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

IN THE MATTER OF: ADOPTING COMMITMENTS TO ENHANCE SIP CREDITABILITY OF INCENTIVE-BASED EMISSION REDUCTIONS	RESOLUTION NO. 07-04-11b

WHEREAS, the San Joaquin Valley Unified Air Pollution Control District (District) is a duly constituted unified district, as provided in California Health and Safety Code (CH&SC) Sections 40150 to 40161; and

WHEREAS, the District has conducted an active and effective regulatory program that has successfully reduced Valleywide air pollution by more than 50 percent since 1990; and

WHEREAS, said emission reduction programs have effectively improved air quality in the San Joaquin Valley Air Basin (SJVAB) for particulate matter less than 10 microns in diameter (PM10) and for 1-hr ozone; and

WHEREAS, the District's *2007 Ozone Plan* identifies substantial new emission reductions that are needed to attain the more stringent ambient air quality standards for 8-hr ozone [and also for particulate matter less than 2.5 microns in diameter (PM2.5)] implemented by the United States Environmental Protection Agency (EPA); and

WHEREAS, the District's *2007 Ozone Plan* shows that regulatory programs alone will not provide the emission reductions needed to meet federal Clean Air Act requirements for the federal 8-hr ozone and PM2.5 standards; and

WHEREAS, to meet these more stringent requirements, the District will need emission reductions from sources outside of its regulatory authority and from sources that may lack the financial wherewithal to implement technology with reduced air pollutant emissions; and

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WHEREAS, incentive programs allow the District to achieve emission reductions from these types of sources; and

WHEREAS, the District's past experience demonstrates that substantial reductions in actual emissions can be cost-effectively achieved through incentive-based programs; and

WHEREAS, current EPA guidance requires that all incentive-based reductions be surplus to those obtained from regulations, quantifiable, enforceable, and permanent for the life of the project; and

WHEREAS, the District's *2007 Ozone Plan* identifies the potential for substantial future emission reductions from incentive-based programs using funds from known funding sources such as the Carl Moyer Program, the Department of Motor Vehicles registration surcharge fees, the Indirect Source Review fees, and development agreements, as well as from future state and federal funding sources not yet identified; and

WHEREAS, the use of new and varied funding sources for incentive-based emission reductions may require modifications to the District's incentive program implementation to ensure that EPA can give credit to the reductions as meeting SIP commitments for emission reductions; and

WHEREAS, continued success and reliance on incentive-based programs in current and future plans (e.g., the 2008 PM2.5 Plan) require formal EPA recognition that the resulting reductions are creditable towards emission reduction commitments in SIPs; and

WHEREAS, an appropriate public comment period on the *Commitments to Enhance SIP Creditability of Incentive-Based Emission Reductions* was held; and

WHEREAS, a public hearing for the adoption of the *Commitments* was duly noticed and held on "adoption date";

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NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The District will take all actions necessary to ensure that reductions from District-operated incentive programs meet EPA criteria (surplus, quantifiable, enforceable and permanent for life of project) and requirements for SIP creditability for all incentive-based emission reductions used by the District to meet federal Clean Air Act requirements. The specific commitments that the District will meet for incentive-based reductions used to meet federal Clean Air Act requirements are as follows.

2. The District will implement incentive projects through legally enforceable contracts between the District and the grantee. These contracts will describe the actions that the grantee must take to achieve the emission reductions calculated for the project. The District will seek enforcement of the terms of the contracts against non-compliant sources to obtain the agreed-upon reductions or will submit additional SIP-creditable reductions where the grantee's compliance is impractical.

