

Stimulus dollars allow city to meet air quality standards

By Jenna Chandler

Porterville Recorder, Thursday, March 18, 2010

With help from federal stimulus dollars, the city's fleet of public buses is close to becoming entirely energy efficient.

Awarded a \$1.3 million American Recovery and Reinvestment Act grant, the city has ordered three new buses that will run on alternative fuel and are expected to arrive in October. The buses will operate with relatively cheap and clean-burning Compressed Natural Gas (CNG), bringing the number of such buses to nine, surpassing state air quality standards.

"We're thrilled," Transit Administrator Linda Clark said. "This money has helped us get our fleet up to speed much sooner than the normal grant application processes would allow."

Years ago, the California Air Resources Board set standards for public transit systems, mandating they play a role in reducing air pollution. Included in the standards is a requirement that by Dec. 31 the city meet an 80 percent reduction in particulate matters and nitrogen oxide emissions.

But with nine of the seven buses necessary to complete the city's transit system's nine routes now set to run on CNG, the city will be 100 percent compliant by that time.

It is these types of projects that Ted Smalley, the executive director of the Tulare County Association of Governments, said that city and county representatives were able to use as lobbying leverage during their recent trip to Washington D.C. While they left for the East Coast with hopes that the Senate might pass a second economic stimulus package that could result in millions of dollars funneled into Tulare County, they have become much more pessimistic about another infrastructure improvement package landing on the president's desk for implementation.

But "we did show people how we are spending the first round of stimulus money, and were able to say 'hey' we are ready to do more," Smalley said.

Under the American Recovery and Reinvestment Act, Tulare County was allocated \$23 million, including \$5 million for transit projects.

"Our projects are well under way," Smalley said. "Our county is well ahead of the ball."

In September, the city erected its CNG Fueling Facility, located at 555 N. Prospect St. with two fast-fill stations that are open to the public, and 17 slow fill stations to fuel the city's transit buses and public works vehicles overnight. The \$3.2 million structure housed the initial four CNG buses, and was funded almost entirely with an assortment of grants.

On Friday, transit staff picked up another CNG bus — funded with a federal grant — expected to be on the road within two weeks. Clark said that funding has also been secured for the ninth CNG bus, including a mix of local, state and federal dollars.

So. Cal agencies ask U.S. Supreme Court to hear sludge case

By James Burger, Californian staff writer

Bakersfield Californian, Friday, March 19, 2010

The next hearing in Los Angeles' battle to overturn Kern County's 2006 ban on the land application of treated human and industrial waste may be before the U.S. Supreme Court.

Attorneys for Los Angeles and Orange County sanitation agencies and the city of Los Angeles, after losing a bid to have an unfavorable September 2009 9th Circuit Court of Appeals ruling overturned by the full appeals court, have petitioned the U.S. Supreme Court to take up their case against Kern County's Measure E.

Steven Mayer, a private attorney working on the case for Kern County, said Thursday he thinks it's unlikely the Supreme Court will take the case.

The only remaining federal claim against Kern County is that its voter-approved ban on spreading sewage sludge on farmland -- designed to protect against environmental contamination -- violates the interstate commerce clause of the U.S. Constitution.

"The ordinance just doesn't impact interstate commerce in any way," Mayer said.

U.S. District Court Judge Gary Feess, the first judge to hear the case, disagreed with Mayer.

But Appeals Court Judges Dairmuid O'Scannlain, Pamela Rymer and Kim Wardlaw overturned Feess' ruling on the interstate commerce clause and lifted an injunction that had prevented Kern County from enforcing Measure E.

"Nothing in Measure E hampers the recyclers' ability to ship waste out of state," O'Scannlain wrote in September. "In short, Measure E in no way burdens the recyclers' protected interest in the interstate waste market."

Los Angeles Deputy City Attorney Keith Pritsker said Thursday that the Appeals Court decision was out of line with other decisions in other circuits.

And he argued that Kern County's ban could set off a chain-reaction, allowing other local jurisdictions to ban land applications of the highly-treated waste.

"It makes it harder for jurisdictions to recycle biosolids," he said. "It forces you to take it elsewhere. What happens if all the other elsewheres adopt similar bans?"

Prior to the passage of Measure E, Los Angeles and Orange County spread more than 420,000 wet tons of sludge on 10,000 acres of Kern County farmland in two locations -- Green Acres south of Bakersfield and farmer Shane Magan's Honeybucket Farms in northern Kern County.

Pritsker said Los Angeles still delivers 25 to 26 trucks of the treated waste to Green Acres and it has operated there without complaint or illness for 16 years.

While Kern County is currently allowed to ban the spreading of sewage sludge, county lawyers have said Kern won't do so until the case is resolved.

"Until we get some clarity from the court, I don't think we will go out and close down Green Acres or Shane Magan," said Assistant County Counsel Steve Schuett in September.

Now everything is on hold until the U.S. Supreme Court decides whether to take the case.

"My guess is we'll get a decision by the end of June," Mayer said Thursday.

If the Supreme Court takes the case, he said, it won't be heard until next year.

If the Supreme Court does not take the case, he said, things get complicated.

Two other claims by the city of Los Angeles -- in addition to the commerce clause issue -- still stand against Measure E.

Los Angeles claims that Measure E violates the recycling goals enacted by the California Integrated Waste Management Act and that Kern County overstepped its police powers in enacting and enforcing Measure E's ban on sludge spreading.

Both of those claims, Mayer said, are state law claims. And, he said, Kern County disagrees with Los Angeles on their validity.

But Feess, who has ruled in Los Angeles' favor before on the waste management act claim, would have to determine if he still has jurisdiction as a federal judge over those claims.

The Appeals Court did not rule on either of the claims because they were state law issues.

If Feess decides he doesn't have jurisdiction, then the city of Los Angeles would be forced to refile its claims against Measure E in state court, Mayer said.

Kern County prefers that option.

"It's not a better venue, it's just a more appropriate venue," Mayer said.