



INFORMATIONAL UPDATE

February 25, 2008:

CENTRAL VALLEY AIR QUALITY INDIRECT SOURCE REVIEW RULE UPHELD

**CA Building Industry v. SJVUAPCD
Fresno Superior Court Case No. 06CECG02100.**

Fresno County Superior Court Judge Donald S. Black has ruled in favor of the San Joaquin Valley Unified Air Pollution Air Control District (SJVUAPCD) in a controversial case concerning air pollution mitigation fees for indirect emission sources. The lawsuit, filed in June 2006, has asserted the District had no authority to regulate development and impose fees and, therefore, Rule 9510 was equivalent to a tax under Proposition 13.

The SJVUAPCD was the first Air District in the State to present a rule that mitigates air pollution caused by new development. Rule 9510, also known as Indirect Source Review, was adopted by the District in December 2005 and requires an Air Impact Assessment application for all development projects. Under Rule 9510, the District evaluates and approves the applications, and may assess an off-site emission reduction fee if emissions are not reduced on-site.

Additional Air Districts statewide are contemplating using SJVUAPCD's model for new development regulations and fee structures. Developers statewide may soon need to comply with Indirect Source Review requirements.

Former District employees, Chrissy Meier and Dave Mitchell, co-authored the Indirect Source Review Program, and Elena Nuño facilitated Program implementation. These three local experts have now joined the Air Quality Team at Michael Brandman Associates working from the firm's Fresno and Sacramento offices. Since Rule 9510 became law, Ms. Meier and Ms. Nuño have applied their expertise assisting numerous local development projects in applying on-site reduction measures to reduce air pollution.

Please contact Ms. Meier at 916.447.1100 or contact Ms. Nuño or Mr. Mitchell at 559.479.0310 for questions regarding the new ruling or concerns about a current or future development project.