Making the Case for Developers to Pay for Air Pollution:

Examining Policy Narratives in California’s Senate Bill 709

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**Abstract:** In 2003, California Governor Gray Davis signed Senate Bill (SB) 709 into law. This legislation granted the Valley Air District the authority to develop an indirect source review program. This program was used regulate the emissions of developers and builders. This paper uses the narrative policy framework to examine the development of policy narratives used during the passage of SB 709 and the creation of the indirect source review program (Jones and McBeth 2010). The analysis identifies policy narratives critical to the design and implementation of the policy. In particular, the narratives are examined for evidence of policy and political learning. The paper concludes by discussing the important implications these findings have for both policy theory and practitioners.

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**INTRODUCTION**

There is no question that the San Joaquin Valley suffers from some of the worst air quality in the nation (California, Senate 2003a; California, Senate 2003b). In 2003, the governing board of the San Joaquin Valley Air Pollution Control District (hereafter, Valley Air District) faced the unenviable choice of either volunteering to accept “extreme noncompliance of the federal ozone standard” or failing to meet the 2005 deadline and face sanctions (Grossi et al. 2002, 3; California, Senate 2003b). This would result in businesses being penalized millions of dollars in increased fees and fines, as well as the potential to delay up to $2 billion in road-building funds (Grossi et al. 2002, 3). Facing these dire consequences, the Valley Air District had a limited ability to address the problem. The two main components of ozone are nitrogen oxides (NOx) and volatile organic compounds. The primary sources for both of these types of pollutants are mobile sources. These sources emit 56% of nitrogen oxides and 41% of volatile organic compounds (Grossi et al. 2002, 19). Local air districts only have the authority to regulate “so-called ‘stationary’ sources, such as refineries, power plants and businesses. It is the state (California Air Resources Board) and national (Environmental Protection Agency) governments that have the power to regulate vehicle emissions.

Many felt that “Due to its current explosion in population and vehicle miles driven, the Valley needs all the authority resources and emission reductions it can get in the area of mobile sources to have a chance at achieving mandated air quality goals” (CAL EPA 2003, 2). To aid in its quest, State Senator Dean Florez (D-Shafter) proposed Senate Bill 709 (hereafter, SB 709) on February 21, 2003. It was signed into law by Governor Gray Davis on September 22, 2003. The legislation granted the Valley Air District authority to create a fee that could be assessed on indirect sources of emissions. According to California’s Legislative Counsel’s Digest on SB 709: “The district board shall adopt, by regulation, a schedule of fees to be assessed on area-wide or indirect sources of emissions that are regulated, but for which permits are not issued by the district to recover the costs of district programs related to these sources” (2003, 93).

It is this generally stated provision of the law that allowed the Valley Air District to create a detailed indirect source review (ISR) program via Rule 9510. The ISR program would require new developments to produce new emission reductions (SJVAPCD 2005a; Repogle and Phillips 2005). Developers and builders became the specific targets of this program. The rule sought mitigation of specific emissions via the regulation of construction equipment and operational activities at new development sites. While the ISR program represented an expansion of regulatory authority, it did have some limitations on its reach. Rule 9510 did not require full mitigation of PM10 or NOx emissions. In addition, the mitigation requirements were set in place for only 10 years (SJVAPCD 2005a).

The passage of SB 709 and the concomitant development of the ISR program under Rule 9510 provide an opportunity to examine the underlying values of policymakers in the design and implementation of an innovative regulatory program. Both supporters and opponents of SB 709 had a hand in shaping what would become the Valley Air District’s ISR program. It also allows for the exploration of the broader question about the role of learning in the policy process (May 1992).

According to Schneider and Ingram (1997, 2), policy design “refers to the content or substance of public policy – the blueprints, architecture, discourses, and aesthetics of policy in both its instrumental and symbolic forms.” These discourses or narratives reflect the competing values of various policymakers. Policy narratives also form the heart of various elements of policy design, including: social construction of target groups, policy tools, and agents and implementation structures that set the context for policy implementation (Schneider and Ingram 1997).

And these narratives are also present in the implementation process. However, several scholars note policy continues to develop as it is implemented. Rochefort and Cobb (1994, 25-26 citing Wiess 1989) note that “in the process of implementation, previously accepted problem definitions may well come unraveled.” Schneider and Ingram (1997) see the any changes in the elements of policy design as value added to design. Majone and Wildavsky (1984) characterize implementation as evolution and argue the application of administrative discretion is best described by invention and learning. Thus, one could expect narratives used in the design of policy may be transformed by the activity of implementation. May (1992) argues that these changes are not necessarily random, but may incorporate aspects of policy or political learning.

In examining the possibility of learning in SB 709, the paper will focus on the policy narratives linking legislative design elements to the creation and development of the indirect source review program. It is this program that provides the most far-reaching implications for the Valley Air District with respect to regulating mobile sources. Accordingly, the paper will address the following research questions: What policy narratives are essential to the creation of the major policy design elements of SB 709’s regulation of indirect sources of air pollution? Do policymakers exhibit forms of political and/or policy learning as this policy evolves over time? What are the implications of these findings for both policy theory and policy practitioners?

In order to properly address the research questions listed above, the paper is organized in the following manner. First, there will be a brief description of SB 709, Rule 9510, and the ISR program. The next section of the paper outlines the data and methodology used to examine this policy. The Narrative Policy Framework NPF forms the primary theory guiding the analysis (Jones & McBeth 2010). Then the paper will analyze the policy narratives as they move through the policy process from design to implementation. The final section of the paper will address both the theoretical and practical implications of the research.

