

## Lodi school passes toxic-air test

**By Jeff Hood**

Lodi Bureau Chief

LODI -- Children aren't being exposed to high levels of toxic vapors at a downtown school that sits atop a chemical plume, a state official said Tuesday.

Duncan Austin, Lodi project manager for the Regional Water Quality Control Board, said a handheld gas-detection device did not detect any perchloroethylene vapor in the basement and crawlspace at St. Anne's School during his April 28 visit. But further tests are planned at the school, two blocks south of a toxic hot spot.

Austin performed the scan six days after the regional board issued cleanup orders to the city as well as to property and business owners who are potentially liable for the chemical solvent's spread through Lodi's soil and groundwater.

Perchloroethylene, or PCE, typically is used by dry cleaners and is considered hazardous to human health.

Board members unanimously ordered the cleanup after Dennis Taricco, principal at St. Anne's, asked regulators to protect the health of the 260 children at his school and in the vicinity, which includes an Oak Street preschool at First United Methodist Church.

"If there was an acute risk, we would have detected that," Austin said. "If we had gotten something, we would have taken immediate action. That was the goal, to see if we had an acute level going on."

Austin said the device measures PCE and related chemicals in the air at levels as low as 100 parts per billion, the maximum workplace exposure allowed for more than eight hours under federal regulations. The recommended level, however, is 25 ppb.

In the days before Austin's visit, school officials took steps just in case PCE vapor was in the building.

"We had the windows open; we ran the ceiling fans and ran the air conditioners as a precaution," Taricco said. "We're real pleased with the results."

Parents of St. Anne's students said Tuesday that they weren't overly concerned about air quality and are glad to hear preliminary tests didn't indicate trouble.

"The kids are outside a lot and active," said Galt's Denise Schlesinger, a mother of third- and sixth-graders.

"I'm not as worried about the air as I am the water."

Parent Patty Herrera said she trusts Taricco to ensure the children aren't exposed to hazardous chemicals. John Vernon said that although some other parents were worried about air quality, he is confident the PCE is too deep in the ground to pose a problem.

"I don't think it's anything that big," he said.

Austin said more tests are planned at the school. Lodi and the others named in the cleanup must submit a plan for indoor air testing by May 26. Austin said that plan would include leaving chemically sensitive canisters inside buildings for eight hours and then analyzing them for PCE at levels lower than 100 ppb.

Austin said he suspects Lodi's soils are keeping PCE from vaporizing at significant levels. Regulators overseeing an experimental PCE-removal system two blocks north at Guild Cleaners noticed the sandy soil had formed a cementlike layer during digging in 2002.

"That tends to retard the PCE vapors from coming through," he said. "If it was loose gravel, the PCE would come out. The plume has spread, to a fairly large degree, because it can't get out."

Austin said he attempted to test indoor air at Little Methodist Preschool, a block from heavily contaminated soil in an alley between Oak and Pine streets, but the office and classrooms were closed during his Lodi visit.

Wednesday, May 12, Modesto Bee

### **Patience order of the day for tire-fire checks**

By BLAIR CRADDOCK-BEE STAFF WRITER

PATTERSON -- A guard stood in front of a law office here Tuesday, handing out appointment slips to people hoping for money from a partial settlement in a lawsuit over the 1999 Westley tire fire.

The size of the crowd had thinned from Monday, when more than 600 people swarmed Leslie James Sherman's law office as it started the process of distributing checks from a \$9 million settlement paid by CMS Generation Co., one of eight defendants in the case.

Tuesday proved more orderly. "It's better because there's no line," Patterson resident Maria Calles said in Spanish.

More than 10,000 people are participating in the class-action lawsuit over the pile of 7 million tires that burned for 34 days in 1999.

About 300 of them have submitted medical bills for respiratory ailments, claims for property damage from smoke or other individual claims, Sherman said. The rest are people who were within the drift plume of the tire-fire smoke, but who have not submitted claims for individual damages.

With so many people turning out Monday, Sherman's office could not process all the claims. Pushing and shoving broke out at the door. Police were called.

"They didn't know how greedy this town was," said Monica Olguín, 19, of Patterson, with a laugh.

Olguín's father, the late Jorge LeRand, helped organize people in the community to find a lawyer and file a lawsuit, she said.

"I'm just here out of respect for my dad," she said Tuesday, as she stood in front of Sherman's office, waiting to pick up her check.

Guard Ruben Garcia handed out appointment slips.

"Right now, it's up to June 6," he said about noon. All the earlier appointments had been given out.

