

Revamped air plan approved

\$3.7m available to buy junk cars, build bike lanes

By Mark Grossi

Saturday, March 19 in the Modesto Bee & Friday, March 18, Fresno Bee

Local air officials plan to crush old cars, coax cities and others to build bicycle paths and encourage school districts and courts to attend meetings via telecommunication instead of driving.

This is the San Joaquin Valley Air Pollution Control District's latest assault on air pollution that comes from driving, and the effort will be bankrolled with \$3.7 million from motorists in increased vehicle fees.

The district's governing board Thursday approved a revamped version of a previous program aimed at reducing vehicle pollution.

Vehicles are the No. 1 source of smog-making chemicals in the Valley, which is among the dirtiest air basins in the nation.

The new program will offer money to encourage residents, businesses and public agencies to invest in pollution-saving strategies, such as commuter van pools. The \$3.7 million will be spread over six categories - telecommunications, bicycle lanes and paths, public transportation/commuter van pools, alternative-fuel mechanic training, clean-vehicle purchases and retirement of old, polluting vehicles.

The idea got rave reviews Thursday from a contingent of bicycle users at the air board meeting.

The district is inviting proposals for projects costing up to \$100,000 for bike paths and lanes in high-traffic areas such as employment centers, schools, colleges, and shopping centers.

"I have not owned a car since 1995," said Mark Stout of the Fresno County Bicycle Coalition. "The Valley is wonderful terrain for bicycles."

The program also will offer \$1,000 to \$3,000 for the purchase of a new alternative-fuel or hybrid vehicle. Only public agencies or nonprofit organizations will be eligible to get money for a hybrid purchase.

Applications for the new cars, the bicycle projects and all but one other category will be available in the next few weeks.

Call the district for details at (559) 230-5800 or visit the Web site at www.valleyair.org.

One category, retirement of older vehicles, will be delayed to work out details, including the amount of money available for each vehicle being purchased.

Officials tentatively say they would pay up to \$650 for a 1985 or older car, truck or van that is running, registered and passes the state's smog test. The idea is to scrap the car so it will not get back on the road.

But the \$650 figure might change, depending on the districts' negotiations with contracted inspectors. People will drive their older cars to the contractors, who will make sure the vehicles meet the guidelines for the program.

The district won't be ready to begin the contractor discussions until late in the year, officials said.

Air board member Susan B. Anderson, a Fresno County supervisor, said \$650 was not enough money.

"What is \$650 going to do for us?" she asked. "It's not even enough to get another high-polluting car."

Schwarzenegger promotes dirty vehicle cleanup in radio address

By DON THOMPSON, Associated Press Writer
Sun., March 20, Modesto Bee & Sat., March 19, S.F. Chronicle

SACRAMENTO, (AP) -- Given the visual limits of radio, Gov. Arnold Schwarzenegger couldn't feature the pyrotechnic-rigged smog-spewing beater car he'd seen crushed to a pancake at a suburban Sacramento auto yard Wednesday.

But the Republican governor nonetheless used his weekly radio address Saturday to repeat his proposal to remove 15,000 heavy polluting vehicles each year from the highways.

Schwarzenegger promoted a renewed program that offers \$1,000 to car owners who voluntarily retire older vehicles that cannot meet the state's smog control standards. The program also pays \$500 toward repairing vehicles to meet smog checks.

The buyback program, suspended two years ago for budget reasons, was revived last fall with a Democratic Assembly bill. The governor proposes to nearly quadruple funding to \$16.3 million next year.

So-called "gross polluters" account for about 10 percent of vehicles but half of car pollution.

"Every time we 'terminate' even one polluting car, we take another step toward cleaner air and protecting our environment," said the former bodybuilder still known as "The Terminator" from his movie star days. "Cleaner air helps us 'pump up' our economy, and it's good for the health of everyone in our Golden State."

Assembly Speaker Fabian Nunez, a Democrat from Los Angeles, used his weekly radio address to chide Schwarzenegger for budget proposals Nunez blamed for more than a thousand preliminary layoff notices sent to teachers statewide last week. Such notices are sent out routinely each year.

Schwarzenegger shouldn't renege on the additional \$2.3 billion he promised schools during budget negotiations last year, Nunez said.

"Thanks to the governor's budget and his attacks on teachers, there is a crisis of confidence among educators," Nunez said. "Democrats believe that it is time to stop shortchanging our schools."

Seeking greener pastures

Kern's dwindling Sierra Club battling negative image in search for new members

By SARAH RUBY, Californian staff writer
Sunday, March 20, Bakersfield Californian

They shouldn't agree on environmental issues. Nevertheless, Bakersfield native Jennifer Randel and her die-hard Republican father both believe in recycling. They miss living in cotton fields and almond orchards. They wonder where people expect food to grow as housing blankets Bakersfield's farmland.

But one topic stops their conversation: the Sierra Club.

"His immediate reaction is, 'They just show up to cause problems because they're anti-business,'" said Randel, 31, who recently joined the club.

Her father's isn't the minority opinion in Bakersfield, where despite dwindling numbers the Sierra Club is a political and legal force. But the club is gasping at the grass-roots level; new members aren't joining and even those that pay dues don't show up for events.

Regionally, the Sierra Club has fought off development, ski resorts and a nuclear power plant near Wasco. In recent years the chapter sued roughly a dozen home developers for polluting the air, raising more than \$3 million to combat construction dust and emissions from new traffic.

The chapter oversees five Sierra Club groups, which sprinkle hikes and social events with entry-level activism.

Randel is the youngest energized member of the Bakersfield group, a struggling 700-member club she didn't know existed until she sent her \$15 membership check to national. She answered the group's call for volunteers in January, and now she's one of seven people trying to overhaul grass-roots environmentalism here.

"It's not that I love animals so much," she said, explaining why she joined. "I just get a pain in my gut when I think of things ruining the environment."

Environmental underground

In Bakersfield, the activism rate among Sierra Club members is "like the survival rate for kamikazes," said Glenn Shellcross, a 68-year-old retired prison guard trying to stir up the faithful.

In January, he invited members to attend a "revitalization, reorganization and brainstorming session."

The message reached 1,677 through the Sierra Club's regional newsletter. Roughly 700 of them live in Bakersfield.

Seven showed up.

Slightly cheered by the small group he'd assembled, Shellcross held a social event soon after. He organized a breakfast with an expert on logging in the Giant Sequoia National Monument.

Nine people showed.

A few years back the club's events drew as many as 30 people. Most were young students and professionals, but they graduated or moved to new jobs more than a year ago. The club has been "flopping around" ever since, Shellcross said.

The Sierra Club isn't the only one. Along with the local Audubon Society and other "green" groups, it's seen as "too pink," too far left, even by self-described environmentalists.

Longtime Bakersfield resident Reba Cox, for one, collects cold water from her shower and sink while she waits for the taps to warm up. Later she irrigates her yard by the bucketful.

"Then I watch my neighbor hose off the whole neighborhood," she said with a laugh.

She recycles and shops at Lassen's, and even believes in some Sierra Club issues. She worries that immigration harms the environment, something the national Sierra Club grappled with last year.

Yet Cox would never join.

"They're too radical," she said. "I don't want anybody to tell me how to believe. I will volunteer and do whatever I can to change things I believe in. My way."

