the Air days were declared in San Joaquin County, meaning air-quality levels were determined to be unhealthy and residents were asked to stay off the roads, car pool or use public transportation.

Air District spokeswoman Jaime Holt noted that Valley residents have been doing their part to improve air quality even when warnings are not issued, which has led to the significant decline in official Spare the Air days.

"It appears they have gotten the message that each of us in our daily lives can affect air-pollution levels," she said. "This year's performance is really a testament to the commitment by all of us to cleaner air."

Holt added that the most significant air warnings in San Joaquin County during the summer were the result of out-of-control wildfires and not unhealthy ozone levels, which can occur during the summer months.

"Unfortunately, the Moonlight fire up north dumped a huge amount of smoke into the Central Valley, which basically stayed low to the ground," she said. "Thank goodness the winds changed after only a week, or our great summer air quality in that part of the Valley could have been much, much worse."

Holt said the Air District was "optimistic" the positive trend will continue next summer.

"Of course, our goal is to see no more Spare the Air days, and the trend is definitely moving in that direction," she said. "We might even change the program slightly next year so it is not so much based on a handful of days but rather a campaign to get people to understand what impact their behavior can have on air quality."

For more information on Valley air quality, contact 1-800-SMOG-INFO or visit the Air District's Web site at <http://www.valleyair.org>

County had one 'Spare the Air' day this year

Stockton Record, Friday, September 28, 2007

San Joaquin County saw just one "Spare the Air" day this year as opposed to 10 last year.

The San Joaquin Valley Air Pollution Control District released a statement Thursday saying that all San Joaquin Valley counties saw a dramatic reduction in the number of "Spare the Air" days because of a reduction in emissions.

Just six such days were declared districtwide, which encompasses Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare counties.

The district puts out "Spare the Air" alerts when air quality is forecast to deteriorate to levels that are unhealthy or unhealthy for sensitive groups.

Setting it Straight

in the Modesto Bee, Friday, September 28, 2007

There were six Spare the Air days in the eight-county San Joaquin Valley Air Pollution Control District in 2007. Additionally, in the northern region, there were 19 in 2006 and 11 in 2005. Incorrect information appeared in a story Thursday on Page B-1.

Valley power authority plans an electric plant in Parlier despite objections

By Marc Benjamin / The Fresno Bee

Friday, Sept. 28, 2007

A public power authority has decided to build a 565-megawatt natural gas-fired electric generating plant in Parlier, despite opposition from neighbors. But the decision could cost the authority one of its members.

The San Joaquin Valley Power Authority had been considering sites in Parlier and Kingsburg, but settled on Parlier because of its proximity to water, electric transmission lines and natural gas pipelines, officials said Thursday.

The authority, which will serve agencies in Tulare, Kings and Fresno counties, submitted a construction application Thursday to the California Energy Commission.

The estimated \$438 million power plant will be on a 32-acre site along Bethel Avenue that Parlier is planning to annex.

The site is in an industrial park adjacent to Parlier's future border with Selma. The power plant is expected to open in 2011 and would serve 191,000 customers in the three-county area.

During a meeting earlier this year, residents near Selma opposed the location because of concerns about air pollution, its proximity to a nearby school and plans by the city of Selma for high-end housing just west of the plant site.

The Selma City Council is opposed to the Parlier site because of its proximity to those upscale homes and because of concerns from nearby residents.

"We are very concerned that it's within a half-mile of these [future] nice homes and a school," said City Manager D-B Heusser.

Selma City Council members may vote Monday night to withdraw from the power authority, in part because of the Parlier site, Selma Mayor Don Tow said. The council granted officials from Pacific Gas & Electric Co. an opportunity to address the council Monday night. PG&E has opposed the plant and the public power authority.

David Orth, general manager of the San Joaquin Valley Power Authority, said any concerns from surrounding residents and communities will be addressed by the state Energy Commission and other regulators.

"The Energy Commission will look at how the community feels," Orth said.

Before approving the project, the California Energy Commission will hold up to 12 public hearings, locally and in Sacramento. The first hearings will begin in early 2008.

Parlier City Manager Lou Martinez said his council supports the plant.

"None of our residents have voiced a negative concern," he said.

Martinez said the power plant will be cooled with waste water from Parlier's sewage plant. That will save Parlier nearly \$20 million by eliminating the need to expand the sewage plant to accommodate more waste-water storage as the city grows.

The power plant is projected to emit about 100 tons of air pollutants each year. The power authority will be required to install the most advanced pollution controls available and purchase emission-reduction credits, said Dave Warner, director of permit services for the San Joaquin Valley Air Pollution Control District.

The credits come from businesses that reduce air pollution by installing cleaner technology, phasing out older equipment or by other means.

The San Joaquin Valley Power Authority, which will operate the plant through the Kings River Conservation District, has promised it can shave at least 5% off the power costs of customers in the 13 participating agencies. Those agencies are Tulare County, Kings County, Dinuba, Clovis, Selma, Reedley, Parlier, Kingsburg, Sanger, Kerman, Hanford, Corcoran, and Lemoore.

Permits sought for Parlier power plant

By Eiji Yamashita

Hanford Sentinel, Saturday, Sept. 29, 2007

FRESNO -- A water and power management agency this week began a permit process for building a natural gas-fired power plant in Parlier, a small town 20 miles southeast of Fresno.

Officials say the new base load plant could ultimately generate electricity for a region including Hanford, Lemoore, Corcoran and other parts of Kings County.

On Friday, the Kings River Conservation District announced that it had filed an application for the power plant with the California Energy Commission this week.

KRCD is pursuing a plan to build a base load plant, which would run at all times throughout the year to provide a steady flow of power to the South Valley, a region known to have energy deficiency.

The \$600 million, 565-megawatt plant is proposed to be built next to Parlier's wastewater treatment plant by 2011.

"The greater Fresno area needs additional energy generation capacity," said David Orth, KRCD's general manager. "The California Independent System Operator continues to call the Valley generation-deficient. Adding this generation would be responsive to that label. The plant is part of a regional strategy."

Orth cautioned, however, that the application is the "beginning of the permitting process" and that the actual decision to build it won't be made for at least 15 months.

He said it will take at least until early 2009 before the energy commission grants a permit. And the decision will be made after evaluating whether state-imposed conditions would make the power plant still economically feasible, he said.

Parlier city officials are supporting the project.

"Because of the economic and resource benefits to our community, this project has received unanimous support from the Parlier City Council," Parlier Mayor Armando Lopez stated.

Specifically, the power plant -- if built as proposed -- would use treated wastewater to cool the facility, saving the city nearly \$20 million in the cost of getting rid of the wastewater, Orth said.

The plant would also employ the most advanced air pollution control technology available while working with a local manufacturer in reducing nitrogen dioxide emission in order to secure an air permit, Orth said.

The power plant was part of the vision when KRCD first began a campaign a few years ago to create the San Joaquin Valley Power Authority, an electricity cooperative independent from investor-owned utilities.

