

News Release

For immediate release

DATE 12-7-10



San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT



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Appellate court upholds Air District development regulation

In the legal battle over the Valley Air District's landmark regulation of development-associated air pollution, the Ninth Circuit Court of Appeal upheld the Air District's right to regulate indirect sources of pollution.

The suit, filed by the National Association of Homebuilders in June 2007, alleged that the Air District's pioneering regulation, which establishes development fees for air-pollution mitigation, is pre-empted by the federal Clean Air Act. The U.S. District Court for the Eastern District of California ruled against the NAHB in September 2008, and the developers' group appealed the decision. The Court of Appeal's ruling today affirmed that the Clean Air Act permits the Air District to regulate aspects of land use critical to air quality.

"We are gratified by this ruling," said Seyed Sadredin, the District's air pollution control officer and executive director. "We are eager to continue working with Valley developers to clean up our air."

Rule 9510, Indirect Source Review, requires developers of projects over certain sizes in the eight-county air basin to quantify the emissions produced by their projects in both the construction and habitation phases and mitigate their emissions either by building in air-friendly components to their projects, such as sidewalks, electric plug-in stations, green space and other features that encourage alternatives to driving, or through the payment of mitigation fees.

Development sprawl and its negative impact on air quality is especially pertinent in the Valley, Sadredin said.

"We have significant natural challenges to our air quality in the Valley by virtue of our geography and climate. Piling on our historic tendency to sprawl has only posed another obstacle to clean air. Local developers in the San Joaquin Valley should be commended for their innovation and cooperation in complying with this rule despite legal challenges by the national association," Sadredin said.

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Appellate court affirms development rule

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