

The air that we breathe

Even after Davis signs Smog Check II, work to clean up Valley air is formidable

Bruce Niles,

former Earthjustice lawyer

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The Stockton Record

There's a ring of truth to that oversimplification of the San Joaquin Valley's increasingly dirty air.

But even after Gov. Gray Davis affixed his signature to AB2637, which forces Smog Check II on Bay Area motorists, the battle has hardly started. The hoopla surrounding his Friday ceremony reflected politics more than a pollution-reduction breakthrough.

The truth is that many factors contribute to our smog. The collision of California topography and rapid population growth are the primary culprits. Compounding Valley growth is the surge of new residents who still work elsewhere, forcing them to commute long distances and spew a range of toxic emissions into the air.

Those who live between the Sierra Nevada mountains and the coastal range are caught in a pollution trap -- with dirty air easily blowing into the Valley, but having a hard time getting out. We're also victims of the state's prosperity: 35 million people call California home and most of them are wedded to the automobile.

Getting the San Francisco Bay Area on board with Smog Check II will help, but only a little. Approximately 10 percent of the overall Valley's air pollution is attributable to the westward flow, although in Stockton's case that number jumps to 27 percent. Cleaner Bay Area cars won't do a thing to improve homegrown smog, and we've got plenty of that.

What the bill by Assemblyman Dennis Cardoza, D-Merced, accomplishes is a level playing field.

More fairness is needed.

The problems of air pollution, which are much more severe in the southern reaches of the Valley, need a two-pronged approach: global and local.

From one end of California's diverse landscape to the other, the problems of air pollution are related. Nature's flow in one region affects nature's roadblocks elsewhere. There must be strong communication and commitment to reduce cancer-causing, asthma-inducing junk in what we breathe.

At the same time, regional differences must be recognized. What happens in Stockton (10 days in 10 years with federal smog limits exceeded) is different than what happens in Bakersfield (245 days in 10 years).

Both cities are lumped together as part of the San Joaquin Valley Air Pollution Control District, and both are facing the same federal sanctions if another form of pollution -- particulate matter -- isn't targeted for reduction soon. Particulate pollution is created by tiny specks of dust or vapor that lodge in the lungs.

Most of that dust is generated by normal farm-related activity. Agriculture also contributes when crops are burned off the land between growing seasons. Smoke is another form of particulate pollution.

Agriculture, a \$16.5 billion industry that spans the 240-mile length of the Valley, must do more than it has to reduce pollution.

Fair or not, the combination of auto emissions and farm contaminants is stirring up a toxic brew lodged between mountain rims. The threat those conditions create is real: California is the nation's worst in number of "smog days." The state posts twice as many warnings as any other. In

Fresno, one in six children has asthmatic symptoms. A recent study shows that California kids are at a much greater risk of cancer from inhaling air pollutants than adults.

An even-handed application of Smog Check II represents a small victory for the Valley, but there must be no rest.

Until reluctant Bay Area counties do more about the jobs/housing imbalance that forces their work force to commute from further and further away, we're going to have filthy air east of the Altamont. And until farmers accept that they too must make adjustments, we're going to have filthy air.

The problem is too big for environmentalists alone. The war on dirty air is one we all must fight.

The winds of change?

The San Joaquin Valley has some of the most complex and difficult air-quality problems in the United States.

Last month, the San Joaquin Council of Governments hosted a half-day forum. An air-quality report outlined four possible ways the county could separate itself from the southern part of the San Joaquin Valley:

- * Forming a new rule-planning agency with Stanislaus and Merced counties.
- * Joining the Bay Area air-pollution control district.
- * Joining the Sacramento-area air district.
- * Creating a new district that includes the northern Valley counties and four neighboring Sierra counties.

"You have the greenest, wealthiest area dumping pollution into one of the poorest areas."

-- Bruce Niles,
former Earthjustice lawyer

2nd District candidates avoid backbiting

By DAVIN McHENRY, Bakersfield Californian staff writer

e-mail: davinmchenry@bakersfield.com

Sunday September 29, 2002, 09:37:04 PM

For more than a year, the race for the 2nd District supervisor seat was a pretty sleepy affair.

