

Idea of smog fee floating around city

By JAMES BURGER, Californian staff writer
The Bakersfield Californian
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City of Bakersfield politicians are talking about making new homes pay to eliminate air pollution.

Support is building behind an "indirect source fee" that would force each new home to pay for the air pollution that it, and the traffic it generates, are expected to produce.

Politicians and Sierra Club activists are pushing to establish the fee in Bakersfield.

And the governing board of the San Joaquin Air Pollution Control District has told its staff to start developing a similar fee that would cover 59 cities across eight valley counties.

The cities of Stockton and Turlock already have something similar.

Home builders and land developers that will pay the fee seem resigned to the fact that it will get a public hearing.

Opposition waning

Not all of them agree it's a good idea. Some think there are better ways to eliminate pollution. But others seem ready to pay the fee -- as long as it helps them avoid a lawsuit from the Sierra Club.

Money collected from the fee could be used to fight the San Joaquin Valley's bad air by crushing smoky old cars, replacing diesel agricultural pumps and converting government vehicles from gasoline to compressed natural gas.

A handful of weeks ago, the fee was an obscure air pollution mitigation option on a list in the Metropolitan Bakersfield General Plan.

The San Joaquin Air Pollution Control District has had the power to impose it for years.

But the district shelved the idea in the early 1990s after an attempt to create the fee was crushed under stiff opposition from the building industry.

Three things have happened in the past few months that have put the indirect source fee back into the foreground of the public policy picture.

State Sen. Dean Florez, D-Shafter, proposed a package of air quality bills that would require the Air Pollution Control District to impose a fee.

The district, at the direction of its board, started the process of implementing the fee on its own.

And the Sierra Club started suing land developers in northeast Bakersfield over air pollution.

Sierra Club activists settled the first lawsuit, against local land developers Tom Carosella and Craig Carver, in exchange for a package of concessions which included a \$1,200 air pollution mitigation fee on each house built.

The settlement, and threats of other suits by the Sierra Club, have developers over a barrel and City Council members thinking hard about an air fee for the Bakersfield area.

"We are insane if we give away our precious natural resources for free," said Bakersfield City Councilman Mike Maggard. "Our two most precious natural resources, in my opinion, are air and water. We're doing a lot better job of managing the water than we are the air."

Planning for the inevitable

Maggard, who sits on the Air Pollution Control District Board, said the thousands of new residents flocking into Bakersfield must pay for the damage their charcoal grills and cars do to Kern County air.

"Why not come up with a plan to ask the new residents to pay to preserve our quality of life?" he said. "The handwriting is on the wall. It's inevitable that this will happen."

Bakersfield, with its new home developments facing the threat of a Sierra Club air pollution lawsuit, seems likely to get the fee first.

At the June 25 Bakersfield City Council meeting Councilwoman Sue Benham referred an "air pollution" mitigation fee to a council committee for review and discussion.

"I think it's definitely an idea that's time has come," Benham said.

The council also threw its unanimous support behind Florez's air pollution prevention bills at the meeting.

And the political maneuvering that will be needed to clear the way for a city fee is already happening.

Maggard, who represents the areas of northeast Bakersfield where the Sierra Club has been suing over development, started working to get backing for the fee more than a month ago.

"The first thing I did was I went to the people who were the target of a (Sierra Club) lawsuit and explained to them the inevitability of the fee," he said.

They were in the mood to listen, he said.

"Many developers want to turn their asset -- the land that they own -- into cash. Many are operating with borrowed money," Maggard said. "If the project is delayed for two years because of litigation, the cost to hold the property during the time the lawsuit is settled goes up. It steals from them huge amounts of money that could cause some developers to lose their deal."

Their only way out seems to be a settlement that will almost inevitably include an indirect source fee, Maggard said.

Paying for growth

So, Maggard argues, developers should support a city-imposed fee and pull the Sierra Club's legal teeth.

"The Sierra Club is trying to do a good job but there are some flaws to the process -- developing policy through litigation is a very inefficient way to develop policy," Maggard said. "There's no public scrutiny. There is no science in a settlement to say where the money should be spent first."

Maggard said his efforts to convince developers are working.