The club's national leaders are trying to figure out why people like Cox, and even their own members, don't get involved. They've launched studies and pilot programs nationwide to see what works.

The key is to create a community. In Atlanta, leaders launched "Beers and the Sierra Club" to keep the club light and relevant for younger members. To promote a film about oil drilling in the Arctic National Wildlife Refuge, the Sierra Club asked members to host house parties. They threw 1,000 parties across the country.

"If we build it, they do come," said Eric Antebi, national press secretary for the Sierra Club. "They're really hungry for that kind of experience."

Bakersfield on the cutting edge?

That dynamism hasn't trickled down to Bakersfield.

"People are insular now, more than ever," said Lorraine Unger, 62, who chairs the Kern-Kaweah Chapter of the Sierra Club. "We live here on very large lots. People recreate on their own property, they don't need to go to parks. When we lived in L.A. we used the parks because we all lived in apartments."

Glenn Shellcross worries Unger and other longtime members aren't supportive of a local club. They have a lock on local leadership, he said, and they might not want to give that up.

Working with the chapter is like having "a ball and chain around my feet," Shellcross said. "They could help by supporting us instead of quietly hoping we go away."

Most of Bakersfield's longtime Sierra Club members are active at the chapter level, which manages money from national -- currently about \$22,000 a year. They juggle statewide events with local City Council meetings, air district meetings and lawsuit negotiations.

The group has a different role. In most communities it leads hikes and hosts lectures. It eases new members into activism.

There's more than enough room for a group in Bakersfield, Unger said; the chapter gave Shellcross an award for his efforts to start one in 2000. But Bakersfield is a difficult place to attract and keep members, she said. It doesn't have a single issue that excites people, and most longtime activists accept the club's fate as a graying organization.

"The problem is (Shellcross is) doing it pretty much by himself," Unger said. "(The chapter leaders) just don't have the time."

Their time is better spent poring over air quality data than planning events, she said.

But most die-hard members got their start in groups. Unger met husband Arthur, 70, at club get-togethers in Marina Del Rey. Arthur was newly divorced and Lorraine was looking for an escape from the 9-to-5. They found each other on evening nature walks.

Shellcross wants that for Bakersfield. He sees the future in people like Jennifer Randel, who has her own ideas of how the club should grow.

The Sierra Club needs to shed its image as "a bunch of wackos," Randel said. She wants to recapture people put off by the decades-old dance between elected officials and a few token environmentalists. She calls it a "faux discussion," pitting environmentalism against economic growth.

"Wherever I go there are people complaining about the air quality," she said. "Maybe they don't feel they have an outlet. I've lived here all my life and what have I really accomplished? I've accomplished nothing by myself, and maybe joining a group will help me do something."

Valley economic help sought

Legislation calls for task force to coordinate aid to central San Joaquin

By Dennis Pollock

Saturday, March 19, Fresno Bee

The central San Joaquin Valley could get more clout to address its economic development challenges as a result of a bill introduced by Assembly Member Nicole Parra, D-Hanford, she said Friday.

Called the Central San Joaquin Empowerment Bill, Assembly Bill 31 would create an interagency task force to coordinate state agencies' actions in a seven-county region with a high jobless rate and median household incomes well below the median for the state.

Parra said the regional task force concept is patterned after one she helped develop at the federal level when she was district director for then-Rep. Cal Dooley, D-Fresno. That federal Interagency Task Force for the Economic Development of the San Joaquin Valley was put in place by a presidential directive.

She held news conferences in Fresno and Bakersfield on Friday to tell how the bill would help the region.

"The Valley desperately needs a coordinated effort in the area of economic development," Parra said, recalling a devastating citrus freeze in 1998 when state and federal government agencies banded together to help the region. "After nine months, they went away," she said.

The bill has the backing of counties that include Fresno, Kern, Kings, Madera and Tulare, more than a dozen cities and other civic groups.

Parra and Mayor Alan Autry, who also spoke at the Fresno news conference, have been meeting with Gov. Schwarzenegger and his staff to urge him to create a regional task force with an administrative order.

"This has been very well-received by the governor, and if he signs an executive order, I will pull my bill," Parra said. The bill calls for creation of the task force on Jan. 1, 2006. An executive order could be acted on immediately.

Peter Weber, co-chairman of the Regional Jobs Initiative, said, "We are supportive of whatever path will get us there the fastest."

Weber said that if the seven counties - Kings, Merced, Kern, Madera, Stanislaus, Fresno and Tulare - were a separate state "it would be the 23rd largest state. It would have the highest rate of unemployment. It would have the lowest per capita income and the highest rate of poverty in the Union."

Because of such common challenges as joblessness, low education levels, [poor air quality](#) and lack of access to health care, Weber believes a regional approach to problem-solving is needed.

Fresno City College instructor Mark Trezza brought more than 50 students in his political science class to hear Parra and others explain how the legislation would work. Several speakers commented on the students' presence and their future.

"We need to ensure that jobs will pay enough to keep you here," said Assembly Member Juan Arambula, D-Fresno, a co-author of the bill and the chairman of the Assembly's Jobs, Economic Development and the Economy Committee.

The bill's principal co-author, Assembly Member Kevin McCarthy, R-Bakersfield, participated in the Bakersfield news conference.

Rollie Smith, with Housing and Urban Development in Fresno and director of the federal interagency task force, told the students the region faces a stark choice: "We can be a bedroom community for two economic engines, the Bay Area and Los Angeles, and we will be the service sector. Or we can be this third region, a powerful engine capturing all of your talents and keeping you here."

Smith said the federal task force has channeled about \$150 million in additional money into the region.

"I know some of you may look forward to seeing Fresno in the rearview mirror," Autry told the students. "But we need to build a city and region you'll want to come back to."

David Spaur, president and CEO of the Economic Development Corp. serving Fresno County, said the region "needs a task force that can respond instantly, like a SWAT team."

Asbestos test results set for April release

The EPA is expected to reveal data from 500 samples taken at schools, park in El Dorado Hills

By Walter Yost

Sunday, March 20, Sacramento Bee

The Environmental Protection Agency has picked a tentative date to discuss test results for naturally occurring asbestos at three school sites and a community park in El Dorado Hills.

Officials of the federal agency reserved the El Dorado Hills Community Services District gymnasium for the April 22 public meeting. An exact time for the evening meeting hasn't been determined.

Jere Johnson, EPA site assessment manager, told members of the local asbestos Citizens Advisory Group on Wednesday that her agency hopes to have enough test samples validated by the meeting date.

"We're still getting data back. We're still taking a look at it," Johnson said. More than 500 test samples were gathered last fall.

A fact sheet on the test results will be mailed to the El Dorado Hills community within the next two weeks, she said.

The EPA conducted activity-based air and soil sampling to gauge residents' exposure to naturally occurring asbestos, especially children's exposure.

Samples were collected on the dirt baseball diamonds and children's playground at the El Dorado Hills Community Park and on sports fields at Jackson and Silva elementary schools and Rolling Hills Middle School.

Technicians wearing protective suits and carrying portable air monitors simulated typical outdoor recreation at the sites. Sampling at the three school sites was done on weekends when students weren't on campus.