Since spring 2001, candidates have vied for the seat, which is being vacated by Steve Perez. In March the race was narrowed to just two candidates: Linda White, 41, director of a wind energy organization, and Don Maben, 59, a retired Los Angeles County sheriff's lieutenant.

For most of the race, candidates have steered clear of attacking each other. The lack of fireworks left some candidates complaining that the race was being ignored.

But in recent months the battle between White and Maben has been wrapped in controversy.

In July, White admitted that she had been convicted of drunken driving three times and later acknowledged driving without a license at times. Maben has also been bashed by critics, for his years at the helm of Tehachapi Hospital, which has been in repeated financial trouble.

On the campaign trail, both candidates say they stay clear of accusations and bad-mouthing and instead try to focus on the issues.

"I don't even mention her," Maben said.

On the issues, the two candidates regularly differ, particularly when it comes to dairies.

Maben has said he believes all dairies should be required to undergo environmental review and public hearings. But White argues that certain areas of the county should be designated for dairies, allowing them to be built with less oversight.

White has also said she is a strong property rights advocate, and would favor allowing owners to decide how best to use their land. Maben said he would try to limit leapfrog development or at least make sure developers pay for any infrastructure costs if building on the outskirts. Both said they would support efforts to promote infill development, which is building within already developed areas.

The candidates differed on their solutions to local air pollution. Maben called for local business and agriculture leaders to come up with a "homegrown" solution. White said the real fight lies outside Kern County, with Bay area pollution.

"We must start with the north and come down," she said.

The two also had opposite impressions about the existing county government, with White saying it must find ways to cut back.

Maben, on the other hand, called county departments a "lean and efficient machine."

But both expressed concern about the current board's decision to hire new deputies even as they were cutting jobs elsewhere. Maben said the supervisors shouldn't have committed to hiring the deputies, which will be partially paid for by a federal grant.

White noted that the board has committed the county to paying for the deputies for several years, even though future budgets look grim.

"We are going to be living on less and less," she said.

Both candidates also share a strong background in constituent services. White served as a problem-solver for two state senators. Maben has been the east Kern County field representative for Perez for the past eight years.

Maben said his job will be to fix voters' problems before they get out of hand, what he called the "broken window" theory.

"If you ignore one broken window you will have two, three and next thing you know, you have a slum," he said. "If you ignore the small things you end up with big problems."

White said she plans to be available to voters on regularly scheduled days and to use her experience to cut through "bureaucratic red tape."

"My door will always be open," she said.

Flurry of bills OK'd by Davis

By Jake Henshaw

Monday, September 30, 2002

Visalia Times-Delta Sacramento Bureau

SACRAMENTO -- Gov. Gray Davis Sunday signed legislation to protect the environment, help children get a better education and review the health effects of indoor air pollution.

Indoor air pollution

Experts say indoor air pollution is a top health concern, causing conditions ranging from eye and throat irritation to respiratory disease and cancer. But California air regulators have no real authority over indoor air pollution.

Opponents included manufacturers of cleaning, cosmetic and other consumer products, who argued that other studies already are under way and that removing some products such as insect-killing pesticides, could lead to other health problems, especially in children.

Other bills signed by Davis include:

Education

- Senate Bill 1937 by Sen. Jim Costa, D-Fresno, that gives the state Arts Council the authority to raise funds for three pilot programs to train teens and instructors in digital media arts. The Digital Arts Studio Partnership Demonstration Program calls for the council to set up one after-school program each in northern, central and southern areas.

Each program would have to provide state-of-the-art studios to train 500 students, ages 13 year to 18 years, and 100 instructors annually.

The goal of the program is to build on basic computer skills being taught in some schools and develop partnerships between schools and private businesses

- Assembly Bill 1994 by Assemblywoman Sarah Reyes, D-Fresno, is aimed at ending problems that may arise when charter schools operate outside the districts or counties where they're chartered -- sometimes hundreds of miles away.

The bill would only allow charters to operate in their home county after a transition period, and also would establish new reporting requirements and oversight authority.

- Senate Bill 1478, which is intended to make sure high school students have job skills when they graduate from high school.

The bill by Sen. Bruce McPherson, R-Santa Cruz, directs state education officials to adopt standards and develop a curriculum plan for career technical education that can voluntarily be adopted by local school districts.

