

Plan for air cleanup would cost \$7.5 billion

BY SARAH RUBY, Californian staff writer
Bakersfield Californian, Tuesday, Oct. 3, 2006

It will cost \$7.5 billion to cut the valley's ozone pollution by 2013, the federal deadline, according to the San Joaquin Valley Air Pollution Control District.

That's because residents and businesses decide when cleaner cars and trucks join the road, said Seyed Sadredin, the district's top air official.

Regulators have to wait until consumers invest in new technology, which in the case of diesel engines can take 40 years, he said. If the district wants to retire them sooner, it will have to offer billions of dollars in incentives, Sadredin said.

"I think we'll get ... meaningful" amounts of funding from the state and federal governments to fight pollution, Sadredin said, but he said \$7.5 billion is unlikely.

The district has alternatives, which are outlined in a 600-page draft plan released Monday by the district. One solution would be to delay compliance, potentially adding another decade to the deadline. If the district had until 2024 to clean the air, it would need \$2.1 billion, Sadredin said. Most of that would be spent helping businesses replace dirty diesel engines.

The district also will likely impose new rules for factories and other stationary sources of emissions, and will be holding workshops to find out what the public thinks of its approach.

"The list of measures we're proposing for business is very aggressive," he said. "In fact, we're expecting pushback."

They might get it from environmental groups as well.

"Is (clean air) something we can wait for?" asked Liza Bolaños, coordinator for the Central Valley Air Quality Coalition in Fresno. If the deadline is pushed back until 2024, today's children will "be in high school and graduating before they can breathe clean air."

If the San Joaquin Valley fails to clean up its air, federal regulators would have to impose a de facto moratorium on new businesses, requiring them to remove twice as much pollution as they produce, Sadredin said. If the district were still out of compliance six months later, it would lose out on about \$2 billion in highway funding. It happened in Atlanta, Sadredin said.

Tracy station looks for the answer blowing in the wind

Alex Breitler - Record Staff Writer
Stockton Record, Tuesday, October 3, 2006

TRACY - Pilots who wander the skies above Tracy Airport sometimes complain of swirling winds battering their small Cessnas.

Those winds are dangerous in more ways than one.

They carry a host of pollutants both seen and unseen - smoke spewed by wildfires or ozone-forming chemicals belched from thousands of vehicle tailpipes on the Altamont Pass.

So it follows that the airport is now home to some of the latest pollution-tracking tools - thousands of dollars' worth of gadgets and gizmos in a building likely smaller than your kitchen, secure behind a barbed-wire fence and hidden among the hangars.

There are more than 250 such air-monitoring stations throughout California, providing real-time data to scientists and exposing trends that could help regulators shape future air-quality policies.

Tracy's is one of the newest stations: an automated, humming network of machines that tracks some pollutants by the minute and never requires a coffee break.

"This is awesome," said Gary Stanford of the San Joaquin Valley Air Pollution Control District. Stanford spends a few hours a week maintaining the station, which pretty much maintains itself.

"This will help us know what is affecting human beings on the ground," he said.

The Valley long has struggled with air pollution. Its bowl-like shape and hot climate cook up various toxic brews year-round, contributing to residents' respiratory ailments and costing the Valley \$3 billion a year in health care, lost productivity and tight restrictions on building, according to one recent study.

The district in recent years kept a similar monitoring station in Mountain House, inside a dark, wasp- and bird-infested bookmobile. Vandals broke in several times and lifted some pricey equipment.

Officials found a new home behind two fences and tucked against a Bureau of Reclamation canal at the airport, which is probably a better spot anyway, since it's downwind of Tracy. One of the goals is to track pollution coming from the city of 80,000-plus people.

The district signed a 10-year lease with the city, at a cost of \$2,880 last year. The money can be used by the city to upgrade the airport.

District officials did not respond to requests for the total price tag of the station.

When you step in the door, you can hear the equipment hum and click. Transparent tubes suck in outside air and run it through a bronze-colored bar, where bulbs provide blasts of ultraviolet light.

The light illuminates the invisible ozone, and a computer translates those images into data that promptly tick onto an adjacent computer monitor.

Measuring particulate matter is just as easy. The tiny but potentially dangerous particles, the width of a single strand of hair or less, are a serious problem in the winter when wood stoves fire up across the Valley.

