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DATE: June 19, 2008

TO: SJVUAPCD Governing Board

FROM: Seyed Sadredin, Executive Director/APCO
Project Coordinator: Arnaud Marjollet

RE: RECEIVE AND FILE THE "2008 ANNUAL REPORT ON THE DISTRICT'S INDIRECT SOURCE REVIEW PROGRAM"

RECOMMENDATION:

Receive and file the "2008 Annual Report on the District's Indirect Source Review Program" (see attachment A).

BACKGROUND:

District Rule 9510, Indirect Source Review (ISR), was adopted by the District's Board to reduce the impacts of growth in emissions resulting from new land development in the San Joaquin Valley. The rule's intent, requirements, and administrative procedures are generally described in this report, which was prepared pursuant to Rule 9510 to describe emission reductions achieved and mitigation fees received through implementation of the ISR program.

DISCUSSION:

District Rule 9510 applies to new development projects that emit emissions of at least two tons of nitrogen oxides (NOx) or two tons of particulate matter smaller than ten microns in aerodynamic diameter (PM10) per year.

Developers of projects subject to Rule 9510 must reduce emissions occurring during construction and operational phases, or pay specified mitigation fees. To minimize emissions and to minimize the applicable mitigation fee, developers have begun voluntarily incorporating many air-friendly design changes into their proposals.

For instance, significant reductions in emissions have been generated via the use of cleaner construction equipment. For large distribution centers, proponents have voluntarily proposed to use cleaner truck fleets. In addition, many lesser but still cumulatively significant reductions in emissions have been garnered by a whole range of effective design principles, like installation of solar power, integrated mixed-use development design, bike lanes, high-efficiency housing design, and many others.

If a developer does not achieve the sufficient emission reductions through onsite measures, the rule provides a mechanism by which the developer can pay an offsite mitigation fee to the District. One hundred percent of all offsite mitigation fees received by the District are to be used by the District's existing Emission Reduction Incentive Program (ERIP) to fund emission reduction projects, achieving emission reductions in behalf of the project. Additionally, if a project is subject to off-site emission reduction fees, the developer is required to pay an administrative fee equal to four percent (4%) of the required off-site fees. This fee is to cover the District's cost of administering the off-site emission reduction program.

Section III of this year's report summarizes District Implementation of Rule 9510 and Section IV summarizes funds received and expended, emission reductions realized, and overall cost-effectiveness of funded projects. Appendix A of the report provides a list of all emission reduction projects funded by the ISR program.

Attachment
2008 Annual Report on the District's Indirect Source Review Program (13 pages)

San Joaquin Valley Air Pollution Control District
Meeting of the Governing Board
June 19, 2008

RECEIVE AND FILE THE "2008 ANNUAL REPORT ON THE DISTRICT'S INDIRECT SOURCE REVIEW PROGRAM"

Attachment:
2008 Annual Report on the District's Indirect Source Review Program
(12 pages)

The above attachment has been included with the agenda packets distributed to members of the Governing Board. It has not been included with other agenda packets. A copy of this document is available for review and/or purchase from the San Joaquin Valley Unified Air Pollution Control District.

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

2008 Annual Report on the District's Indirect Source Review Program

Reporting Period: March 1, 2007 to February 29, 2008

SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT GOVERNING BOARD
2008 Annual Report on the District's Indirect Source Review Program

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I. EXECUTIVE SUMMARY

This *"2008 Annual Report on the District's Indirect Source Review Program"* was prepared by the San Joaquin Valley Unified Air Pollution Control District. District Rule 9510, Indirect Source Review (ISR), was adopted by the District's Governing Board to reduce the impacts of growth in emissions resulting from new land development in the San Joaquin Valley. The rule's intent, requirements, and administrative procedures are described in this report, as are the emission reductions achieved and mitigation fees received during 2007-2008 through implementation of the ISR program.