Environment

- Assembly Bill 2486, which will upgrade the state's program that sends specially trained circuit riding lawyers to rural counties to help prosecute violations of environmental laws.
- Assembly Bill 52, which directs \$4.8 million from the proposition to fund the new Oaks Woodlands Conservation Act, intended to preserve oak habitat.

Facing Monday deadline, Davis signs, vetoes environmental bills%)

By STEVE LAWRENCE Associated Press Writer

Saturday September 28, 2002, 06:45:09 PM

Bakersfield Californian

SACRAMENTO (AP) - Facing a Monday deadline to sign or veto bills, Gov. Gray Davis approved several environmental measures Saturday but turned down a bill that would have told consumers when water contaminants exceed health goals.

One of the bills Davis signed will set up a corps of roving prosecutors who will move from county to county, particularly in rural areas, to help district attorneys deal with environmental crimes.

The measure, by Assemblyman Fred Keeley, D-Boulder Creek, also broadens a training program for local law enforcement and regulatory personnel, changing the focus from enforcement of hazardous materials requirements to environmental laws in general.

Another bill, by Assemblyman Dario Frommer, D-Los Angeles, specifies new regulatory requirements for underground storage tanks, makes a new class of leaking tanks eligible for reimbursement of cleanup costs and re-enacts a program to help local governments deal with MTBE contamination of water supplies.

A third bill, by Assemblyman Joe Canciamilla, D-Pittsburg, exempts new or reconstructed wastewater treatment facilities from mandatory minimum fines under certain circumstances. The measure also lifts the \$3,000 limit on how much of those fines can be used for so-called supplemental environmental projects.

Davis also signed two bills that use bond money approved by voters last March to preserve agricultural land, but before signing one of the measures the governor cut the appropriation in half.

One of the measures, by Sen. Jim Costa, D-Fresno, allocates \$19.2 million to buy conservation easements to protect range land.

The other, by Assemblywoman Pat Wiggins, D-Santa Rosa, included \$9.6 million to preserve oak groves and farmland. Davis left in the \$4.8 million to save the oak groves but vetoed \$2.4 million for a coastal farmland preservation program and \$2.4 million for an environmental quality loan program.

Davis said the bond measure, Proposition 40, didn't cover loan programs and he said the coastal farmland program would duplicate existing farmland preservation efforts.

The governor also vetoed a Frommer bill that would have required public water systems to report how often, and by how much, water supply contaminants exceed public health goals and to tell consumers the health problems associated with those contaminants.

Davis said the bill was costly and confusing.

"This bill imposes new requirements that have the unintended effect of confusing, rather than informing, the public by potentially overstating the health risk effect," he said.

"Moreover, the bill will result in a cost of \$75,000 to the Office of Environmental Health Hazard Assessment at a time when the state is dealing with a \$24 billion shortfall."

Davis also signed another Keeley bill that requires the state Air Resources Board to report on health risks posed by indoor air pollution and on ways to mitigate the problem.

But he vetoed a bill by Assemblywoman Fran Pavley, D-Agoura Hills, that would create a public education campaign to encourage people to buy low-emission vehicles.

"These efforts are best left to the vehicle manufacturers who already have advertising programs to promote their own products," Davis said.

Davis OKs tougher Bay Area smog tests

Governor signs bill that could help clean up air in the Valley.

By Jim Miller

The Modesto Bee

(Published Saturday, September 28, 2002, 5:37 AM)

SACRAMENTO -- Predicting that it will lead to cleaner Valley skies and healthier residents, Gov. Davis signed into law Friday a bill forcing Bay Area motorists to live under more stringent vehicle emissions rules.

The signing of Assembly Bill 2637 culminates years of complaints by San Joaquin Valley officials and business leaders that the region's air quality suffers from vehicle pollution blown inland from the Bay Area.

Previous attempts to expand Smog Check II ran into legislative and bureaucratic roadblocks.

While some said Friday's action effectively resolves the smog transport dispute, the San Joaquin Valley's top air quality official left open the possibility that his agency may continue to press a February lawsuit against the state Air Resources Board.

The lawsuit by the nine-county San Joaquin Valley Air Pollution Control District demanded that the state do more to keep Bay Area smog out of the Valley.

The Valley, with some of the worst pollution in the state, faces federal sanctions in 2005 if it hasn't reduced smog by 30%, or 300 tons of pollutants daily.