"Almost to a person they believe the fee is appropriate as long as it's imposed uniformly so that everyone is on the same playing field," he said.

Dave Dmohowski, a local land use consultant who represents three of the four projects targeted by the Sierra Club for lawsuits, said the fee is probably inevitable.

"It think it's a matter of time," he said. "There's a lot of momentum behind this."

But he said land developers and building industry leaders want to make sure that any fee imposed on them will be fair and based on fact.

"I'm not saying new development shouldn't pay its fair share. But it's an interesting legal question about what is a new residential development's fair share," he said. "The public wants to pin it on the most likely suspect, which is the new home buyer."

But Dmohowski said most home-produced pollution comes from cars and only a small percentage of those cars are from new homes.

"Air pollution is the byproduct of going about our daily lives," he said.

Some developers question if the fee is really the right way to handle the pollution created by new tracts of homes.

"The levy of a fee as a mitigation measure for air quality impacts that result from new development should be a last resort -- since it is unlikely to ever be spent on mitigations related to the development," said Castle & Cooke president, Bruce Freeman.

He said new developments should be required, instead, to be built with more trees, walking paths and parks in areas that are close enough to shopping and work so that people are able to walk rather than drive their cars.

Developers and local politicians are also concerned about the possibility of hitting new home buyers twice if a fee is created by both the city and the air district. A possible solution could be for the air district to give credit for a city-imposed fee, locals said.

Looking for a nexus

Finding common ground between developers and clean air advocates won't be a simple thing.

City Planning Director Stan Grady has been directed to map out the process that the city would have to go through before it could legally implement an indirect source mitigation fee.

He said impact fees such as the one the city is considering have to be based, legally, on something called a nexus.

In other words, the city will have to prove that the amount of the fee it charges is directly based on the cost to clean up the pollution produced by the homes paying the fee.

"We can't pull a number out of the air -- no pun intended," said Vice Mayor David Couch. "We've got to do the study that will give us what the fee should be."

But Grady said he isn't looking forward to trying to prove that stationary homes are responsible for the pollution from highly mobile cars.

"That whole analysis of something that is mobile, and trying to treat it as something that is stationary, is going to be hard to get (our) arms around," he said.

Adding to the complication of the city's process is the fact that the Air Pollution Control District is also considering an indirect source mitigation fee.

Maggard said imposing a fee in Bakersfield alone would cause serious problems.

Home builders would just move their projects outside the Bakersfield limits and create leap-frog tracts that would actually make air pollution worse.

"The trick for us at the city level is to work with the county to make sure that a consistent fee is established at both levels," said Councilwoman Benham.

And, along the same line of reasoning, a Kern County-only fee could send home buyers and businesses to other valley counties, Maggard said.

But he said sending all of Bakersfield's fees off to the Fresno-based valley air district and hoping some of them come back into local air pollution prevention programs wouldn't be an acceptable option either.

"My concern is, would the fee remain local and would it actually go toward cleaning our air?" said Councilman Mark Salvaggio. "I don't want us to initiate a fee that's not going to do us any good."

Dave Mitchell, planning manager for the San Joaquin Air Pollution Control District, said the district is committed to creating an indirect source fee that would apply in all eight counties the district administers.

But the district is willing to work with cities to create a balance between the local and regional uses of the fees, he said.

Ultimately the burden of cleaning up the valley's air lies on everyone who lives there, Maggard said.

"The entire San Joaquin Valley must agree to participate in a solution since we all live in the same bowl of soup and breathe the same air," he said.

Sequoia takes a dose of fire

2,450-acre prescribed burn this week is the largest of 8 in the park this season.

By Bethany Clough

The Fresno Bee

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Crews are patrolling the smoldering remains of a 2,450-acre controlled burn in the Sequoia National Park.

Firefighters spent a week lighting the fire in the Mineral King area in eastern Tulare County to prevent the area from becoming wildfire fuel and to restore its ecosystem to a more natural state.

It is the biggest planned burn this season.

The burn was scheduled to happen last year, but was canceled when the McNally wildfire broke out in July in the national forest south of Sequoia and Kings Canyon National Parks, causing high smoke levels in the air and depleting backup personnel.

