

## **Late session bills affecting Valley life await signing**

By Eric Stern, Capitol Bureau

Merced Sun-Star and Modesto Bee, Tuesday, Aug. 31, 2004

SACRAMENTO -- Worried about a dry lawn under the new water-meter mandate? Try planting some drought-resistant purple needlegrass -- named the official state grass last week as lawmakers finished up their work for the year early Saturday.

In the closing hours of the legislative session, dozens of bills that affect San Joaquin Valley residents made their way to the governor's desk, from tax breaks for survivors of the Armenian genocide in 1915 to tax breaks for Sacramento-San Joaquin Delta farmers who were flooded when a levee broke in June.

Gov. Schwarzenegger has until Sept. 30 to sign or veto the bills.

Here's a look at how some local proposals fared:

### **Schools**

Area lawmakers brought home \$20 million to open the doors of the University of California, Merced, by next August.

State Sen. Jeff Denham, R-Merced, carried a bill on behalf of Ceres school officials to untangle a technicality in the school-funding formula that restores their in-school suspension program.

Students at Gustine High and Calaveras High will have to choose a new mascot other than Redskins, while a bill by Assemblyman Dave Cogdill, R-Modesto, to enforce dress-code policies never got out of committee, despite a push by Stanislaus County school and law enforcement officials.

### **Jobs-business growth**

The search for a Wal-Mart Supercenter in the Valley might get tougher if Schwarzenegger signs a bill that requires a detailed economic impact study on how a proposed big-box retail development would affect traffic and other businesses.

Meanwhile, a bill by Assemblywoman Barbara Matthews, D-Tracy, that would have let Stanislaus and San Joaquin counties counter problems with Bay Area growth by creating "jobs-housing opportunity zones" with tax incentives failed.

### **Crime**

Legislators took aim at sex offenders, passing a bill to block Cary Verse from moving to Merced. They also agreed to pay for increased police patrols and lighting when a sexually violent predator like Verse is released from a state treatment facility into a community.

Assemblyman Greg Aghazarian, R-Stockton, saw legislation go to the governor that would give law enforcement officials notice when a teenage sex offender moves into a neighborhood group home.

But two big funding measures died on the last day of session -- for the Scott Peterson case and for the 17-day manhunt in Merced for a suspected copkiller.

### **Transportation**

Money for road projects to relieve traffic congestion on Bay Area routes like interstates 205 and 580 and on Highway 99 was restored in the budget, while a statewide vote on a high-speed rail line from San Francisco to Los Angeles that cuts through the Valley was delayed until 2006.

Legislators also revived a proposal to issue driver's licenses to illegal immigrants, which is all-but-certain to be vetoed by Schwarzenegger.

A Westley rest stop off I-5 will be renamed for Larry Combs, a state Department of Transportation worker, under a resolution by Denham.

### **Agriculture**

The mad cow scare got lawmakers talking, and they passed a law requiring state health officials to notify the public which retailers have received contaminated meat that has been subject to a recall.

But a bill by Sen. Mike Machado, D-Linden, to create a broader testing program for bad meat died in committee.

Two pesticide-related measures went to the governor. One prohibits grape pickers from taste-testing grapes in the field; the other holds pesticide sprayers liable for medical damages if people get sick from drifting chemical clouds.

Legislators also agreed to raise vehicle-license fees by \$2 and tire-disposal fees to \$1.50 to pay for more air pollution programs, including state grants to upgrade farm and school bus engines.

## **Water**

Sen. Chuck Poochigian, R-Fresno, helped get state aid for repair work on the Middle River levee breach and tax relief to flooded farmers in the delta.

The end of flat rates for unlimited water use is coming. A water-conservation bill on Schwarzenegger's desk would require metered water bills in all homes and businesses by 2025. Machado's bill about purple needlegrass -- a tall wispy grass found along coastal grassland and in the Sierra foothills, was signed into law Aug. 23.