Veronica Gonzalez, 38, got an appointment for June 1. "If you waited this long, a couple of weeks doesn't matter much," she said.

The first appointment holders got their checks Tuesday.

Yolanda Patiño, 54, received \$223.16 for herself and \$313.95 for her 15-year-old son, Artie Guevara.

The checks are smaller -- about \$130 -- for people who did not sign onto the lawsuit until after CMS settled.

The checks do not represent all the money to be distributed from the \$9 million.

A retired state Supreme Court justice, Edward Panelli, has been appointed by the court to go through the claims for medical bills and property damage, Sherman said.

Rosa Arévalo, 40, said her husband is one of the people waiting to hear if the settlement will compensate him for medical bills. He had insurance, but it did not cover all of his bills.

"I didn't go to the doctor, because I did not have health insurance," Arévalo said in Spanish. So her \$223.16 check will be her only recovery from this settlement, she said.

"It way, way smelled bad," Bun Khampeth, 57, recalled of the smoke that stretched to his home in southwest Modesto. "You felt like throwing up. You never saw the sun, you only saw the smoke that day."

Sherman said Tuesday that he appreciates the community's patience as his office works hard to distribute the checks as

quickly as possible. Appointments are necessary, he said, to make sure the checks go to the people entitled to get them.

Seven remaining defendants in the tire-fire lawsuit have not settled. The trial is set for October in Santa Clara County Superior Court.

[Wednesday, May 12, Taft Midway Driller](#)

### **City considers van purchase**

By Doug Keeler, Midway Driller City Editor

Taft has twice postponed a decision on purchasing diesel transit buses while waiting to see if Kern County builds a compressed natural gas fueling station in the Taft area.

But county officials have apparently made no decision to construct a station in the Taft area, said Kern Council of Governments Executive Director Ron Brummett.

The city had plans to build a CNG station of its own, but has backed away from project earlier this year.

The city is considering the purchase two 12-passenger transit vans, but has twice delayed the purchase on advice of staff while waiting to see if the county is going to build a CNG station.

The city had planned to purchase land at East Main Street and Adkisson Way but a city staff report recommended that plan be abandoned for a variety of reasons, including questions about whether or not CNG would be the most cost effective for the city or even the best fuel to count pollution emissions from vehicles.

Once seen as the best solution to strict air pollution standards, new fuel cell technology and ultra-low sulphur diesel fuels are now seen as viable alternatives for the city's vehicles.

There were also complications with obtaining the land for the CNG station and questions about whether or not the station could be built with the money allocated.

The entire project was supposed to cost \$486,000.

Most of the construction costs would have come from transportation grants funding.

Brummett said the transportation grant the city was planning to use to construct is no longer available.

KernCOG would not be involved in the actual construction of a CNG station, but it would be the agency that obtained the funding, Brummett said.

He said there has been no indication from Kern County officials about their interest in construction of a CNG station in the Taft area.

The council's decision on the purchase of the diesel busses has been postponed until June 1.

[Tuesday, May 11, Bakersfield.com/Bakersfield Californian](#)

### **Reconsider clean air rule**

Kern County and the entire San Joaquin Valley could benefit if the U.S. Supreme Court gives more thought about its recent opinion that overturned fleet vehicle rules proposed by the South Coast Air Quality Management District.

Given the public health significance of Southern California's and the San Joaquin Valley's air quality, a second look should be given to the lone dissent filed by Justice David Souter.

Advocates for cleaner air may find some hope that even though the court almost certainly will not reconsider this case, Souter's dissent still has value. In other cases, some dissenting opinions over time have influenced judicial perceptions and the underlying principles have become more widely accepted. This should be one of those examples.

The Southern California district ruled that in the future, fleet operators buy the most pollution-free engines for such vehicles

as street sweepers, buses, garbage trucks and the like.

All the justices except Souter ruled that the federal Clean Air Act pre-empted local governments from imposing restrictions on such mobile sources of pollution as vehicles. The majority opinion ruled that the federal pre-emption " ... prohibits the adoption or attempted enforcement of any state or local standard relating to the control of emissions from new motor vehicles or new motor vehicle engines."

Congress' reason for writing the preemption at the behest of the automobile industry made sense. Manufacturers were afraid that without a national standard they would be faced with the impossible task of having to design, build and sell too many variant products.

Souter did not contest the letter of the law, but considered how the pre-emption's logic applied to the AQMD's proposed air clean-up rule.

He noted that the AQMD did not require manufacturers to produce new products. The engines the district mandated already exist, so the concern about having to design and manufacture jurisdiction-specific products -- the underlying logic of Congress -- was not an issue.

