

The Modesto Bee

★ THE VOICE OF THE VALLEY ★

June 12, 2005
FINAL EDITION, Pg. A1

The stench lingers

Modesto Tallow holds its own nose at \$765,000 in fines

By Todd Milbourn, Bee Staff Writer

It was a carefree spring day on the playground of Shackelford Elementary School in south Modesto. A girl hung upside down from monkey bars. Boys herded around a soccer ball. A third-grader teased a classmate with a marker.

Then the wind picked up.

Christian Esperiqueta wrinkled his face in disgust and pulled his T-shirt over his nose.

"It makes me want to puke," said the third-grader, referring to the stench from Modesto Tallow Co., the 88-year-old rendering plant less than 1,000 feet from the playground.

"I'd rather smell a trash can," added fifth-grader Selena Ortiz.

Every month, Modesto Tallow collects, grinds and cooks more than 10,000 tons of dead cattle, chickens and turkeys, turning them into pet food and livestock feed.

The company provides a vital service for agriculture, Stanislaus County's largest industry. But in doing so, the company has often violated environmental regulations, according to public records reviewed by The Bee.

* Over the past 10 years, Modesto Tallow violated air quality rules more often than any other company in the Northern San Joaquin Valley. The company's 124 violations include creating a public nuisance, malfunctioning equipment and failing to process carcasses within 24 hours, according to the San Joaquin Valley Air Pollution Control District.

* Modesto Tallow has been fined at least \$1.4 million by various regulatory agencies over the years, about half of which has not been paid. Modesto Tallow refuses to pay at least \$765,000 in air district fines dating back to 2002.

* Modesto Tallow owes \$246,607 in taxes dating back to 2000 for its property at 925 Crows Landing Road, according to county records. The company has until the end of the

month to pay those taxes, or begin a payment plan to avoid having its property subject to public auction.

Concerns about Modesto Tallow's environmental practices extend well beyond south Modesto.

* The Solano County district attorney sued Modesto Tallow in 2003 alleging company trucks routinely leaked blood and animal parts onto roads, creating public health and safety hazards. Modesto Tallow paid \$114,508 to settle the case, according to the district attorney's office.

* Modesto Tallow is suspected of violating the U.S. Clean Water Act at a facility that the company operated in Oregon in 2003 and 2004. Environmental Protection Agency agents allege that the company rendered chickens and illegally discharged waste into the Columbia River without a permit, according to an affidavit filed in Portland in support of a search warrant.

Back in Modesto, government officials have threatened to close the Modesto plant several times over the years. The company has managed to stay in business by installing equipment that company officials said would reduce odors.

People downwind say the stench remains unbearable.

The air district received more complaints in May, 61, than in any month since August 2003. In fact, residents filed more complaints during the first five months of this year, 150, than during the first five months of any year on record. Complaints usually rise during the heat of summer.

Jeff Podesto, Modesto Tallow's president, said the company, which is owned by a group of Texas investors, does its best to be a good neighbor. He said Modesto Tallow receives more violations than others due to its urban location. The company hasn't paid its fines because it contends that public nuisance laws don't apply to certain rendering companies, an argument the air district may challenge in court. Modesto Tallow plans to pay its taxes, he said.

Podesto is quick to point out that Modesto Tallow predates development in the area. He said his predecessors warned county officials that putting a school near the plant would cause problems, but they didn't listen.

Over the years, the company has spent millions for scrubbers, condensers, a thermal oxidizer and other equipment to reduce odors, Podesto said. But there's only so much a rendering plant can do.

"We're as odor-free as we can be, and we've spent the money to prove that," said Podesto, as he walked by the plant's thermal oxidizer. "But when you're handling what we're handling, you can only mitigate."

David Johnson, 44, who's lived near the plant for 35 years, said his patience is wearing thin.

"How long can they keep crapping on us and nobody do anything about it?" he asked. "Have mercy on this neighborhood."

Inside the rendering plant

Built in 1917, the towering factory still evokes the era of its construction. The sprawling plant, on the bank of the Tuolumne River, is a maze of steel buildings full of boilers, pipes and grinders.

The company's trademark white and red trucks provide steady traffic, hauling the day's load. Feral cats sneak about the plant.

Rendering is not a pretty business.

On a recent morning, 15 cattle carcasses hung by chains from the ceiling of a cold warehouse. The animals had died the previous day on farms and ranches in Stanislaus County.

The carcasses awaited workers who would strip the animals' hides, which would eventually go to Asia for tanning. Their heads had been chopped and blood dripped from exposed necks onto the damp floor.

By day's end, the carcasses would be dumped in a concrete pit about the size of a semi-trailer. A massive screw "conveyor" at the bottom of the pit would grind and pull the carcasses into a boiler that cooks at about 250 degrees.