District Rule 9510 applies to new development projects that emit emissions of at least two tons of nitrogen oxides (NOx) or two tons of particulate matter smaller than ten microns in aerodynamic diameter (PM10) per year. The rule contains provisions exempting traditional stationary source projects that are subject to the District's stationary source permitting requirements.

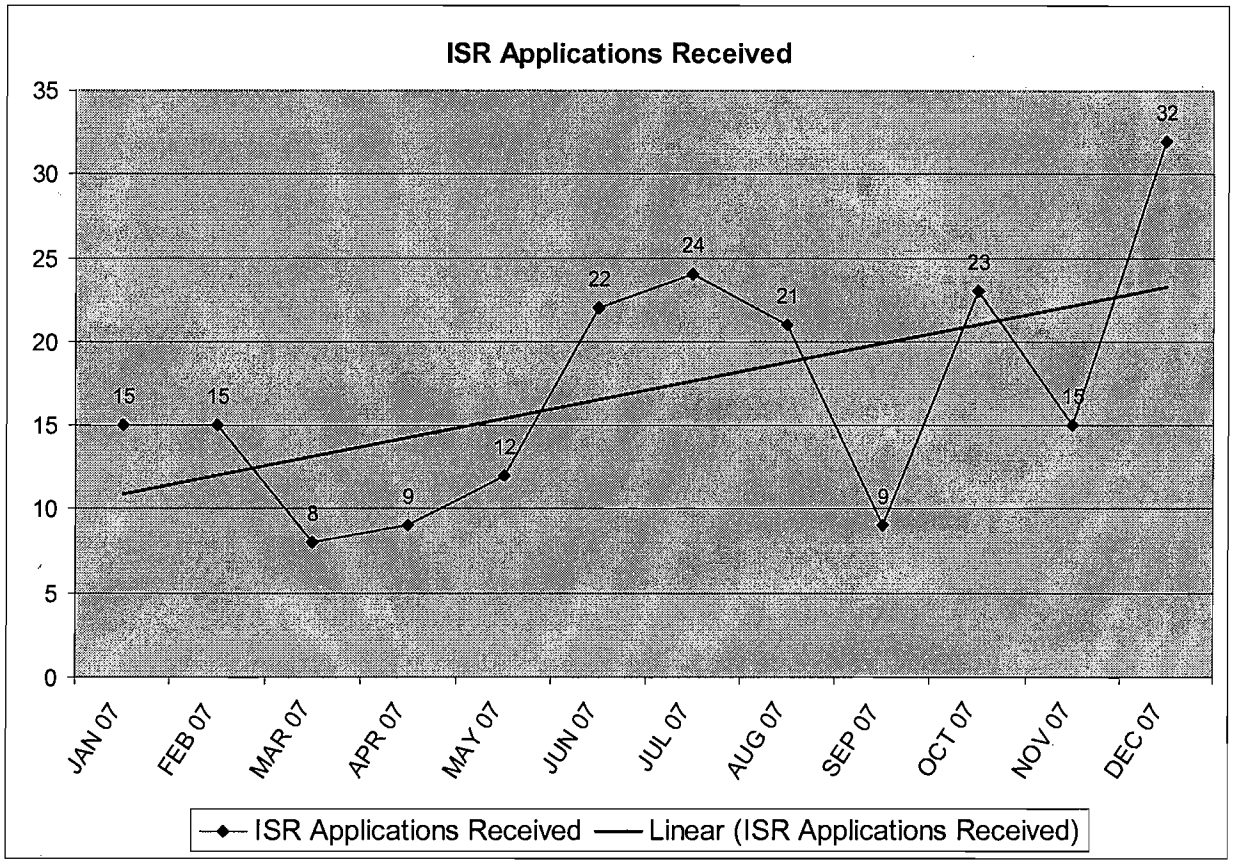
Developers of projects subject to Rule 9510 must reduce emissions occurring during construction and operational phases, or pay specified mitigation fees. To minimize emissions and to minimize the applicable mitigation fee, developers have begun voluntarily incorporating many air-friendly design changes into their proposals. For instance, significant reductions in emissions have been generated via the use of cleaner construction equipment. For large distribution centers, proponents have voluntarily proposed to use cleaner truck fleets. In addition, many lesser but still cumulatively significant reductions in emissions have been garnered by a whole range of effective design principles, like installation of solar power, integrated mixed-use development design, bike lanes, high-efficiency housing design, and many others.