3. The District will ensure that all emission reductions calculated for incentive projects will be done using established protocols or using protocols developed in a transparent public process. In particular, the District will

a. Use the Carl Moyer Program Guidelines to calculate creditable emission reductions for use in SIPs for incentive projects funded by the Carl Moyer Program Incentive Funds; and

b. At its discretion, use the Carl Moyer Program Guidelines to calculate creditable emission reductions for incentive projects funded by other than Carl Moyer Program Incentive Funds; and

c. Use non-Carl Moyer protocols for other funding sources, provided such protocols are developed in an open public process that includes issuance of a draft protocol, holding at least one workshop on the draft protocol, revising the protocol as needed based on public comment, and adopting the protocol at a duly-noticed public hearing of the District Governing Board. The District will address any EPA objections to board-

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adopted protocols provided that EPA submits written objections to the District Air Pollution Control Officer within 30 days of receipt of the board-adopted protocol or another mutually agreed upon timeline. In objecting to board-adopted protocols, EPA must describe the basis for the objection and offer possible remedies. The District will update any board-adopted protocols on a regular basis to take into account new SIP provisions, new emission standards and new emission factors in order to ensure surplus reductions and to improve the accuracy of the quantified reductions.

4. The District will continue to conduct onsite inspections and other monitoring of incentive projects to enforce the incentive-based reductions. All incentive projects described in (1) above will be field-inspected at least once every five years or at least once during the project lifetime for projects with a lifetime of less than five years. In addition, for any incentive project that did not submit its required annual report, the District will field inspect said project within six months of the final due date of the annual report.

5. The District will prepare and provide annual reports to EPA by March 31st of each calendar year for the preceding calendar year after at least one public hearing allowing for public review and input. At a minimum, the annual reports will describe the amount of incentive-based funds spent, verify the amount of actual emission reductions versus predicted emission reductions, discuss any quantification or surplus issues that have arisen during the reporting period and how they were resolved, summarize any key issues from field inspections and audits, and include or reference publicly available electronic information or records for each grant issued.

6. If an annual report indicates a shortfall of emission reductions, the District will revise any air quality plan(s) dependent on those reductions to meet requirements and will submit an amended plan within 12 months of the date of hearing of the annual report with changes necessary to assure compliance with all applicable federal Clean

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Air Act requirements. These changes may include additional regulatory measures or enhanced funding to generate the necessary reductions in the timeline necessary to meet the applicable federal Clean Air Act requirements. The District will separately track and report on any incentive-based reductions tied to transportation conformity emissions budgets, and will work with local agencies to remedy specific shortfalls to the emissions budgets if needed.

7. The District will use information from annual reports and field inspections to track actual emissions reductions from incentive-based programs on a real-time basis, and will provide quality-assured data on incentive-based emission reductions to the public on a continuous basis via website posting. These data will also be summarized in the annual reports. The District will develop and implement a new data collection and management system for the real-time tracking and evaluation of emission reductions from incentive-based programs.

8. The District Governing Board commits to provide adequate resources for tracking and compliance of emissions reductions from incentives to ensure that grantees fulfill contract requirements and that actual emissions reductions are achieved and sustained.

9. The District Governing Board hereby finds, based on the evidence and information presented at the hearing upon which its decision is based, that all notices required to be given by law have been duly given, and that the District Governing Board has allowed public testimony.

10. Adoption of these commitments is necessary to identify emission reductions for meeting federal requirements for the PM2.5 and 8-hr ozone standards and to therefore promote the health and welfare of the residents of the SJVAB.

11. The Executive Director/Air Pollution Control Officer is hereby directed to forward a copy of this Resolution and Staff Report to the California Air Resources Board (ARB).

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12. The District Governing Board requests that the ARB Executive Officer transmit the Resolution and Staff Report, as adopted by the District Governing Board, to the EPA.

13. District staff is hereby authorized to adjust operation of the District incentive program, including the update of Board-adopted protocols, as warranted by new information on emissions, and to make any minor typographical and technical changes in the Resolution and Staff Report that are necessary to correct minor errors, clarify wording, or to satisfy ARB and EPA technical requirements.

THE FOREGOING was passed and adopted by the following vote of the Governing Board of the San Joaquin Valley Unified Air Pollution Control District this "adoption date", to wit:

AYES: BARBA, CASE, DOMINICI, MCQUISTON, NELSON O'BRIEN, VIERRA, ORNELLAS, WORTHLEY

NOES: BRAR, PEREA

ABSENT: NONE

SAN JOAQUIN VALLEY UNIFIED
AIR POLLUTION CONTROL DISTRICT

By _____
J. Steven Worthley, Chair
Governing Board

ATTEST:

Clerk to the Governing Board

By _____
Toni Taber

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