The chief final product is a powdery substance called meat and bone meal, which is sold as a protein supplement for pet food and livestock feed. Rendering also provides tallows that are used in soap, shampoo, inks and glue.

Renderers, as some in the industry are fond of saying, "use everything but the moo." And they provide an alternative to burying animals, which is illegal, or sending them to landfills, which would use precious space.

"If you didn't have this service," said Wayne Zipser, president of the Stanislaus County Farm Bureau, "you'd probably have dead animals on the side of the road."

Anybody who eats meat or dines out in Stanislaus County contributes to the need for rendering companies like Modesto Tallow. The byproducts of food production -- grease, meat scraps and the animals that die before slaughter -- have to go somewhere.

Every year, the company's trucks collect more than 75,000 dead cattle, including calves, from 400 dairy farms within 200 miles of Modesto.

The company also receives dead turkeys and chickens from 150 poultry ranches and four processors, as well as grease from 2,500 restaurants and cafeterias.

There are six other rendering plants in the San Joaquin Valley, including Darling International on Carpenter Road southwest of Modesto. Most of those plants are in rural areas and don't have nearly the number of complaints or violations that Modesto Tallow has, according to air district records.

Johnson bristles when he talks about the odor from Modesto Tallow. He said the smell is like "rotting chickens set on fire," and he blames it for triggering asthma attacks in his wife and daughter.

"It burns your eyes and throat," he said. "You can't breathe."

Can't afford to live elsewhere

The smell comes in jolts several times a day, Johnson said. The odor is especially bad at night and on weekends, when air district officials aren't readily available to investigate, he said. Podesto said atmospheric conditions could be a factor in late-night smells from the plant, which operates 24 hours a day, seven days a week.

The situation has gotten so bad at times that Johnson said he's considered moving from Pueblo Avenue. But his house is paid for and he can't afford to live elsewhere in a city where home prices have skyrocketed.

Drew Gullion, pastor at Southside Church of Hope, said he has considered moving his church because the smell proves embarrassing when visitors come, or when the church has barbecues.

"But who's going to buy property next to that?" he asked.

Mindy Gregory, a Coldwell Banker real estate agent, said she's had about a dozen lookers at a two-bedroom, one-bath home on Crockett Avenue near Shackelford Elementary School. But they all say the same thing, she said.

"It's a cute house, the neighborhood looks OK, but that smell ...," she said. "That plant makes it really difficult."

So difficult that she had to shave \$10,000 off the initial asking price of \$235,000.

Students at a disadvantage

The stench affects daily learning for the 520 students who attend Shackelford each year. Principal John Campopiano said the odor makes some students queasy, which isn't good for concentration.

"With all the new testing standards coming down, we're working so hard every day," said Campopiano, pacing the playground -- with Modesto Tallow looming in the distance. "This really puts our kids at a disadvantage."

A 2000 study by the county Health Services Agency found that Shackelford students don't visit the nurse more often than children at other schools.

But tales of headaches and vomiting aren't hard to find.

Nova Watkins, a yard worker at Shackelford who's lived in the area 36 years, said the smell is strong enough to overcome the toughest stomach.

"The students come out from lunch, start smelling that stink, and it's just overwhelming. They start heaving up," she said.

Campopiano said county and school officials should have dealt with Modesto Tallow before building the school, which opened in 1948. He said he's dismayed that the problem continues nearly 60 years later.

He said that if the Shackelford area wasn't one of the poorest parts of Modesto, officials would have done something.

Of the 2,000 mostly Latino residents of the neighborhood, roughly 35 percent live below the poverty level, according to the 2000 census. The neighborhood, a pocket of county land in urban Modesto, didn't have sewers and sidewalks and until two years ago.

"You think this would happen near Lakewood or Sonoma (schools)?" Campopiano asked. "There's nowhere else in Modesto that has to put up with something like this."

Neighborhood battles with Modesto Tallow have spanned decades. State public health authorities first investigated the plant's effect on the neighborhood in 1964.

Principal complained in 1973

In 1973, Shackelford Principal Chuck Dunning petitioned the county because the smells were so intense that the school canceled outdoor activities.

"This odor occurs very frequently and the teachers are just nauseous," he wrote in a letter. "The children also get sick, and this in no way helps our educational program." Coupled with an engineering study that found the plant had "marginal odor and particulate control capabilities," the letter helped spark one of the first confrontations between Modesto Tallow and regulators.

The regulators refused to grant the company a permit to operate, saying there were "uncontrolled odors" in the plant, according to a news account. At a hearing later that year, Modesto Tallow promised to install new equipment that it said would reduce odors. The company was allowed to keep operating.