If a developer cannot achieve the required emission reductions through onsite measures, the rule provides a mechanism by which the developer can pay an offsite mitigation fee to the District. One hundred percent of all offsite mitigation fees received by the District are to be used by the District's existing Emission Reduction Incentive Program (ERIP) to fund emission reduction projects, achieving emission reductions in behalf of the project. Additionally, if a project is subject to off-site emission reduction fees, the developer is required to pay an administrative fee equal to four percent (4%) of the required off-site fees. This fee is to cover the District's cost of administering the off-site emission reduction program.

Despite legal challenges[1] and slowed growth in the building industry, especially in the residential development sector, the ISR program had considerable success during this reporting period. As compared with the 2006-2007 reporting period, the ISR program experienced a 46% increase in Air Impact Assessment (AIA) applications received (194 applications received this year versus 133 last year) and a 244% increase in payment of

[1] On June 27, 2006 a lawsuit was filed by various building industries challenging the validity of District Rule 9510. On March 25, 2008 the Fresno County Superior Court ruled in favor of the District on all accounts. An appeal of that decision was filed May 22, 2008. There is a companion case pending in Federal Court which claims District Rule 9510 is preempted by federal tailpipe control standards. Initial indications of the outcome of this case may become apparent in the fall of 2008.

off-site mitigation fees ($5,716,032 received this year compared to $1,660,072 last year).



This increase continued throughout the year, as seen by the graph above, and is attributable to major efforts in District outreach and implementation of measures to improve linkages between the ISR program and District Compliance functions. Outreach included coordinating and holding multiple meetings with key planning agency staff throughout the San Joaquin Valley, conducting public workshops on how to comply with ISR and providing land use agencies training on the use of URBEMIS.

For the 2007-2008 ISR annual reporting period, the District's ISR accounts held a beginning balance of $5,090,869. During this reporting period, the District received off-site mitigation fees totaling $5,392,453 resulting in a grand total of $10,483,322 in off-site mitigation fees. The District funded off-site emission reduction projects totaling $3,125,191, leaving an unexpended balance of $7,358,131.

Implementation of District Rule 9510 resulted in projected combined on-site and off-site emission reductions totaling 2,078 tons of nitrogen oxides (NOx) and 1,087 tons of fine particulate matter (PM10). Off-site emission reduction projects funded by the ISR program achieved emission reductions representing 252 of NOx and 9 tons of PM10, with an average cost effectiveness of $11,928 per ton of reduced emissions.

II. INTRODUCTION

The District's population increased by 22% between 1990 and 2000, and California's Department of Finance has projected that the San Joaquin Valley Air Basin (SJVAB) will experience an overall increase in population of 24% between 2000 and 2010, and an additional 26% increase between 2010 and 2020. Population growth results in increased area source emissions from activities such as increased consumer product use, fuel combustion, and landscape maintenance. Additionally, the total number of vehicle miles traveled (VMT) increases at an even faster rate than the population growth rate. The District experienced a 9% increase in VMT in just three years, between 1999 and 2002, and we expect to see an additional 27% increase in VMT from 2002 to 2010.