**SENATE BILL (SB) 709 AND INDIRECT SOURCE REVIEW**

SB 709 was introduced in the state Senate by Senator Dean Florez on February 21, 2003. According to Florez, the purpose of the bill was to strengthen the authority of the Valley Air District to address “the problem of mobile source emissions by expanding the ability of the [district] to reduce air pollution from cars and trucks” (California, Senate Committee on Environmental Quality 2003, 2). While the jurisdiction of local air districts is usually to regulate stationary sources, supporters argued a need to strengthen the authority of the Valley Air District to address emissions from mobile sources. According to CAL EPA (2003), “Due to its current explosion in population and vehicle miles driven, the Valley needs all the authority, resources and emission reductions it can get in the area of mobile sources to have a chance at achieving mandated air quality goals.” SB 709 provided financial resources and expanded regulatory authority to the Valley Air District to address air quality. It also levied local mandates for the air district to include impacted parties in the rule making process. SB 709 passed the Assembly (43 – Ayes to 34 – Noes) and Senate (24 – Ayes to 15 – Noes). It was signed by the Governor on September 22, 2003.

In order to provide the Valley Air District with the financial resources to address pollution from mobile sources, SB 709 granted the local air district fee authority in several areas. The first allowed Valley Air District “adopt a schedule of fees [by regulation], to be assessed on areawide and/or indirect sources of emissions that are regulated, but not subject to permit” (CAL EPA 2003). Area-wide sources of pollution are simply emissions that are spread over a wide area. These sources do not include mobile or stationary industrial sources. An example of this type of source is road dust. Indirect sources of emissions do not create the pollution directly, “but encourage other polluting activities. Examples of indirect sources include: employment sites, shopping centers, sports facilities, housing developments, airports, commercial and industrial developments, and garages” (CAL EPA 2003). These fees are intended to cover District program costs and mitigate the emissions from these types of sources (CAL EPA 2003).

SB 709 did not just vest the Valley Air District with more authority; it also conditioned the interaction of the air district with those it regulates. Accordingly, the Valley Air District is required to involve small businesses and farmers in the development of rules and regulations, as well as assist them in applying for permits and variances (CAL EPA 2003). This involvement is buttressed by the provision of information on such issues as the public health, environmental, and economic effect of rules and regulations on small businesses and farmers in the district. In addition to these participatory and informational aids, the air district is to establish an expedited review and project assistance mechanism to promote electric and other clean fuel vehicle technologies.

The result of this rulemaking process was Valley Air District Rule 9510, which created the Indirect Source Review Program. It was adopted on December 15, 2005 and became effective March 1, 2006. The rule “is designed to regulate the air impacts associated with new development” (SJVAPCD 2007, 1-2). This new development includes both residential and non-residential projects, “which equal or exceed established applicability thresholds” (SJVAPCD 2007, 2). The rule seeks reductions in both PM10 and NOx emissions by utilizing both on-site and off-site measures. On-site measures focus on reductions from construction equipment and the design features of development projects. Development projects unable to meet mitigation requirements through on-site measures are required to off-site emission reduction fees to the Valley Air District. These fees are used “to fund emission reduction projects mitigating the project’s potential impact on air quality in the [district]” (SJVAPCD 2007, 2).

While the building industry and developers were involved in the rulemaking process that produced Rule 9510, they were also working in another venue to escape the regulation altogether. Both the California Building Industry Association (CBIA) and National Association of Home Builders (NAHB) were arguing in court that they were not subject to the newly minted rule and the fee schedule it created. In *California Building Industry Association v. San Joaquin Valley Air Pollution Control District* (2009), the CBIA presented an argument versus implementation of the indirect source review (ISR) fees. In *National Association of Home Builders v. San Joaquin Valley Unified Air Pollution Control District* (2010), the NAHB argued that section 209(e) of the Clean Air Act preempted Rule 9510’s regulation of construction equipment. In both cases, the plaintiffs lost and the validity of the ISR fees established by Rule 9510 were upheld.

**DATA & METHODOLOGY**

Given the importance of policy narratives in the shaping of policy designs and implementation, it is necessary to examine policy relevant texts as data sources. Schneider and Ingram suggest that such texts consist of “legislative histories, statutes, guidelines, speeches, media coverage” (1993, 335). The data used to examine the foundational narratives for elements of policy design of SB 709 were gathered from several sources. The first is the legislative record for the bill. Since SB 709 was passed and signed into law by Governor Davis, material from the governor’s chaptered bill files (e.g., analyses and correspondence) are also part of the database.

In addition the official record of the bill, newspaper articles and editorials concerning SB 709 were included for analysis. Searching the *ProQuest* – Newspaper database from February 21, 2003 to September 22, 2003 using the keyword “SB 709” yielded 12 newspaper articles and editorials for use in the narrative analysis. There were also 16 articles and editorials after these dates that are used to examine the dynamic relationship between policy narratives, design, and the implementation activities of SB 709. Materials from the rulemaking process and court cases surrounding the development of Rule 9510 were also analyzed for their potential narrative content.

The specific form of discourse analysis used to analyze the texts of SB 709 will be Roe’s (1994) narrative policy analysis. This approach consists of two stages. The first is the disaggregation of the text into discrete problem statements, which contain the simplest assertions of causal relationships or sets of causal relationships that link problems to their source (Roe 1994; Newton 2005; and Stone 1997). The second stage of analysis requires the aggregation of all of the problem statements across the entire “data set” or texts. This allows the researcher to see the pattern of commonly identified problems and causal relationships concerning the policy. It is these aggregated problem statements that are then identified as narratives (Roe 1994).

**ANALYTICAL FRAMEWORK**

The NPF is used to identify and demonstrate the implications of narratives for the design and implementation of SB 709 (Jones and McBeth 2010). This framework identifies a basic structure of narratives, provides basic belief system linkages, and preliminary hypotheses. The basic structures of a narrative include “a setting or context; a plot that introduces a temporal element…providing both the relationships between the setting and characters, and structuring causal mechanisms; characters who are fixers of the problem (heroes), causers of the problem (villains), or victims (those harmed by the problem); and the moral of the story, where a policy solution is normally offered” (Jones and McBeth 2010, 340). This basic structure is grounded in a belief system that anchors the narrative “in generalizable content to limit variability” (Jones and McBeth 2010, 341). It is from this premise, one can test hypotheses at both the micro- and meso-levels (Jones and McBeth 2010, 345).

