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**BEFORE THE GOVERNING BOARD OF THE  
SAN JOAQUIN VALLEY UNIFIED  
AIR POLLUTION CONTROL DISTRICT**

**IN THE MATTER OF: ADOPTING  
PROPOSED AMENDMENTS TO RULE 2301 ) RESOLUTION NO. 12-01-16  
(EMISSION REDUCTION CREDIT )  
BANKING) )**

**WHEREAS**, the San Joaquin Valley Unified Air Pollution Control District (District) is a duly constituted unified air pollution control district, as provided in California Health and Safety Code Sections 40150 et seq. and 40600 et seq.; and

**WHEREAS**, said District is authorized by California Health and Safety Code Section 40702 to make and enforce all necessary and proper orders, rules, and regulations to accomplish the purpose of Division 26 of the California Health and Safety Code; and

**WHEREAS**, said District is authorized by California Health and Safety Code Section 40709 to establish an Emission Reduction Credit Banking system; and

**WHEREAS**, the California Global Warming Solutions Act of 2006 (AB32) sets a regulatory framework requiring the California Air Resources Board to achieve a reduction in greenhouse gas (GHG) emissions in California to a 1990 equivalent emissions level by the year 2020; and

**WHEREAS**, the California Environmental Quality Act of 1970 (CEQA) requires public agencies to analyze potential adverse impacts for proposed projects undertaken by a public agency and minimize those impacts where feasible; and

**WHEREAS**, the Governing Board adopted a District Climate Change Action Plan in August 2008, which directed the Executive Director/Air Pollution Control Officer to develop guidance for addressing greenhouse gas emission impacts under CEQA; and

**WHEREAS**, the District held numerous public meetings and workshops in 2008 and 2009 to develop a guidance document and adopted its GHG CEQA guidance on December 17, 2009, contained in two documents: "*Addressing GHG Emission*

1 *Impacts for Stationary Source Projects Under CEQA When Serving as the Lead*  
2 *Agency” and “Guidance for Valley Land-use Agencies in Addressing GHG Emission*  
3 *Impacts for New Projects under CEQA”;* and

4 **WHEREAS**, the District is now proposing amendments to Rule 2301 (Emission  
5 Reduction Credit Banking) to allow for the voluntary banking of GHG emission  
6 reductions; and

7 **WHEREAS**, the District prepared a draft Environmental Impact Report (“DEIR”) to  
8 analyze the potential environmental impacts on global climate change that may result  
9 from adoption of proposed amendments to Rule 2301; and

10 **WHEREAS**, the DEIR was published on August 8, 2011, the public comment period  
11 on the DEIR closed on September 26, 2011, and the District prepared a Final  
12 Environmental Impact Report (“FEIR”) addressing all comments received; and

13 **WHEREAS**, a public hearing for the adoption of Proposed Rule 2301 and  
14 certification of the Final EIR was duly noticed on December 15, 2011, in accordance  
15 with California Health and Safety Code Section 40725.

16 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

17 1. The Governing Board hereby adopts Proposed Rule 2301 (Emission Reduction  
18 Credit Banking). Said rule shall become effective on January 19, 2012.

19 2. In accordance with provisions of Section 15090 of the California Public  
20 Resources Code the Governing Board hereby certifies that:

21 a. The District has prepared and properly noticed the FEIR for Rule 2301  
22 pursuant to the California Environmental Quality Act (CEQA) and CEQA guidelines;

23 b. The FEIR concludes that the proposed amendments to Rule 2301 will not  
24 have a significant adverse impact on the environment and represents CEQA  
25 compliance for the proposed amendments to Rule 2301;

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1 c. The District Governing Board reviewed and considered the information in  
2 the FEIR prior to adopting Proposed Rule 2301 (Emission Reduction Credit Banking);  
3 and

4 d) The FEIR represents the District's independent judgment and analysis.  
5 In accordance with the provisions of Section 15094 of the CEQA guidelines, the  
6 Executive Director/Air Pollution Control Officer is hereby directed to cause to be filed a  
7 Notice of Determination with the County Clerks of each of the counties in the District.

8 3. The Governing Board hereby finds, based on the evidence and information  
9 presented at the hearing upon which its decision is based, all notices required to be  
10 given by law have been duly given in accordance with California Health and Safety  
11 Code Section 40725, and the Governing Board has allowed public testimony in  
12 accordance with California Health and Safety Code Section 40726.

13 4. In connection with said rulemaking, the Governing Board makes the following  
14 findings as required by California Health and Safety Code Section 40727:

15 a. **NECESSITY.** The Governing Board finds, based on the staff report, and on  
16 public and industry testimony on the record for this rulemaking proceeding, that a need  
17 exists for said rule. Said rule satisfies the District's commitment in the District's 2008  
18 Climate Change Action Plan.

19 b. **AUTHORITY.** The Governing Board finds that it has the legal authority for  
20 said rulemaking under the California Health and Safety Code Sections 40000 and  
21 40001.

22 c. **CLARITY.** The Governing Board finds that said rule is written or displayed  
23 so that the meaning can be easily understood by those persons or industries directly  
24 affected by said rule.

25 d. **CONSISTENCY.** The Governing Board finds that said rule is in harmony  
26 with, and not in conflict with or contradictory to, existing statutes, court decisions, or  
27 state or federal regulations.

1 e. **NONDUPLICATION.** The Governing Board finds that said rule does not  
2 impose the same requirements as any existing state or federal regulation.

3 f. **REFERENCE.** The Governing Board finds that said rulemaking implements  
4 Section 172(c)(1) of the federal Clean Air Act, and Section 40709 of the California  
5 Health and Safety Code.

6 5. The Executive Director/Air Pollution Control Officer is directed to file with all  
7 appropriate agencies certified copies of this resolution and the rule adopted herein and  
8 is directed to maintain a record of this rulemaking proceeding in accordance with  
9 California Health and Safety Code Section 40728.

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1           **THE FOREGOING** was passed and adopted by the following vote of the  
2 Governing Board of the San Joaquin Valley Unified Air Pollution Control District this  
3 19th day of January 2012, to wit:

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5                   **AYES:** Baines, Barba, Barwick, Bomprezzi, Case, Dominici,  
6                   Hanson, Sherriffs, Walsh, Worthley, Vierra, Watson,  
7                   O'Brien

8                   **NOES:** Forman


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11                   **ABSENT:** Ornellas

SAN JOAQUIN VALLEY UNIFIED  
AIR POLLUTION CONTROL DISTRICT

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14                   By  \_\_\_\_\_  
15                   William O'Brien, Chair  
16                   Governing Board

17 ATTEST:

18 Clerk to the Governing Board

19 By  \_\_\_\_\_  
20 Michelle Franco  
21 Clerk to the Board