Officially formed in May, the authority brings together 13 municipalities from Kings, Fresno and Tulare counties. Hanford, Lemoore and Corcoran in Kings County are among them.

The authority's program called Community Choice, enabled under a 2002 law allowing localities to become the alternative power providers for residents, is expected to provide a 5 percent saving on the generation component of the electricity bill by the end of 2008.

The authority came about to provide a more stable energy supply for the region at cheaper rates. KRCD says the new power plant is envisioned to help the authority achieve that goal.

Power plant honored for high safety standards

By Jonathan Partridge

Patterson Irrigator, Saturday, Sept. 29, 2007

CROWS LANDING - Fire, chemicals and various machines could create a treacherous workplace, but state officials say Covanta Energy's Stanislaus plant has one of the safest work environments in the state.

California's Occupational Safety and Health Administration on Wednesday presented Covanta with a flag at a ceremony to honor the incinerator and power plant for qualifying for its "Star" Voluntary Protection Program. Plant representatives say they hope to improve even more.

"Most people think that raising a flag during a ceremony would be like crossing the finish line in a race," said Tim Jenkins, VPP chairman for Covanta's Stanislaus facility. "But, in fact, raising the flag is more like a starting point."

Fifty-one plants in California and 1,844 facilities nationwide have qualified for the OSHA VPP Star program.

Participating plants must continue to show improvement in safety, give an annual progress report, show no fatalities and few injuries and mentor folks at other plants that want to enter the program. In return, they are exempt for three years from routine compliance inspections.

Covanta's Crows Landing facility is the third plant in Stanislaus County to enroll in the program. Georgia-Pacific Corp.'s container facility in Modesto and International Paper's plant in Turlock also have qualified.

Plant environmental specialist and safety coordinator Terry Coble noted that the power plant also was named to the federal Environmental Protection Agency's National Environmental Performance Track in March.

Coble said of the federal award that the plant wanted to go above and beyond required emissions requirements. "It's not just for us; it's for the surrounding community," he said.

Covanta, which burns garbage and converts steam into electricity, has fallen under criticism in the past from some environmental groups that oppose incinerators.

However, Coble said the company hopes to meet air and solid waste requirements and be a good neighbor.

It took about three years for Covanta's local plant to enroll in the Star program. Coble said the process entailed many meetings, and Cal-OSHA representatives made several recommendations.

Those included creating lifting stations for chemical barrels and improving signs around the plant. In addition, workers receive annual training from the American Red Cross in skills such as CPR.

John Klett, chief operating officer of Covanta, compared the plant's operations with ducks floating on water - they look smooth and easy at first glance, but there is a lot of paddling going on to make it happen.

"They're power plants," he said. "They're dangerous operations."

The plant, which mostly burns trash from Stanislaus County and the city of Modesto, is allowed to take as much as 1,700 tons of trash a day.

Coble said it has not always been easy to get all 43 of the plant's employees to buy in to the safety program. Still, many workers seemed enthusiastic Wednesday.

"It's a good opportunity for the plant to show the improvement," auxiliary operator Jaime Villegas said. Shift supervisor Dino Rivas said it takes longer to do jobs than it used to, but people pay more attention to safety now and take more pride in their work.

"It brought a lot of the guys together," he said.

Iraj Pourmehraban, California VPP manager for Cal-OSHA, said he was impressed with the local plant, the only incinerator in California to be a part of the VPP program.

"The team that did the evaluation was impressed with the cooperation they received from management," he said.

The plant also got kudos from Modesto Mayor Jim Ridenour, who works as a Stanislaus County Sheriff's deputy.

Ridenour said he regularly drops off items to destroy at the plant, and the plant workers are always extremely conscious of safety. The sheriff's department regularly drops off contraband such as guns and drugs.

County supervisors Jim DeMartini, Jeff Grover and Dick Monteith also showed up to Wednesday's ceremony, as did a representative from the office of Rep. Dennis Cardoza, D-Atwater.

The ceremony also included a time for raising the VPP flag.

Coble said Covanta workers wanted to make sure they would not lose that token of honor. "We want to be above what's required," he said.

Boyajian plans mayoral run **Ex-Fresno council member unveils agenda**

By Matt Leedy / The Fresno Bee
Friday, Sept. 28, 2007

Former Fresno City Council Member Tom Boyajian wants to return to City Hall -- this time as mayor.

He will formally announce that he's running for mayor this evening at his Tower District home. Boyajian, 62, confirmed Thursday that he will become the third mayoral candidate in the race, joining current Fresno City Council Members Jerry Duncan and Mike Dages.

Boyajian, a private attorney, represented west-central Fresno on the council for eight years before being termed out in January. He gained widespread popularity in his district by frequently visiting neighborhoods and working to repave streets, fix sidewalks and cover up graffiti.

Mayor Alan Autry terms out of office in about 15 months. And there will likely be a crowded June ballot of candidates hoping to replace him. If no one wins more than 50% of the vote, the top two vote-getters will meet in a November 2008 runoff.

Among those considering joining the mayoral race are Council Members Henry T. Perea and Larry Westerlund and Ashley Swearengin, chief operating officer for the Regional Jobs Initiative, which works to improve the local economy.

During Boyajian's two terms on council, and especially in his last two years, he often voted against the majority of his council colleagues. He was the only council member, for example, to oppose a plan last year to beef up the Fire Department using a \$10.8 million budget surplus.

However, he joined council colleagues in a unanimous vote in 2003 to fine owners of dilapidated, vacant buildings that contribute to neighborhood blight. He also pushed to have a grant writer hired for the Public Works Department.

If elected mayor, Boyajian said, he would try to streamline the city's permitting process, making it easier for businesses to get started and expand. Duncan made the same campaign promise when he announced his candidacy Wednesday.

Boyajian also said he would improve morale in City Hall by hiring more competent and passionate managers.

Improving the Valley's air quality also will be on Boyajian's campaign platform. He wants to direct more of Fresno's residential and retail growth to the city's core and discourage urban sprawl. The goal, he said, is to cut down the amount of time Fresnoans drive pollution-producing cars.

For the same reason, Boyajian said he'll push plans to have a high-speed bullet train in California that stops in Fresno.

Lawsuit settlement allows Port dredging

By Ben Marrone

In the Tracy Press and Manteca Sun Post, Friday, 28 September 2007

The Port of Stockton has settled a long-standing environmental lawsuit that had blocked its expansion, agreeing to set aside \$5 million to reduce air pollution.

The government-owned port will also take measures to protect endangered fish while dredging the channel as part of an agreement last month with San Francisco-based BayKeeper and other environmental groups.

The settlement allows the port to continue its expansion into a former U.S. Navy supply depot on the 1,459-acre Rough and Ready Island, near Stockton.

A judge had stopped the project last year, siding with environmental groups that sued in 2004, accusing the port of ignoring the environmental damage the expansion would cause.

Under the agreement, the port will use the \$5 million to offer discounts and subsidies to ships and trucks that use cleaner fuel and to set up electrical hookups for tugboats and ships with refrigerated cargo.