Seven other controlled fires were scheduled for the season. In addition, crews will remove material that fuels fire -- like brush and low-hanging tree limbs -- from five other places throughout the parks this year.

The swath of land affected started at 9,362 feet in elevation and sloped down about four miles to Mineral King Road at 5,800 feet. The terrain ranged from steep rocks to cluttered brush and forest.

Much of the area was the site of controlled burns four and eight years ago. One burn was called the Atwell fire and the other was called the Deadwood prescribed fire, so firefighters combined the names and dubbed this one the Atwood burn.

Firefighters from Sequoia, Kings Canyon and Yosemite national parks returned because some trees that were killed in those fires have tumbled over, increasing the likelihood of fires spreading rapidly, said park fire-education specialist Jody Lyle.

The remainder was burned to return an ecosystem to its natural state after decades of fire suppression. Normally, occasional fires wandered through the forest, burning down trees and allowing sunlight to reach the forest floor and new plants to spring up. The fire also cleaned up downed branches, pine needles and brush that accumulated on the ground.

"Now we're really approaching having that area being back to a normal fuel [level]," Lyle said.

Last July, the McNally fire scorched more than 150,000 acres outside the park, in two national forests and the Giant Sequoia National Monument. The blaze took six weeks to contain and rekindled a debate about how forests should be managed.

Some, including timber advocates, say loggers should play a larger role in thinning thick forests to reduce the threat of devastating wildfires, particularly on national forest land.

But most of Sequoia and Kings Canyon National Parks are designated wilderness areas where logging is restricted, leaving controlled burns as the major way to reduce wildfire risk.

Late June and early July were chosen for the controlled burn because it's a safe time to do it, Lyle said. High-elevation plants are still moist from spring rains and snow, she added.

"It wasn't burning that well because it was spring," said fire monitor Ted Young. "If we had lit that in the fall, it would have probably jumped our burn line."

About a year of planning preceded the burn. Plants and flammable material were cleared from swaths of land surrounding the area ahead of time so fires wouldn't spread.

When the San Joaquin Valley Air Pollution Control District gave the final go-ahead, about 61 firefighters hiked in or were dropped by helicopter on the top of the slope around June 24.

Because fire burns more quickly uphill than downhill, they started igniting at the top the next day.

Firefighters first "blacklined" the area, burning a ring around the area to keep the fire from spreading.

They then worked their way down the slope, lighting the area, dripping burning diesel and gasoline from the spouts of hand-held cans. A helicopter also dropped fire starters that look like flares and pingpong balls and ignite when they hit the ground.

Some giant sequoias were scorched during the burn but are still living. Sequoias have fire-resistant bark and need fire for their seeds to pop out and grow in a healthy nest of ashes, Young said.

"They are highly adaptable to fire," Lyle added. "Without it, we don't get the next generation of sequoias."

Throughout the burn, fire monitors watched the overall picture, making sure flames moved evenly and checking wind speeds and temperatures.

Nine monitors will remain at the site at least until Sunday. The trail from Atwell Mill to Paradise Peak will stay closed until further notice, but Mineral King Road and the Atwell Mill Campground are open.

"[We'll] kind of baby-sit it over the weekend and make sure it behaves," Young said.

The burn left a mixed landscape in its wake.

Because only undergrowth burned in some areas, it is not a blackened wasteland.

"You have some trees that look like sticks," said fire monitor Nicole Miller.

"There's still a lot of areas where it doesn't even look like a fire went through."

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Activists sue to halt Copper River push

By Mark Grossi
The Fresno Bee

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Health and community activists filed suit Thursday to stop the development of the 710-acre Copper River Ranch, claiming city officials have not adequately protected residents from air pollution hazards.

The Medical Advocates for Healthy Air and the League of Women Voters of Fresno are asking a Superior Court judge to set aside city approvals for the Copper River project's 2,837 residential units and numerous commercial structures.

The City Council a month ago approved the Copper River project over the objections of many doctors and health-care professionals.

"For years, only developers have made themselves heard, and nobody has questioned them," said Fresno lawyer Patience Milrod, representing the health and community groups. "We must speak out as a community and say that we will not allow them to harm us."