EPA officials said they don't know whether the test sites contain asbestos but suspect the areas could be contaminated based on their proximity to the West Bear Mountains Fault. Asbestos sometimes forms in narrow cracks caused by movements along earthquake faults.

EPA officials say the test results should give El Dorado Hills residents a better idea, but not certainty, about their exposure or risk of disease.

Some members of the Citizens Advisory Group debated holding a public meeting before all the test results have been validated.

El Dorado Hills resident Al Vargas questioned whether scheduling the meeting April 22 was "too ambitious."

"We will go to the public even if we don't have all the data," Johnson replied. "We can't sit on data for six months until every 'i' is dotted."

Chris Anaya, another committee member, said informational fliers should be distributed to students at all three schools before the meeting.

Silva Valley and Rolling Hills are in the Buckeye Union School District, and Jackson School is in the Rescue Union School District.

"People with children are the ones who have the biggest interest," Anaya said.

Scientists say children are especially vulnerable to health risks from exposure to naturally occurring asbestos because their breathing rate is higher and their breathing zone is closer to the ground.

Naturally occurring asbestos does not pose a health threat if left undisturbed, but when it is released into the air through grading and construction, it can raise the risk of cancer.

Man baffled by planners' decision

MISTY WILLIAMS, Californian staff writer
Sunday, March 20, Bakersfield Californian

Flat, dry and full of weeds, Ken Kerr's property along Taft Highway isn't fit for agriculture. But county planners said he shouldn't use the land just west of Interstate 5 for industrial purposes -- at least not yet -- though it's not suitable for much else.

Building prematurely along the highway corridor without planning out infrastructure needs like sewer, water and roads could set a bad precedent, said Kern County planner Jim Ellis.

"It may open the floodgate to other requests," Ellis said.

The area needs to be master-planned first, he said.

Kerr wants to use the 40-acre site as equipment yards for local construction companies and other businesses. At least 20 people have already shown interest, Kerr said.

It would cut down on travel time, not to mention traffic, for those trekking between Bakersfield and Taft every day, he said.

Kerr, who has owned an equipment company in Taft for nearly 20 years, bought the land a few years ago for agricultural purposes.

"As time went on, we found nobody wanted to be out there for ag," he said. "It's really bad soil."

But on Feb. 24 the Kern County Planning Commission disapproved his application for a land-use change from agricultural to industrial at the site, calling the project leapfrog development.

The water and sewer connections needed for that kind of growth just aren't there yet, said planning commissioner Kay Pitts, who voted against the project.

The opposition shocked Kerr, who owns 160 acres total in the area.

Two gas stations already lie to the east, and industrial buildings would produce very little sewage, he said.

Kerr said he's spent around \$10,000 on studies and fees and has met all of the county's criteria.

Creating a master plan for the entire area would take another two or three years, and there's no guarantee the county would approve it, he said.

Historically, the county has shown support for similar projects, but it's now beginning to plan more wisely and look at long-term ramifications, Pitts said.

"Just because we've done it in the past doesn't mean we should do it now," she said.

Outsiders are finally noticing Kern County and seeing it as a desirable place to live, she said. Kern needs to discriminate about what's allowed within its borders, the commissioner added.

"We're recognizing now that we have value," she said.

Commissioner Ron Sprague supported the project.

The sewer needs would be miniscule, Sprague said, and there's no other good use for that land.

Plus, there's a need for oil field service facilities between the two cities, he said. Trucks driving once rural roads like Rosedale Highway and District Boulevard are creating more traffic and [air pollution](#), he said.

Taft Highway traffic is bumper-to-bumper during rush hour, said Charles Beard, who owns a construction company in Taft.

That means extra drive time -- sometimes 40 minutes each way -- for about 65 employees traveling between Taft and Bakersfield, Beard said.

"That land out there will not grow anything," the businessman said. "It's perfect for what he's wanting to do."

Kerr is appealing the commission's decision at the Board of Supervisor's April 5 meeting.

"We're hoping they see the light and override staff on this project," Kerr said.

Valley farmers grow more with less

By TIM MORANBEE STAFF WRITER

Saturday, March 19, Modesto Bee

The popular "survivor" reality shows have nothing on farmers in the Northern San Joaquin Valley.

Farmers are the ultimate survivors. Squeezed by urban development, faced with flat prices as well as rising environmental and labor costs, they have found ways over the past decade to grow more with less — boosting production and income.

It's not easy, though. "It seems like the small farmer is an endangered species," said Turlock dairy farmer Carlos Estacio.

The dairy industry, as an example, has become more robotic and computerized in an effort to cut labor expenses in the face of rising workers compensation costs, Estacio said.

Smaller dairy operations are disappearing as technology and economies of scale make 1,000-cow and up dairies the norm, he said.

Ed Perry, interim director of the University of California Cooperative Extension Office in Stanislaus County, said technology has been a force of change in agriculture over the past decade.

Farmers are using chippers to handle prunings and brush as burning is phased out; drip and sprinkler irrigation systems to conserve water; and computerized tractors and harvesting equipment to boost efficiency, Perry said.

Pesticide use has changed greatly in the past decade in the face of concerns about chemical contamination of water and air, Perry said.

New pesticides have less of an effect on the environment and dissipate more quickly. Integrated pest management techniques have reduced the use of chemicals.

Chemicals target specific pests

Research into the life cycles of pests and diseases allows farmers to target critical times to attack problems, Perry said.

But all the new regulations and the technology to deal with them aren't cheap, Perry added.

"It comes with pretty high costs. Maybe it involves new equipment or ways of operating, or new permits. The cost of farming continues to go up and up, not only the price of fuel and labor, but the cost of adjusting to environmental regulation," Perry said.

At the same time, the price of farm products has not increased to keep pace, Perry said.

Farmers aren't against efforts to clean the air and water, they emphasize.

"We are environmentalists," Estacio said. "People should know that. We have to live out here. Why would we make things worse?"

Perhaps the biggest threat to valley farmers is urban encroachment, Perry added.

Farmers struggling with the added costs of doing business get offers from developers that are hard to refuse.

David Robinson, the agriculture commissioner in Merced County, said he's seen planning documents that show an unbroken urban strip along Highway 99 running from Merced to Stockton in fifty years.

"That's going to have an impact on agriculture. That's prime farmland," he said.

Modesto has been experiencing a population explosion and loss of farmland, and it is beginning to happen in Merced, Robinson said.

Growing urban-rural conflicts

In addition to the loss of farmland, it creates conflicts between the remaining farmers and their new urban neighbors, he added.

"Competition between urban areas and agriculture for water will get worse in the future," Robinson predicted.

But the problem isn't just preserving the land, according to Joe Petersen. A wine grape and cherry grower in San Joaquin County, he also is the program manager for that county's farm bureau.

"Preserving ag land is a very important thing, but without the family farmer, working farms and ranches, saving the land doesn't do anything. We have to save working farms and ranches," Petersen said.

That means making sure those farms remain economically viable, he added.

Diana Westmoreland Pedrozo, executive director of the Merced County Farm Bureau, sees an irony between the air and water quality demands on agriculture and the seeming lack of concern about urbanization.

"When Los Angeles paved over its farmland, did their air and water quality get better?" she asked.

Another factor threatening agriculture is a lack of interest among younger generations, said Ron Macedo, a Turlock almond grower.