The port will also pump dissolved oxygen back into the water during its dredging of the channel if oxygen levels begin to fall, threatening Delta fish.

W. Ronald Coale, Port Commission vice-chairman, called the settlement "absolute blackmail and extortion," before voting to approve the settlement at an Aug. 7 meeting.

However, port director Richard Aschieris said he had every intention of complying with the agreement, noting that comments from one commissioner did not represent the feelings of the port as a whole.

"We've agreed to (the guidelines), and we're going to do it," Aschieris said. "We wouldn't have agreed to the settlement if it wasn't fair and applicable."

Aschieris said he expected the dredging — which will deepen the channel enough for two of the seven planned docks on Rough and Ready Island — would be finished by November.

-Sejal Choksi, BayKeeper's program director and attorney, who specializes in environmental law, said she was confident the port would honor the agreement. She added that all of the environmental guidelines can be enforced by a judge.

"They seemed pretty enthusiastic about protecting the environment," Choksi said. "I'm very optimistic that we have a workable agreement in place."

Plan to cut port air pollution assailed

By Ronald D. White, Los Angeles Times Staff Writer

L.A. Times, Friday, September 28, 2007

Two trade associations representing many of the world's largest companies urged the Federal Maritime Commission on Thursday to stop a plan to replace the most-polluting trucks that move cargo in and out of the nation's busiest container port complex.

Under the plan to be voted on by the governing bodies for the ports of Los Angeles and Long Beach, the aging diesel trucks that are a leading cause of unhealthful air would be replaced, possibly at industry expense, as part of a plan to reduce port pollution by 45%. The trucks, mostly owned and operated by low-income immigrants, would be replaced within five years.

But the plan "will likely cause major disruptions in cargo flows through the ports of Los Angeles and Long Beach. This is a serious matter that deserves the prompt attention of the commission in order to preserve the efficient flow of U.S. foreign trade through these ports," said the 14-page letter from the Pacific Merchant Shipping Assn. and the National Industrial Transportation League.

Members of the two trade groups include Wal-Mart Stores Inc., Exxon Mobil Corp., General Motors Corp. and Dow Chemical Co. The ports, which handle more than 40% of all retail goods imported to the U.S., responded with a letter signed by Geraldine Knatz and Richard Steinke, the executive directors, respectively, of the ports of Los Angeles and Long Beach.

"We cannot represent to the Federal Maritime Commission that the final Clean Truck Program will be universally acclaimed. We can commit, however, that it will reflect the ports' best efforts to protect the health of our citizens and the continued vitality of the significant portion of commerce of the United States that moves through the ports," the letter said.

The trade groups said the ports' efforts to transform the trucking fleet amounted to a violation of the federal shipping act of 1984, which is one of the three principal statutes the commission is charged with enforcing. U.S. maritime officials didn't respond to requests for comment.

State bans in-home ozone air purifiers, citing health risks

The California Air Resources Board says the regulation, which takes effect in 2009, is the first of its kind in the nation.

By Janet Wilson, Los Angeles Times Staff Writer
L.A. Times, Friday, September 28, 2007

The California Air Resources Board on Thursday banned popular in-home ozone air purifiers, saying studies have found that they can worsen conditions such as asthma that marketers claim they help to prevent.

The regulation, which the board said is the first of its kind in the nation, will require testing and certification of all types of air purifiers. Any that emit more than a tiny amount of ozone will have to be pulled from the California market.

An estimated 2% of the state's households have one of the so-called ozone air purifiers, according to air board staff research, and the staff estimated that more than 500,000 people had been exposed to levels of ozone above federally recognized health standards as a result. More than 2 million California residents have some sort of air purifier, and other types can be safe and effective, the air board staff said.

"This is a landmark decision," said Mary Nichols, chairwoman of the Air Resources Board.

"State government needed to set up [its] own standards on air purifiers because many [marketers] indeed are deceiving the public," said former Assemblywoman Fran Pavley, who sponsored a law requiring the board to rein in so-called ozone generators. "There are reports of ozone being generated in someone's living room . . . at levels equivalent to having a Stage 1 smog alert right in your own house."

The new regulation, which takes effect in 2009, will exempt industrial and commercial uses of ozone generators, as long as people are not present.

The machines deliberately inject ozone into a living room or bedroom, or directly into nasal passages via a personal breathing device worn around the neck. They have been marketed on the radio and over the Internet for years under brand names such as Living Air Purifier, Mountain Air or Fresh Air.

The companies also employ direct marketing, in which salespeople who say they are satisfied consumers go door-to-door or advertise the products to friends and colleagues, then earn a commission for each unit sold.

Many direct marketers spoke at the air board's public hearing Thursday in Diamond Bar. Most, however, identified themselves not as salespeople but as consumers who said their own health, that of asthmatic children, their aging parents and even depressed pets had been dramatically improved after use of ozone purifiers sold by EcoQuest, a Tennessee-based company.

"God gave humans these air purifiers, and you should not take away that gift," said Debra Perkins of Corona, weeping as she told how she felt the product had improved her mother's breathing.

Perkins said later that she was speaking not because she sells the devices, but because she believed so strongly as a registered nurse that they had helped her and her family. She said she first became a distributor after seeing them displayed at the Los Angeles County Fair. She could not afford the \$700 price, but was told she could get them at reduced cost if she sold them.

Allen Johnston of EcoQuest said his company was not allowed under Food and Drug Administration laws to make claims that the product cured illnesses or eliminated germs of any kind, and it doesn't.

But he said studies had shown that injecting some ozone into homes could reduce levels of germs.

"Ozone is both safe and effective, and widely endorsed by safety organizations," he said.

Such claims are false, said UC Irvine inhalation toxicologist Michael Kleinman. "Ozone is a toxic contaminant, and does cause significant adverse health impacts," he said.

"There are thousands of peer-review studies showing ozone is dangerous," said Bonnie Holmes-Gen of the American Lung Assn. of California, who for years led the drive for regulation.

Those studies have linked ozone exposure to increased asthma and other potentially deadly respiratory diseases, permanent lung damage and other health problems. Outdoor ozone produces smog when it reacts with sunlight.

But Johnston, of EcoQuest, said the studies used by the air board staff and conducted by scientists relied on outdoor ozone exposure, or testing conducted in sterile, small chambers that would automatically produce much higher levels of ozone than in a normal, larger home. After Thursday's unanimous vote by the board to ban high-ozone generators, he said, "I feel sad for the people of California."

Johnston said that his company would "of course comply" with the new regulation, and that it has other products that it will be able to sell here instead. He said California is the company's largest market, both because of its large population and its significant air pollution problems.

He said manufacturers could have done a better job of placing warning labels on devices advising the public not to set the level of the machine too high when anyone is in the room, but added that such limitations are spelled out in the owner's manual.

Sharper Image, another leading manufacturer and marketer of indoor air purifiers, has been

working with the air board staff for more than a year to develop a new air purifier that will meet state standards, said Peggy Jenkins, head of the board's indoor air division.