The lawsuit is disturbing to builders, said Jeffrey Roberts, representing Granville Homes, which is a Copper River builder and a defendant in the lawsuit.

Developers have worked through several Copper River studies and plans for more than a decade. Roberts said Copper River plans include such air-friendly features as a ban on fireplace construction, pedestrian trails, lanes for bicycles and places for electric cars to recharge. Construction probably would not begin for at least a year, Roberts said.

"We're designing the homes to encourage telecommuting so people don't drive to work," he said. "We're proud of our project."

City Planning Director Nick Yovino said he had not yet seen the lawsuit and could not comment on it.

However, he said the city stands behind its environmental work on the project.

"This project was a county-approved project at one time," he said. "But we need it on our northern boundary."

This is the second air-related lawsuit since November over the city's planning.

The first one, also filed by Milrod for the Medical Advocates group, was settled last week with the city agreeing to use more advance analysis in its 2025 General Plan. The city will spend \$1 million to connect transportation -- a major source of air pollution -- with land uses in an attempt to reduce vehicle traffic.

In the new lawsuit, health and community advocates said the city should have done more analysis of how much air pollution could be reduced at Copper River. The advocates called the developers' clean-air efforts "cosmetic."

The lawsuit, which also names Gary McDonald, William Tatham Sr. and Consolidated Land Co. as defendants, seeks to prevent builders from using the term "Clean Air Subdivision" in advertising.

In explanation, the activists refer to the environmental impact report for Copper River. The report says almost 1,000 tons of air pollutants would be produced annually after the homes and businesses are built in 10 to 15 years.

Of those pollutants, about 175 tons would create smog or ozone. The smog-producing emissions in such developments generally come from vehicles.

"You can't consider this a 'Clean Air Subdivision,'" Milrod said.

Two weeks ago, a Bakersfield developer settled a lawsuit with the Sierra Club over similar issues by agreeing to pay \$1,200 per unit. The money would be used on pollution reduction, such as converting public fleets of older diesel vehicles to natural gas.

Health advocates in Fresno said such a fee might be considered in the Copper River case, but they are not asking for it. Advocates said they are most concerned about residents who will suffer when the Copper River project is built.

One in six children has asthma in Fresno County, the worst rate in California.

Both ozone and small particles in dust, soot and other specks are known to trigger lung problems.

Residents would suffer at Copper River, north of Copper Avenue between Friant Road and Willow Avenue, because a local wind pattern would cause more pollution to drift into the air, the lawsuit alleges.

"We want to slow down development until we can catch up with all the medical effects we're seeing," said respiratory therapist Kevin Hamilton, a member of the Medical Advocates group.

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Clean air bills clear 1 hurdle

By VIC POLLARD, Californian Sacramento Bureau

The Bakersfield Californian
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SACRAMENTO -- Three bills by state Sen. Dean Florez to help clean up the air in the San Joaquin Valley have cleared their first hurdle in the Assembly.

Previously approved by the Senate, they passed the Assembly Natural Resources Committee last Monday. They are part of an eight-bill package of air quality bills being pushed by Florez.

One of the measures, SB 705, would phase out open-field burning of agricultural prunings and other waste.

The proposal is still the subject of discussions and negotiations by two task forces of farmers and other interested parties.

In response to their concerns, Florez said he amended the bill to delay the end of burning of grape vineyard prunings from 2007 to 2010. Burning of other waste products would end by 2005.

A companion bill to provide additional funding to speed the end of field burning, SB 704, also passed the committee.

It would make some \$6 million available from an existing state program to subsidize the burning of farm waste by biomass waste-to-energy plants. Plant operators say burning agricultural waste is more costly than using other kinds of waste such as wood from urban construction projects.

The third bill approved by the committee, SB 709, would give the San Joaquin Valley Air Pollution Control District power to set up fees to offset pollution from warehouse projects, subdivisions and other developments that would increase air pollution from additional traffic.

It would also allow the district to require businesses to set up ride-sharing programs and monitor pollution from diesel-powered irrigation pumps.

If passed, it would be the first time the regional district had authority to regulate mobile sources of pollution, now largely a state responsibility.