The projected growth in these so called "indirect source" emissions erodes the benefits of emission reductions achieved through the District's stationary source program and the state and federal mobile source controls. The District has longstanding statutory authority to regulate indirect sources of air pollution. Pursuant to this authority, the District made a federally enforceable commitment to regulate indirect sources when it adopted its PM10 Attainment Plan in June 2003. Subsequently, the California State Legislature passed Senate Bill 709, Florez, in the fall of 2003, which Governor Gray Davis subsequently signed and codified into the Health and Safety Code in §40604. This additional legislation required the District to adopt, by regulation, a schedule of fees to be assessed on area wide or indirect sources of emissions that are regulated by the District.

District Rule 9510 (Indirect Source Review) was adopted by the District's Board on December 15, 2005, and became effective March 1, 2006. Rule 9510 was adopted by the District's Board to reduce the impacts of growth in emissions resulting from new land development in the San Joaquin Valley. Although the rule does not directly regulate VMT, it is designed to regulate the air impacts associated with new development. Rule 9510 applies to residential and non-residential development projects, including transportation and transit projects, which equal or exceed established applicability thresholds. Rule 9510 establishes emission reduction requirements for NOx and PM10 pollutants. Emission reductions required by the rule that are not achieved through on-site emission reduction measures are subject to off-site emission reduction fees. These fees are used by the District to fund emission reduction projects, mitigating the project's potential impact on air quality in the SJVAB.

This report was prepared pursuant to provisions of Rule 9510 that require the District to prepare an annual report regarding expenditure of received funds and achieved emission reductions. Pursuant to Rule 9520, Section 10.4, the annual report should include the following:

- Total amount of Off-Site Fees received;
- Total monies spent;
- Total monies remaining;
- Any refunds distributed;
- A list of all projects funded;

- Total emissions reductions realized; and
- The overall cost-effectiveness factor for the projects funded.

III. IMPLEMENTATION

District Rule 9510 (Indirect Source Review)

District Rule 9510 applies to new development projects that emit emissions of at least two tons of NOx or two tons of PM10 per year. Developers of projects subject to Rule 9510 are required to reduce emissions occurring during construction and operational phases. During construction, exhaust emissions of NOx and PM10 are to be reduced by 20% and 45% respectively, compared to the statewide average for construction equipment. Construction exhaust emissions can be reduced through installation and use of aftermarket devices, and through use of construction equipment that is newer than the statewide average. Operational emissions of NOx and PM10 are to be reduced by 33.3% and 50%, respectively, of the project's baseline for 10 years.

Operational emissions can be reduced by incorporating design elements that reduce onsite emissions, and the District has seen some very positive clean-air technologies and techniques employed by developers to reduce indirect emissions. For instance, significant reductions in emissions have been generated via the use of cleaner construction equipment. For large distribution centers, proponents have voluntarily proposed to use cleaner truck fleets. In addition, many lesser but still cumulatively significant reductions in emissions have been garnered by a whole range of effective design principles, like installation of solar power, integrated mixed-use development design, bike lanes, high-efficiency housing design, and many others.

If, after implementing such onsite measures, a developer cannot achieve the required emission reductions, the rule provides a mechanism by which the developer can pay an offsite mitigation fee to the District. One hundred percent of all offsite mitigation fees received by the District are to be used by the District's existing Emission Reduction Incentive Program (ERIP) to fund emission reduction projects, achieving emission reductions on behalf of the project. To recover the District's costs for administering the requirements of Rule 9510, the District's Board adopted Rule 3180 (Administrative Fees for Indirect Source Review). Provisions of Rule 3180 establish an application filing fee structure of $432 for residential and $648 for non-residential projects. Additionally, if a project is subject to off-site emission reduction fees, the developer is required to pay an administrative fee equal to four percent (4%) of the required off-site fees. This fee is to cover the District's cost of administering the off-site emission reduction program.

Development Mitigation Contracts

A Development Mitigation Contract (DMC) is an air quality mitigation measure by which a developer voluntarily enters into a contractual agreement with the District to reduce a development project's impact on air quality beyond that achieved by compliance with District Rule 9510. By fully mitigating the project's impact on air quality, a developer

can address one of the issues that have led to California Environmental Quality Act (CEQA) legal challenges to development projects within the SJVAB.