"It's imperative that mobile source emissions be reduced. This bill is an important step," district air pollution control officer David Crow said.

"Our board is considering the bill and what it all means and the successes that may be achieved with Smog Check II in the Bay Area."

Enacted in the mid-1990s, Smog Check II toughened the state's original smog check law.

It covered every metropolitan region in the state except for the Bay Area.

Officials said the new law will take effect once Bay Area smog check stations have the necessary equipment, which is expected to take about a year.

An estimated 4.5 million vehicles will have to undergo the new tests, which cost about \$12 more than the basic smog exam.

Officials believe the tougher inspections will remove 10 tons of reactive organic gasses and 16 tons of nitrogen oxide -- both smog-forming compounds -- from Valley air daily.

The bill also was "intended to resolve" a February lawsuit in state court by the San Joaquin Valley and Sacramento air districts.

Crow said his district's board of directors will discuss the suit at its November meeting.

That came as news to AB 2637's author, Assembly Member Dennis Cardoza, D-Merced.

Cardoza consultant Dave Jones said his understanding was that the Valley district was ready to dismiss its lawsuit as soon as Davis signed the legislation.

"[The bill] doesn't preclude them from bringing another [lawsuit] if their concerns haven't been addressed," Jones said.

The law also changes the Smog Check II program statewide.

For example, cars newer than six model years will be exempt from the tests, an increase from the current four.

Letter to the Editor

Contradictory policy

By R.G. Lowry
Fresno

(Published Saturday, September 28, 2002, 5:50 AM)

Has anybody ever looked at our Fresno buses? We say we want to stop smog and what do they do? Go on an advertising binge. We say we don't want large billboards on the major streets. But we paint up our city buses with all sorts of ads to run up and down the streets where we have banned signs.

That's not enough. We add to the smog problem by painting the buses and then we wash off the signs and dump it in the water in our sewers. Then start all over again.

If we don't want signs on the streets, please tell me, why do we paint up our buses with ads?

Davis signs Bay Area Smog Check II bill

Saturday, September 28, 2002

By Mike Jensen, Merced Sun-Star

Gov. Gray Davis on Friday signed the long-awaited Bay Area Smog Check II bill that's expected to reduce air pollution in the Central Valley.

And two air districts said Friday that they will drop a lawsuit that could have blocked the bill from taking effect.

Assembly Bill 2637 is expected to reduce the amount of vehicle emissions blowing into the Central Valley by forcing Bay Area motorists to comply with tougher emissions testing that is being done elsewhere in the state.

Davis, in a statement, said, "This bill will result in cleaner air for all of us," and he added, "Motorists in the affected areas are being asked to do no more than our fellow Californians have been doing for years."

Glenn Mason, a spokesman with the state Department of Consumer Affairs, said it will be nine months to a year before smog stations in the Bay Area are ready to do the emissions testing.

The bill may extend a statewide new car no-testing period to six years from the current four years. The California Air Resources Board will have final say on the matter.

The San Joaquin Valley Air Pollution Control District, which has had difficulty meeting federal Clean Air Act deadlines, says the bill will reduce the amount of pollution in the Central Valley by 18 to 26 tons per day.

"The Valley doesn't blame all of our air pollution problems on the Bay Area," according to Josette Merced Bello, a spokeswoman for the air district. "But in light of the fact that we have to reduce 300 tons per day ..., we can't overlook any source."

The bill was sponsored by Assemblyman Dennis Cardoza, D-Merced, and co-sponsored by state Sen. Dick Monteith, R-Modesto. The two are running for the 18th Congressional seat now held by Gary Condit, D-Ceres.

Cardoza on Friday called the legislation one of the biggest bills passed this year for Valley residents.

"I just feel like this is one of the cappers to my Assembly career," he said. "This was a brutal fight for six years."

Monteith could not be reached for comment Friday. However, his chief of staff, Bob Rucker, said Monteith was pleased and called the legislation a step in the right direction. "We think it's fantastic," he said.

An amendment added to the bill shortly before it was approved in the legislature requires that the Sacramento and Yolo-Solano air districts drop a lawsuit against the federal Environmental Protection Agency before the bill can take effect.

The suit, filed in April, is a broad attack on pollution that originates in the Bay Area and affects the two air districts, and only one part of the suit addresses Bay Area vehicle emissions.