Spare the air today

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Air quality officials have issued a Spare the Air notice for today and Saturday in Kern County due to forecasted high pollution levels and hot temperatures.

The San Joaquin Valley Air Pollution Control District urges residents to avoid prolonged outdoor exertion due to the Spare the Air declaration, especially children, the elderly and anyone with breathing troubles.

In addition, residents are urged to help reduce pollution levels by driving less and avoiding the use of off-road vehicles, landscaping equipment and polluting consumer products.

Spare the Air notices occur whenever the air quality index is expected to exceed 150, considered unhealthy for everyone. For more information, call 1-800-SMOG-INFO or visit www.valleyair.org.

Tracy tire fire site ready to be cleaned up

By David Read, San Joaquin News Service, Lodi News Sentinel, July 7, 2003

Cleanup of the S.F. Royster Tire Disposal Facility, an illegally operated tire disposal yard south of Tracy that caught fire in August 1998 and burned until December 2000, should move forward later this summer.

Todd Thalhammer, an official with the California Integrated Waste Management Board, said the state Department of Toxic Substances Control will remove the top 12 to 24 inches of soil and ash at the site starting in late August or early September.

"Nothing grows out there, so obviously the ash at the site is sterile,"

Thalhammer said. "There's no way for a natural recovery, so the only way is to remove the ash and turn the site back to its former abandoned gravel pit self."

Silas Royster operated the unpermitted site for several years. During that time, he collected an estimated 7 million used tires that he was paid to dispose of. Thalhammer said he believes that Royster might have planned to sell the tires for some other use.

The Royster site is located in an abandoned gravel quarry that is between 35 and 50 feet deep. When a grass fire started on the 50-acre site, the fire quickly spread to the tires.

The unified firefighting command, consisting of local firefighters and dozens of state experts, decided against using foam and water to put the fire out for fear that the runoff might contaminate nearby groundwater.

The Command decided to allow the fire to burn itself out. The fire steadily diminished, and after more than two years, it became small enough for firefighters to put it out in December 2000.

In the meantime, Royster died. While the state has a judgment against his estate, there are no funds in it to clean up the site with.

In March, workers from the California Department of Substances Control started the cleanup. Chris Sherman, a manager with the Department of Toxic Substances Control, said workers began with a debris removal.

"There were several burnt-out vehicles and tire rims at the site," Sherman said. "We hauled out all of the metal debris."

Thalhammer said there were also somewhere in the neighborhood of 50,000 used oil filters at the site and several 55-gallon drums that workers had to haul away. The debris was taken to appropriate centers for disposal or recycling.

"It wasn't a large operation by any scale," Thallander said. "It took us two or three days to clean up. Now that we've taken care of all of those issues, we can concentrate on cleaning up the site. Compared to the nine months this will take us, two or three days doesn't even make us flinch."

New buses to use natural gas

By Alex Gronke, Record Staff Writer, July 7, 2003

Sometime in the next year, some of Tracy's diesel-powered Tracer buses will be sidelined by six new, longer buses, which will run on compressed natural gas.

Rod Buchanan, the city's transportation manager, said the new buses will be quieter, cleaner and will be paid for mainly with money supplied by the federal government.

With a population closing in on 70,000, Tracy was deemed an urbanized area in the 2000 Census. That means the amount of federal money the city's transportation department is eligible for every year jumped from about \$250,000 to slightly more than a \$1 million.

With an eye on that pot of money in Washington D.C., Tracy is looking at ways to grow its own modest bus system beyond the new compressed natural-gas buses, and the new \$1.2 million fueling station to keep the buses on the road.

This year, the city hired a consultant to predict what the city's public-transportation needs will be five years from now, when the population may hit 90,000, and a 530-acre high-tech business park could be rising on the west side of town.

The question, said Cliff Chambers, the Grass Valley-based transportation consultant, is whether or not it will make sense to make the investments needed to attract federal matching money.

For example, the federal fund will pay 80 percent of the cost of new equipment -- such as the new buses -- and 50 percent of operating costs. The new, compressed natural-gas buses are estimated to cost \$950,000.

Buchanan said the \$800,000 spent on the Tracer system in 2002-03 fiscal year came entirely from state and federal grants.

