

Builders constructing environmental agreements

By Alex Breitler

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Near the peak of last decade's building boom, air quality officials approved an innovative yet controversial rule holding developers accountable for new pollution caused by growth.

But before long, there was no growth.

Today, as construction activity resumes in south San Joaquin County and all along the Valley, builders are faced with the challenge of designing cleaner neighborhoods or paying to offset pollution elsewhere.

It is not a challenge they initially welcomed, having spent years unsuccessfully attempting to block the rule in court.

But some builders are going even further than what's required under the rule. They are entering into voluntary agreements to cancel out project emissions entirely, which might protect them from litigation under the state's stringent environmental laws.

The latest such agreement was signed last week. Meritage Homes agreed to spend nearly \$2 million to offset air quality concerns associated with a Manteca residential development it expects to build over the next six years.

Meritage has also committed to clean-air features such as a vehicle roundabout to reduce stopping and starting, school bus stops to facilitate mass transportation, and sidewalks on both sides of the street encouraging people to walk instead of drive. (Some newer neighborhoods contain just one sidewalk per street.)

"Every little thing helps us reduce the impacts of a development," said Dave Warner, director of permit services for the Valley Air Pollution Control District.

Meritage won approval for the 80-acre development in 2007 and, like many other builders, has been waiting for the right time to proceed.

And that time has arrived for Meritage and others. Warner said last week that the number of developers seeking coverage under the rule is likely to increase 30 percent this year.

The number of even more ambitious voluntary agreements has also gone up. Even before last week's new deal, developers across the Valley had already agreed to pay more than \$12 million, money that will be used to replace old diesel tractors or upgrade dirty wood stoves, among other options.

"Most of the developers I've talked to about this process, the real incentive for doing this is that you get the air district behind you saying that the emissions from this project are fully mitigated. And that's pretty hard to challenge" in court, Warner said.

At an air district meeting Thursday, district chief Seyed Sadredin said that while some projects make it through the environmental review process with no problem, others may be challenged by neighbors or union groups - even if they generate the same amount of pollution.

This is part of the reason, he said, some view the California Environmental Quality Act as "dysfunctional."

The voluntary agreements allow the developers to make the case that they're not only eliminating pollution, but also satisfying community concerns.

Meritage did not provide details about why it agreed to the nearly \$2 million in voluntary reductions.

John Beckman, head of the Building Industry Association of the Delta, said such voluntary agreements are actually fairly common and have been struck not only between developers and the air district but also between developers and cities or other local planning agencies.

"Oddly enough, it happens all the time," Beckman said. "Unfortunately, a lot of the time it's lawsuit insurance."