Jenkins said her office routinely receives calls from frightened consumers who have experienced asthma attacks or other health problems that could have been caused by ozone air purifiers. Sharper Image did not return calls seeking comment.

There are safe and effective air purifiers, Jenkins said. The cheapest, and usually the most effective, are so-called HEPA devices also commonly used in hospitals. They do require maintenance, such as changing filters. Also sometimes effective are ionizers or electrostatic precipitators, which can trap dangerous particulates, but which also can emit ozone as a byproduct, usually at lower levels than those that will be banned under the new law.

But some board members said that no safe level of ground-level ozone has ever been identified, and that it made them uncomfortable to put certification labels on machines that emit even low levels. The atmospheric ozone layer, by contrast, is a necessary protective layer around the Earth.

Board members voted to require their staff to return to them with results of future research into indoor ozone exposure to determine if allowable levels should be set even lower.

Anyone caught selling the devices after a two-year phase-in period could be subject to fines starting at \$1,000 a day. The board staff said that "sturdy" enforcement would be needed to track down products largely sold on the Internet or via word of mouth, but that it could be done.

"We'll go shopping," said Bart Croes, chief of the board's research division.
L.A. doesn't save data on traffic growth

City officials said they don't have traffic counts for some of the city's busiest intersections — and can't say how much congestion has increased over the years

Information gathered by the city's vast signal system is kept for only a few days, limiting the city in its long-term planning.

By Sharon Bernstein, Los Angeles Times Staff Writer
L.A. Times, Monday, October 1, 2007

Los Angeles' traffic signal system is the envy of traffic planners around the world, recording millions of cars each year as they pass over sensors embedded in city streets.

The data beep and shine on screens in a state-of-the-art traffic control center that looks like something out of a science fiction movie. The information -- Wilshire Boulevard jammed in Westwood, Broadway wide-open through downtown -- is used to adjust the timing of traffic lights, easing the flow of vehicles through the city's busy streets. The data are instantly placed on the Internet, available to commuters and traffic reporters.

But although the sensors and computers collect massive amounts of data about traffic patterns and congestion, they do little to help engineers plan for the city's growing transportation needs -- or determine how development is affecting traffic.

That's because the city does not save the information for more than a few days, using it only to direct traffic in real time by adjusting the speed at which lights turn from green to amber to red.

Because the information is discarded, it cannot be used to determine over time where traffic is increasing -- or by how much.

In fact, city officials said they don't have traffic counts for some of the city's busiest intersections -- and can't say how much congestion has increased over the years

The lack of traffic data is becoming more of a vexing issue at City Hall and in L.A. neighborhoods, especially in the midst of a building boom that has increased both residential and office development.

And it will probably be on the agenda for the new head of the Los Angeles Department of Transportation, Rita Robinson, who until last week was the city's sanitation director. The former chief, Gloria Jeff, was fired by Mayor Antonio Villaraigosa on Friday. Jeff's ouster came after months of grumbling that the department was slow in making improvements aimed at lessening worsening street congestion.

Many at City Hall believe getting better traffic data is crucial.

"It's appalling," said Councilwoman Wendy Greuel. The chronic lack of information makes it impossible to determine "where density should go and where it shouldn't go."

Consider Hollywood.

Over the last decade, several huge developments have been built, including the Hollywood & Highland shopping center, the ArcLight movie theater and the W Hotel complex at Hollywood and Vine, a mixed-used project now rising at the famous intersection.

But city officials said that they don't know how much the boom has affected traffic, because there is little historical data.

City codes require developers to produce a traffic study before building a new project, and city traffic engineers conduct a count of surrounding streets at that time.

But the developer and city traffic planners generally are not required to follow that up with updated counts after the project goes in.

As a result, planners might know how much traffic an area had before a development was built, but not afterward.

"One of the challenges that the city of Los Angeles has had over the years is that they have reduced the staffing that's been available to do data collection," said Jeff in an interview before her dismissal. Although Jeff was politic in her description of the problem, an aide said that the former Michigan official had been shocked when she arrived two years ago at how little information Los Angeles gathered about traffic.

Bill Reichmuth, transportation chairman for the American Public Works Assn. and a top traffic planner in Monterey, Calif., said planners in built-out cities like Los Angeles need such historical data to decide how large redevelopment projects should be, and where they should go.

"If you don't have it, you're hamstrung," Reichmuth said. "Without that data, you've got no way to make those kinds of assessments."

City Council President Eric Garcetti said it would cost about \$1 million to start organizing and archiving data from the city's traffic control system.

Jeff said the transportation department could begin installing a system to do that in July, but it would not be up and running for the entire city until 2011. The job will now fall to Robinson, who was appointed by Villaraigosa on Friday.

Some traffic agencies are significantly ahead of L.A.

Caltrans has long conducted intricate traffic counts along state highways and freeways. And several other California cities have found ways to do it.

San Francisco is implementing a computerized system for counting cars on its most congested and important streets and retaining the data. The city does regular counts of most of its arterial streets at least every seven years, and sometimes more frequently.

Every street in San Diego that carries 3,000 vehicles per day is counted at least every three years, said a city spokesman, Eric Simon. San Jose does a yearly traffic count at its busiest intersections, and Long Beach does so roughly every five years.

Ruth Smith, president of the Southern California chapter of the Institute of Transportation Engineers, said that cities vary in the degree to which they keep historical data. A former traffic official in Santa Ana, where engineers do keep a historical record of busy streets, Smith said counting vehicles can cost up to \$250 per day per intersection.

Los Angeles does collect basic traffic data at a limited number of intersections, but Jeff and others said the information is not of the type that can provide a thorough picture of the city's traffic and how it has changed over time.

For example, for decades the city has collected information on the number of cars that cross certain community boundaries as a way of figuring out roughly how much traffic is entering and leaving parts of Los Angeles.

But the streets were chosen for their geographical locations, not their level of congestion or their importance in moving traffic.

These boundaries, called "screen lines," form a widely spaced grid. One section, for example, is formed roughly by Western Avenue to the east, La Cienega Boulevard to the west, Mulholland Drive to the north and Beverly Boulevard to the south.

Once a year, the city counts the cars that cross these streets, and the data provide a basic sense of how traffic flows into and out of the city. But the information is not meant to show -- and in fact does not include -- how many cars are really inching along arterials or driving on neighborhood streets.

"They're simply an indicator of the volume of traffic going in and out," said Jeff. "We draw a series of lines around the city to get a feeling for the volume of traffic crossing into the city. . . . It is not a comprehensive look, nor is it intended to be a comprehensive look at different streets."

A planner seeking information on Hollywood, for example, would be limited under the screen line system to traffic counts at Western Avenue, far to the east of most of the major development, or Beverly Boulevard, significantly south of it. Hollywood Boulevard, which has seen huge amounts of construction over the last 10 years, is not a focus of the screen line counts.

The city also does another form of traffic counting: the Congestion Management Program. As part of the program, planners count vehicles at 47 intersections around the city every year. The information is used both in assessing air pollution from cars and in regional planning.