## **High-rises planned on Richmond toxic site Developer says fans will disperse fumes**

By Kelly St. John, staff writer

S.F. Chronicle, Tuesday, Aug. 31, 2004

Building 1,330 high-rise dwellings on land once named one of the most toxic sites in the Bay Area might sound crazy, but that's what a Marin developer wants to do near the popular Point Isabel Regional Shoreline in Richmond.

Not only that, he wants to rely on fans -- powered by bay breezes -- to pipe away fumes released from chemicals dumped in the ground decades ago.

As workers prepare to dig up a polluted marsh next to the site this week, the proposed development is drawing fire. Opponents say it is dangerous and that state watchdogs are asleep at the switch -- so they've enlisted the help of Contra Costa County's public health chief and an attorney who usually represents the developers of such sites .

"This is beyond the pale. It's irresponsible," said Peter Weiner, a San Francisco attorney.

Weiner's clients usually are folks who want to clean up and build on polluted sites, including former military bases. This time, he is working pro bono for the other side.

But Richmond redevelopment officials don't think the plan is crazy at all. They note that several Bay Area developers have successfully built and sold homes on once-polluted land, from the nearby Marina Bay development to former military bases in Alameda and Novato.

The Richmond plan includes construction of townhouses. Because there is a risk of carcinogenic vapors from the ground below, builders would build vented crawlspaces underneath the dwellings and install pipes to carry fumes out through the roof. The vapors would be pushed through the pipes by wind-powered turbines.

"It's an absolute outrage to tell people that, 'Yeah, there are a lot of volatile organic compounds in the ground, but we'll have fans to whisk those away,' " Weiner said.

Developer Russell Pitto says his proposal to build the 45-acre Campus Bay community of 1,330 condominiums, townhouses and three high-rise residential towers will bring needed housing and revenue to financially struggling Richmond.

City redevelopment officials agree, saying high-density housing is an ideal use for land with such picturesque bay views. They praise Pitto for initiating a \$6 million cleanup of wetlands surrounding the San Francisco Bay Trail, marshes that will be protected as habitat under the management of the East Bay Regional Parks District.

Opponents are fighting the proposal on many fronts. Some argue that bringing in 3,000 new residents will threaten endangered clapper rail birds. Others complain that 18-story high-rises will block views.

But questions about possible danger to people have attracted the attention of Contra Costa County's public health officer, Dr. Wendel Brunner.

The project cannot move forward with an environmental impact report until the Regional Water Quality Control Board declares whether homes could safely be built there.

But last month, Brunner asked the state's Environmental Protection Agency to transfer oversight to the Department of Toxic Substance Control, which he says has been in charge of every other

complicated toxic site in Contra Costa County over the past 25 years. Brunner thinks the water board is ill-equipped to evaluate the risks to human health.

Last week, the EPA wrote Brunner that there will be a meeting about the issue soon. For now, the water board is the lead, and department scientists have been asked to help evaluate the plan. But Brunner said the matter is more urgent because the developer will begin restoring the marsh on Wednesday.

Pitto, a fourth-generation San Franciscan, said Campus Bay will be a safe and vibrant community where people want to live. He has complied with all the requests of state regulators thus far, and he said he will abide by whatever changes to design they might require.

No one disputes that the 85-acre area at the center of the controversy has a history of toxicity. The Stauffer Chemical Co. opened a plant there in 1897 to make sulfuric acid, dumping the iron pyrite cinders left over from its production into the marsh.

The company later expanded its operations, developing and manufacturing fertilizers, herbicides and pesticides. The plant -- which through corporate mergers came to be owned by Zeneca Corp. in the 1980s -- closed in 1997.

The land was so polluted that in 1998 the state water board named it a toxic "hot spot" -- one of the 10 most polluted sites in the Bay Area.

In 2002, Zeneca spent \$20 million to neutralize acidic soils, haul away contaminated dirt and cap the land to seal in any remaining toxins. Zeneca sold the land to Pitto's Simeon Commercial Properties and its partner, developer Cherokee Investment Partners.