Microwave-size machines called BAM 1020s are stocked with reels of tape that turn just a tad every hour. Outside air shoots in through a nozzle and leaves a dime-sized mark on the tape.

The darker the mark, the dirtier the air.

"It's wonderful technology," Stanford said. "Most of the public has no clue it's here."

The station isn't finished yet. While the machines tell experts with ease exactly how dirty the air is, an air profiler to be finished early next year will help them learn more about wind patterns and direction - in short, where those pollutants are going.

There are at least two other air stations in San Joaquin County: one at Wagner-Holt Elementary School and one on Hazelton Avenue, both in Stockton. But the technology isn't as advanced, officials say.

Each station becomes part of an intricate network that has been in development for four decades, said Dimitri Stanich, a spokesman for the state Air Resources Board.

"Even the small ones are very expensive," he said. "But anytime we are able to put up another monitoring device, it's a very important event. It gives us more accurate and regular data."

OHV park gets approval from county planners

BY JAMES BURGER, Californian staff writer
Bakersfield Californian, Friday, Sept. 29, 2006

The first barrier between Bakersfield dirt-bike riders and a 11,000-acre state off-highway park fell Thursday night.

Kern County planning commissioners voted to bless an environmental study of a park on the Wofford Ranch north of Bakersfield.

Commissioners struggled with the question of whether off-highway recreation could be balanced with numerous environmental concerns at the site.

But they agreed that the park is needed by the thousands of local off-highway enthusiasts, and deserves a chance to be planned and built.

County planners said concerns about air quality damage and the sensitive woodlands along Poso Creek would get a serious second review when the state of California designs the park and drafts a more detailed environmental study of the project.

Commissioner Ron Sprague said off-highway riders are already riding in the Bakersfield area without the environmental protections a park would create.

"We've got the opportunity to create the beginning of a crown jewel for the state of California," he said.

Environmentalists said they have no animosity for off-highway riders - but they don't want an off-highway park to destroy Wofford Ranch and Kern County's air.

Air pollution, destruction of the Poso Creek riparian area and damage to American Indian sites were repeating themes for opponents of the project.

Rich O'Neil of the Kern River Parkway Foundation said he bears no animosity for off-highway visionary Dick Taylor, who invited him to sit on a committee that held searches for a site for the park. He still thinks off-roaders need a place to go.

He and Taylor just disagree that Wofford Ranch is the right place for Taylor's dream park, O'Neil said.

"OHVs are not bad, but we need to control their dust and their erosion and keep them out of Poso Creek," he said.

Sierra Club leader Gordon Nipp also suggested that the Poso Creek area be banned from use by off-roaders.

And one opponent quipped that the only way to stop dirt bikes from spreading valley fever spores into the air would be to put sprinklers on the back of every bike.

But the sizable group of project opponents were dwarfed by a sea of off-highway lovers who came to ask the Planning Commission to support the project.

Supporters all wore lime green buttons reading, "I support OFF ROAD recreation." They took up most of the chamber seats and clustered outside, watching on a big screen television. Taylor printed 280 buttons and handed out around 250.

Taylor said now is the time to build the off-highway park and the Wofford Ranch is the place.

Commissioners voted unanimously in agreement with him.

If the Kern County Board of Supervisors also approves the environmental report during a meeting scheduled on Oct. 24, the state of California will consider buying the Wofford Ranch property.

That purchase approval could happen by early November, before a city of Bakersfield option to buy the land from a private owner runs out on Nov. 14.

Bike to the Future

Bike committee wants more lanes and more trails

By Gerald Carroll, Staff writer

Visalia Times-Delta, Tuesday, Oct. 3, 2006

Much has been done to improve Visalia's system of bicycle lanes and waterway trails, but it's time to move forward with more improvements, local members of Visalia's Bicycle, Pedestrian and Waterway Trails Committee say.

Committee members will put action behind their words today when they take a bus tour of places in Visalia where new trails are being expanded or planned. The 4 p.m. tour will use a bus provided by the Visalia Unified School District, and city officials will accompany committee members.

"Visalia is a rare case of a city purchasing much of its waterway-area property," said Brian Kempf of the Urban Tree Foundation, a Visalia resident and one of 15 committee members. "We've made some progress in converting some of these waterway areas into trails, with native plant species returned to their natural habitat."

Bike lanes and independent trails are other hot topics because Visalia's extensive bike lanes and trails need connectors and expansion, said Vicki Stasch, who chairs the committee.