But like the screen line locations, the intersections in the management program are not chosen for their local importance or usage levels, said Brad McAllester, executive director of long-range planning for the Metropolitan Transportation Authority.

Instead, McAllester said, the intersections studied in the program were chosen for their

importance in county and regional planning -- not because of their role in moving cars within Los Angeles.

"The spacing was designed to give us a picture at the countywide level, not the neighborhood level," McAllester said.

In addition, neither program measures traffic along the length of the city's streets, but simply looks at intersections.

As a result of all these considerations, both McAllester and Jeff said, planners seeking information on the most crowded intersections in Los Angeles, or whether certain streets have become more crowded as a result of development, simply cannot do so with the information currently available.

John Fisher, assistant general manager of L.A.'s transportation department, said that, taken as a whole, the information collected by the city provides a useful picture of current and historical conditions in some areas. For example, he said, the city for decades has conducted a separate count of traffic downtown every five years, and has kept information back to 1924.

But other city officials say they keenly feel the lack of traffic data at the neighborhood level.

"This City Council feels strongly that it's time to link together traffic studies and neighborhood planning," Garcetti said, "and to have a neighborhood focus on top of the traditional regional focus on traffic patterns."

Bush's EPA is pursuing fewer polluters

Laxness encourages violation of environmental laws, agency's critics say

By John Solomon and Juliet Eilperin, Washington Post

In the Washington Post, Tri-Valley Herald and other papers, Sunday, September 30, 2007

WASHINGTON — The Environmental Protection Agency's pursuit of criminal cases against polluters has dropped off sharply during the Bush administration, with the number of prosecutions, new investigations and total convictions all down by more than a third, according to Justice Department and EPA data.

The number of civil lawsuits filed against defendants who refuse to settle environmental cases was down nearly 70 percent between fiscal years 2002 and 2006, compared with a four-year period in the late 1990s, according to those same statistics.

Critics of the agency say its flagging efforts have emboldened polluters to flout U.S. environmental laws, threatening progress in cleaning the air, protecting wildlife, eliminating hazardous materials and countless other endeavors overseen by the EPA.

"You don't get cleanup, and you don't get deterrence," said Eric Schaeffer, who resigned as director of the EPA's Office of Civil Enforcement in 2002 to protest the administration's approach to enforcement. He now heads the Environmental Integrity Project, a watchdog group. "I don't think this is a problem with agents in the field. They're capable of doing the work. They lack the political support they used to be able to count on, especially in the White House."

The slower pace of enforcement mirrors a decline in resources for pursuing environmental wrongdoing. The EPA now employs 172 investigators in its Criminal Investigation Division, below the minimum of 200 agents required by the 1990 Pollution Prosecution Act, signed by President George H.W. Bush. The actual number of investigators available at any time is even smaller, agents said, because they sometimes are diverted to other duties such as service on EPA Administrator Stephen Johnson's security detail.

Johnson, President Bush's chief environmental regulator, foreshadowed a less confrontational approach toward enforcement when he served as the EPA's top deputy in late 2004.

"The days of the guns and badges are over," Johnson told a group of farm producers in Georgia the day before Bush won re-election, according to a news account of the speech.

Administration officials said they are not ignoring the environment but are focusing on major cases that secure more convictions against bigger players.

"We have been on an unprecedented run of success in the enforcement arena," said Granta Nakayama, EPA assistant administrator for enforcement and compliance assurance. "These are major cases we are pursuing."

Nakayama said that in the past three fiscal years the EPA has cut between 890 million and 1.1 billion pounds of air pollution through enforcement, making them "three of the four highest years in the agency's history. ... You're seeing, I think, a historic period in terms of getting pollution out of the air."

He added that he hopes to boost the number of criminal investigators and said that over the past five years the agency has won convictions against 95 percent of the people indicted for environmental crimes.

Administration officials acknowledge taking a new approach to environmental enforcement by seeking more settlements and plea bargains.

Justice Department spokesman Brian Roehrkas said the department secured \$13 billion in such corrective measures from polluters in 2005-06, up from about \$4 billion in the final two years of the Clinton administration.

"Environmental prosecutions continue to be very important to the department," Roehrkas said. Settlements and judgments that impose corrective measures "protect the nation's environment and safeguard the public's health and welfare," he said.

House Energy and Commerce Committee Chairman John Dingell, D-Mich., whose panel oversees environmental enforcement, disagrees. "Where once a polluter could expect criminal prosecution, there are now civil settlements. Where once there were criminal penalties, there are now taxpayer subsidies," he said.

The environmental crimes unit at Justice Department headquarters in Washington has grown to a record 40 prosecutors. Last year it secured near-record highs in years of confinement and criminal penalties, Roehrkas said.

But environmental prosecutions by U.S. attorneys' offices have sharply dropped as prosecutors facing new pressures on issues such as terrorism and immigration take away resources for environmental prosecutions and try to divert cases to the main Justice Department, EPA agents said.

"Environmental crimes are simply not in the U.S. attorney top 10 priorities," said one senior EPA official, who spoke on the condition of anonymity because he is not authorized to talk to the news media.

Prosecutors counter that the EPA has fewer agents and is bringing them fewer cases. "We're not turning away environmental crimes in order to prosecute other crimes. They are just not being presented in the first case," said Don DeGabrielle, the U.S. attorney in Houston.

EPA memos show that investigators also have encountered new obstacles to their long-standing practice of directly referring cases to federal or state prosecutors. A new policy distributed May 25 requires agents to seek prior approval from the head of their division and establishes new paperwork procedures. This has slowed agents' ability to make referrals, congressional investigators said.

Nakayama said he was not "personally familiar" with the new policy and would look into it.

In the fall of 2001, EPA agents descended on a vacant Massachusetts field seeking to prove that a state agency broke the law by demolishing a century-old mental hospital without first removing the asbestos inside.

The investigators detected high concentrations of the cancer-causing material in the buried debris. They located witnesses who said state officials knew about the asbestos but scrapped a plan to remove it before demolition because of the cost, investigative reports show.

The EPA's top New England law enforcement official recommended charging the state agency and some of its workers with crimes. But after waiting more than three years to decide, the U.S. attorney's office in Boston declined prosecution.

Thomas Kiley, a private lawyer hired to represent the state and its workers during the investigation, said the EPA "was pushing hard" for indictments. Kiley believes that the state's agreement to clean up the asbestos at the site "may have had some persuasive effect" on the decision not to file charges.

The Massachusetts case is emblematic of the steep decline in criminal cases initiated by the EPA. The number of environmental prosecutions plummeted from 919 in 2001 to 584 last year, a 36 percent decline, according to Justice Department statistics collected by Syracuse University's Transactional Records Access Clearinghouse.

Those same Justice Department data also show that the number of people convicted for environmental crimes dropped from 738 in 2001 to 470 last year.

Similarly, the number of cases opened by EPA investigators fell 37 percent, from 482 in 2001 to 305 last year, according to data that the EPA provided to congressional investigators.