Implementation of a DMC is complementary to ISR; project emissions are characterized, mitigation funds are paid to the District, the District administers the funds to secure the required emission reduction projects. A prerequisite for the District to enter into a DMC is that the DMC will exceed the air quality benefits achieved by compliance with Rule 9510. Therefore, developers who enter into a DMC are considered in compliance with District Rule 9510. This report therefore includes revenues and emission reductions resulting from DMCs. During this reporting period, the District received no new off-site mitigation fees from development mitigation contracts. However, DMC funds carried forward from the previous reporting period were used to fund off-site emission reduction projects.

IV. 2007–2008 ANALYSIS

Table -1: Summary of ISR Program for 2007 to 2008

		Total ISR Program
Beginning Balance	**$**	**5,090,869**
Total Application Fees Received	$	115,869
Total Administrative Fees Received	$	207,710
Total Amount Off-Site Fees Received	$	5,392,453
Total Fees Received	$	5,716,032
Grand Total of Available Off-Site Fees	**$**	**10,483,322**
Total Amount Spent (Contracted)	**$**	**3,125,191**
Total Balance of Available Off-Site Fees	$	7,358,131
Total Amount Refunded	$	0
Grant Total Balance of Available Off-Site Fees	**$**	**7,358,131**

		NOx	*PM10*	*Total*
Total Off-Site Achieved Emission Reductions	***Tons***	251.56	9.09	**260.65**
Emission Reductions Cost Effectiveness *(average based on projects funded)*	*$/Ton*			**11,928**
Total ON-SITE Projected Emission Reductions	*Tons*	1,009.61	305.20	**1,314.81**
Total OFF-SITE Projected Emission Reductions	*Tons*	1,067.91	781.78	**1,849.69**
Total Projected Emission Reductions	***Tons***	2,077.52	1,086.78	**3,164.50**

Total Application Fees Received

District Rule 3180 (Administrative Fees for Indirect Source Review) establishes application fees of $432 and $648 respectively for non-residential ISR applications. The District may also charge for additional staff time required to process an application. As presented in Table-1, the District received application fees totaling $115,869.

Total Administrative Fees Received

District Rule 3180 (Administrative Fees for Indirect Source Review) establishes a four percent (4%) administrative fee to cover the District's costs of operating an off-site emissions reduction program. As presented in Table-1, the District received administrative fees totaling $207,710.

Total Amount of Off-site Fees Received

Provisions within Rule 9510 allow applicants to defer payment of off-site mitigation fees. The payment schedule must provide assurance that reductions from off-site emission reduction projects can be obtained reasonably contemporaneous with emission increases associated with the project. As presented in Table-1, the District received off-site fees totaling $5,392,453. This total does not include fees that have been deferred, nor does it include payments that have been invoiced, but not yet received. As compared to $1,543,697 presented in last year's annual report, this represents a 249% increase in off-site fees received by the District.

A balance of $5,090,869 in off-site mitigation fees was carried forward from the previous reporting period, resulting in $10,483,322 available to fund off-site mitigation projects. Please note that last year's annual report showed a remaining off-site mitigation fee balance of $3,368,308. This amount included $1,722,561 representing funds which had been committed to projects, but not contracted at the time of the annual report.

Total Expenditure of Off-site Fees Received

The District uses off-site fees to fund quantifiable and enforceable off-site emission reduction projects, reducing surplus emissions of NOx and PM10. With the exception of $131,000 voluntarily released by a developer, expenditure of off-site mitigation fees has been limited to fees collected through Development Mitigation Contracts. Of the $131,000 that was available to the District, an emissions reduction project representing $31,000 was funded, and the balance of $100,000 is currently contracted and will be reported in the next year ISR Annual Report.

As presented in Table-1, funds totaling of $3,125,191 were dispersed during this reporting period, leaving a balance of $7,358,131.