State water regulators said the land was safe for industrial use. Zeneca had used research-and-development labs on some 20 or so acres that are now rented out as a business park. Pitto plans to build more R&D office space on the remaining 40-plus acres where the land had been cleared and capped.

But the real estate market for such space went soft, and homes became a more profitable prospect. Housing is in high demand in fast-growing Contra Costa County, which is expected to add 250,000 people in the next 25 years. Pitto plans to sell the owner-occupied units for \$260,000 up to \$650,000 for townhouses closest to the shoreline.

Environmental standards are much higher for homes than for industrial areas, because children and the elderly will be present 24 hours a day. In Campus Bay, the groundwater and soil still contain volatile organic chemicals that could escape from the ground in gas form, especially if cracks ever develop in the cap.

Exposure to these chemicals has been associated with a range of human health problems, from throat irritation and nausea to central-nervous-system damage and cancers.

Environmental consultants say removal of the chemicals would be too expensive, would take as long as 10 years and might not work over the long term. Instead, they propose to use "engineering controls" to reduce the risk of toxic vapors ever affecting future residents.

Homes would be built over open breezeways or ventilated garages. Bay winds and fans would be used to blow any accumulating toxic vapors away.

"We think it is pretty clear on a technical level that there won't be any real exposure to vapors," said Jim Levine, founder of Levine-Fricke, the environmental management company working with Pitto on cleanup issues.

Still, the use of wind-powered turbines or fans to propel fumes out of living spaces is unusual, said Barbara Cook, chief of the toxic substance department's Northern California coastal cleanup operations.

"That's something new for us," said Cook. "We haven't seen that." Her staff is currently researching the issue, she said.

The fate of homes is undecided, but the water board has approved the restoration of 22 acres of marshes nearby. The scars left by nearly a century of pollution there are clear -- most visibly in the form of a red-orange pond reflecting the color of iron pyrite cinders dumped there.

Opponents say that while they think the marsh desperately needs to be cleaned up, they have little confidence it will be done safely.

Among them is Sherry Padgett, who said she saw from her office next door how Zeneca managed its cleanup of the property in 2002. She watched as tons of contaminated soil were trucked away and said crews did little to control the dust.

The company was permitted to monitor the cleanup and used only one air quality monitor -- installed behind a building where the wind was blocked --

to check for toxic air pollution, she said. Padgett admits her interest in the issue is personal. Last year, a rare tumor called a chondroma, a precursor to bone cancer, was diagnosed, and Padgett had surgery to remove four ribs and part of her sternum. This summer, a different kind of rare tumor in her thyroid was diagnosed, she said.

"I don't know if it is related," Padgett said. "But there was no governmental agency out there protecting us, 24 hours a day, during the dismantling of one of the most toxic sites in the state of California."

## **Long Beach Port Goes "Green"**

**The pollution-reduction program, thought to be the first in the U.S. for visiting oil tankers, aims to switch them from diesel to electricity.**

By Deborah Schoch, Los Angeles Times, Tuesday, Aug. 31, 2004

When BP tankers pump oil ashore at the Port of Long Beach, they burn 10,000 gallons of diesel fuel a day, boosting pollution in a port complex that ranks as the largest air polluter in the Los Angeles region.

But in late 2006, at least two BP tankers will be able to plug into onshore electricity and shut down their diesel engines.

The pollution-reduction program is believed to be the first in the nation for oil tankers. BP and port officials, who announced the plan Monday, called it a pioneering effort to balance economic growth with environmental concerns.

The switch to electricity is expected to reduce BP tanker air emissions for five types of contaminants - nitrogen oxides, sulfur oxides, carbon monoxide, particulate matter and hydrocarbons - by three to four tons per vessel call. And BP experts calculate that greenhouse gas emissions would be reduced by 75 to 80 tons per call.

"We want to do more than live and work in communities. We want to make a difference," said Tim Scruggs, BP business unit leader in the Los Angeles area.