EPA and Justice officials have highlighted recent cases such as the conviction this summer of oil giant Citgo on two counts of violating the Clean Air Act and three misdemeanor violations of the Migratory Bird Treaty Act. Just last week, Justice officials held town hall meetings in Corpus Christi, Texas, collecting more than 200 victim-impact statements from residents affected by refinery operations; the statements will be used in an upcoming sentencing hearing.

But government officials said even that case was marred by early inaction. When the EPA's criminal investigations office in Houston first recommended prosecuting the company, the U.S. attorney's office would not immediately commit unless Justice Department headquarters took the lead.

"Yes, we did have limited resources, and we decided if it could be handled by experts in Washington we would work with them on it," explained DeGabrielle, the U.S. attorney.

The Justice Department in August also touted a plea bargain with IMC Shipping Co. that required the Singapore ship operator to pay \$10 million in connection with a massive oil spill in 2004 that killed thousands of birds in Alaska's Maritime National Wildlife Refuge.

Prosecutors told the court they had enough evidence to indict the company for criminal negligence under the Clean Water Act and for making false statements early in the investigation. But the deal they reached called for guilty pleas to two counts of violating the Refuse Act and one violation of the Migratory Bird Treaty Act. Prosecutors cited the company's cooperation for the leniency.

The decision to drop the negligence charges could be quite valuable to the company, which as a result remains eligible to seek reimbursement from a special government fund for \$77 million of the more than \$100 million it has spent cleaning up the spill.

The Oil Spill Liability Trust Fund — administered by the U.S. Coast Guard and funded by a special oil tax — can reimburse shippers for all cleanup costs not covered by insurance, but only if the incident does not involve gross negligence or willful misconduct.

"Surely nobody here would have wanted to have a finding of negligence for any number of reasons, the fund and the civil side among them," said Robert Bundy, a private lawyer who represented IMC in the criminal case.

EPA agents cite other instances that they say have sent a subtle message about their enforcement work, such as the time James Palmer, the EPA's Southeast regional administrator, took a day off in 2005 to testify as a private citizen against his own agency as a defense witness for a Mississippi developer accused of environmental violations.

"The government's proposals were heavy-handed," Palmer testified when asked about the EPA's actions against the developer, his former law client. He also acknowledged calling the agency's tactics in the case "unethical."

Bush seeks new image on global warming

By JOHN HEILPRIN , Associated Press Writer
in the Modesto Bee, Sunday, September 30, 2007

WASHINGTON — President Bush's call on Friday for a new fund to reduce global warming fell flat with Europeans and environmentalists who say U.N.-mandated cuts in greenhouse gases are what's needed.

To show he meant business, Bush designated his treasury secretary to talk to other nations about getting worldwide contributions to the fund. The money would pay for clean-energy projects in poor countries.

"This here was a great step for the Americans and a small step for mankind," Germany's environment minister, Sigmar Gabriel, said after Bush's speech at the State Department before representatives of the nations that are the world's biggest emitters of greenhouse gases. "In substance, we are still far apart."

In his speech, Bush acknowledged that climate change is real and that human activity is a factor.

"By setting this goal, we acknowledge there is a problem, and by setting this goal, we commit ourselves to doing something about it," he said. "We share a common responsibility: to reduce greenhouse gas emissions while keeping our economies growing."

The president's speech capped two days of talks at a White House-sponsored climate conference that brought together the U.S. and developing nations such as China, India and Brazil that are not required to make cuts under the Kyoto Protocol, the U.N. treaty for reducing greenhouse gases that expires in 2012.

Most of the talk behind closed doors focused on Japan's proposal that nations agree to cut global emissions by half of their current levels by 2050, said Bush's top environmental adviser, James Connaughton. A Japanese statement to other conference members called that proposal "a vision and not a legally binding target."

The conference included representatives of other major industrial nations such as Russia, Britain, France and Germany that have signed onto the Kyoto treaty that Bush rejected because he said it would harm the U.S. economy and did not require immediate cuts of countries like China and India. The treaty aimed to put the biggest burden on the richest nations that contributed the most carbon emissions.

Other participants came from Australia, Canada, Indonesia, Italy, Mexico, South Africa and South Korea, plus the European Union and the United Nations. Iran, another of the biggest emitters, notably was excluded.

"There was lots of talk about mandatory caps," said Yvo de Boer, the top U.N. climate official. "I don't think it would have been realistic to expect at this first meeting to expect any country to change its position."

He said he found Bush's speech "encouraging because it indicates that the U.S. wants to develop this discussion among the major economies, get into the substance, including on the question of goals and the type of regime that's appropriate, and then feed that into the larger U.N. process."

Bush said his purpose was to begin setting a new worldwide goal for cutting carbon dioxide emissions after 2012 and to help developing nations pay for the changes that would be needed. The president said the reduction goal should be finished by next summer, along with ways to measure progress toward it.

He said each nation should establish for itself what methods it will use to rein in the pollution problem without stunting economic growth.

But he refuses to sign onto mandatory emission-reduction obligations, preferring to encourage the development of new technologies and other voluntary measures, and won't participate in any talks toward a global agreement that do not include energy guzzlers from the developing world.

Bush made clear, however, that he saw his talks as complementary to the U.N. negotiations over what will succeed the Kyoto treaty after 2012. U.N. Secretary General Ban Ki-moon held a summit Monday to grease the wheels for an agreement in December in Bali, Indonesia. Bush has seemed more sensitive lately to perceptions in other parts of the world that the U.S. government either does not take the phenomenon of global warming seriously - or seriously enough.

It may be too little, too late.

John Ashton, a special representative on climate change for the British foreign secretary, said: "One of the striking features of this meeting is how isolated this administration has become. There is absolutely no support that I can see in the international community that we can drive this effort on the basis of voluntary efforts."

C. Boyden Gray, the U.S. ambassador to the E.U., strongly disagreed.

"The British might be isolating themselves," he said. "It's been a little uphill because of skepticism in Europe. On the one hand they say you are undermining Bali, and on the other hand they say you are not doing anything at all."

The ball is now in Congress' court, said Fred Krupp, president of Environmental Defense, who was one of the few outsiders to address the panel of mostly midlevel government ministers.

"Congress needs to lead. The president is not giving us the leadership we need. Ultimately what we need are mandatory caps," Krupp said. "No air pollution problem in the world has ever been solved without having legal limits."

Democrats Barbara Boxer of California and Jeff Bingaman of New Mexico, who both chair committees in the Senate, said they would provide that leadership and work toward legislation with mandatory carbon controls and a cap-and-trade system.

Boxer called Bush's speech an improvement on what he has said about climate change in the past "but unless it is followed up with mandatory cuts in global warming pollution, it will amount to little more than empty words."

At the same time, the fact that the United States was taking a role in the process, and a leading one, was heartening to some.

Until recently, said Emil Salim, an economist and member of the Indonesian president's council of advisers, Bush offered "no dialogue on the Kyoto Protocol whatsoever. This time, the members of the Kyoto Protocol are invited to discuss. So from that point of view, there is some improvement,"

he said in an interview. "But on the other hand, I think it has more to do with the domestic politics, because you have election."