The Sacramento district is being pressured to meet federal air quality standards by 2005 or lose federal highway funds.

The suit challenges the EPA's approval of the Bay Area "Motor Vehicle Emissions Budget." The budget, the lawsuit says, does not take into account the impact of Bay Area pollution blowing into other areas, and it fails to include the Smog Check II inspections.

Kathy Pittard, an attorney for the Sacramento air district, said Friday that the lawsuit will be dropped. "I think we're really pleased," she said.

Although the district is giving up its legal challenge of the Bay Area's motor vehicle emission budget, Pittard said her district will continue to challenge the issue of pollution from the Bay Area.

"We're not giving up anything in terms of challenging that," she said.

A separate amendment to AB 2637 states that the bill is "intended to resolve the issues" in a second lawsuit, that one filed by the San Joaquin Valley air district and the Sacramento air district against the California Air Resources Board.

That amendment does not require the districts to drop their lawsuit, however.

The suit, filed in February, asks CARB to push for Smog Check II in the Bay Area and to impose more stringent regulations on Bay Area businesses, which have a lower pollution standard than the Valley does.

Philip Jay, attorney for the San Joaquin Valley air district, has previously said that he believes the district is "90 percent" ready to drop the lawsuit.

Merced Bello, the district's spokeswoman, said Friday that the decision will be up to the board of directors.

Kerry Shearer, a spokesman with the Sacramento air district, said Friday that his district does not intend to pursue the lawsuit.

A third lawsuit filed against the state air board is also expected to be dropped as a result of the legislation.

Sam Longmire, an air pollution specialist with the Northern Sierra Air Quality Management District, said his district's air pollution control officer had attended the governor's signing of the legislation and believed the lawsuit would be dropped.

"I don't know why we would keep it going," he said.

[Merced Sun-Star editorial, Sept. 28, 2002](#)

Smog Check II bill toothless

It looks as though the San Francisco Bay Air Basin is going to have to start playing by rules that apply elsewhere in the state.

On Friday, Gov. Gray Davis signed legislation that will require Smog Check II emissions testing for Bay Area motor vehicles. Such vehicles have been exempt from the testing, thanks to muscle-bound lawmakers in previous legislative sessions. But no more.

The bill has significance to residents of the Central Valley, because the Bay Area emissions blow into the Valley and contribute to our air pollution problem. It's not a big contribution, but it's something.

The bill's author, Assemblyman Dennis Cardoza, D-Merced, is pleased that the bill made it through the Legislature this year, and he's pleased that the governor signed it.

We are, too, but our enthusiasm is tempered by the fact that we have to hold our nose when we read the final version of the bill. You see, some of the provisions in the final version seem to take some of the teeth out of the bill.

We're particularly concerned about an 11th hour amendment that required the Sacramento Metropolitan Air Quality Management District and the Yolo Solano Air Quality Management District to drop a lawsuit against the U.S. Environmental Protection Agency by Oct. 4. The air districts, which have agreed to drop the lawsuit, had concerns beyond Smog Check II, and those concerns were addressed in the legal action against the EPA.

Insofar as the testing program is concerned, there is no firm start date, and that worries us. According to an analysis by legislative counsel, the Department of Consumer Affairs would start the Smog Check II testing in the Bay Area "after determining that adequate testing, repair, referee and other necessary program facilities and services exist in that air basin."

We're told that the Department of Consumer Affairs will try to have the program up and running in the Bay Area within nine to 12 months, but if the department runs into some problems, it may not happen that soon.

Another aspect of the legislation that concerns us is that the program will use more lenient emission standards at the outset and gradually phase in the more stringent emission standards for oxides of nitrogen. In other words, pollution pouring into the Valley from the Bay Area could remain significant for some unspecified time.

Finally, we're a little concerned about reference to possible adverse impacts in Contra Costa, Solano, San Joaquin, Alameda and Santa Clara counties. There has been a suggestion that Smog Check II could harm the air in those counties, and so the University of California, Riverside will do a study. And if it is learned that there is a negative impact in those counties, then the state Air Resources Board will have to come up with mitigation measures.

Now, about the bill's reference to the lawsuit ...