The NPF’s systematic examination of policy narratives provides insights into important aspects of the policy process. These include the processes of policy design and implementation, as well as the potential for policy or political learning. Policy narratives are linked to policy design in several important ways. The first is through the strategic portrayal of ideas. As Stone (1997, 11) points out, “Ideas are a medium of exchange and a mode of influence even more powerful than money and votes and guns. Shared meanings motivate people to action and meld individual striving into collective action.” Policy narratives may function as a metaphor that defines a policy situation as a problem and relates it to certain proposals for action (Hajer 1995, 62). In doing so, the purpose is to build or destroy political alliances (Stone 1997, 34). As the rhetorical reproductions of socially constructed ideas, policy narratives are key elements in the struggle “to influence which idea is selected to guide policy” (Stone 1989, 283).

The social construction of target populations is also transmitted to policy design via policy narratives. This concept refers to the following: “(1) the recognition of the shared characteristics that distinguish a target population as socially meaningful, and (2) the attribution of specific, valence-oriented symbols, and images to the characteristics” (Schneider and Ingram 1993, 335). These constructions closely align with the NPF’s conception of characters (Jones and McBeth 2010). The policy narratives also function as rationales for policy makers to select certain types of design elements including policy tools and agents and implementation structures (Schneider and Ingram 1997). Policy tools “are elements in policy design that cause agents or targets to do something they would not otherwise do with the intention of modifying behavior to solve public problems or attain policy goals‟ (Schneider and Ingram 1997, 93). The choice of tools reflects the assumptions and biases about how different people and targets behave (Schneider and Ingram 1990; 1997). Agents are “the means for delivering policy to target populations” (Schneider and Ingram 1997, 89). The implementation structure refers to the relationships among various agents and their connections to target groups (Schneider and Ingram 1997). All of these elements of policy design fit the NPF’s conception of the moral of the story (Jones and McBeth 2010).

While policy narratives used in policy design provide a context for implementation, they are also shaped by those acting to implement public policy. The foundation of this argument is based on Majone and Wildavsky’s (1984) conception of implementation as evolution. An evolutionary view of implementation suggests that “once a program is underway implementers become responsible for both the initial conditions and for the objectives toward which they are supposed to lead” (Majone and Wildavsky 1984, 164). Implementers are guided by “multiple dispositions to act or treat certain situations in certain ways” (Majone and Wildavsky 1984, 169). Majone and Wildavsky (1984, 175) argue that this application of administrative discretion is necessary and best directed by invention and learning. The act of implementing a policy changes it. Policy narratives would reflect these changes as well.

The alteration of a policy and its narratives from design through implementation may be characterized by what Peter May (1992) calls policy learning. According to May (1992, 333), “Learning can be distinguished from copying or mimicking behaviors. Learning implies improved understanding, as reflected by an ability to draw lessons about policy problems, objectives, or interventions.” This suggests that “Any observation of experience – trial –and-error or systematic; direct or indirect” does not guarantee learning (May 1992, 333). While it is possible for policy actors to miss the lessons to be gained from the observations of policy experience, May (1992) posits that learning does happen and that there are three distinct types of it in the policy process. Specifically, policy learning can be broken down into two categories: instrumental and social (May 1992). Policy learning is also distinguished from political learning (May 1992).

The first category of policy learning is referred to as instrumental. According to May (1992, 331), instrumental learning “entails lessons about the viability of policy instruments or implementation designs.” Understanding these lessons is linked to increased rationality in the policy process. The second category of policy learning is social (May 1992). This category of policy learning “entails lessons about the social construction of policy problems, the scope of policy, or policy goals” (May 1992, 331). It may lead to changed expectations concerning existing policy goals, even going so far as to necessitate the redefinition of policy goals (May 1992). May (1992) differentiates policy learning from political learning. The latter is defined as, “policy advocates learning about strategies for advocating policy ideas or drawing attention to policy problems” (May 1992, 339). Lessons learned here may lead to more sophisticated presentations or arguments concerning policy ideas or problems. In addition to the different kinds of lessons there is another characteristic that distinguishes policy from political learning. Policy learning takes place across multiple advocacy coalitions within a given policy domain, while political learning is contained within a particular advocacy coalition (May 1992). This makes it more difficult, though not impossible, to generate shared understandings in a given policy domain.

**ANALYSIS – NARRATIVES, POLICY, AND LEARNING**

Roe’s (1994) narrative policy analysis was applied to the materials making up the SB 709 and Rule 9510 database. In all, there were 89 discrete problem statements identified in the texts. The aggregation of these individual statements revealed three major patterns of problem-cause relationships. These narratives occur in design of SB 709 and the rulemaking process for Rule 9510. They play an important role in shaping various elements of policy design such as target groups, policy goals and rationales, and proposed solutions. These elements provide the context for what occurs in the development of Rule 9510. Democrats in the state legislature are joined by the Valley Air District and various public health and environmental groups in supporting SB 709’s passage. State Republicans construct a coalition of local officials and chambers of commerce, the state’s Building Industry Association, and tax payer’s associations. The following is a discussion of these three narratives and their development as they move through the policy process. Each of the narratives will also be examined for evidence of policy and/or political learning.

*The Multiple Causes Narrative*

This narrative presents a story of cause by complex systems (Stone 1989). Air pollution in the Central Valley is caused by a complex set of interactions. There are many villains seen as contributing to poor air quality in the Central Valley. Developers are not singled-out as a significant contributor, but are implicated along with other man-made and natural causes. The man-made causes include the “so-called ‘DOA’ industries of development, oil, and agriculture [that] have had a free hand in the 240-mile-long region from Stockton to Bakersfield” (No author, 2003b). The combined contributions of natural and man-made sources are captured in the following discussion:

“Pollution is issue No. 1 and No. 2 in the valley,” Florez said. Mountains, wind currents and weather combine to produce a soupy atmosphere filled with exhaust fumes, soot and swirling dust particles from farming…Farming contributes one-fifth of the air pollution. Long commutes, heavy truck traffic on I-5 and Highway 99, population growth and local industry pour out the rest (No author, 2003b).