Total Emission Reductions Realized

The District funded 25 emission reduction projects for a total of 81 emission sources. These projects consisted primarily of re-powering various type of diesel powered industrial portable equipment such as top grinder, oil drill rig, plastic granulator and agricultural irrigation pumps, with either cleaner diesel engines or by conversion to electric motors. The projects funded achieved total emission reductions of 252 tons of NOx and 9 tons of PM10, with a total of 261 tons combined. The same projects also reduced emissions of Reactive Organic Gases (ROG) by 31 tons. A complete list of all projects funded is presented in Appendix B.

Projected Emission Reductions

Projected emission reductions are a combination of emission reductions to be achieved in the future through implementation of design elements at full project build out and through funding off-site emission reductions projects, using off-site mitigation fees.

For this reporting period, implementation of District Rule 9510 resulted in combined projected on-site and off-site emission reductions totaling 2,078 tons of NOx and 1,087 tons of PM10.

Overall Cost-effectiveness of Funded Projects

Average overall cost-effectiveness is calculated based on total tons of emissions reduced, NOx plus PM10, divided by total funds spent. During this reporting period, the District achieved emission reductions totaling 261 tons and expended funds totaling $3,125,191. As presented in Table-1, average cost-effectiveness is calculated to be $11,928 dollars per ton. This represents a 7% increase, as compared to last year's cost-effectiveness of $11,133 dollars per ton. The District anticipates that cost effectiveness will continue to increase as the most cost-effective projects are funded first.