BP's participation is voluntary. In contrast, container ships owned by China Shipping are required to use electricity in the neighboring Port of Los Angeles as part of a court settlement.

The technology, known as "cold ironing," allows vessels to shut down their main and auxiliary engines and substitute electric power.

Residents of southeastern Los Angeles County have grown increasingly worried about diesel fumes and other air pollution from the ships, trucks and trains serving the twin ports, which make up the largest seaport complex in the United States.

Some residents have labeled the harbor area the "diesel death zone" because of studies showing

that diesel fumes are a toxic air contaminant and probable carcinogen. The two ports produce nearly one quarter of the diesel fumes in the Los Angeles area.

Monday's announcement comes at a crucial time in the debate over port air quality.

Port officials and clean-air advocates are waiting nervously to see whether Gov. Arnold Schwarzenegger signs a controversial bill approved by the Legislature this month that would require port air emissions to be capped at 2004 levels. The governor has until Sept. 25 to sign or veto the so-called "no net increase" bill.

The Port of Long Beach opposes the bill, and, although the Long Beach City Council voted unanimously to support it, Mayor Beverly O'Neill said Monday that she questioned how the bill would work. "I agree with the intent, but I think the process needs more explanation," she said.

Some residents and activists said they were unaware of O'Neill's reservations.

"As far as we know, the city of Long Beach is in favor of 'no net increase,' and we have no reason to believe that they will not continue to support that bill," said Julie Masters, a senior attorney at the Natural Resources Defense Council.

She also noted that Los Angeles Mayor James K. Hahn has ordered a new task force to create a no-net-increase plan for the Los Angeles port by the end of the year that would cap emissions at 2001 levels.

Simultaneously, environmental and clean-air groups are asking the Long Beach City Council to overturn the harbor commission's approval of environmental documents supporting a 115-acre expansion of the Pier J terminal. The council will hear the appeal on Sept. 14.

BP initially will equip two of its tankers to plug into onshore power, and will gauge the effectiveness before remodeling the other four to six BP tankers that call at Long Beach. The company plans to spend \$1 million apiece to equip two brand-new tankers, named the Alaskan Frontier and the Alaskan Explorer. It will also pay for berth maintenance and for electricity. The port plans to spend \$2.5 million to develop and build the necessary equipment at Berth T121, including gear to attach power cables to the ships.

The project grew out of a recent study conducted for the Long Beach port that concluded cargo vessels with high energy demands and frequent visits could make cold ironing economical. In an independent financial analysis, BP determined that it could absorb the cold ironing costs.

While some cruise ships in Alaska already use plug-in technology, the Port of Los Angeles was the first to apply it to industrial vessels, as required in a March 2003 settlement of a lawsuit brought by the Natural Resources Defense Council and other groups. The groups sued the port, charging that there were flaws in its environmental review process for the new China Shipping terminal.

Another Los Angeles port tenant, Yusen Terminals, has voluntarily built a container ship equipped for cold ironing, and an existing terminal will be remodeled so that it can plug into onshore power.

A new expansion of Pier 400 that will open this fall contains some cold ironing technology, but electrical lines must be built and the pier's owner, Maersk Sealand, still needs to retrofit its ships.

The two ports appear to be at the cutting edge of the technology nationwide. A spokeswoman for the American Assn. of Port Authorities said Monday that she did not know of any other U.S. ports with formal plans to install cold ironing equipment.

## **I-5 truck toll lanes may cut congestion**

## **Widening roadway to allow triple-trailers interests many, but hurdles remain**

By Matt Weiser, Californian staff writer  
Bakersfield Californian, Tuesday, Aug. 31, 2004

A proposal to widen Interstate 5 by building truck-only toll lanes could reduce accidents and air pollution. But the idea faces a number of legal roadblocks.

The concept, developed by the nonprofit Reason Public Policy Institute, would add new lanes to Interstate 5 from near the foot of the Grapevine in Kern County all the way to Sacramento. The new lanes would be funded by revenue bonds that would be repaid through tolls paid by the semitrucks that use them.