It is this combination of geography, topography, agricultural practices, and suburban development that are linked to the degraded air quality in the Central Valley (CAL EPA 2003; California, Senate 2003a; California Senate 2003b; California, Senate Republican Bill Analysis 2003; and California, Senate Floor Analyses 2003). The increased levels of air pollution are in turn linked to a variety of health and environmental impacts. A March 9, 2003 editorial in the *San Francisco Chronicle* details the consequences of poor air quality and identifies the victims in this narrative:

On bad days, hospital emergency room admissions rise as asthma patients seek care. One in five kids in some Fresno County schools carry pocket inhalers. Crystal-clear views of the Sierra have vanished. Despite efforts to improve it, the valley’s air continues to be the most polluted in the state (No Author, 2003b).

The moral of this story is solutions to the Central Valley’s air pollution problems will need to address multiple causes among the man- made causes identified earlier. And since the list is long, this will be no easy task. As Deborah Stone (1997, 196) notes “Complex explanations are not very useful in politics, precisely because they do not offer a single locus of control, a plausible candidate to take responsibility for a problem, or a point of leverage to fix a problem.” However, since this narrative does identify development as one of many contributors, it does form a baseline used by proponents in support of SB 709’s approach to regulating indirect sources of air pollution attributed to this activity.

While the multiple causes narrative is used to support the passage of SB 709 in the design phase of the legislation, this narrative is increasingly used by the opposition to influence the structure of Rule 9510’s mitigation fee. There is a new conception of the characters in this narrative. Now, the building industry is the hero and argues construction of new homes and other new facilities are being unfairly targeted by the fees. So, one villain here is the designer of the fees, ostensibly the Valley Air District. Other parties guilty of wrongdoing are those sources which contribute to poor air quality, but refuse to pay their fair share (Grossi 2003b). The narrative now is captured in the following statement:

Beyond construction site emissions reduction, what connects the builders to air pollution created by those who buy the homes? Builders cannot control how much pollution is generated after the home is sold. While commuters buy many of those homes, the worst mobile polluters are big diesel trucks that pass through the valley; they’re responsible for up to 42% of ozone-creating gases. Fees on builders and proposed solutions from the air board won’t even touch those trucks (No author, 2005).

The Building Industry Association also suggests that “the rule should apply to all land uses that generate vehicle traffic, such as existing subdivisions and agriculture” (Grossi 2003b).

Both the plot and moral of the story have changed as well. The plot includes an element of helplessness on the part of the building industry (Stone 1997). It is not the developers or builders that control how much pollution is generated after the home is sold. It is the commuters who live in these homes. And even they are not the worst offenders. Other mobile sources are the worst offenders. By seeking to change the distribution of the fees, the building industry is trying to bring an element of control to this situation. The implementation of a more broadly assessed fee will better solve the problem air pollution. The moral of the story is the development of a more equitably structured fee, not just one targeting developers, will be better for all involved.

The use of the multiple causes narrative by the building industry provides an excellent example of political learning. May (1992) notes a prima facie indicator of political learning is policy advocates or opponents changing their political strategy. An example of this is the offering of new arguments or using new tactics to call attention to a problem or idea. Once the venue shifts from the legislature to the rulemaking process, the building industry changes political strategy. The objective is no longer one of seeking to oppose the rule. Instead, they shift to gaining a rule that is more favorable to them. This represents a more sophisticated argument made on behalf of the building industry’s “new” cause. They utilize the concept of equity in order to mitigate the impact of the fee on new development (Stone 1997). They suggest that all land uses that generate traffic should be included, not just new development (Grossi 2003b). This would broaden the recipient group and drastically lessen the impact of the fee on new development.

*“Unregulated” Mobile Sources as Major Contributor Narrative*

This is the primary narrative in the policy discourse surrounding SB 709. The plot centers on converting a story of helplessness into one of control (Stone 1997). It portrays mobile sources as the villains and making significant contributions to the ozone problems plaguing the Central Valley. However, our hero, the local air district, lacks the ability to adequately regulate these types of sources. The current level of emissions has led to a myriad of problems that need to be addressed. The first element of this narrative establishes mobile sources as the primary emitter of ozone-forming chemicals. It also shows the current state of helplessness. According analysis done by the Senate Rules Committee (California, Senate 2003a):

The largest source of [ozone]-forming emissions in the San Joaquin Valley is mobile sources (50 percent). According to the federal Environmental Protection Agency, “mobile sources” of air pollution include automobiles, motorcycles, trucks, and off-road vehicles. Unfortunately, the San Joaquin Valley Air Pollution Control District has very limited authority to monitor these emissions.

A second element in this narrative is the limitations of the Valley Air District to adequately monitor mobile source emissions (California, Senate 2003a). They are helpless to address the pressing issue of mobile source pollution. According to State Senator Florez, the main purpose SB 709 is to strengthen the Valley Air District’s ability to improve air quality by “providing it with the tools to more effectively and directly manage the largest segment of our emission inventory: mobile sources” (California, Senate 2003a, 2). While regulation of mobile emissions is “typically outside the jurisdiction of local air districts,” it is seen as necessary response to the current situation (CAL EPA 2003). Passing SB 709 will provide a measure of control to the Valley Air District and allow them to address an important source of pollution. If mobile sources are left unchecked, they could continue to cause problems in the following areas: public health, environmental impacts, meeting national air standards for ozone emissions, and loss of opportunities for economic growth (California, Senate 2003a). Failing to pass SB 709 would allow for mobile source pollution to claim even more Central Valley residents as victims.