Appendix A - List of all emission reduction projects funded by the ISR program

APPENDIX A

List of all emission reduction projects funded by the ISR program

EMISSION REDUCTIONS PROJECTS
ISR Annual Report / March 2007 – Feb 2008

Project Name	Date Rec'd	Date Executed	Executed Contract Amount	Amount Paid	Amount UnPaid	Balance	Status	Count Installed	Count Projected	Project Type	Nox Tons	PM10 Tons	ROG Tons
VERA													
Old River Ranch		18-May-07	$25,000	$21,992	$0	$3,008	Closed	1		AG Engine	1.70	0.06	0.21
Old River Ranch		10-Apr-07	$115,567	$0	$115,567	$0	Outstanding		6	AG Engine	1.98	-0.06	0
Old River Ranch		21-Mar-07	$90,000	$90,000	$0	$0	Closed	3		AG Engine	3.15	0.07	0.31
Old River Ranch		30-Apr-07	$22,278	$19,789	$0	$2,489	Closed	1		AG Engine	1.91	0.07	0.26
Old River Ranch		23-Apr-07	$82,719	$82,719	$0	$0	Closed	3		AG Engine	8.52	0.33	1.08
Old River Ranch		23-Apr-07	$20,000	$20,000	$0	$0	Closed	1		AG Engine	1.19	0.01	0.09
Old River Ranch		16-Apr-07	$30,000	$30,000	$0	$0	Closed	2		AG Engine	1.48	0.08	0.26
	Dec-08		**$385,564**	**$264,500**	**$115,567**	**$5,497**		**11**	**6**		**19.93**	**0.56**	**2.21**
Lennar Communities	Feb-08	26-Sep-07	**$16,496**	**$14,920**	**$0**	**$1,576**	**Closed**	**1**		Ag Engine	**1.07**	**0**	**0.18**
Castle & Cooke/ West Ming	May-08	14-Nov-07	**$131,128**	**$131,128**	**$0**	**$0**	**Closed**	**3**		Off Road - Portable Grain Grinders, Pellet Mill Equipment	**36.34**	**1.3**	**4.37**
Castle & Cooke/ Gateway Village		31-May-07	$1,232,390	$484,073			Closed	12		Ag Engine	41.84	1.46	5.42
Castle & Cooke/ Gateway Village					$748,317		Outstanding		8		18.84	0.65	2.39
	Oct-08		**$1,232,390**	**$484,073**	**$748,317**	**$0**		**12**	**8**		**60.68**	**2.11**	**7.81**
Panama 99 Prop. LLC/HWY 99		04-Apr-07	$151,421	$79,985			Closed	2		Off Road - Air Compressors, Drill Units Hydraulic Drill Equipment	4.35	0.16	0.54
Panama 99 Prop. LLC/HWY 99					$71,436		Outstanding		2		6.25	0.26	0.83
Panama 99 Prop. LLC/HWY 99		25-Jun-07	$103,274		$103,274		Outstanding		3	Off Road - Drill Service Pumps	8.26	0.35	1.07
Panama 99 Prop. LLC/HWY 99		19-Jun-07	$41,192	$39,368	$0		Closed	1		Ag Engine	4.48	0.15	0.51
Panama 99 Prop. LLC/HWY 99		14-Nov-07	$47,705	$47,705	$0		Closed	1		Off-Road - Portable Grain Equipment	12.29	0.41	1.42
	Oct-08		**$343,592**	**$167,058**	**$174,710**	**$1,824**		**4**	**5**		**35.63**	**1.33**	**4.37**
Castle & Cooke /Stockdale Ranch		11-Jun-07	$49,428	$49,428	$0	$0	Closed	1		Off Road - Plastic Granulator	4.70	0.17	0.52
Castle & Cooke /Stockdale Ranch		31-May-07	$100,987	$100,987	$0	$0	Closed	3		Off Road - Sprayer	5.22	0.18	0.6
Castle & Cooke /Stockdale Ranch		19-Jun-07	$67,025	$67,025	$0	$0	Closed	3		Off Road - Hydraulic Power Pack	6.38	0.27	0.94
Castle & Cooke /Stockdale Ranch		31-May-07	$48,394	$48,394	$0	$0	Closed	1		Off Road - Pump Engine	3.00	0.10	0.34
Castle & Cooke /Stockdale Ranch		20-Aug-07	$27,910	$0	$27,910	$0	Outstanding		1	Off Road - Drill Rig	1.10	0.05	0.15
Castle & Cooke /Stockdale Ranch		31-May-07	$275,651	$217,842	$0	$57,809	Closed	7		Off Road - Generator, Mud Pump, Drill Rig, Draw Work	24.28	0.91	2.96
Castle & Cooke /Stockdale Ranch				$0	$57,809	($57,809)	Outstanding		1		15.88	0.53	1.82
Castle & Cooke /Stockdale Ranch		31-May-07	$140,916	$0	$140,916	$0	Outstanding		4	Ag Engine	12.51	0.43	1.48
Castle & Cooke /Stockdale Ranch		02-May-07	$25,857	$25,857	$0	$0	Closed	1		Ag Engine	1.60	0.06	0.21
Castle & Cooke /Stockdale Ranch		06-Jun-07	$171,600	$0	$171,600	$0	Outstanding		5	AG Engine	17.17	0.59	2.12
Castle & Cooke /Stockdale Ranch		31-May-07	$77,253	$77,253	$0	$0	Closed	3		AG Engine	5.01	0.21	0.69
	Oct-08		**$985,021**	**$586,786**	**$398,235**	**$0**		**19**	**11**		**96.85**	**3.50**	**11.8**
ISR													
ISR Mitigation		02-Oct-07	$31,000	$0	$31,000	$0	Outstanding		1	Park and Ride Subsidy	1.06	0.29	0.34
	Sep-08		**$31,000**	**$0**	**$31,000**	**$0**			**1**		**1.06**	**0.29**	**0.34**
		Totals	**$3,125,191**	**$1,648,465**	**$1,467,829**	**$8,897**		50	Projects	Achieved	**168.51**	**6.00**	**20.91**
								31	Projects	Projected	**83.05**	**3.09**	**10.20**
											251.56	**9.09**	**31.1**