"How do we get young people involved? It's hard work, you borrow money to make it, but there is no better lifestyle than on the ranch," Macedo said.

Macedo has three children and they haven't expressed interest yet in farming, he said.

"They see the frustrations and the battles. Still, to me, it's all worth it," he added.

Petersen agreed, but said that if farming becomes a dead-end career choice, he would be a poor parent to recommend it to his children.

"I love what I do. We get up early in the morning, work until late at night, we get dirty. But if we can't send our kids to college or make ends meet, a lot of farmers are going to say, 'Son, daughter, things don't look too good. Go to college and become a teacher,'" Petersen said.

Despite the challenges, farmers and ag officials are optimistic.

"I think we have to be," Perry said. "We have to believe ag will still be an important part of the economy 10, 20, 30 years in the future.

"Ag is going to be here for a long time. Without it, I wouldn't be real optimistic about the economy of the county or the valley," Perry said.

Recent promises of cooperation between Stanislaus County and cities on land use are a hopeful sign on stemming the loss of farmland, Perry said.

The character of the people who farm bodes well for the future, Robinson added.

"They are tenacious. They like the lifestyle and want to stay in this business. These are tough people, they are going to survive for a long time," he said.

Macedo remains an optimist

The challenge for the future, Macedo said, is educating the public about where their food comes from and the importance of maintaining local production.

The public demands strict environmental and safety regulations here, Macedo said, but then doesn't seem to care where the food comes from when they shop.

"This is the most affordable and safest food in the world. We need to protect that at all costs," Macedo said.

Valley farmers don't need subsidies, he said, but they do need a level playing field to remain competitive.

Macedo said he is optimistic, as well.

"We are going to get that message out, and people will realize how valuable agriculture is to the state and the country," he said.

"We will be able to remain competitive. It won't be easy, but we will be able to do it."

Hilmar pollution case has state talking tough

Regulators pledge tighter oversight after cheese plant problems

By CHRIS BOWMAN THE SACRAMENTO BEE

Saturday, March 19, Modesto Bee & Sacramento Bee

SACRAMENTO — Citing published reports of pollution from Hilmar Cheese Co., state water-quality regulators are preparing plans to strengthen enforcement throughout the Central Valley.

Officials with the state Central Valley Regional Water Quality Control Board said Friday that the recent Sacramento Bee investigation of Hilmar Cheese pointed up not only the perennial need for more inspectors, but also a lack of leadership in setting enforcement priorities and sticking to them.

"The thing so frustrating about Hilmar is that we employed so many staff on that operation, and we hadn't achieved the enforcement objective," said Christopher Cabaldon, a water board director.

Staff members with the board's Fresno office said they spent more hours policing Hilmar's disposal of milky leftovers than on nearly all of the 800 other valley food processors and wineries permitted to spread organic waste on land.

Regulators logged thousands of violations against Hilmar Cheese, making it one of California's most chronic offenders of clean-water laws. Yet, for years, not one fine or injunction was issued. Instead, officials kept raising the limit on waste-water volume at the company's request, as daily cheese production grew to a million pounds.

After publication of the story Dec. 12, a co-owner of the cheese plant, Chuck Ahlem, announced his resignation as the state's agriculture undersecretary, saying he needed to tend to his company's waste-water issues.

The same day, Jan. 28, the board's executive director, Thomas Pinkos, issued a record \$4 million fine against Hilmar Cheese. The enforcement action is for 1,039 days of pollution violations since January 2002, as the company flushed high volumes of milky waste water onto land, fouling air and water supplies.

The chairman of the Central Valley water board, Robert Schneider, cited the Hilmar case Friday as he opened a hearing on improving enforcement.

"Starting with The Sacramento Bee story, we intend to address the specifics some, but also we want to address the systemic issues, and how we can do a better job," Schneider said.

Regulators cover wide area

The Central Valley water board is charged with protecting rivers, streams, lakes and groundwater from Redding to Bakersfield.

The board's task is daunting: waste water from thousands of sewage treatment plants, runoff from 7 million acres of irrigated farmland, storm water drainage from cities and construction sites, leakage of underground gasoline storage tanks, dredging of the Sacramento-San Joaquin Delta and disposal of food processing waste on land, as in the case of Hilmar Cheese.

The pressure for enforcement reform comes not only from exposure of the Hilmar case, but also from Gov. Schwarzenegger's appointees to the state Environmental Protection Agency.

After an extensive assessment of Cal-EPA's many boards and departments, administration officials issued an "enforcement initiative" in November directing staff to consolidate data-bases on regulated businesses; rewrite ambiguous permits; and form a Cal-EPA "intelligence team" to pursue complicated environmental crimes such as falsification of pollution tests.

At Friday's hearing, directors of the water board learned that the state database for tracking water pollution enforcement is unreliable because each of the state's nine regional water boards enter data differently, and some sporadically, according to Kelly Briggs, enforcement coordinator for the Central Valley region.

While state enforcers conduct periodic inspections, they rely mostly on an honor system where companies conduct their own sampling and testing of waste water.

The enforcers, however, are not educated in detecting fraudulent test reports, Briggs said.

"The very integrity of this (enforcement) system is dependent on self-monitoring, and criminal conduct is not part of the staff's expertise," Briggs said.

To correct these problems, staff is undergoing training in environmental crimes and managers have designated certain staff to work exclusively on enforcement issues, Briggs said.

In addition, top managers at each of the board's offices in Sacramento, Redding and Fresno will together set enforcement priorities rather than leave it to

lower-level inspectors and supervisors, said Ken Landau, an assistant executive director in Sacramento.

Schneider, the board chairman, called the reforms "a good start."

Kern, Chevron settle MTBE case

NADA BEHZIZ, Californian staff writer
Saturday, March 19, Bakersfield Californian

Kern County has settled for millions less than initially demanded in a suit against Chevron for dumping water contaminated with a controversial gasoline additive into a west Kern oil field. A judge on Friday finalized a \$310,000 payment from Chevron to end the suit, instead of the \$4.75 million it originally sought.

Deputy District Attorney John Mitchell said the county agreed to the settlement after an investigation proved Chevron's actions were unintentional.

"We determined that it was honorable people who made an honorable mistake," Mitchell said.

An investigation by Comex, an independent firm, found that the water tainted with MTBE did not pose a threat to the county's groundwater or to the public's health.

The initial complaint filed by the District Attorney's office charged that Chevron disposed of more than 4 million gallons of tainted water in the Cymric oil field near McKittrick between Nov. 7, 2000, and April 1, 2002.

The tainted water was turned into steam and injected into oil wells to soften the thick crude oil and make it easier to pump.

This was done without the required permission of the state's Division of Oil, Gas and Geothermal Resources. Normally, a sample of the water would be tested for safety before being used.

Chevron officials said they thought they had obtained approval and did not deliberately bypass the state entity.

It was an internal miscommunication, said Carla Musser, spokeswoman for Chevron.

The water containing MTBE was trucked in from Cambria, a coastal town near Hearst Castle about 100 miles northwest of Bakersfield.

It was pumped out of the ground beneath a former Chevron service station, where gasoline containing MTBE had leaked from an underground storage tank.