While many aspects of the mobile source as major contributor narrative remain the same from policy design to implementation, the villain is more clearly specified. Sprawl development is portrayed as a cause of additional mobile source emissions. Development includes more than just new homes. It also encompasses “trucking distribution centers, industrial complexes, and shopping malls” (Grossi 2003a). All of these types of development projects are subject to the indirect source fee “because of the vehicle traffic they create” (Grossi 2003a). According to Grossi (2003a):

Sprawling development – along with the [ozone]-making traffic it brings – has moved to center stage in the San Joaquin Valley debate over dirty air. The debate revolves around an air quality fee being structured for new homes, businesses, and other developments built at the city’s edge. The fee will be compensation for vehicle pollution that developments attract.

The narratives shift from a vague discussion of mobile sources to one implicating sprawl development in the emission of ozone-producing pollutants illustrates political learning (May 1992). It does so by linking the “new” pollution created by traffic going to and from these new developments. So the problem has now become new or additional pollution and the cause new development. Clearly specifying this link is an important change to the argument as a response to the shift from the legislature to the rulemaking process represents political learning (May 1992). The air district’s rule clearly targets developers, so an argument that provides a stronger justification for the rule is needed. And since this fits with the definition of indirect sources, it provides an unambiguous justification for applying the air fee to various types of new developments. A story of helplessness has been converted to one of control.

*Increased Regulation Narrative*

Groups opposing the passage of SB 709 tell the story of harmful side effects of a well-intentioned policy leading to future decline (Stone 1997). In particular, our heroes are the opponents of SB 709 who emphasized the detrimental impact of allowing the air district to “levy fees on ‘area-wide’ or ‘indirect’ sources of pollution” (California Chamber of Commerce 2003). While there are several different impacts that flow from imposing “special taxes on the residents of the San Joaquin Valley Air Basin,” the results of this policy include financial hardship and inequitable distribution of fees (California, Assembly Republican Bill Analysis 2003). It is the California Chamber of Commerce that sounds the alarm:

…the authority given under this legislation [SB 709] is broad enough to give the district power to tack on an air pollution fee to the cost of purchasing a new home. While the Chamber is supportive of clean air and is understanding of the necessity of the central valley meeting our federal clean air mandates, we are also keenly supportive of keeping housing affordable in California (California Chamber of Commerce 2003).

While supportive of the idea of cleaner air, the California Chamber of Commerce uses an incline metaphor by suggesting this policy change will make houses increasingly unaffordable in California (Stone 1997). The California Building Industry Association (CBIA) elaborates on the potential future decline resulting from the imposition of fees:

The fee situation in California is already out of control, with assessments on new housing going through the roof. A Northwestern University study of project approvals in northern San Diego County showed that the average regulatory cost to a homebuilder – and, ultimately, a homebuyer – was on average nearly $100,000 – before one shovel of dirt is turned. Fees alone in some California communities are as high as $118,000 per home. And, these costs have consequences. According to a national study, every $1,000 added to the price of a modestly priced home disqualifies 40,000 potential California homebuyers (CBIA 2003).

By allowing the air district to assess this fee, the supporters of SB 709 will effectively increase the price of housing and prevent thousands of Californians from purchasing homes. Thus, the villains will wreak havoc on the unsuspecting victims, potential California homeowners.

There is another twist on this story of harmful side effects. It is not only potential homebuyers that will be harmed by the increased regulatory authority of the local air district. The ability of the Valley Air District, another villain, to “assess a ‘fee’ to every resident in the air district for their level of contribution to area-wide sources” would have a detrimental impact “on an area already experiencing double-digit unemployment and with a large percentage of the population living below the poverty level” (Fresno County Farm Bureau 2003). This increases the cost of living to residents of the San Joaquin Valley air basin at a time when many are already having trouble making ends meet. It increases the financial hardship of an already economically challenged group of citizens.

In addition to increasing costs, SB 709 (2003) would allow the air district to distribute the funds raised by the mitigation fee in an inequitable manner. According to the California Building Industry Association, this bill would allow the Valley Air District to “inappropriately tax homebuyers to fund various, undefined air quality programs which bear little if any relationship to homebuilding or homebuying” (CBIA 2003). The revenue raised from the assessment of the fee would, instead, be used to fund “general, community-wide and region-wide benefits which, again, violates the spirit and provisions of Government Code 66001, the nexus statute” (CBIA 2003).5 So, not only are the victims penalized by the imposition of the fee, they will not even get to reap any of the benefits coming from the revenue raised. The implied solution is the defeat of SB 709, which will stop the imposition of a fee linked to the future decline of the quality of life for people in the Central Valley.

After the creation of Rule 9510, this policy narrative does not undergo a radical alteration. Instead, it provides a new link between economically vulnerable populations, issues of equity, and homebuying. As noted by Grossi (Grossi 2005a):

Clovis Mayor Nathan Magsig says the rules are unfair for people of low or moderate income. …He says many of his customers can barely afford a loan of more than $100,000, sometimes leaving them stuck in a two-bedroom, one-bathroom apartment with five or six children. “A few hundred dollars of extra cost can put a house out of reach for them,” he says. “Less than 20% of the population can afford the median-priced home. These rules just make it that much harder on many, many people.”

And these inequitable effects could be magnified in certain kinds of communities. According to Jeff Harris of the CBIA, “…in smaller, poorer rural communities there might be a chilling effect on development. [The fee] could make the difference between building a project and not building it in rural communities” (Grossi 2003a). Thus, economically vulnerable groups and communities will bear the brunt of this new fee. So the narrative keeps its basic plot and cast of characters, but the victims are more clearly identified. Those least capable of dealing with increased financial obligations would be the recipients of this regulatory burden.

