

Scrap on Ninth: Neighbors, metal recycler at odds over noise, dust

By Kevin Valine, staff writer

Modesto Bee, Thursday, March 28, 2013

MODESTO -- A south Modesto recycling business has run afoul of Stanislaus County after neighbors complained about the noise and dust produced by scrap metal processing.

In the fall, the county notified Central Valley Metal Recycling that it would not renew its business license and demanded that it stop its scrap metal operations. The county said the business's operation no longer was consistent with the zoning for the area.

Central Valley continued to operate and hired an attorney, but the owners said they have taken steps to be a better neighbor.

DN recycling issues

The business is in the 500 block of South Ninth Street in an unincorporated section of Modesto. It takes in aluminum cans, glass bottles, plastic, cardboard and metal.

Residents living in homes east of the business have complained about the noise and dust the recycler generates six days a week. The business is closed Sundays.

"You have to keep your doors and windows closed because of the noise and dust," said Terri Lujan, who lives on Bystrum Road behind Central Valley Recycling.

Problem worse in recent years

Neighbors say the dust from the heavy equipment processing scrap metal can leave a thick coat on cars and homes. Lujan and other neighbors said the problem has gotten worse in recent years after Central Valley ramped up its operations.

Central Valley has operated since 1992 on South Ninth Street. It added scrap metal recycling in 2009 when renewing its business license for three years, said Angela Freitas, county planning and community development director.

Freitas said after that, the county started receiving complaints about the business from residents living in homes east of it. She said before 2009, Central Valley mainly had been processing household recyclables, such as aluminum cans.

But Central Valley co-owner Rich Francis said his business has recycled scrap metal for about a decade. He acknowledged, though, that in recent years, Central Valley spent several hundred thousand dollars on equipment and upgrades and more than doubled its work force to about two dozen employees.

Central Valley Recycling and its attorneys have been meeting with county officials and will continue to do so. Freitas said she hopes that within a month, the county and Central Valley "are on a path to resolving this."

That path could include Central Valley taking measures to address neighbors' concerns as it continues operations on South Ninth Street, or the county deciding that Central Valley cannot continue its scrap metal business at this location.

The attorney who represents Central Valley said he believes a solution can be reached.

"I'm very optimistic that there are cost-effective measures that can be taken to reduce the impact on the neighbors," attorney Tom Terpstra said. "I know people are complaining, and we are willing to meet and talk with them to find a way to peacefully co-exist."

Central Valley operators say they have taken steps and are considering others to address the concerns:

They are watering the dirt on their three-acre site to cut down on the dust stirred up by the use of heavy equipment and large trucks.

A consultant performed a noise study for the business, which is looking at several ways to reduce noise, such as replacing the rear cyclone fence facing homes with a 12-foot-tall masonry wall that would buffer the noise.

"I'm not impressed," said Rebecca Harrington, a Bystrum Road resident and member of the county's South Modesto Municipal Advisory Council. "Would they want that same business across from their homes?"

"Their attitude is if we don't like it, we can move. My dad has owned this property for 63 years. A lot of people in this neighborhood have owned their homes forever."

Walmart to get day in court Hearing set for Friday on Supercenter EIR

Staff reports

Porterville Recorder, Wed., March 27, 2013

Finally, a year after a couple of Porterville residents filed a lawsuit against the proposed Walmart Supercenter planned for the Porterville River Walk shopping center, the matter will be heard in court.

Named as the defendant in the case filed by California Healthy Communities Network and Porterville residents Brock Neeley and John Coffee was the city of Porterville. The city has been joined by Walmart Corporation.

The suit, filed March 16, 2012, claims there was an inadequate analysis of potential environmental impacts associated with the project that has been in the works for more than five years.

The hearing is scheduled to begin at 8:30 a.m. at the Tulare County Superior Court in Visalia. Judge Melinda Reed is hearing the case.