A suspected carcinogen, MTBE has been added to gasoline in California for years to make it burn cleaner and reduce [air pollution](#) from vehicle emissions.

Along with the \$310,000 settlement, Chevron will give, as a form of restitution, \$30,000 to the Valley Fever Vaccine Project and another \$30,000 to the Western States Project Training Fund.

Wal-Mart's California Supercenters delayed by environmental suits

By JIM WASSERMAN, Associated Press Writer

Sunday, March 20, S.F. Chronicle

As Wal-Mart Stores, Inc., tries to plant dozens of new Supercenters in California, lawyers aligned with opposition groups the company calls fronts for labor unions and competitors are using California's tough environmental laws to stall the nation's largest retailer.

From rural Northern California to the crowded south, a handful of lawyers have sued more than 30 cities that approved the 200,000-square-foot combination grocery and department stores, claiming that local officials hungry for sales taxes have miscalculated their environmental consequences.

In many cases, these suits have been filed on behalf of obscure, often-secretive, community groups that have few known members. Some of them have been backed by the labor unions leading an anti-Wal-Mart fight in California, while others have few apparent sources of money.

They're delaying the opening of some stores by months or years and slowing Wal-Mart's plan to build up to 40 new Supercenters in a state that's one of the company's few major U.S. growth opportunities. The suits also come at a time when the unions representing grocery store workers, primarily the United Food and Commercial Workers, and Wal-Mart's competitors are worried about the effects of the low-price behemoths in California.

Last year, rival grocery store chains locked out their union workers in Southern California as they attempted to negotiate new contracts that would allow the companies to better compete against Wal-Mart's lower wages. That prompted a 4 1/2-month strike that caused losses of at least \$300 million for the rival chains.

The suits haven't stopped the company from opening any stores, said Peter Kanelos, a company spokesman. "All they've done is delay the stores."

At least seven attorneys throughout California have filed lawsuits that claim the new stores violate the California Environmental Quality Act, a strict 1970 law signed by former Gov. Ronald Reagan. The law, which is frequently used by development opponents in California to force delays, drive up costs and discourage developers, has tougher requirements for analyzing environmental impacts than most other states in which Wal-Mart operates.

While not all the lawsuits filed on behalf of groups such as Maintain Our Desert Environment, Communities Against Blight and Citizens for Sensible Traffic have prevailed, Wal-Mart has so far opened only three Supercenters in California. Many other stores approved by California cities are tied up in the lawsuits.

While Texas has more than 200 and Florida more than 100, California has only three of Wal-Mart's 1,700 Supercenters nationwide. Another three are under construction in California.

Craig N. Beardsley, a Bakersfield lawyer who has dueled with the anti-Wal-Mart forces, said, "Their whole purpose is to delay, delay, delay, cause turmoil and hope to get Wal-Mart to go away."

Beardsley represents one of California's biggest developers, Bakersfield-based Castle & Cooke Inc., which saw its local Wal-Mart Supercenter halted last year during construction. Its four blank walls and roof now stand next to other thriving newly opened stores.

"Maybe two years from now we will build a store," Beardsley said.

A judge in Bakersfield sided with a law firm that has filed nine lawsuits against Wal-Mart's Supercenter proposals in the Central Valley. The firm's attorneys argued that the city underestimated traffic and [air pollution impacts](#) of two Supercenters, as well as potential physical

decay citywide as Wal-Mart caused other businesses to close and leave shopping centers vacant.

The first-of-its-kind ruling on physical decay - backed by a state appeals court - has thrown up even higher environmental hurdles for California cities considering Wal-Mart Supercenters.

It's also encouraged opponents of Wal-Mart Supercenters in other states, said Stockton attorney Steve Herum, who challenged the two Bakersfield Supercenters and eight others.

Beardsley and Wal-Mart say such lawsuits in California are being backed by the United Food and Commercial Workers union, which is fighting Wal-Mart's entry into the state's grocery market and fearing it will put downward pressure on wages and put stores where its members work out of business.

"No one will admit anything and I couldn't swear on a stack of bibles that that's the way it is," Beardsley said. "But we all believe that to be true."

The UFCW, a 1.4 million-member union of grocery store workers, is one of Wal-Mart's biggest foes nationally, claiming that nonunion Supercenters with prices estimated at 17 to 20 percent lower than other stores threaten their jobs. The union's Web sites are filled with anti-Wal-Mart sentiment and the union's members show up at California's city halls to oppose Supercenter plans.

Union spokeswoman Jill Cashen acknowledged the union backed "four or five lawsuits in California" but said there are another 25 or 30 suits in which UFCW isn't involved. "The fact is there are many people in every community who are concerned about their expansion. We're certainly not alone. We're part of a broader movement of people from lots of different walks of life and motivations."

Typically, California's anti-Supercenter lawsuits are filed on behalf of a local community group that often doesn't disclose who belongs or where it gets its funding for the court challenge.

"Right now some of the people in this group want to remain anonymous," said Brad Morgan, a businessman in Selma who heads the anti-Wal-Mart group, Save Our Selma.

Morgan, who said a Supercenter could cause business failures through his city, also declined to say how much money that group has raised.

"We've had other CEQA battles and we've dealt with other citizens groups," Beardsley said. "They're proud to stand up and say what they are, like the Sierra Club. You can negotiate with them. With Bakersfield Citizens for Local Control, you haven't a clue who they are."

Under the CEQA law, one person who testified against the project during a city planning commission or city council meeting, can be a community group for purposes of a legal challenge.

Herum declined to say who pays for the suits and that he's never represented a union in 25 years of practicing law.

But "if my interests happen to align with the labor union, so what?" Herum said, adding that Supercenters have potential to "destroy the economic future of the Central Valley."

Wal-Mart, Herum said, is just attacking its opponents because it can't win in court.

Company spokesman Kanelos disagreed, saying the company respects California law and its legitimate use.

"Our concern is that there is no one watching the abuse of CEQA by interest groups whose interest in environmental protection is limited to their own political agenda," Kanelos said.

Emissions suits bring record payout

ENVIRONMENT: Oil giant BP OKs a \$106 million settlement over pollution at a Carson refinery

By DAVID DANELSKI

Friday, March 18, Riverside Press

In a major victory for air-pollution regulators, British Petroleum will pay \$106 million in the largest legal settlement ever with Southern California's air pollution agency, company and agency officials announced Thursday.

The settlement ends two lawsuits filed by regulators over pollution from the BP West Coast Products refining plant in Carson, where neighboring residents have complained for years about hydrogen sulfide and other emissions from the facility just west of Interstate 405.

Hydrogen sulfide pollution, which smells like rotten eggs, has drifted to as many as 17 schools, said Barry Wallerstein, executive director the South Coast Air Quality Management District. In 2003, three schools went into lockdown to protect students from the hydrogen sulfide gases, which can cause nausea, headaches and asthma attacks.

"It was critical that we send a strong message that no matter how small or large the company, you will comply with the air-pollution regulations," Wallerstein said in a telephone interview. "The settlement should serve as a strong deterrent."

A BP spokesman said the company and the air district differed on how to interpret complex regulations. It settled to avoid costly, protracted and distracting litigation.

"We are quite pleased that we have been able to cooperatively put the matter behind us," said Phil Cochrane, a spokesman for BP America.