While similar to its design-phase version, this more recent version represents an example of political learning because it offers a more focused target group. According to May (1992), employing new tactics to call attention to a problem or idea is an example of political learning. In the design phase, the target was more general. The target of inequitable legislation was homebuyers in general. However during implementation, the narrative was constructed to present the target of over-reaching regulation as a group that can least afford its effects. Potential homeowners of low to moderate income will bear the disproportionate brunt of the fee instituted by Rule 9510. This tactic puts a “human face” on the target group, which makes their plight seem more palpable (Stone 1989). Those of low to moderate income who would be homeowners are also painted as a dependent group. This social construction of a target population is characterized by lower levels of political power, but seen as deserving of policy benefits (Schneider and Ingram 1997). Thus, this is a group that is too politically weak to resist the rule but does not deserve this burden. It will be the building industry and their supporters who will act as the protectors of this politically vulnerable group.

Even though the building industry lost both decisions, its use of the courts is an example of political learning. According to May (1992), both a shift in venue and the offering of new arguments are evidence of a change in political strategy. In the rulemaking process, the building industry had to accept the idea that there was going to be some kind of rule that would assess a fee upon pollution at development sites. Their arguments were focused on creating a rule that was favorable to them. However, when they shift to the venue of the courts, they offer an entirely new argument concerning Rule 9510. Both the NAHB and CBIA contend that the Valley Air District does not have the authority to promulgate Rule 9510. It falls outside their jurisdiction to directly regulate mobile sources of pollution (CBIA case, p. 136). Thus, it was no longer just a question of inequitable distribution of a fee. It had been transformed into a legal question and moved to the courts for a decision.

**CONCLUSION**

This research has been driven by two main research questions. One seeks to examine the contributions of the NPF to the development of policy theory. Specifically, the link of narratives, policy design, and policy learning were examined. The other looks at the implications the analysis of policy narratives have for policy makers addressing air quality issues. There are several lessons practitioners can take from this examination of SB 709 and the ISR program.

Given the importance of language and storytelling in policy making, the systematic examination of policy narratives used in the discourse surrounding SB 709 reveal important lessons about the design and development of this air pollution policy (Stone 1997; Schneider and Ingram 1997; Jones & McBeth 2010). It is the combination of the multiple causes and unregulated mobile sources as major contributor narratives, along with the legislative context of SB 709, that both identify and justify suburban development as a target worthy of regulation. The multiple cause narrative implicates suburban development as one of the man-made causes in need of regulation. It is the unregulated mobile sources as major contributor narrative that then provides the justification for granting the Valley Air District the regulatory authority to address this issue. The statistic of 50% of ozone emissions establishes mobile sources as a significant contributor to the ozone problem in the Central Valley (California, Senate 2003a). Giving the local air district the ability to address mobile source pollution gives them an element of control over the problem. Suburban development, as a mobile source of pollution, is depicted as a target group deserving of a regulatory burden. It is this construction of the target group that arms the local air district with ability to assess a new regulatory fee on the indirect emissions associated with of suburban development.

However, the picture of developers is not as one-sided as the previous narratives would suggest. The increased regulation narrative carries a very different set of values into the policy design of SB 709. Here, developers are portrayed as heroes defending the public interest. They defend the victims of this policy, which include potential homebuyers and citizens living in economically depressed areas. Developers are constructed as a group not deserving of an increased regulatory burden. This narrative is reflected in the nature of the relationship between agent, Valley Air District, and target, developers, reflect the “increased regulation” narrative and portray a more positive view of those engaged in suburban development. The Valley Air District is required to provide information on the various effects of rules and regulations on impacted parties. In turn, regulated parties are allowed to engage in meaningful give-and-take with agency staff in order to develop rules that guide their behavior. This implementation structure is exemplified in the development of the ISR program in Rule 9510.

Application of the NPF also sheds light on the political learning which took place as SB 709 moved from a piece of legislation to the development of the ISR program in Rule 9510 (May 1992). The analysis policy narratives revealed both proponents and opponents of increased regulation learned to better advocate for their respective policy ideas. The proponents of SB 709 exemplified political learning by better specifying the problem and the policy’s target. The problem was now new pollution created by new, sprawl development. Developers and builders would be the target of the ISR program.

The opponents of SB 709 also showed signs of political learning. After the passage of SB 709, opponents used the multiple causes narrative for their own purposes. This narrative had been previously used by proponents as a policy rationale for increased regulation. However, opponents emphasized the complex nature of the causal chain to suggest there were other, more pressing, causes of ozone pollution in the Central Valley. And that to focus on just developers was not only inequitable, but would also ineffective in addressing air quality problems. The increased regulation narrative also echoed this focus on equity. In this case though, it was the developers who would function as protectors of potential homebuyers of low to moderate income from the regulatory burdens imposed by the ISR program’s proposed fees. Opponents of the ISR program also redefined the issue as a question of the Valley Air District’s legal authority and took the issue to court.

While the above discussion illustrates the linkage between policy narratives, design, and learning; this analysis of narratives also provides important lessons for policy practitioners. The first is the lack of policy learning throughout the process of rulemaking. SB 709 required a rulemaking process which was open and participatory in nature. The Valley Air District, the building industry/developers, clean air advocates, and impacted state/local agencies were involved in extensive negotiations to promulgate regulations for indirect source emissions. These parties took part in numerous public hearings, workshops, and rounds of review and comment over the span of two years in order to produce Rule 9510. Thus, a venue for both instrumental and social policy learning was created.

The potential for instrumental policy learning centered on the Valley Air District’s proposed urban emissions model (URBEMIS), which would be used to calculate the amount of pollution created by a new development site. The model was extensively peer reviewed and allowed for adjustments of its parameters based on project-specific information (Draft Staff Report 2005, 11). There was also an opportunity for social learning. Within the consensus-building venue of the rulemaking process, there was the potential to generate a shared understanding of causation. Agreement on the negotiated rule could indicate acceptance on the part of the building industry that they do contribute to the ozone problem and should pay their fair share, while the Valley Air District and clean air advocates acknowledge the need to allow for mitigations limiting the amount of the fees. However, the policy makers in this venue were unable to take advantage of the opportunities to learn. Representatives of the building industry took the Valley Air District to court claiming builders and developers should not be subject to the rule and its related fees.