Porterville City Manager John Lollis said the hearing could take more than one day. "I don't anticipate it will be all heard on Friday," he said.

After the hearing is concluded, Judge Reed will review testimony and make a ruling. Lollis said that ruling could come as early as May.

"If the city is successful, it is my understanding, depending on the ruling, there is a potential they [Walmart] could begin construction even if there is an appeal filed," said Lollis.

Walmart is proposing constructing a 160,000 square foot store west of the existing Lowe's Store in the Highway 190 shopping center. The store would give the shopping center two "major" retailers and could spur more development there, said city officials.

The environmental impact report was approved by the city council on Feb. 7, 2012. The EIR and accompanying documents may number in the one-hundred thousands of pages, said Lollis. City Community Development Director Brad Dunlap has said it was the most comprehensive EIR ever done in the city. The EIR is only for the store. An EIR on the shopping center was approved years ago.

While Neeley declined to comment, Lollis said the suit calls into question the council's finding that the mitigating measures adopted were adequate.

"It questions where impacts have been defined and has there been sufficient mitigation," said Lollis.

An EIR looks at every possible impact a project may have — from water, air, traffic, to even causing blight in other areas of town. Since the new store will include a full line of groceries, the study even look at impacts on other grocery stores within certain distance of the store. That included stores in Lindsay.

The four-volume document reportedly cost Walmart more than \$500,000 to prepare.

Lollis said Walmart has already agreed to install sound walls — barriers to noise — even during the construction stage.

Officials have said the new store will create approximately 300 new jobs and increase sales-tax revenues for the city. Walmart has stated it intends to keep open the existing store on Henderson Avenue.

Numerous attempts to contact the offices of M.R. Wolfe and Associates, the attorneys who filed the lawsuit, were unsuccessful.

Toxic waste site near Kettleman City to pay \$311,000 in fines

The penalties are part of a settlement capping an investigation into Chemical Waste Management, which failed to report 72 hazmat spills in the last four years.

By Louis Sahagun, staff writer
L.A. Times, Wed., March 27, 2013

A toxic waste dump near the San Joaquin Valley farming community of Kettleman City has agreed to pay \$311,000 in fines for failing to report 72 hazardous materials spills over the last four years, the California Department of Toxic Substances Control announced Wednesday.

Brian Johnson, the department's deputy director of enforcement, described the fines as "a substantial and aggressive penalty."

The penalties were part of a settlement that capped an investigation into the Chemical [Waste Management](#) facility, the only one in California licensed to accept polychlorinated biphenyls, or PCBs, a carcinogen.

A review of company documents and monitoring records revealed "no sign of health risks to the local community" from the spills of lead contaminated soil, herbicides and other chemicals, Johnson said. Most of the spills were about a pint in volume, he said. The landfill's operating permit requires the company to notify the state so that spill cleanup is documented.

The violations will be taken into account when the department rules later this year on the proposed expansion of the facility, which is running out of room. The company also wants to renew its 10-year operating permit, which ends in June.

"When that permit expires, the facility will continue to operate under the old permit conditions until a final decision is made," Johnson said.

In an interview, Chemical Waste Management spokeswoman Jennifer Andrews said the spills were "not reported to the state because they were small spills, which were immediately cleaned up. In addition, we believed we were operating within our permit conditions."

The action came four years after activists petitioned state and federal health agencies to investigate whether the 31-year-old landfill might be linked to severe [birth defects](#) in residents of Kettleman City, about three miles away.

A survey by state health investigators ruled out the dump as the reason 11 babies were born with cleft palates and other [physical deformities](#) in Kettleman City between September 2007 and March 2010. Three of the babies died.

The activist groups People for Clean Air and Water and Greenaction for Health and Environmental Justice criticized the fines as weak and renewed their call on state regulators to deny the facility's permit applications.

"It's absurd for the state to claim with a straight face that 72 spills of hazardous substances do not pose a health threat," Greenaction spokesman Bradley Angel said. "It didn't even know the spills had gone on for four years until it stumbled upon the problem in a company log."