"We have not made an admission of liability or wrongdoing," he said by telephone. "We have emissions that meet and continue to meet the requirements. Our staff was checking for leaks and we were making repairs."

But Wallerstein said many violations were well documented. "You don't pay out \$106 million unless there is a problem," he said.

The settlement is worth roughly the same as the air district's annual budget.

"A settlement of this size certainly will get the attention of the regulated community," said Timothy Malloy, a UCLA law professor and a former attorney for the U.S. Environmental Protection Agency.

"This is a big penalty, even for a federal EPA case."

It requires British Petroleum, one of the largest oil companies in the world, to pay the air district \$31 million in cash, which includes \$25 million in penalties and \$6 million in past emission fees, according to the air district.

The company will pay another \$30 million over 10 years to fund programs for asthma diagnosis and treatment.

Wallerstein said he expects to see new asthma clinics, including mobile clinics operating out of vans throughout the air-district's jurisdiction, which includes western Riverside and San Bernardino counties.

The company will further spend \$25 million to replace a "sour water" waste system that has been the source of hydrogen-sulfide pollution. The system removes the toxic chemical from refinery wastes. Another \$20 million must be spent on other pollution controls at the plant, Wallerstein said.

The settlement dwarfs the air district's previous biggest settlement: \$17 million by AES Alamos for exceeding its power-plant pollution limits in 2000.

The air district alleged in two suits, the first filed in 2003, that the BP facility exceeded limits for volatile organic compounds, a precursor of the smog that regularly blows into Inland areas, Wallerstein said.

The district also alleged that BP and the Atlantic Richfield Co., which has since merged with BP, did not properly inspect and maintain above-ground storage tanks.

Wallerstein said the company did not keep track of pollution from flares, valves and thousands of other parts that could be sources of pollution.

The air district spent about \$5 million in outside legal fees to pursue the lawsuits in Los Angeles Superior Court.

BP's Cochrane said that volumes of complex technical arguments had been filed in court and the company is happy to have the dispute resolved.

"We recognize the need to be good neighbors ... ," he said. "We want to continue in the spirit of cooperation."

The Associated Press contributed to this report.

Coal-Fueled Power Plant OKs Pollution Deal

By MALIA RULON, Associated Press Writer
Friday, March 18, S.F. Chronicle

WASHINGTON (AP) -- An Ohio company will pay \$1.1 billion in fines and cleanup costs at four power plants in the second-largest federal settlement with an electric utility over air pollution.

The case, filed in 1999 against FirstEnergy Corp.'s W.H. Sammis plant north of Steubenville, was the first involving dozens of Midwest plants to go to trial over accusations that the plants spewed dirty air that caused smog and health problems across the Northeast.

A federal judge in Columbus, Ohio, ruled in August 2003 after a three-week trial that Akron, Ohio-based FirstEnergy had violated the Clean Air Act by making physical changes at its coal-fired plant without upgrading pollution controls.

Friday's agreement, which involved the Environmental Protection Agency, Justice Department and New York, New Jersey and Connecticut, completes the penalty phase of the case.

"This is a great result for the health of all the people who live downwind from this power plant and for the environment of the Northeast," said Thomas L. Sansonetti, assistant attorney general for environmental issues at the Justice Department.

The agreement - which still must be approved by U.S. District Judge Edmund A. Sargus Jr. in Columbus - would lead to an annual reduction of 212,000 tons of sulfur dioxide and nitrogen oxide, emissions blamed for acid rain, one of the largest reductions in emissions ever.

That represents about 80 percent of the pollutants coming out of the Sammis plant, which must install by 2012 pollution controls on all seven of its units, said Thomas V. Skinner, EPA's acting assistant administrator for enforcement and compliance.

Additional reductions would be achieved by installing pollution control equipment at two other FirstEnergy plants: R.E. Burger plant in Shadyside and Eastlake plant in Eastlake. Sulfur dioxide scrubbers will be updated at the company's Bruce Mansfield Plant in Shippingport, Pa.

"This builds on the significant progress we have been making to protect the environment while resolving uncertainty," FirstEnergy president and CEO Anthony Alexander said in a statement.

The settlement also includes \$8.5 million in civil penalties, the second highest ever.

The highest civil penalty ever levied against an electric utility over air pollution was \$9 million, lodged March 7 against Dynegy Inc.

A case against Virginia Electric Power Co. was settled in 2003 for an estimated \$1.2 billion total cost to achieve 237,000 tons in pollutant reductions.

Environmentalists praised the settlement, saying such a reduction in pollutants would not have occurred had Congress passed President Bush's clean air plan allowing power plant owners to buy pollution "rights" from other utilities.

"This cleanup settlement is graphic evidence that the Clean Air Act is working, as long as it is aggressively enforced," said Frank O'Donnell, president of Clean Air Watch.

However, Scott Segal, director of the Electric Reliability Coordinating Council, an industry group, said the five years it took to reach a settlement is evidence that current compliance methods are inefficient. This is the ninth of 15 similar cases to settle.

The settlement also requires FirstEnergy to pay \$25 million for environmental mitigation projects; \$14.4 million for wind power projects in Pennsylvania, New Jersey and New York; \$10 million for environmental projects in New York, New Jersey and Connecticut; \$400,000 for a solar power project in Allegheny County, Pa.; and \$215,000 for an environmental project at Ohio's Shenandoah National Park.

Ohio Power Plant Agrees In Settlement To Cut Emissions

Friday, March 18, Associated Press

ALBANY, N.Y. - An Ohio coal-fired plant with a 1,000-foot smokestack that sends emissions eastward has agreed to cut its air pollution by at least 70%, under a settlement with New York, New Jersey and Connecticut.

The W.H. Sammis plant in Steubenville, Ohio, was accused of being one of the nation's dirtiest coal-fueled power plants, according to the settlement with New York Attorney General Eliot Spitzer, Connecticut Attorney General Richard Blumenthal and New Jersey Attorney General Peter Harvey.

Under the settlement, the plant's operator, Ohio Edison, agrees to pay \$8.5 million to the federal government; will spend \$10 million over five years on clear air and alternative energy projects in New York, New Jersey and Connecticut; will install pollution controls at other plants; will pay \$400,000 to Allegheny County in Pennsylvania for solar projects, \$215,000 to the National Park Service for environmental monitoring projects and fund the development of nearly 100 megawatts of wind power in western Pennsylvania.

One of the plant's smokestacks is 1,000 feet high, nearly as tall as Manhattan's Chrysler Building.

The settlement follows the states' lawsuit begun in 1999 and joined by the U.S. Environmental Protection Agency. In 2003, a federal judge in Ohio ruled Ohio Edison, a unit of FirstEnergy Corp. (FE), violated the federal Clean Air Act. A second trial was scheduled to determine how much the utility would pay.

"This is a huge victory for anyone who breathes," Spitzer said Friday. "The sole purpose of these (tall smokestacks) was to send the pollution into the air stream to New York" and the Northeast.

Harvey said the settlement "is a powerful affirmation that corporate polluters cannot defy the law and profit at the expense of the environment and the health of our residents."

He said the settlement will especially benefit children with asthma, the elderly and people with respiratory problems.

There was no immediate comment from Ohio Edison.