This, we think, is purely a case of the state sticking its nose where it does not belong. The state was not a party to the suit - it was brought by the two air pollution control districts against the federal EPA - and so we think it was grossly inappropriate for the state legislature to make abandoning the suit a condition of the state legislation. The state had no stake.

But beyond that, by forcing the air districts to capitulate, the state has short-circuited the judicial process and prevented adjudication of issues that are important to the two air districts. Serious conclusions, perhaps resulting in improved air quality, might have emerged from the lawsuit, but now, the conclusions will not be reached.

Why did the Democrats insist on the lawsuit being dropped? We suspect it was because some of their friends are violating some clean air laws, and they did not want those violations uncovered. That can be the only explanation, and so it calls into question just how serious legislators and the governor are when it comes to clean air.

We're reminded of that, in fact, when we think about the power plants - 18, in all - planned and pending for the Central Valley. Our air already is intolerable, and yet none of our politicians or regulatory agencies is raising cane over the plants.

In fact, some with a straight face say our air will actually get better, and they base that on the state's bogus air credit program.

A company is allowed to set up shop and add to the level of existing air pollution if the company buys offsetting air credits, and looked at in that way, the credits amount to a license to pollute.

Josette Merced Bello, the public relations person for the San Joaquin Valley Air Pollution Control District, defends the air credits program. She says the credits "reward initiative and going beyond the compulsory." She's right, but what she doesn't like to acknowledge is that our air is bad right now and that when an additional pollution source is allowed to buy air credits and start polluting, the air gets worse. Air credits have absolutely no impact on actual pollution in that situation. (The district's permitting system is similarly bogus.)

We wish Cardoza and state Sen. Dick Monteith, R-Modesto, who are fighting for the 18th Congressional District seat now occupied by Rep. Gary Condit, would address the issue of these new power plants, and we wish the other candidates running for state office would speak out, as well.

The plants, if they go into operation, are bound to make our air even dirtier, air credits or no air credits, and that will have serious real-world consequences for the Valley in years to come.

It's an issue that needs to be addressed, but as far as we can tell, the politicians are avoiding it like the plague, and that's a shame.

Tougher smog check forced on bay area

Bill proposed to improve Valley air signed by Davis.

By Jake Henshaw, Gannett Sacramento Bureau

SACRAMENTO -- An unenthusiastic San Francisco bay area was enlisted Friday in the fight against San Joaquin Valley smog.

Gov. Gray Davis signed a bill that will require vehicles in the bay area to undergo the state's toughest smog test for the first time.

The measure, Assembly Bill 2637 by Assemblyman Dennis Cardoza, D-Merced, was proposed as a way to reduce the amount of air pollution that drifts from the bay area into the Valley.

"This bill recognizes that air pollution knows no boundaries," Davis said in signing the bill. "We can't stop pollution from traveling from one region to another. But we can stop pollution from being created in the first place."

Bay area air officials have questioned the value of the bill to the valley, but indicated said they will work to carry out the new law.

San Joaquin Valley Air Pollution Control District officials said the bay Aarea contribution to Valley pollution ranges from 27 percent in San Joaquin county to between seven percent and nine percent in Tulare and Kern counties.

AB 2637 takes effect Jan. 1. But it probably will be another nine to 12 months before enough testing facilities are place to begin the new program in the bay area, said Glenn Mason of the state Bureau of Automotive Repair, which administers the program.

When it begins, the Smog Check II program will require bay area cars and trucks to be tested every other year on a treadmill, just as vehicles now are in the cities of the Central Valley and the state's other major urban centers.

For all drivers statewide, the new bill also will extend from four years to six years the period during which new vehicles don't have to be tested.

The governor's action on AB 2637 ends years of political fights between state legislative delegations from the San Joaquin Valley and the bay area over Smog Check II.

Forced to submit their vehicles to the tough Smog Check II to help meet federal clean air standards, Valley residents have complained for years that the bay area unfairly escapes the tougher smog check because its pollution wafts inland.

But until this year, the bay area's powerful legislative delegation has been able to fend off attempts by valley lawmakers to impose the tougher smog check program on the bay area.

That changed earlier this year when politicking to pass the nation's first bill to combat global warming also produced agreement to extend the Smog Check II program to the bay area.

All together, the new law is expected to remove 26 tons of pollution per day, Davis said.