"But we have a plan, and Paul Shepard and other city staff have been behind much of it," said Stasch, a Visalia-based management consultant.

Shepard, along with Visalia Parks and Recreation Director Don Stone, went before the City Council Monday with a plan to submit a \$670,000 grant application to develop a trailhead and low-impact recreation area at St. Johns River Park in north Visalia. There already exists a significant biking and walking pathway along the river, but much more can be done with grant funding.

"Improving the corridor there along the St. Johns River is one project," said Shepard, whose plan to acquire grant funding was approved 5-0 Monday by the council. "The other major area is improving bike lanes on regular streets."

The committee has been very active in assisting the city and general public in developing viable bike lanes on streets, as well as naturalizing areas near waterways.

Kempf said he has helped the Urban Tree Foundation secure grants in the millions of dollars.

"Grants have been a big part of improving bicycle and walking access through these areas," he said.

Kempf is a former student of University of California, Davis, where that campus's arboretum is world-class along with the surrounding community's treatment of creeks within the city limits.

"That's why we want to do more with Mill Creek and other waterways that run through Visalia," Kempf said. "With the city boosting things along, and grant funding, many of these ideas can be realized."

Most committee members have deep Visalia ties, including Visalia Unified School District business office employee Mark Fulmer, who was born and raised here, he said.

"Clearing out those waterway areas and replacing the existing vegetation with native species makes everything look natural and appealing," said Fulmer, who says he is more of a walker than a bicycle rider.

"I'm looking forward to this tour because it will give us a lot more ideas."

Asthma group endorses Measure R

Staff Reports

Visalia Times-Delta, Tuesday, Oct. 3, 2006

The Tulare County Asthma Coalition has endorsed Measure R, the local initiative on the Nov. 7 ballot to repair local roads. The Coalition's letter of support states that the members endorse Measure R "because the plan reduces air pollution by adding clean fuel buses/vehicles, relieving traffic congestion and building bike paths."

For a complete list of Expenditure Plan projects to be funded, visit www.voteroadrepair.com or call campaign coordinator Bob Stocker at 303-9741.

Supreme Court prepares to judge major issues

Topics on agenda: abortion, race in education, air pollution

By Linda Greenhouse, New York Times

in the Tri-Valley Herald, Tuesday, October 3, 2006

WASHINGTON — If Year 1 was the transition for the new Roberts court, Year 2 is likely to be the test.

During the first term under the leadership of Chief Justice John Roberts Jr., the justices were able to find common ground with some regularity by agreeing not to decide much. By the time the term ended in late June, the extent to which the members of the newly configured court were prepared to confront either precedent or one another remained unclear.

Chances are high that the new term, which begins today, will be different. The cases that the court has agreed to decide — 38 so far — offer few off-ramps, requiring instead that the justices proceed to rulings that will define the new court in both substance and style.

Less than six weeks from now, for example, the court will hear the Bush administration's defense of the Partial-Birth Abortion Ban Act of 2003. While there are some secondary issues, there is no escaping the fact that at the end of the day, the Supreme Court will have to declare whether the federal statute is constitutional. In doing so, it will have to grapple with the meaning of a 5-4 decision that struck down a similar state law six years ago. The administration will argue that if the federal statute cannot coexist with that precedent, the court should overrule the earlier case.

Two cases on whether public school systems can take race into account in maintaining balance in individual schools do not confront the court's precedents quite as directly. But coming only three years after a sharply divided court permitted the continued use of race in university admissions, the decisions in these cases will provide the first clear indication of where the center now lies on questions of race and public policy after the retirement of Justice Sandra Day O'Connor. O'Connor held the balance of power on such questions for years, and wrote the opinion three years ago in the case from the University of Michigan Law School.

The business community is watching several cases closely, particularly an appeal of a \$79.5 million award of punitive damages against the cigarette maker Philip Morris, upheld by the Oregon Supreme Court on behalf of the family of a smoker who died of lung cancer.

Of all the areas of Supreme Court doctrine most likely to be affected by the court's change in membership, punitive damages ranks high on the list. It is also something of a wild card, because the question of whether the constitutional guarantee of due process places any substantive limits on the award of punitive damages by state courts has divided the court in a way that follows no ideological pattern, and the inclinations of the new justices are unknown.