The landfill has a long history of violations.

In 1985, the [Environmental Protection Agency](#) fined the company \$2.1 million for violations that included operating additional landfills and waste ponds without authorization.

In 2005, the company was fined \$10,000 for violating federal PCB monitoring requirements. It was cited again in 2007 for failing to properly analyze incoming wastes, storm water runoff and leachate for PCBs.

In 2010, the EPA levied a \$302,100 fine for failing to manage PCBs properly. A year later, the facility agreed to pay \$400,000 in fines and spend \$600,000 on laboratory upgrades needed to manage hazardous materials.

State fines Waste Management for spills at Kettleman toxic dump

By Lewis Griswold, staff writer

The Fresno Bee, Wed., Mar. 27, 2013

Chemical Waste Management must pay \$311,194 for failing to report dozens of spills at its Kettleman Hills toxic waste landfill, the state Department of Toxic Substances Control said Wednesday.

But there's "no evidence to suggest" that toxic waste left the landfill or harmed the public, DTSC deputy director of enforcement Brian Johnson said.

Chem Waste, operator of the largest toxic waste landfill in the West, said it won't fight the penalty, which included \$291,208 in fines plus departmental costs. Spills were small and "were all immediately cleaned up," the company said.

Consumer Watchdog, a Los Angeles-based nonprofit consumer advocacy group, decried the fine as a "slap on the wrist." The company could have been fined as much as \$25,000 per spill, for a total of \$1.8 million, Consumer Watchdog said. This is not the first time Chem Waste has been fined for spills.

In 2011, the company got hit by DTSC with a \$46,000 fine for not reporting similar releases and by the federal Environmental Protection Agency with a \$1 million penalty for lax operation of its lab at the landfill.

The hazardous waste landfill is 2.6 miles from Kettleman City, a Kings County town of 1,500 that is the site of a rash of unexplained birth defects. Some children died, but a state investigation said the birth defects couldn't be blamed on the landfill.

Kettleman City resident Maricela Mares-Alatorre, spokeswoman for People for Clean Air and Water of Kettleman City, said the state enforcement action does nothing to answer community questions about why health issues such as childhood cancer, anemia and birth defects keep occurring.

"For too long, Chem Waste has been given free rein with the result that the health of residents has always been put aside," she said.

Greenaction for Health and Environmental Justice, an activist group in San Francisco, said state regulators should have revoked Chem Waste's operating permit over the spills.

"It's a bigger fine than usual, but it's not enough," said Bradley Angel, the group's executive director. He called the fine "the cost of doing business" for Chem Waste.

The fine is punishment for 72 unreported spills over four years that came to light last year, the Department of Toxic Substances Control said.

Despite the company's failure to report, the spills were "generally small" and occurred when incoming loads were sampled, Johnson said. Most were under 1 gallon, he said.

Spills included lead-contaminated soil and herbicides.

The state obtained a court order last week requiring Chem Waste to report spills verbally within a day and in writing in 10 days. Meanwhile, the landfill is running out of room and is seeking a state permit to expand. Johnson said the state is working on the application and a decision on the permit should be issued sometime this year.

Additionally, Chem Waste's operating permit expires in June, but the company can keep operating under its current permit until the state reaches a decision on renewal, he said.

California toxic waste site to pay \$311,000 in fines

by Associated Press

In the Lodi News Sentinel, Thursday, March 28, 2013

A toxic waste dump near the San Joaquin Valley, Calif., farming community of Kettleman City has agreed to pay \$311,000 in fines for failing to report 72 hazardous materials spills over the last four years, the California Department of Toxic Substances Control announced Wednesday.

Brian Johnson, the department's deputy director of enforcement, described the fines as "a substantial and aggressive penalty."

The penalties were part of a settlement that capped an investigation into the Chemical Waste Management facility, the only one in California licensed to accept polychlorinated biphenyls, or PCBs, a carcinogen.