He noted that the majority opinion "... prohibits one of the most polluted regions in the United States from requiring private fleet operators to buy clean engines that are readily available on the commercial market. I respectfully ... would hold that the South Coast Air Quality Management District Fleet Rules are not pre-empted by the Act."

The majority response held that imposing purchasing requirements ultimately drives manufacturing decisions, and that the law referred to "attempted enforcement." Hence the pre-emption applied.

Technically that is correct. But for everyone's benefit the court, and perhaps Congress, ought to see if Souter's logic can be made workable in the future.

[Tuesday, May 11, Bakersfield.com](#)

## **Council to check out budget**

### **Plan largely conditional on what governor proposes in budget revision, official says**

By JAMES BURGER, Californian staff writer

Bakersfield City Council members will get their first look at the city's 2004-05 budget tonight.

They've been warned repeatedly that it isn't going to be pleasant experience.

"We'll be presenting a budget with a lot of caveats to it," said Assistant City Manager John Stinson. "A lot of it is really conditional on what the governor may propose in his May revision and how the Legislature will respond to that."

Schwarzenegger is expected to announce his May revision of the proposed state budget and what that document contains may have a huge impact on Bakersfield.

Bakersfield has been struggling under the weight of its own budget troubles -- fluctuating sales tax revenue, exploding pension costs and waves of higher insurance and workers' compensation payments.

But one of the most troubling financial trends for the city, in the past two years, has been the state's desire to dip into city coffers and for funds to fix California's wobbling financial structure.

All that uncertainty casts even the most well-planned of city budgets in an uncertain light, Stinson said.

"What we'll be presenting is a proposed budget and that has built into it what we call the financial equity plan," he said.

The equity plan would allow the city to make pre-planned cuts to city staff and services if the state takes more local money, he said.

"We're learning to be light on our feet," Stinson said. "We're sort of trying to maintain what we can amidst a growing demand for service."

Today's meeting is shaping up to be a busy one for the council.

In addition to the budget, the council will also talk about a program designed to remove more pollution from Bakersfield's smoggy air.

This plan is aimed at blunting the pollution that new homes and shopping centers add to the equation.

Under the program -- which would be voluntary at this point -- land developers would pay to crush smoggy cars, rebuild or replace diesel agricultural engines or buy low-emissions cars for government and transit agencies.

"We'll have to do an inventory of projects that could be done and their effectiveness," said Development Services Director Jack Hardisty.

Each of those activities would be assigned a certain amount of credit for eliminating pollution.

Developers could then use that credit to claim that they had canceled out the pollution that their homes and shopping centers will produce.

The plan is a first step to try and stop a recent string of lawsuits against the city and local developers over air pollution.

Members of the council's Planning and Development Committee have proposed the change to city rules to "see if it would break the litigation cycle."

A report to the full council, written by the city Planning Department, describes the plan as a bridge to more comprehensive efforts to eliminate air pollution that could be launched in the future.

Also up for consideration on today's agenda are:

\* An amendment to the city's agreement with the City Place project -- which was previously known as City Walk and City Center.

The deal will allow developer Dennis Sivers to secure financing for a movie theater, shops and restaurants near the new Bakersfield Ice Sports Center south of Centennial Garden arena.

\* The council will also consider an appeal, by the law firm that is fighting the two Wal-Mart Supercenters in south Bakersfield, of a parcel map on the City in the Hills project in northeast Bakersfield.

Wednesday, May 12, Bakersfield Californian, Letters to the Editor

### **We're turning into L.A.**

Los Angeles, most of us mutter. Who would want to live down there? Stop-and-go traffic on every street, no parking when you finally get where you are headed, air that is barely breathable, housing out of sight, drive-by shootings daily, etc.

Compare that with the direction our once-pleasant little farm community is headed. What used to be cotton fields and almond orchards is now jammed with tract houses; our few crosstown streets so bloated with traffic that red lights are run by dozens just to be able to move; air that is among the nation's worst; shootings and robberies at an all-time high, along with real estate values. It goes on and on.

The lower San Joaquin Valley, historically, has been water-poor. Even with the cross-valley canal (how permanently dependable can that be?), we could easily run short of our ability to provide services to our exploding population. This is not to mention added road maintenance, extra schools, police, firemen, etc.

The bottom line seems to be: Are the benefits of following a Los Angeles development lead sufficient to offset the detriments that this type of big-city growth has on our past quality of life? Do we really need these countless housing tracts spreading in all directions from the center of which used to be great little town called Bakersfield?

-- KEN ALLEN, Bakersfield