A second lesson for policy practitioners to note is the ability of a target group to effectively blunt the impact of policy. In this case, the building industry to employs a variety of strategies to lessen the regulatory burdens placed on them by both SB 709 and the ISR program. One way they do this is by influencing how they are constructed in the policy process (Schneider and Ingram 1997). In the multiple cause narrative, this coalition presents an equity-based argument. While not denying pollution is created by development, they suggest there are a myriad of other more important, and controllable factors. Thus, they should not be unfairly singled out. They also present themselves as the hero in the increased regulation narrative. Here, the building industry seeks to protect potential homebuyers from excessive fees. Another example of this effectiveness is the ability to negotiate a favorable rule. Rule 9510 does not require full mitigation of emissions (Repogle and Phillips 2005, 12). And developers are only responsible for mitigating operational emissions for a 10 year period (Repogle and Phillips 2005, 13). Lastly, builders are able to also shift venues by arguing they are not even subject to the more favorable rule they just negotiated.

A third lesson for policy practitioners emerging from this research is the impact a combination of political learning and a lack of policy learning can have on the overall effectiveness of a policy. In this case, the analysis of narratives revealed a high level of political learning and a dearth of policy learning surrounding the ISR program. The result of this was a program that did produce some reductions in emissions. However, the ISR program did not require the full mitigation of NOx and PM10 nor did it contain any requirements to reduce reactive organic gases (Repogle and Phillips 2005). It was also unable to help the Central Valley avoid violating the national one-hour ozone standard in 2010 and 2011 (SJVAPCD 2007; Grossi 2011). These violations resulted in $29 million fines for both 2012 and 2013 (Grossi 2011). The fees raised as part of the ISR program may not be applied to the payment of these fines. Their use is limited by statute. Even if they could be applied, the amount of revenue raised would not be enough to pay these fines (SJVAPCD 2007). As a result, the Valley Air District is using its authority to add $12 to the vehicle license fees of Valley motorists (Grossi 2010). The increase in fees will be in effect until there are no violations in a given year. Gone is the narrative about builders and business contributions to ozone problems; now the district suggests that it is motorists that must pay. According to Sayed Sahedrin of the Valley Air District, “We’re saying that for the privilege of driving in the valley, paying an extra $1 a month is preferable to charging industry $29 million…” (Barringer 2010).

The implications of this research for policy learning support May’s (1992) conclusions about the constraints learning faces in the larger policy process. With respect to instrumental policy learning, he points to the presence of political factors “that limit the ability to incorporate new understandings into policy design” (May 1992, 351). In this case, the political influence of developers and builders was demonstrated in their ability to present a strong, competing narrative; adapt the argument of others for their own purposes; and shop venues. Social policy was also limited “by interest group specialization and an unwillingness to challenge core beliefs” (May 1992, 352). Clean air and public health advocates did not consider the economic costs of regulation and the developers and building industry coalition did not take responsibility for the pollution associated with new pollution.

All of this points to the need to make the promotion of policy learning an important goal in the policy process. The creation of institutional venues which promote the processes necessary for both instrumental and social policy learning are critical. Ostrom’s (1998) discussion of a behavioral approach to collective action may provide some guidance here. The importance of face-to-face communication in building mutual commitment to a decision or point of view is crucial to any lasting agreement. The ability to exchange this mutual commitment helps to increase trust, creating and reinforcing norms like reciprocity (Ostrom 1998). The development of robust accountability systems is an important foundation for the face-to-face communication. The ability to change rules or use other mechanisms to punish those who do cooperate or keep agreements provides important incentives to negotiate in good faith. Together these concepts provide the basis for developing positive working relationships centered on trust, reciprocity, and reputation (Ostrom 1998). The development of these kinds of relationships will be much more likely to promote policy learning than negotiations simply focused on producing particular policy outcomes.

**References**

Barringer, Felicity. (2010, October 18). New tactic in California for paying pollution bill. *The*

*New York Times*, pp. 16.

California. Assembly Republican Bill Analysis, Natural Resources Committee. (2003). *SB 709*

*– San Joaquin Valley Unified Air Pollution Control District: District board.* California.

California. Legislative Counsel Digest. Senate Bill 709 (2003). California.

California. Senate Bill Analysis, Natural Resources Committee. (2003). *SB 709.* California.

California. Senate. Senate Committee on Environmental Quality. (2003). *Hearings on San*

*Joaquin Valley Unified Air Pollution Control District.* California.

California. Senate. Senate Committee on Local Government. (2003a). *Hearings on SB 709.*

California.

California. Senate. Senate Committee on Local Government. (2003b). *Hearings on SB* 709.

California.

California. Senate Floor Analyses, Senate Appropriations Committee. (2003). *San Joaquin*

*Valley Unified Air Pollution Control District: District board.* California.

California. Senate Republican Bill Analysis, Environmental Quality Committee. (2003). *SB*

*709*. California.

California. Senate. Senate Rules Committee. (2003). *San Joaquin Valley Unified Air Pollution*

*Control District: District board.*  California.

California Building Industry Association. Letter to Dede Alpert, Chair of the Senate

Appropriations Committee Concerning SB 709, ts. Legislative Record for SB 709

(2003). California State Archives, Sacramento, CA.

California Building Industry Association v. San Joaquin Valley Air Pollution Control District.,

178 Cal. App. 4th 120; 100 Cal. Rptr. 3d 204. (2009).

California Chamber of Commerce. Letter to members of the California State Senate Concerning

SB 709, ts. Legislative Record for SB 709 (2003). California State Archives,

Sacramento, CA.

California Environmental Protection Agency. (2003). *Enrolled Bill Report – Subject: San*

*Joaquin Valley Air District* Authorities. California.

deLeon, Peter and Linda deLeon. (2002). What ever happened to policy implementation? An

alternative approach. *Journal of Public Administration Research and Theory*, 12(4),

467-492.