A review of company documents and monitoring records revealed "no sign of health risks to the local community" from the spills of lead contaminated soil, herbicides and other chemicals, Johnson said. Most of the spills were about a pint in volume, he said. The landfill's operating permit requires the company to notify the state so that spill cleanup is documented.

The violations will be taken into account when the department rules later this year on the proposed expansion of the facility, which is running out of room. The company also wants to renew its 10-year operating permit, which ends in June.

"When that permit expires, the facility will continue to operate under the old permit conditions until a final decision is made," Johnson said.

In an interview, Chemical Waste Management spokeswoman Jennifer Andrews said the spills were "not reported to the state because they were small spills, which were immediately cleaned up. In addition, we believed we were operating within our permit conditions."

The action came four years after activists petitioned state and federal health agencies to investigate whether the 31-year-old landfill might be linked to severe birth defects in residents of Kettleman City, about three miles away.

A survey by state health investigators ruled out the dump as the reason 11 babies were born with cleft palates and other physical deformities in Kettleman City between September 2007 and March 2010. Three of the babies died.

The activist groups People for Clean Air and Water and Greenaction for Health and Environmental Justice criticized the fines as weak and renewed their call on state regulators to deny the facility's permit applications.

"It's absurd for the state to claim with a straight face that 72 spills of hazardous substances do not pose a health threat," Greenaction spokesman Bradley Angel said. "It didn't even know the spills had gone for four years until it stumbled upon the problem in a company log."

The landfill has a long history of violations.

In 1985, the Environmental Protection Agency fined the company \$2.1 million for violations that included operating additional landfills and waste ponds without authorization.

In 2005, the company was fined \$10,000 for violating federal PCB monitoring requirements. It was cited again in 2007 for failing to properly analyze incoming wastes, storm water runoff and leachate for PCBs.

In 2010, the EPA levied a \$302,100 fine for failing to manage PCBs properly. A year later, the facility agreed to pay \$400,000 in fines and spend \$600,000 on laboratory upgrades needed to manage hazardous materials.

[Fresno Bee editorial, Wed., March 27, 2013:](#)

**Fresno and Madera leaders should team up on growth
Cooperation is best way to move region forward.**

As Fresno County, Madera County and the city of Fresno attempt to work out disputes over growth and planning, they should remember that they are part of what the U. S. Census Bureau calls "Metropolitan Fresno."

If you're wondering how the Census Bureau came to join the counties at the hip, here's the answer: "The general concept of a metropolitan area is that of a large population nucleus, together with adjacent communities having a high degree of social and economic integration with that core."

The definition fits. The city of Fresno anchors our metropolitan area, and people throughout the region cross county and city lines to work, shop, learn, visit family and friends, and otherwise engage in the pursuit of happiness.

But government is less flexible. It imposes taxes, provides public safety, assists people in need, enforces laws and holds elections based on boundaries.

Nearly all of the time, these rigid lines are a good thing and essential to self-determination. Communities have different ways of doing things because they have different goals or needs.

However, boundaries also can be barriers to good planning and mitigating the impacts of growth in ways that are fair to everyone. This is why it's important for leaders to climb out of their trenches and look at the big picture.

The view of Metropolitan Fresno from above looks something like this: Sparsely inhabited Madera County and parts of Fresno County appear ripe for development when employment opportunities rebound from the Great Recession.

But there's another important caveat, and it involves air quality. Development in these areas must be done in a way that meets the state mandate of cutting greenhouse gas emissions to 1990 levels by the end of this decade.

We suggest that Fresno Metropolitan Area leaders stop their posturing and start working on agreements to mitigate growth impacts and possibly share tax revenues. We also suggest that they team up to identify

sites for industrial and manufacturing parks so that residents can further profit from the agriculture, transportation and distribution booms.

Lines on a map shouldn't ever stop Metropolitan Fresno from moving forward.