The consistent dissenters from the court's effort to curb punitive damages have been Justices Antonin Scalia, Clarence Thomas and Ruth Bader Ginsburg. Former Chief Justice William H. Rehnquist and O'Connor were in the majority in seeking to limit punitive damages. If their

successors, Roberts and Justice Samuel A. Alito Jr., agree with the dissenters, the court's shift could be abruptly and bitterly disappointing to those encouraged by the court's halting but increasingly assertive steps in setting boundaries on punitive damages.

The new chief justice has made some notable administrative choices since the last term ended. As his administrative assistant, he hired Jeffrey P. Minear, a senior lawyer in the office of the solicitor general and a longtime familiar figure at the court.

The title of administrative assistant understates the role its holder plays in the day-to-day management of the court. Previous administrative assistants have come from a variety of backgrounds; Rehnquist's last assistant, Sally M. Rider, had held several top-level positions as a government lawyer. But none has ever been the chief justice's professional peer, as Minear clearly is. His 56 Supreme Court arguments, in fact, surpass Roberts' 39. Both men are the same age, 51.

In another development, the court has revised its practice of waiting two or three weeks to post argument transcripts on its Web site. Beginning on Tuesday (in observance of Yom Kippur, the court has scheduled no arguments on Monday), the court will post transcripts on the day of argument at <http://www.supremecourtus.gov>.

While the court continues to resist television coverage of its sessions, the change is a step toward public access that would have been unthinkable only a few years ago.

These are some of the leading issues for the new term:

Partial-birth abortions

Two federal appeals courts, in St. Louis and San Francisco, declared the federal Partial-Birth Abortion Act of 2003 unconstitutional, basing their rulings on the Supreme Court's decision in *Stenberg v. Carhart*, which struck down Nebraska's similar law six years ago. The new cases, *Gonzales v. Carhart*, No. 05-380, and *Gonzales v. Planned Parenthood*, No. 05-1382, are the Bush administration's appeals of those rulings.

The statute outlaws a surgical procedure that doctors use to perform abortions after about 12 weeks of pregnancy. In its decision six years ago, the Supreme Court held by a vote of 5-4 that the law had to take into account medical judgments that the procedure was sometimes necessary for a pregnant woman's health.

Congress responded by enacting a federal law without a health exception, declaring that the procedure was never necessary to protect a pregnant woman's health. Among other issues, the new cases therefore present the issue of the respective roles of Congress and the court in defining the scope of constitutional rights, an issue on which Justice Anthony M. Kennedy, a dissenter in the case six years ago, has been particularly protective of the court's role.

Racial quotas in schools

Federal appeals courts upheld student assignment plans in Louisville, Ky. (*Meredith v. Jefferson County Board of Education*, No. 05-915) and Seattle (*Parents Involved in Community Schools v. Seattle School District No. 1*, No. 05-908). Both cities have long struggled to achieve integration, and now seek to maintain it by taking race into account in limiting students' choices of which schools to attend.

While many justices are wary of "this divvying us up by race," as Roberts phrased it in a voting rights case last term, the same justices also tend to support local education policies. The National School Boards Association is filing a brief supporting the school systems, while the Bush administration is arguing that the assignment plans are unconstitutional.

Air pollution regulation

Two cases present interpretive issues under the Clean Air Act. In *Massachusetts v. Environmental Protection Agency*, No. 05-1120, 16 states and other parties are challenging the Bush administration's view that Congress has not authorized federal regulation of motor vehicle emissions that contribute to global warming. The question in *Environmental Defense v. Duke Energy Corp.*, No. 05-848, is what the law requires of utility companies seeking to modernize aging power plants.

Punitive damages limits

The court has laid down various markers for curbing the discretion of state courts to award punitive damages. In *Philip Morris USA v. William*, No. 05-1296, the Oregon Supreme Court upheld the \$79.5 million award, nearly 100 times the compensatory damages a jury had awarded the smoker's widow.

This is far greater than the 10-1 ratio that the court's most recent decision, *State Farm v. Campbell* in 2003, suggested as the outer limit of due process. On the other hand, earlier cases concerned economic rather than physical injuries. The court's new membership aside, this case is sufficiently distinctive in several ways so as to make the outcome unpredictable.

[Fresno Bee editorial, Tuesday, October 3, 2006:](#)

For cleaner air

The Valley will have a tough time meeting new federal standards.

