

ACT: A Voice For Agriculture On Air Quality

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The Air Coalition Team ("ACT") is a voice for agriculture in the arena of air quality issues. Environmental issues, including air quality, are shaping the future of agriculture and related businesses in California and the San Joaquin Valley ("Valley"). Being heard is more important than ever for agriculture.

Buzz words like "climate change", "greenhouse gases", and "particulate matter" are not going away, and in fact have found a new playground. Historically, these issues were debated in the State Capitol, in Congress, and before various state and federal regulatory agencies. Now, air quality issues have become, and will remain, a significant source of litigation in courthouses across the country. Much of this litigation impacts agriculture.

ACT is a coalition formed to promote and protect the interests of agriculture and agribusiness in the enforcement, development and implementation of legislation, regulations and rules related to air quality in California. In short, ACT's objective is to ensure that the State's air quality is improved through balanced control measures that are reasonable and fair to agriculture.

Comprised of the California Cotton Ginners & Growers Association, seven county farm bureaus, including Fresno, Kern, Kings, Madera, Merced, Stanislaus and Tulare, California Citrus Mutual, Nisei Farmers League, California Rice Commission, California Grape and Tree Fruit League, California Strawberry Commission and other related businesses, ACT gives agriculture a seat at the table during discussions concerning air quality issues. When these meetings break-down and litigation ensues, ACT is an advocate for agriculture in the courtroom. ACT's strong advocacy has resulted in several recent legal victories.

In *El Comite, et al. v. Warmerdam*, environmentalists challenged the Pesticide Element of the State Implementation Plan ("SIP"), urging the court to order the Department of Pesticide Regulation ("DPR") to adopt regulations reducing Volatile Organic Compounds ("VOC") emissions from pesticide applications by 20%. Such a finding would have been devastating to agriculture and the use of fumigants. ACT intervened and prevailed. The Ninth Circuit Court of Appeal held the district court was without jurisdiction to make the orders sought by the environmentalists and further ruled only a 12% reduction in VOC emissions was required for the Valley.

In *Latino Issues Forum v. EPA*, environmental groups challenged the EPA's finding that the Valley met Clean Air Act standards for fine particulate matter (PM-10). ACT intervened, supporting EPA and the District's rationale that extraordinary exceedances should not be considered. The Ninth Circuit agreed and denied the environmentalists' claims that the EPA acted "arbitrarily" and relied on faulty scientific evidence. This ruling also resulted in the dismissal of a related suit challenging EPA's finding of PM-10 attainment in the Valley.

In *Latino Issues Forum, et al. v. USEPA*, environmental groups were again defeated when ACT intervened in a law suit challenging Rule 4550, part of the Conservation Management Practices Program implemented by the San Joaquin Valley Air Pollution Control District to control PM-10 emissions. The Rule allows farmers to choose one control practice or option from each of five categories for cropland and poultry operations, and one from each of four categories for dairy and beef operations. Environmentalists challenged the Rule, alleging that because it provided options, it did not include the "best available" and "all feasible" control measures. The Ninth Circuit disagreed, finding the flexibility of the Rule, which resulted from the collaborative efforts between the District and agriculture, complies with the Clear Air Act.

These are only a few examples of ACT's success in resolving air quality issues in a way that benefits agriculture without compromising clean air standards. During the coming year, ACT will participate in the development of air quality rules, regulations, and legislation, and may intervene in litigation related to the Clean Air Act, fugitive sources, the truck rule, the new dairy rule, greenhouse gases and/or the Climate Change Action Plan. Your membership in ACT will promote and facilitate these activities, and more importantly, provides agriculture a continued presence and powerful voice that is being heard in the courtroom.

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