



**Air Impact Assessment (Indirect Source Review)  
Coming To A Project Near You...**

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**Air Impact Assessment**

**WHAT IS AN AIR IMPACT ASSESSMENT  
("AIA")?**

An AIA is: The calculation of emissions generated by a project and the emission reductions required to offset the emissions generated by a project. In English, an AIA is a fee that is assessed against a project by an air district based upon the project's emissions.



## **AIA's Purpose**

The AIA is designed to encourage project proponents to mitigate their air impacts through both the implementation of design measures and the payment of a fee that the air district will utilize in its own emission reduction programs.



## **The Rationale**

- According to the air districts, new projects contribute to air pollution by increasing the number of vehicles and vehicle miles traveled.
- For example, if you build a school 5 miles from the center of town, buses and cars will travel from homes and bus stops to the school. Those vehicles will generate air emissions on their way.



## Origins Of The AIA

In 2003, the state legislature adopted SB 709 (Florez). This bill, among other things, added a provision to state law authorizing the San Joaquin Valley Unified Air Pollution Control District (“SJVUAPCD”) to adopt a schedule of fees to be assessed on “areawide or indirect sources of emissions.”



## No Reimbursement

SB 709 also contains the “no reimbursement” magic language, preventing the recovery of these state-mandated costs because, according to SB 709, a “school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act”



## How Is The Fee Assessed?

### Step One

- A project proponent is required to file an application with their air district that includes a site plan, site size, proposed project schedule, amount of off-street parking provided . . . and a \$600 application fee.



## How Is The Fee Assessed?

### Step Two

- The air district analyzes the emissions of NO<sub>x</sub> (nitrogen oxides) and PM<sub>10</sub> (particulate matter) that the project will generate or attract. The project proponent must then identify mitigation measures it will adopt to reduce the emissions and will propose a monitoring process to insure successful implementation.



## **What Does Emission Mitigation “Look Like”?**

**Emission mitigation can include incorporating design elements such as bicycle lanes, locating a project next to existing or planned bus stops, wider sidewalks, etc.**



## **How Is The Fee Assessed?**

### **Step Three**

- **Utilizing the URBEMIS computer model for estimating emissions, the air district will calculate an amount of unmitigated impact the project will have on air emissions and will assess a fee accordingly.**



## What Does This Fee “Look Like”?

Recently, a medium size high school project with a \$70 million dollar budget was assessed a \$151,000 AIA. The fees are scheduled to double starting next year. While this seems like a small percentage of this particular project, the fee will constitute a much larger percentage of smaller projects.



## What Types Of Projects Are Impacted?

**9,000 square feet or more of Educational Space.**



## Cut-Off Date – The Easy Way Out?

Currently, projects that receive “final discretionary approval” before March 1, 2006, are *exempt* from the AIA process.

SJVUAPCD interprets “final discretionary approval” to be the *school board’s* approval of the project.



## Which School Districts Are Impacted?

### Good News and Bad News

The Good News... Only school districts within the jurisdiction of the San Joaquin Valley Unified Air Pollution Control District (The Counties of San Joaquin, Stanislaus, Merced, Fresno, Madera, Kings, Kern and Tulare) are currently impacted by this AIA.



## **Which School Districts Are Impacted?**

### **Good News and Bad News**

The Bad News... Other air districts, including South Coast Air Quality Management District and Sacramento Metropolitan Air Quality Management District will be adopting similar rules if pending litigation against the SJVUAPCD challenging the fee is unsuccessful.



## **Attack Of The Homebuilders -- Pending Litigation**

### **State Court Action**

**The California Building Industry Association (“CBIA”) has filed an action in Fresno County Superior Court seeking the invalidation of the AIA. Trial starts December 14, 2007.**



## **Attack Of The Homebuilders -- Pending Litigation**

### **The State Court Argument**

- **SJVUAPCD is attempting to regulate motor vehicle emissions by this rule (something an air district cannot do)**
- **The AIA are really invalid Developer Fees**
- **The AIA constitutes a “special tax”**
- **Etc.**



## **Attack Of The Homebuilders -- Pending Litigation**

### **Federal Court Action**

**The National Association of Homebuilders filed a lawsuit in Federal District Court for the Eastern District, in Fresno, California similarly seeking to invalidate the AIA.**



## **Attack Of The Homebuilders -- Pending Litigation**

### **The Federal Court Argument**

**Certain provisions of the Federal Clean Air Act preempt SJVUAPCD from enacting and applying the AIA.**



## **How Are Schools Being Made Aware Of Their AIA Obligations?**

**While the rules require the school districts to apply to the air district for an AIA, many school districts are unaware of this requirement. They're getting "caught" when they circulate their CEQA documents to the air district.**



## So You Received A Letter From The Air District. . .Now What?

- **FIRST**, verify whether your project fits the rule
- **SECOND**, try to locate a board resolution adopted prior to March 1, 2006 approving the project
- **THIRD**, if the project falls under the rule, meet with the air district to discuss mitigation
- **FOURTH**, if a fee is assessed, ask for and obtain a fee deferral



## Informational Resources

- **Rule 9510 of the San Joaquin Valley Unified Air Pollution Control District Rules**
- **Rule 3180 of the San Joaquin Valley Unified Air Pollution Control District Rules**
- **[www.valleyair.org](http://www.valleyair.org)**



***THANK YOU***