Ethanol plant to break ground

By Cal Tatum

Thursday, March 17, The Madera Tribune

With rising gas prices, the strong national desire to reduce our dependency on foreign oil, and cleaning up the air, ethanol has quickly become more desirable. At least that's what Madera-based Pacific Ethanol is counting on.

In June 2003 Pacific Ethanol purchased a grain receiving, processing and storage facility on 137 acres on Avenue 12. Pacific Ethanol purchased the facility because it has 50,000 tons of grain storage, an automated feed mill and two rail lines that can handle up to 164 rail cars at the same

time.

The plan to build the first large-scale ethanol production facility in California was underway. The company, founded by former Secretary of the State of California, Bill Jones, then began the permitting process. The facility now has, according to Pacific Ethanol's web site, all their state, regional, and local permits.

They are planning to break ground early in April.

According to Pacific Ethanol, the plant will eventually produce 35 million gallons of ethanol, but it will go beyond just making the fuel additive. They are planning to partner with another company to capture and bottle CO₂, a byproduct of processing ethanol. The company has estimated that they will be able to bottle and sell 100,000 tons of CO₂.

Another byproduct of the process is wet distillers grain, used in the cattle industry to improve the health of livestock and enhance milk production. The plant, according to Pacific Ethanol, will produce 290,000 tons of wet distillers grain.

On their website, Pacific Ethanol said, "Pacific Ethanol will be a good neighbor for Madera and the surrounding Central Valley agricultural community. Our ethanol plant will benefit the local economy, creating new jobs both directly and indirectly. We will help improve air quality in the Central Valley by increasing the availability of affordable, clean-burning fuel. Corn farmers will have an immediate, local outlet for selling their crops. Local dairy farmers will, for the first time, have a steady supply of wet distillers grain. Everyone will have the satisfaction of knowing that we are reducing our country's dependence on foreign oil and helping create cleaner air throughout the western United States."

The projected completion date is June 2006.

EPA wants tougher monitoring of refinery flare emissions

By Jane Kay, Chronicle Environment Writer
Friday, March 18, S.F. Chronicle,

The U.S. Environmental Protection Agency ordered the Bay Area's air district Tuesday to require four of the region's five oil refineries to improve the way they measure pollutants from flares, or the burning off of gases.

The order instructs the Bay Area Air Quality Management District to force the refineries to meet federal regulations that are tougher than the state's rules when monitoring flares. The refineries are Chevron in Richmond, Conoco Phillips in Rodeo, Tesoro in Martinez and Valero in Benicia. The Bay Area's fifth refinery, Shell in Martinez, isn't included in the order.

"We have the responsibility to ensure that this monitoring occurs," said Amy Zimpfer, associate director for the EPA's western region's air division.

The monitoring provision is at the heart of the federal Clean Air Act, she said, because it fulfills "the public's right to know what a facility is emitting in their backyards."

The air district regulates the discharge of pollutants from the region's refineries and issues operating permits that set discharge limits for each refinery.

Flaring has been a concern in neighborhoods around the bayside refineries in Contra Costa and Solano counties.

Instead of using flaring as a safety device to burn off excess gas only in emergencies, neighbors have complained to local political leaders that the plants use flares to make up for inefficient

operations. Emissions contain organic compounds, including toxics, sulfur dioxide, nitrogen oxides and particulates.

The EPA's order was issued in response to petitions filed at its San Francisco office last year by two environmental groups and four labor unions, including Communities for a Better Environment, Our Children's Earth and the Plumbers and Steamfitters Union Local 342. The groups had asked the EPA to tell the air district to require the refineries to upgrade their flare monitoring to federal standards, arguing that the state's requirements were far less stringent.

The EPA also instructed the air district to investigate why emissions limits weren't lower in Chevron's permit. The EPA has entered into a consent decree with Chevron over past violations of environmental law, which the petitioners are challenging in court.

The EPA also ordered the air district to find out why Tesoro and Valero had poor records of compliance, and to require a fix if the problems continued.

The air district has 90 days to address the EPA's order.

The air district has already proposed a new regulation, now subject to a public hearing, that would reduce emissions and improve monitoring at the flaring operations, said Jack Broadbent, executive officer of the agency.

The air district will work with the EPA to make sure the permits are strengthened, Broadbent said. "The permits now enforce the most rigorous standards in the country, but there's always room for improvement."

The Bay Area and Southern California districts adopted the nation's first monitoring rules for refinery flares.

At the Bay Area's five refineries, in 2002, organic compounds were measured at 8 tons a day and sulfur dioxide at 22 tons a day. In 2004, the organic compound levels fell to 2 tons, and the sulfur dioxide levels fell to 4 tons.

Broadbent said its 2003 monitoring rule "shined a spotlight on this activity. The refinery operators took a number of steps to reduce flaring because of the spotlight."

One of the petitioners, Will Rostov, a lawyer for CBE, praised the EPA for ordering the district to apply the tougher federal regulations to refinery flares.

"The draft flare-control rule that the district is working on is too weak and allows the refineries to come up with their own compliance plans out of the view of the public," Rostov said. "The EPA's order will give us ammunition to fight for a stronger flare rule."

Air Travel Industry Eye Pollution Controls

March 18, S.F. Chronicle, Friday

GENEVA, Switzerland (AP) -- Air transport industry leaders agreed Friday that they need to do more to reduce noise and pollution.

"We urgently need to work on 'greening' our aviation business," Robert J. Aaronson, director-general of Airports Council International, said at a meeting of about 300 representatives of the industry, including airlines and manufacturers.

Aaronson said the council, whose members operate 1,450 airports in 175 countries, agreed to co-sponsor the two-day gathering "because of our deep concern that the tide of public opinion against us is running faster than the industry can sustain."

The leaders agreed they had to work together, but also needed cooperation from governments because the challenges are global and need global solutions.

Governments should work with airports and air navigation services to ensure environmentally responsible airport expansion and air-route efficiency, the leaders said.

The meeting, the first to bring together heads of different air transport bodies and companies, will probably be followed up by a second session next year, Rochat said.

[S.F. Chronicle commentary, Monday, March 21, 2005:](#)

OPEN FORUM

Californians need governor's muscle for the big problems

By Matthew Newman

Gov. Arnold Schwarzenegger deserves credit for at least one thing: He has convinced many of the state's most cynical legislators, pundits and lobbyists that reforms once thought impossible may have a chance after all. Whether you like his plans or not, no Sacramento insider could have guessed two years ago that we'd be talking about redrawing legislative districts mid decade or doing away with public-employee pensions. Trouble is, the governor is investing all this reform muscle in issues that the public doesn't really care about.

What the public really cares about is reforming the way local governments are financed. To be more precise, they care about the problems that stem from the current dysfunctional system.

If you're still reading, you're no doubt asking yourself, huh? Why should anyone care about the details of how local government services are paid for? As long as the roads are paved, the police come when someone dials 911, and the local public library has books on the shelves, most voters don't care. But they should, and here's why: The way we do things now costs the taxpayers more for many services, leads to more smog and traffic congestion, increases housing costs, promotes sprawl and prevents local governments from adequately responding to changing community needs, such as the demand for increased homeland security measures or the rapid increases in population experienced in many communities throughout the state.