Buchanan said the city is looking at several improvements and expansions of both the fixed-route bus system, as well as the para-transit system which provides on-call service to seniors and disabled Tracyites.

In addition to expanding service into parts of Tracy not currently visited by the Tracer bus, city officials are considering bus shelters at some of the more-frequented stops, and turnouts for buses to pick up riders without holding up traffic behind them.

In 2002, the Tracer's fixed route, which courses through Tracy from the West Valley Mall to City Hall, served 47,000 passengers. Both Buchanan and Chambers expect that number to rise as the city's population grows.

Buchanan said the consultant is investigating the benefit of offering Tracer service to and from the Altamont Commuter Express station on West Linne Road.

Chambers said he expects the troubled state of the region's economy may also put more people on Tracy's bus system.

"If the one car is being used by the breadwinner," Chambers said. "The individual staying home will need alternative means of transportation."

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[Modesto Bee Editorial, July 5, 2003](#)

Try riding the bus -- it's cool and cuts pollution

Bus service is expanding in and through several Stanislaus County communities, offering better transportation access for residents without vehicles and a chance for others to Spare the Air. Effective Monday, Stanislaus Regional Transit will offer earlier and later runs between Riverbank, Oakdale and Modesto and more choices for residents on the West Side.

Ceres residents are seeing a significant boost in service with the addition of regularly scheduled weekday bus service. The city has had dial-a-ride service since 1977.

While many valley residents never get near a bus, many others depend on public transit. A 2002 county study showed that the availability of good bus service is critical for helping people move from welfare to work.

In these hot summer days in a valley plagued by pollution, there's another value in public transportation -- reducing smog, sparing the air, as they say.

If that doesn't sound appealing, consider that bus riders don't have to look for -- or pay for -- a parking space. And buses are cool the moment a rider steps in, not 10 minutes later and halfway home.

These benefits haven't meant much so far. For 2002-03, the number of people riding buses in Modesto was down about 9 percent, according to Modesto transit manager Fred Cavanah. That corresponds with a nationwide trend that is attributed to the declining economy.

Nonetheless, give it a try.

Schedules or links for all the county's transit services are available on the Web at www.srt.org. The approximate times for Modesto buses are posted at the stops.

[Fresno Bee editorial:](#)

Running out of time

Florez bill is the best way to meet EPA mandate, avoid sanctions.

The Fresno Bee

(Published Saturday, July 5, 2003, 2:55 AM)

There is a decades-old rule in state law that excuses California farms from a requirement that they seek air pollution permits for some of their operations. Other industries don't enjoy this privilege, and the federal government says agriculture must be treated the same way.

The U.S. Environmental Protection Agency is insisting on a repeal of the exemption for agriculture. It threatens severe sanctions against the state unless that repeal happens by Nov. 18. The mechanism on the table right now for doing so is SB 700, part of a package of clean-air bills offered by state Sen. Dean Florez, D-Shafter. SB 700 has cleared the Senate and is scheduled to go before the Assembly's Natural Resources Committee on Monday. It deserves quick approval and passage by the full Assembly.

Among other features, SB 700 would require farmers to obtain air pollution permits for diesel-powered irrigation pumps and for confined-animal feeding operations such as dairies, and would require local air districts to adopt rules to reduce or eliminate air pollution caused by operations such as harvesting, tilling or discing.

"California's efforts to address this issue are encouraging, yet now is the time for decisive action," said Wayne Nastri, EPA's administrator for the Pacific Southwest region. "The Clean Air Act does not exempt any industry from federal air quality permitting rules."

That's pretty clear, and the ag industry knows it's going to lose the exemption. But ag interests complain that Florez's bill goes further than necessary, and that simply meeting federal minimum standards is good enough.

We don't agree. Much more than the legal minimum is going to be required from every one of us before we start to breathe cleaner air in the Valley. Agriculture and its allied industries feel put-upon just now, and believe they are being singled out as the sole villains in the air quality problem. That's just not so. Ag operations are responsible for a significant amount of Valley air pollution, but we will all have to bear considerable cost and dislocation in this effort.

SB 700 is the right way to handle this particular part of the problem. It deserves support and swift passage.