"It's pretty clear that over the next 20 years, there's going to need to be a widening of Interstate 5," said Robert Poole, director of transportation studies for the Reason Institute, a Los Angeles think tank. "If you carve out new lanes to take a significant chunk of the truck traffic, that would create space for the growth in car traffic that we know is coming."

There is widespread agreement that rapid growth in California has pushed Interstate 5 to its limits. The highway is a key commercial artery not just in California, but for the entire West Coast, from Mexico to Canada. Increasing traffic on the artery will begin to slow the delivery of goods, which could cause economic ripples.

Between 2001 and 2003, according to Caltrans, traffic on I-5 increased 10 percent, as measured at the Highway 99 junction south of Bakersfield. Over 25 years, traffic has at least doubled on most segments of the highway, and some forecasts say it will double again in 20 years.

But the highway has never been improved or widened significantly.

"We do need more capacity on I-5," said Ron Brummett, executive director of the Kern Council of Governments, the county's regional transportation planning agency. "The biggest stumbling block is getting the financing. It may take some new concepts like this to make it happen."

The suggested toll lanes would be built in the I-5 median and separated from existing lanes by concrete barriers, said Poole. The institute has not figured out how much the lanes or tolls might cost.

The plan would allow the use of large triple-trailer trucks in these new lanes. Though legal in 13 Western states, including Oregon and Nevada, these larger-capacity trucks are currently banned on California roads.

The larger rigs would be required to use the toll lanes, and would not be allowed off of them. Other trucks could use the new lanes at their option.

Poole said the trucking industry supports the concept, because it includes dedicated lanes and the ability to use larger trucks, which means more profit per trip. The industry opposed earlier toll-lane proposals on grounds that it should not pay extra to use roads truckers already support through existing taxes.

Truckers might also enjoy a little separation from cars. Nationwide, Poole said, there are about 450,000 car-truck accidents annually, resulting in 5,000 deaths. Three-fourths of these wrecks are caused by cars, he said. Separate lanes could reduce these accidents.

The larger triple-trailer trucks could also reduce truck trips by 25 percent, and tailpipe emissions from trucks by 12 percent, Poole said.

He admits the concept is in its infancy. There are several legal issues to be hurdled.

For instance, federal law currently prohibits construction of new toll lanes. Both House and Senate versions of a new national transportation bill would eliminate this ban, but the bills have been stalled in Congress for a year.

Federal law also prohibits additional states from allowing the use of triple-trailer trucks, said Poole, and there is no legislation proposed so far to change that.

Michael Teitz, a senior fellow at the Public Policy Institute of California, said truck-only toll lanes should be taken seriously to solve a "quite serious" congestion problem on Interstate 5.

But he said rapid growth in California's Central Valley demands that the future of I-5 be planned in the broadest possible context. Otherwise, additional capacity could become a vehicle for more sprawl development.

For instance, the Reason Institute proposal requires staging areas at the start of the toll lanes, and possibly at intervals along them, to hitch up and break apart the triple-trailer trucks. These would become like train switching yards, creating a new emission source from hundreds of idling diesel trucks, and becoming a magnet for sprawl.

"The devil is always in the details," Teitz said. "There's a big, big development issue here that is not really being fully addressed."

## **Submissions Due Sept. 30 for Valley Air District Calendar**

Taft Midway Driller, Monday, Aug. 30, 2004

August 26, 2004 - Calling all young artists! The San Joaquin Valley Air Pollution Control District is looking for artwork for its 2005 Clean Air calendar. The deadline for submissions is Sept. 30, 2004.

Valley school students in kindergarten through 12th grade are eligible to enter the contest. Artwork should be done in color and contain a message about a way to help clean the air. Some of the 2004 calendar messages were: use electric lawnmowers, ride your bike to Spare the Air and don't light your fireplace tonight to help fight air pollution. Artists should place the page sideways, in landscape orientation, so the paper is 8 inches high and 11 inches wide.