Things heated up again nearly 25 years later. In 1997, the county Board of Supervisors asked District Attorney Jim Brazelton to declare Modesto Tallow a public nuisance, which would have paved the way for shutting down the facility. Modesto Tallow responded by proposing to install equipment that it said would cost \$750,000 and reduce odors as much as 80 percent. The improvements would include scrubbers, condensers and enclosure of the room that held dead animals before processing, according to air district records.

The plan satisfied the Board of Supervisors, which asked the district attorney to suspend the case so long as Modesto Tallow met its deadlines. Most of the upgrades were finished on time. But the deadline for enclosure of the room passed without much progress, according to air district records.

Company officials complained of engineering problems and financial difficulties. Air district officials criticized the company for failing to finish what it had promised. The district cited the company, but extended deadlines.

It wasn't until June 2001, 2 1/2 years after the original deadline, that the job was completed, according to a chronology prepared by the air district. Yet no public nuisance case was filed.

That's largely because as Modesto Tallow missed deadlines, the state's dairy and feed industries persuaded state lawmakers to pass legislation that effectively shielded rendering facilities from public nuisance cases.

In September 1999, then-Gov. Davis signed Senate Bill 1274. It says that renderers are protected as agricultural operations and are generally not subject to public nuisance laws. Company officials cite that law as the basis for not paying administrative fines.

Former county Supervisor Paul Caruso, who attended Shackelford and fought Modesto Tallow for years, said SB 1274's passage left the neighborhood with few options.

"That really put both arms behind our back," Caruso said.

Meanwhile, environmental problems at Modesto Tallow continued.

Federal and local officials investigating Modesto Tallow in 1998 found bones and feathers on the riverbank and an underground pipe leading from the plant to the river about 60 feet away.

As part of a plea agreement, Modesto Tallow's general manager, Larry Bietz, accepted a year in prison for falsifying water discharge samples. Modesto Tallow also paid a \$600,000 fine for discharging blood and animal parts into a lagoon that is part of the Tuolumne River.

Relocating the plant

Podesto said the company would like to move to a less-populated area; the cost of such a move was estimated at \$10 million to \$18 million in 1999. With the industry facing rising energy costs and limits on exports due to international concern over mad cow disease, Podesto said the company would need city or county help.

Podesto wouldn't disclose the company's earnings. The Texas-based ownership group, Modesto Holding Co., is headed by William A. Shirley Jr., a longtime rendering executive so prominent in Texas that the state House of Representatives passed a resolution in 2003 wishing him a happy 60th birthday.

The group, which does business as Pascal Enterprises, also owns California Spray Dry, a rendering plant in Stockton, and at least six other rendering companies throughout the West and Southwest.

County officials floated an idea in 1999 to move Modesto Tallow to county land between Patterson and Newman, near the waste-to-energy plant. The idea was nixed amid protest from West Side residents.

Jim DeMartini, who defeated Caruso at the polls in 2004 to become county supervisor for south Modesto and the West Side, said there's no easy fix, but something needs to be done.

"Probably the best long-term solution is to build a plant somewhere else," he said.

Meanwhile, the air district is mulling its options.

It could revoke the company's permit by citing specific violations of the Health and Safety Code. The district could bring the matter before a hearing board, which could grant an order of abatement -- demanding the company to clean up its act. Or the district could go to court for an injunction. Cases involving unpaid fines were sent to the air district's lawyers in November 2004. But no case has been filed.

Phil Jay, an attorney for the air district in Fresno, said he has no timetable but is waiting to see whether new equipment brings the facility up to code.

He said he's not optimistic.

"They've thrown money at this situation over the years, but it's usually at our prodding," Jay said. "Usually we squeeze 'em and they halfway fix the problem. Then we have the same problem again the next week."

If officials did shut down Modesto Tallow, what would happen to all those dead animals?

The community caught a glimpse of what might happen in March when Modesto Tallow's boiler malfunctioned. As many as 10 truckloads of cattle were routed to the

Fink Road Landfill. The landfill had to obtain a waiver from the state before taking the carcasses.

"We survive," Podesto said, "because the community needs us."

Residents fight on

Years of fighting has discouraged some who might otherwise push the issue. Many immigrants who live near the plant simply don't know where to complain. Others are too worried about making next month's rent to get involved. Former Supervisor Caruso said he understands why many feel helpless.

"They've lost faith in local government and the system. And they're right -- they were promised a remedy and they didn't get one," he said.

But there are those who press on.

Jodie Hofkamp-Echols, a school psychologist at Shackelford, said she is raising money to rent a billboard along Highway 99 with a sign reading: "Smell that stench, call 1-800-281-7003," the air district's complaint hot line.