Fresno County Farm Bureau. Letter to Hannah-Beth Jackson, Chair of the Assembly Natural

Resources Committee Concerning SB 709, ts. Legislative Record for SB 709 (2003).

California State Archives, Sacramento, CA.

Grossi, Mark. (2003a, October 5). Pollution battle begins at homes. *The Fresno Bee* pp. B1,

B5.

Grossi, Mark. (2003b, November 12). New fees coming to help clean valley air: Developers

complain law aimed at cutting smog is unfair to them. *The Fresno Bee,* pp. 1.

Grossi, Mark. (2005a, December 12). Air rules target valley sprawl: Regulations that would

add fees to new homes are up for a vote and have builders up in arms. *The Fresno Bee*,

pp. 1.

Grossi, Mark. (2005b, December 13). Valley air district to consider fee for builders: Money

to buy cleaner buses, replace dirty diesel engines. *The Modesto Bee*, pp. 1.

Grossi, Mark. (2005c, December 16). Pollution fees to builders city sprawl will cost valley

developers who do not minimize bad air from the increased growth. *The Fresno Bee,* pp

1.

Grossi, Mark. (2010, October 22). Paying the Price: A $29 million penalty intended for

polluting businesses has motorists… *The Fresno Bee*, pp. 1.

Grossi, Mark. (2011, September 24). Costs rise for valley’s bad air: Additional $29 m fine

was triggered this week. *The Fresno Bee*, pp. A1, A7.

Grossi, Mark, Russell Clemings, Barbara Anderson, John Alvin, and Mark Crosse. (2002,

December 15). Last Gasp. *Fresno Bee,* Special Report – 1-24.

Hajer, Maarten A. (1995). *The politics of environmental discourse: Ecological modernization*

*and the policy process*. Oxford, United Kingdom: Oxford University Press.

Majone, Giandomenico and Aaron Wildavsky. (1984). Implementation as evolution. In Jeffrey

L. Pressman and Aaron Wildavsky *Implementation: How great expectations in*

*Washington are dashed in Oakland; Or, why it’s amazing that federal programs work at*

*all, this being the saga of the economic development administration as told by two*

*sympathetic observers who seek to build morals on a foundation of hopes* (3rd ed.,

Expanded) (pp. 163-180). Berkeley, CA: University of California Press.

Maxwell, Leslie A. (2003, March 1). High-stakes assault on dirty air. *The Sacramento Bee* pp*.,*

A1, A4.

May, Peter J. (1992). Policy learning and failure. *Policy Studies Journal*, 12(4), 331-354.

National Association of Home Builders v. San Joaquin Valley Unified Air Pollution Control

District., 08-17309. (2010).

Newton, Lina. (2005). ‘It is not a question of being anti-immigration’: Categories of

deservedness in immigration. In Anne L. Schneider and Helen M. Ingram (eds.)

*Deserving and entitled: Social construction and public policy* (pp. 139-167).State

University of New York Press, Albany: Albany, NY.

No author. (2003a, March 1). Bringing back blue skies. *San Francisco Chronicle*.

No author. (2003b, March 9). No free pass for smog farms. *San Francisco Chronicle.*

No author. (2005, December 11). New pollution impact fee a good idea, with limits: Our

view. *The Fresno Bee,* pp. 6.

Northcott, H.C. (1992). *Aging in Alberta: Rhetoric and reality*. Detselig Enterprises Ltd.:

Calgary, Alberta.

Ostrom, Elinor. (1998). A behavioral approach to the rational choice theory of collective action:

Presidential address, American political science association, 1997. *American Political*

*Science Review*, 92(4), 106-120.

Repogle, Michael A. and Kathryn Phillips. (2005). *Incentives for healthy communities: The*

*indirect source rule for the San Joaquin Valley and its promise of cleaner air*.

Environmental Defense Fund: New York, NY.

Rochefort, David A. and Roger Cobb. (1994). Problem Definition: An Emerging Perspective.

In David A. Rochefort and Roger W. Cobb (eds.) *The politics of problem definition* (pp.

1-31). Lawrence, KS: University of Kansas Press.

Roe, Emery. (1994). *Narrative policy analysis: Theory and practice*. Duke University Press:

Durham, North Carolina.

San Joaquin Valley Air Pollution Control District. (2005a). *Draft staff report: Rules 3180 and*

*9510.* California: San Joaquin Valley Air Pollution Control District.

San Joaquin Valley Air Pollution Control District. (2005b). *Draft staff report: Rules 3180 and*

*9510, appendix A: Comments and responses rules 9510 and 3180.* California: San

Joaquin Valley Air Pollution Control District.

San Joaquin Valley Air Pollution Control District. (2005c). *Rule 9510: Indirect source review*

*(ISR)*. California: San Joaquin Valley Air Pollution Control District.

San Joaquin Valley Air Pollution Control District. (2007). *2007 Annual report on the district’s*

*indirect source review program*. California: San Joaquin Valley Air Pollution Control

District.

Schneider, Anne and Helen Ingram. (1990). The behavioral assumptions of policy tools. *The*

*Journal of Politics,* 52(2), 510-529.

Schneider, Anne and Helen Ingram. (1993). Social construction of target populations:

Implications for politics and policy, *The American Political Science Review* 87(2), 334-

347.

Schneider, Anne Larason and Helen Ingram. (1997). *Policy design for democracy.* University of

Kansas Press: Lawrence, KS.

Stone, Deborah A. (1989). Causal stories and the formation of policy agendas. *Political*

*Science Quarterly*, 104(2), 281-300.

Stone, Deborah. (1997). *Policy paradox: The art of political decision making.* W. W. Norton &

Company, Inc.: New York, NY.

Weiss, J. (1989). The powers of problem definition: The case of government paperwork.

*Policy Sciences*, 22, 97-121.