The San Joaquin Valley remained the second-worst smog region in the nation this year. Our air is getting better, compared with the period from 1999 to 2005, but we're a long way still from having clean air.

In fact, the deadline for meeting the standards may be impossible to meet — especially if we don't change our ways.

The Valley has had 85 violations of the federal standard to this point in 2006, barely behind Los Angeles, where the South Coast Air Basin has recorded 86 violations. The top five were rounded out by Houston (52 violations), the Antelope Valley (50) and Sacramento (41).

From 1999 to 2005, the Valley held the unenviable top spot. Through that stretch, the air violated federal standards virtually every day from June to September. And we're up from last year, when the Valley recorded 72 violations.

We're a victim of geography and meteorology to some extent. The Valley's bowl shape traps the gases that form ozone — primarily nitrogen oxide from vehicles and other sources and reactive organic gases from sources such as paint fumes and dairy waste. The ozone cooks in the hot summer sun, creating smog. In turn, the smog causes all manner of health problems, from respiratory ailments like asthma to heart disease.

In order to meet the 2013 deadline for compliance, we're going to have to reduce the production of those ozone-forming emissions by about half. Those emissions come from several sources, but the biggest culprits by far are vehicles, accounting for as much as 60% of the total.

Can we change the way we move about to the necessary extent? Skeptics may be forgiven for shaking their heads. Our love affair with the private vehicle runs deep, and even with soaring gas prices in recent months, there has been little evidence that a sufficient number of people are ready for alternatives to the automobile.

Nor is there much help available on the regulatory front. New fuel standards that will soon come on line will help, but the real power to regulate emissions lies at the state and federal levels — and there hasn't been much interest there in the sort of broad changes we need.

Nor is it clear that the San Joaquin Valley Air Pollution Control District would exercise such power aggressively if it were present.

So we're on our own, as is so often the case. Do we have it in ourselves to change? The clock is ticking.

[Modesto Bee Editorial, Tuesday, October 3, 2006](#)

Prop 87's goals are worthy, but it's too flawed to support

After \$3-a-gallon gasoline, after seeing \$10 billion in quarterly oil-company profits, who can resist this campaign slogan: "Make big oil pay"?

Now, throw in the caveat that you're making big oil pay for "cleaner energy" and you've got a winner. At least you've got a winning slogan.

Backers of Proposition 87 hope to move us toward a future less dependent on fossil fuels, with air that is more breathable and an economy that produces more cutting-edge technologies. It is hard to argue with such goals. Besides, a tax on oil and other minerals is long overdue; Alaska has one, so does Louisiana and every other major oil-producing state.

Unfortunately, Proposition 87's authors have given us an unworthy vehicle for such worthy goals.

First, Proposition 87 includes governance provisions that look like a sequel of the \$4 billion stem cell program voters approved in 2004. Under the provisions, all revenues would flow to a board whose individual qualifications are spelled out, in detail, in the initiative. Members would be exempt from aspects of state conflict-of-interest law, which supporters say would allow University of California professors to approve grants for other professors with no recourse.

That's unacceptable.

Proposition 87 also would create a state agency shielded from legislative oversight. This belies a deep paranoia and distrust of government interest. Interestingly, some of the same bigwigs who bankrolled the stem cell initiative — movie producer Stephen Bing and venture capitalists John Doerr and Vinod Khosla — also are underwriting Proposition 87. Khosla is an investor in a Fresno ethanol project, so he has other reasons to support this initiative.

Next is the murky question of how Proposition 87 would tax oil. The initiative calls for a 6percent tax on each barrel produced in California, but it is unclear on whether the tax will be charged at a "standard rate" — netting \$4.20 for every \$70 barrel — or a marginal rate, which would vary based on the price of a barrel and likely would produce less revenue. The Board of Equalization would have to sort it all out, and its rulings likely would prompt lawsuits and delays — the same issues that plagued the stem cell initiative.

These drafting flaws are frustrating because, like the stem cell program, Proposition 87 champions a worthy cause. California needs to invest in alternative energy, especially if the state expects to reduce its greenhouse gases by 25 percent by 2020, as mandated by Assembly Bill 32. We also need to rid our cities of some of the worst smog in the nation.

The state needs assurances that these funds will be distributed to the most promising technologies — not a favored few. Proposition 87 doesn't offer any such assurances, which is why we do not support it.