Fourteen drawings with clean air themes will be selected and reproduced in a four-color calendar that is distributed free to schools, community groups, healthcare facilities, churches and non-profit organizations. Photos of selected artists will be featured in the calendar. Entry forms and more information about ways to clean the air are available on the Air District web site at [www.valleyair.org](http://www.valleyair.org).

Entries must contain the child's name, address, phone number, age, grade and school and should be mailed to Calendar Contest, Valley Air District, 1990 E. Gettysburg Ave., Fresno, CA 93726. For more information, contact the nearest District office: Northern Region (209) 557-6400, Central Region, (559) 230-6000 or Southern Region, (661) 326-6900.

## **'Shame on everybody'**

**Kern County supervisors balked at declaring a moratorium on new dairy projects and authorizing a countywide study.**

[Bakersfield Californian editorial, Sunday, Aug. 29, 2004](#)

Supervisor Barbara Patrick hit the nail on the head last week when she admonished her colleagues: "Shame on everybody in this room. ..."

Patrick's was referring to the Board of Supervisors balking at "biting the bullet" two years ago -- declining to fund a study of the environmental impacts of locating dairies in Kern County.

Supervisor Jon McQuiston proposed the study and asked the dairy industry to pay for it. When the industry refused, supervisors dropped the idea -- opting not to use county funds for the study and to consider dairies one at a time as they marched primarily from the air and water polluted Chino basin to Kern.

It is estimated Kern now has 290,000 cows. As more dairies are being squeezed out of Southern California -- by the imposition of new pollution rules and the desire of operators to cash in on skyrocketing real estate values -- Kern is being swamped with applications to build new dairies.

The number of pending applications is about two dozen, which could mean an estimated additional 214,000 cows.

Last week, supervisors considered a proposal from their planning director, Ted James, to temporarily stop accepting dairy applications while the pending requests are studied as one group.

He estimated the study would take about two years and would yield information about the cumulative environmental consequences, establish dairy siting requirements and determine the county's cow capacity.

Shame on supervisors for balking once again.

Only Patrick and McQuiston supported James' recommendation. Supervisors Don Maben, Pete Parra and Ray Watson yielded to the pleas of the dairy industry that warned: The state is watching how Kern will respond. To follow James' recommendation will cast Kern as anti-business, anti-growth, anti-agriculture and anti-jobs creation.

A more likely statewide view of James' recommendation would have been that it was responsible and balanced. It balanced the need to accommodate a worthwhile industry with the need to protect the environment and quality of life for all of Kern's residents.

Proponents argue the jobs-creating potential of the dairy industry outweighs some of the environmental consequences. But allowing the dairy industry to explosively grow could actually hurt jobs creation. Growth could be at the expense of attracting other industries and their jobs.

The San Joaquin Valley air basin is designated "extreme" for air pollution. The amounts of dust and pollutants tossed into the air by dairies is significant. But because the industry has been exempted from air pollution controls and measurement for decades, the exact amounts are unknown.

Whether dairies are polluting the region's groundwater -- as they have done in Southern California -- or polluting the air, the health and quality of life of Kern's residents, and the ability of other industries to expand or relocate to Kern will pay the price.

Those who share these concerns should not despair, however. Supervisors did toss us some crumbs:

\* While the industry pressed to have dairy applications considered individually, supervisors grouped them together by region and application date. The cumulative impacts within the groups will be considered.

\* While the industry wanted to select the consultants who would study dairy impacts, supervisors vested that authority in their staff -- a departure from "business as usual."

\* While the studies will focus on the dairy groups, James intends to use the information to assess the cumulative impacts of all 24 proposals, develop dairy siting criteria and determine the county's cow capacity.

When confronted with the scientific data these studies should provide, supervisors must demonstrate the political will to "do what is right" -- balance industry needs and desires with the well-being of residents and other industries.

Balance is what this is about.