"You know darn well they can do better," Hofkamp-Echols said. "But we have to scream at them to get anything done."

Johnson, the Pueblo Avenue homeowner, said he'll continue writing letters, signing petitions and calling lawmakers until something happens.

It's exhausting and frustrating, he said. But too much is at stake to give up. Children have a right to breathe clean air, he said, no matter what neighborhood they live in.

"If that wind blew downtown for just one week, I guarantee you they'd do something," Johnson said, as the smell wafted into his living room on a recent Saturday. "Well, it's been blowing our way for years. What's it going to take?"

Bee staff writer Todd Milbourn can be reached at 578-2339 or tmilbourn@modbee.com.

A CHRONOLOGY

* 1917: Modesto Tallow Co. opens along the Tuolumne River in a then-rural area south of Modesto. Among the original owners were John Varni, Jim Varni, Felix Radavero, Andrew Izola and Charles Tocalino, according to "History of Stanislaus County" by George Tinkham. He wrote: "The young men have become expert in their line, and two trucks are kept going to every portion of the county."

- * 1940s: People begin moving to the area near Crows Landing Road, drawn in part by lower taxes outside the city limit.
- * 1948: Shackelford Elementary School opens less than 1,000 feet from Modesto Tallow.
- * AUGUST 1964: California Department of Public Health investigates complaints of foul odors in the Shackelford neighborhood and concludes that the most offensive come from Modesto Tallow.
- * JUNE 1973: Shackelford Principal Chuck Dunning petitions Stanislaus County officials to do something about the odor.
- * AUGUST 1973: An engineering study finds the plant's equipment has "marginal odor and particulate control capabilities."
- * OCTOBER 1973: County officials threaten to shut down Modesto Tallow due to uncontrolled odors. Company promises to install new equipment that will reduce odors, and is allowed to stay in business.
- * 1980: Modesto Tallow purchases California Spray Dry, a rendering plant in Stockton.
- * AUGUST 1997: Modesto Tallow embarks on a four-phase odor reduction plan that officials say will cost \$750,000 and reduce odors as much as 80 percent.
- * DECEMBER 1997: City of Modesto issues Modesto Tallow a cease-and-desist order after inspectors discover numerous animal bones and animal feathers along the banks of the Tuolumne River.
- * JUNE 1998: Rep. Gary Condit, D-Ceres, prodded by angry constituents, asks the air district what's being done to reduce odors. Air district officials respond that the company is on the verge of adding new technologies and that air quality improvements are expected to follow.
- * MAY 1999: Stanislaus County grand jury criticizes government officials for not communicating enough with residents about issues at Modesto Tallow.
- * JUNE 1999: Modesto Tallow officials plead guilty to violating the federal Clean Water Act by discharging dead animal parts into a lagoon that is part of the Tuolumne River. Plant manager Larry Bietz later is sentenced to a year in prison for forging water samples. The company pays \$600,000 fine.
- * JULY 1999: County officials float an idea to move Modesto Tallow to county-owned land between Patterson and Newman, near the city-county waste-to-energy plant. Hundreds of West Side residents sign a petition in protest.
- * JULY 1999: Modesto Holding Co., a group of Texas-based investors, buys a majority interest in Modesto Tallow.

* SEPTEMBER 1999: Gov. Davis signs a law, lobbied for by the dairy and animal feed industries, that extends to rendering plants an agricultural exemption to public nuisance laws.

* JULY 2002: Modesto Tallow installs a thermal oxidizer to reduce odors.

* JULY 2003: Modesto Tallow pays \$114,508 to settle a case brought by the Solano County district attorney, alleging that company trucks spilled blood and dead animal parts onto roads.

* JUNE 2004: U.S. Environmental Protection Agency agents obtain a search warrant to investigate Modesto Tallow's dealings in Oregon. A special agent alleges that Modesto Tallow rendered chicken carcasses and discharged waste into the Columbia River without a permit, in violation of the Clean Water Act. Three months later, Modesto Tallow pays \$100,000 to a Portland-based environmental group, which had threatened to sue the company.

* JULY 2004: Modesto Tallow fails an air district inspection. Among other problems, air district officials found "a large amount of waste, including Styrofoam meat trays and plastic wrap to be in the meat and bone and processing raw material receiving pit." Inspectors ask company officials how the trash was removed prior to processing and were told that it wasn't, according to air district records.

* JANUARY-MAY 2005: Residents lodge 150 odor complaints, more than during the first five months of any year since the air district began keeping records in 1994.

-- Todd Milbourn

Copyright 2005 McClatchy Newspapers, Inc.

All Rights Reserved