Md. Connector's Fate Hinges on Court Decision

By Katherine Shaver, Washington Post Staff Writer
Washington Post, Sunday, September 30, 2007

Fifty years after the intercounty connector surfaced on local road plans, its fate will come down to one question in a Greenbelt courtroom: Did Maryland officials properly consider what effect an 18-mile highway would have on air pollution, traffic congestion and all the wetlands, forests, parks and animals it would pave over?

The answer, to be decided by a U.S. District Court judge in the month ahead, will determine whether one of the region's first major highways in a generation will be built on schedule starting this fall or sent back to the drawing board.

Tomorrow, U.S. District Judge Alexander Williams Jr. will begin hearing arguments in two lawsuits that attempt to stop the road. He will wade into a debate that has raged across Maryland for decades, and he won't have much time. The Maryland State Highway Administration had planned to break ground Oct. 16 on the westernmost stretch of the road, between Interstate 270 and Georgia Avenue, although the state has agreed to delay major work until Williams rules after a second hearing Oct. 29.

Several environmental groups allege in the case that the U.S. Transportation Department and Army Corps of Engineers violated federal law by approving a state study that they believe miscalculated the highway's environmental impact.

The six-lane toll highway would run north of the Capital Beltway between Gaithersburg in Montgomery and Laurel in Prince George's County.

"For folks who follow transportation, this is an important case," said Margaret Strand, a Washington lawyer who has represented other state governments in similar lawsuits. "We're not the only city that has an out-of-date suburban transportation system."

Although the case will probably be decided on written motions and oral arguments, rather than a trial, the judge will have plenty to consider: The state's environmental impact study and supporting documents total 300,000 pages, contained on CDs.

The judge will not decide whether the \$2.4 billion intercounty connector is a good idea, legal observers said.

Rather, he will determine whether the federal government followed the National Environmental Policy Act when it approved the highway last year. That law spells out how governments must weigh a project's effects on wilderness, wildlife and other aspects of the environment when deciding whether to build it.

The Maryland State Highway Administration, which conducted the study, was not named in the lawsuits. However, Maryland transportation officials, who had anticipated a court battle, joined the case as a defendant to protect their project, state officials said.

Problems with the highway's environmental impact have dogged the project for years. Former Maryland governor Parris N. Glendening (D) called the project an "environmental disaster" before shelving a previous study in 1999.

When Glendening's successor, Robert L. Ehrlich Jr. (R), revived the highway study in 2003, his administration added \$370 million in design changes and other efforts to limit the damage. Those changes included building bridges over sensitive areas and culverts to help deer and other animals cross safely. Gov. Martin O'Malley (D) has said he plans to build the highway.

If the government prevails in the lawsuits, construction crews can get to work. If the judge finds that the federal agencies approved a faulty study, the state might have to redo all or parts of its

environmental review, which could take months or years. Construction also could be delayed two to three years if either side appeals.

In some cases, court rulings have prompted highway officials and environmental groups to negotiate settlements, in which projects have been scaled back or changed to alleviate specific concerns.

The lawsuits -- filed by a Derwood couple, the Sierra Club, the Audubon Naturalist Society, Environmental Defense and other groups -- argue that the state's evaluation focused too narrowly on a highway. The state, they say, didn't seriously analyze cheaper or less-damaging ways to improve east-west travel, such as adding transit and upgrading existing roads. It also underestimated or didn't sufficiently study the amount of traffic and air pollution the highway would generate, plaintiffs say.

Such arguments are common in highway lawsuits, legal observers said. Making this case particularly interesting, they say, is the fact that it is one of a growing number of suits alleging that the study didn't focus enough on health problems that people living or working near the road could suffer from breathing vehicle exhaust.

The federal government has argued that the state did consider non-highway options but that none was as effective in moving people and freight while making local east-west roads safer. The state took the required "hard look" at the project's effects on all aspects of the environment, according to government motions filed in court.

Maryland officials say the highway, scheduled to open in 2012, is needed to speed east-west travel between major economic centers along I-270 and the Interstate 95 corridor. Motorists are now forced onto narrow, winding roads that have become jammed and unsafe, they say.

Opponents, meanwhile, say such a highway will only encourage people to drive more, creating more traffic and unhealthy air pollution. It's also too expensive, they say, and would cause too much damage to areas such as that surrounding the Paint Branch, one of the few local streams where brown trout spawn naturally.

Lawyers familiar with the suits said it's impossible to predict which side will prevail because such cases are so complex. However, a judge is supposed to defer to government agencies' scientific expertise and may not second-guess their decisions unless he finds they were "arbitrary or capricious," lawyers said.

That can be a tough hurdle for plaintiffs, said Strand, a lawyer with Venable LLP who represented the Metropolitan Washington Council of Governments until it was dropped from one of the intercounty connector lawsuits in June.

"Courts aren't supposed to make a judgment on whether a project is right or wrong, just whether the Department of Transportation thoroughly considered all the aspects it was supposed to," Strand said.

Still, environmental groups have proved to be formidable competition, observers say. A federal judge recently rejected a New Hampshire Department of Transportation study of a 20-mile highway-widening project, ruling that the state needed to recalculate impacts on traffic and air quality.

"Often there is deference given to agencies," said Tom Irwin, a senior attorney for the Conservation Law Foundation, which filed the New Hampshire lawsuit. "But that doesn't mean plaintiffs can't win these cases."

Staff researchers Karl Evanzz and Rena Kirsch contributed to this report.

[Visalia Times-Delta and Tulare Advance-Register, Editorial, Monday, Oct. 1, 2007:](#)
Lowering Spare the Air Days makes difference

Thumbs up to the residents, businesses and organizations of the San Joaquin Valley for making some progress this summer in improving Valley air quality.

The San Joaquin Valley Air Pollution Control District reported last week that the number of Spare the Air Days declared in Tulare County this summer was the lowest total in the five years of the program - six.

Considering that the first year of the program, 2003, saw 39 Spare the Air days, and that the number of days of poor air quality has declined steadily since, this would seem to suggest some progress.

Spare the Air days are declared with ozone and particulate matter in the air reaches a level high enough to make breathing outdoors a danger for individuals who are susceptible, such as the young, the elderly and those with respiratory conditions.

Since tracking those days, and warning people about them, the air pollution control district has never recorded fewer than 15 in any one summer. This summer there were just six.

We're not declaring victory over air pollution. The Valley still has the second-worst air quality in the country. But the signs indicate that the Valley is making progress in improving its air quality.

The improvement hasn't occurred by accident. It has been the result of policies that have been put into place by residents and companies. It is because residents have paid attention to the recommendations by the district to avoid using small engines or aerosol fire starters for barbecues.

Valley folks have begun incorporating habits and practices that are making a difference. The even better news is that we now know we can make a difference. The condition of our air quality is not subject to distant meteorological forces or the practices of those who travel through the Valley, although they have an effect. This shows that what people can do for themselves.

It is also a hopeful sign that there are solutions to our poor air quality and that working toward those solutions pay off.