Ironically, the most vexing thing about this set of public-policy problems is not that we don't know what caused them or how to solve them. Researchers working on cancer or AIDS have it tough. They struggle with the unknown. But public-policy researchers do know how to solve the problem of financing local governments. The trouble is, we Californians -- as a group -- lack the collective political will to do anything about it. All of these problems affect each one of us just a little bit. But for none of us are these problems important enough that we are motivated to actually do something about them.

When funding for public schools is cut, millions of parents and children acutely feel the sting. They respond by calling their legislators, writing the governor, and even protesting at the Capitol. But when air pollution gets just a little worse or traffic congestion backs up just a little farther, most of us don't get motivated to get involved to try to change things.

And here's the second part of the local fiscal one-two punch: Even if we wanted to get involved and alleviate traffic congestion, reduce air pollution or slow sprawl, who would we call? If we called the governor, he'd probably say, "local land use decisions are made locally, call your city council."

If we call our city council, the council members likely would tell us, "there's nothing we can do, the state (and the voters) put us in a financial straitjacket; if you want to keep the library open, we need to let a new Wal-Mart or auto mall to open in our community."

Call your county supervisor, and you'll hear a similar refrain, that is if the person whose job it is to answer the phone isn't on mandatory, unpaid furlough due to budget cuts.

This is not buck-passing. It is true what these officials might say. But it doesn't obviate the need for reform. In fact, it strengthens the case for reform because it leads to what may be the most sinister aspect of the problem: a declining faith in the ability of government to solve our community's problems.

A legitimate debate can be held as to whether government should be bigger or smaller, but all should agree that there is a set of core services that we want government to deliver. And everyone should want the government delivering these services to be as efficient and effective as possible. But when faith in government is undermined, so is the ability of government to address pressing public-policy problems.

So what can we do? Most of the reformers who have looked at these issues agree that the state should both pay for the full cost of programs it requires the counties to provide and give additional flexibility to local governments to run these programs according to local needs and preferences. Clearly, there are some programs of statewide interest, and the state ought to both pay for and administer these programs. But for programs run by locals, additional flexibility combined with incentives to achieve stated goals should replace the current command-and-control system.

Right now, for example, the state provides some funds that may only be used for inpatient hospital care, even if more cost-effective outpatient services are available. As a consequence, costs are higher for state taxpayers and patients may be forced to spend additional time in a hospital bed.

It is well within the state's power to reform this system, but state-level leaders are reluctant to pay for the full cost of programs and even more reluctant to hand over control to local leaders who might have different priorities. But the current system serves only the interest of state leaders, not the public -- it is time to change it.

Next, land use decision-making could be significantly improved by giving local governments a larger share of the property tax and reducing the reliance on the sales tax. Most local governments favor such reforms, but a few sales-tax-dependent jurisdictions -- the ones winning big from the current system -- have stalled reform efforts in the past. The objections of a few should not stand in the way of reforms that would be in the interests of most Californians.

Finally, we need to create a system of regional land-use planning based incentives not mandates. Most communities recognize that planning for regional growth is a good idea -- they just don't like someone else managing growth in their neighborhood. Trying to overcome this sentiment with a series of rules probably can't work. But, incentives that reward communities for approving projects that meet regional goals would maintain local control while improving land-use decision making. These incentives could come in the form of revenue generated from pooling taxes regionally or a state grant or relief from burdensome regulations such as the California Environmental Quality Act. No doubt, those who oppose tax sharing, resist higher taxes or increases in government costs, or fear environmental degradation will object. But, let's face it, the current system is already resulting in higher costs for Californians and sprawl and congestion that are polluting our environment.

Addressing these issues is really a matter of effective leadership, public education and political will, more than bare-knuckle politics. The governor has shown us that big changes are possible. If he would only turn his attention to issues that truly matter to Californians, we'd all be the winners.

Matthew Newman is the executive director of the California Institute for County Government in Sacramento. The institute works to improve local government through research and analysis.

[Friday, March 18, Wall St. Journal, Editorial](#)

The Clean Air Follies Continue

One of these days it would be nice if the Bush Administration finally decided whether it really believes in the power of markets in environmental policy.

The EPA has issued several rules over the past couple of years -- two of them within the past week -- intended to build on the successful "cap-and-trade" philosophy first articulated in the 1990 revisions to the Clean Air Act. The basic idea is that, rather than government mandating pollution-control for every source, it would be better simply to set overall emissions goals and let markets and human ingenuity figure out how to achieve the target.

One new rule extends this policy from controlling acid rain to controlling urban smog and cancer-causing particulates. The second new rule targets mercury for the first time. These regulations will no doubt lead to big improvements, just as the 1990 rules did. Sulfur dioxide emissions are down about 40% compared with 1980 levels, and at half the cost of doing so through the command-and-control approach.

Self-styled environmentalists predicted disaster about cap-and-trade back in 1990, so it's hardly surprising that they are doing so again. What is bizarre is that the Bush Administration continues to employ these same arguments against the cap-and-trade philosophy in a set of EPA-driven lawsuits against electric utilities.

The issue in these cases -- more than two dozen -- is a set of rules dating from the 1977 Clean Air Act amendments known as New Source Review. They were intended to compel "new" sources of pollution -- not existing ones -- to install pollution-control technologies. And so everyone understood until the mid-1990s, when Bill Clinton's EPA suddenly labeled as "new" sources of pollution any power plants that installed a new turbine or did even minor modifications. These can be as miniscule as replacing ducts valued at less than 0.1% of the cost of a new power plant.

The Bush Administration understood the contempt for the law displayed by this Clinton interpretation, and in 2003 it issued rules clarifying what kind of modification would and wouldn't trigger application of NSR. But at the same time it continued to pursue the old Clinton-era cases in court -- and for no other discernable reason than fear of bad publicity from the environmentalists.

Yet NSR is the paradigmatic example of the old command-and-control regulation. In arguing that it must be applied to the various power plants now in question, the Administration is arguing the opposite of its public policy position, which is that the cap-and-trade system is sufficient.

And what political credit has the Administration received for selling its policy soul in this way? Less than zero. Consider the environmentalist reaction to this week's new mercury rule. "This is the most dishonest, dangerous and illegal rule I have ever seen come out of the EPA," says John Walke of the Natural Resources Defense Council. "It's unconscionable EPA is allowing power companies to trade in a powerful neurotoxin," says S. William Becker, who represents two groups of local environmental regulators.

Mr. Becker at least is articulating a position with a shred of plausibility to it. That is, mercury is arguably uniquely toxic compared with the other pollutants regulated by a cap-and-trade system, which could in theory leave particular sources emitting unacceptably high levels. But in reality mercury emissions from clean American power plants are only a tiny fraction of the global total, which is why this is the first time any Administration has thought to regulate mercury, in any fashion. The main source of mercury toxicity in America is fish, often originating overseas, not in smokestacks in the Tennessee Valley. And there was no similar environmentalist outcry when previous Administrations (see Clinton) did nothing about the problem.

Hyperbole like that from Messrs. Walke and Becker explains why the traditional environmental community has discredited itself in recent years, and why it was irrelevant during the last election. So the Bush Administration might as well go ahead and get honest and consistent about its clean air policy by dropping the NSR lawsuits. Are there any worse things left for these people to say about it?