Improving our air quality ultimately will take a combination of lifestyle changes, improved technology and conversion to different ways of using energy. There is no one way out.

This summer of cleaner air gives us hope that we don't have to wait for somebody else to show us one of those ways out.

[Bakersfield Californian, Editorial, Sunday, Sept. 29, 2007:](#)

Decide sprawl control in election

Voters next year must elect leaders who are beholden to the 780,000 residents of metropolitan Bakersfield, not to the developers who continue to impose an ever-widening footprint on the landscape.

A new report linking urban residential sprawl and rising carbon dioxide levels warrants our attention as the 2008 campaign season draws nearer.

The Urban Land Institute, a nonprofit think tank based in Washington and London, has issued a paper that draws a correlation between residential density, automobile emissions and increased carbon output.

The report concludes that building new homes in compact neighborhoods that have retail stores, schools and services within walking distance could significantly reduce the ever-growing distance that Americans drive on a daily basis. That, in turn, will cut automobile emissions.

The researchers, who reviewed dozens of regional studies, found that development patterns are both a central contributor to climate change and a vital factor in fighting it.

The findings have huge implications in Bakersfield, where sprawl, leapfrog development and gargantuan lot size are longstanding issues. In recent years, local planners have made commendable efforts to corral harmful and expensive development practices, but elected officials -- who are those planners' bosses and ultimately have the final say -- rarely seem to see things the same way.

The bosses' bosses -- voters -- need to make their feelings known. Citizens who believe it is time that leaders in the Bakersfield metro area take a more sensible approach to growth and development need to vote where their hearts are.

If preservation of agricultural land is important, if sensible, walkable neighborhoods is important, citizens need to vote where logic directs them. If cleaner air, more navigable streets and a healthier population are important, citizens need to vote with a clear understanding of where the candidates, including the incumbents, stand on planning issues, both theoretically and in practice.

They need to elect leaders who are beholden to the 780,000 residents of metropolitan Bakersfield, not to the developers who continue to impose an ever-widening footprint on the landscape.

No local elected official has publicly announced whether he or she will or will not seek re-election in 2008, but it is possible voters will be asked to decide whether to retain or replace Bakersfield Mayor Harvey Hall and City Council members Sue Benham, Harold Hanson and Jacquie Sullivan. The position of mayor comes before voters June 3, the others in November.

The seats on the Kern County Board of Supervisors currently held by Jon McQuiston, Ray Watson and Michael Rubio also come vacant next year. All three are subject to the June primary.

The Urban Land Institute calculates that jurisdictions that can shift 60 percent of new growth to more compact development patterns will save 85 million annual metric tons of carbon dioxide by 2030. The study does not address improvements in other measurable air quality indicators, such as asthma-causing particulate matter, but such gains are clearer part of the overall equation.

Voters can push metro Bakersfield in that direction if they so choose. Remember: We're the bosses here.

[L.A. Times editorial, Friday, Sept. 28, 2007:](#)

How the governor should reduce emissions

Schwarzenegger is better off making sure alternative-energy sources are really green than spending tax money on research schemes.

The green angel over Gov. Arnold Schwarzenegger's left shoulder and the red, cigar-puffing devil over his right have seldom found themselves as deeply at odds as they must be over AB 118, a bill from Assembly Speaker Fabian Nuñez (D-Los Angeles) that awaits the governor's signature.

The bill would raise the annual vehicle smog-abatement fee by \$8 and the registration fee by \$3. The resulting \$130 million a year would be spent on programs meant to achieve one of Schwarzenegger's key environmental goals: cleaning up automotive fuels so they emit less greenhouse gases. Yet to some extent, Schwarzenegger owes his political success to his stance against high vehicle fees. He won the 2003 recall election with a campaign that derided Gov. Gray Davis' \$4-billion "car tax" increase. Schwarzenegger's first act as governor was to roll back vehicle fees to their previous level.

This is probably an agonizing choice for the governor, but it shouldn't be. In truth, AB 118 isn't a very good bill.

Some of the money it generates would be used to compensate motorists who scrap high-polluting vehicles, which is a worthy plan. But guidelines on how the rest of it would be spent are vague; the California Energy Commission and the Air Resources Board would dole it out to programs that encourage low-carbon fuels, such as research on new technologies or the purchase of state vehicles that run on biofuel. The problem is that the state has a history of spectacularly boneheaded decisions on alternative fuels that have wasted millions of taxpayer dollars, and there's no reason to believe that bureaucrats are getting any smarter.

For example, in the early 1980s, the state tried to promote methanol by buying a fleet of vehicles that would run on the alternative fuel, even though there weren't any pumps to distribute it. The Schwarzenegger administration has repeated the mistake by buying more than 1,000 "flex-fuel" vehicles that run on either gasoline or the new biofuel *du jour*, ethanol. These vehicles guzzle more gas than the ones they replaced, and to date they haven't burned a drop of high-grade ethanol, because, once again, there is no ethanol fueling infrastructure. Meanwhile, it's mystifying why anyone would think state officials would be better at picking marketplace winners for research money than venture capitalists, who are already investing hundreds of millions of dollars in alternative-fuel companies.

There is a better approach to meeting the goal Schwarzenegger set at the beginning of the year with his low-carbon fuel standard order, which demanded that automotive fuels in California emit 10% less carbon dioxide by 2020. Senate Bill 210 from Sen. Christine Kehoe (D-San Diego) would assure that fuel refiners and importers don't do more environmental harm than good as they set out to meet the goal. Corn-based ethanol, for example, contributes to higher food prices, uses up scarce water resources and worsens the pollution of waterways with fertilizers and herbicides. In addition, some alternative fuels might reduce carbon but increase emissions of other harmful pollutants, such as ozone. Kehoe's bill calls for continuous study of these effects and prevents harmful fuels from being used to meet the low-carbon mandate.

Schwarzenegger should listen to his angel and sign SB 210. As for AB 118 . . . that one could go to the devil.

[Letter to the Fresno Bee, Monday, Oct. 1, 2007:](#)

High-speed rail a better option than planes

The article "Taking flight" (Sept. 24) actually shows why California is long overdue for a high-speed rail system.

An air route from Fresno to Sacramento would save very little time, if any, over driving. True, the flight time from takeoff to touchdown would be around a half hour. But we can't forget about everything else involved with such a trip. A half hour to drive to and park at the airport in Fresno. An hour to check in and clear security. Ten minutes taxi time at both ends. Another 15 minutes to get to ground transportation in Sacramento.

And then the long commute from Sacramento's airport, which is in the middle of nowhere, not in the middle of Sacramento. Add all these times up, and flying from Fresno to Sacramento makes little sense.

By contrast, a high-speed rail line could cut the travel time to downtown Sacramento to around an hour. If Valley leaders want more flights from Fresno, they should be working on destinations that are actually feasible, like Chicago and Atlanta. But if they really want a quicker link to Sacramento, they would be wise to put their lobbying efforts behind high-speed rail.

Brian Stepanek, Fresno