



Impact of the Environmental Organizations' Law Suit & Court Order

*Los Angeles Area Chamber of Commerce
Energy, Water and Environment
Committee Meeting*

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South Coast Air Quality Management District



EWE Committee Meeting

- Background on NSR Offsets

- Mohsen Nazemi

- NSR Litigations

- Kurt Wiese

- Status of Permitting

- Mohsen Nazemi



New Source Review (NSR) Background

- Federal Law – The Federal Clean Air Act has NSR requirements for major sources for both Attainment and Non-Attainment Air Contaminants
- State Law – The California Clean Air Act has NSR (No Net Increase) requirements for both major and non-major source of Non-Attainment Air Contaminants



New Source Review Requirements

- **Attainment Air Contaminants**
Requirements are for Prevention of Significant Deterioration (PSD):
 - Best Available Control Technology (BACT)
 - Air Dispersion Modeling
 - Visibility Analysis
- **Non-Attainment Air Contaminants**
Requirements are for Non-attainment NSR:
 - BACT/ Lowest Achievable Emission Rate (LAER)
 - Air Dispersion Modeling
 - **Emission Offsets**



When are Emission Offsets Required?

- Emission Offsets are required for permitting of:
 - New Facilities
 - Relocations
 - Existing Facility Modifications/Expansions by:
 - Installation of New Equipment
 - Replacement of Existing Equipment
 - Modification and/or modernization of equipment



New Source Review SCAQMD NSR Rules

- SCAQMD adopted its NSR Rules in 1976 prior to adoption of federal and state Clean Air Acts
- Emission Offsets are required from the applicants in the form of Emission Reduction Credits (ERCs) or RECLAIM Trading Credits (RTCs)
- Emission Offset Exemptions (Rules 1309.1 and 1304)
 - SCAQMD NSR Rules provide exemptions from offsets (i.e., ERCs) for certain specific sources
 - SCAQMD provides offsets for the exempt sources from its Offset Credit Bank



Rule 1309.1 -Priority Reserve What Sources Qualify?

- Innovative Technology
- Research Operations
- Essential Public Service
 - sewage treatment facilities, prisons; police facilities; fire fighting facilities; schools; hospitals; construction and operation of a landfill gas control or processing facility; water delivery operations; and public transit.
- Limited Electrical Generating Facilities



Rule 1304- Exemptions

What Sources Qualify?

- Equipment Replacements
- Facility or Equipment Relocations
- Emergency Equipment or Operations
- Air Pollution Control Strategies
- Regulatory Compliance
- Concurrent Facility Modification
- Small Sources (< 4 Tons per Year)
- Others (Abrasive Blasting & Portable equipment, Replacement of ODCs)



What Are the Sources of Offsets?

■ Open Market Credits

- Sources shutdown or over-control emissions and apply for and obtain Emission Reduction Credits (ERCs)
- ERCs traded between companies for offsets

■ The SCAQMD's Offset Credit Bank

- Offset credits are emission reductions created from sources which do not obtain ERCs (Orphan Shutdowns)
- Offsets are provided free of charge to Essential Public Services, Smaller Sources and other exempt sources



The SCAQMD's Offset Credit Bank

1990 -Offset Credit Bank established

Funded primarily with:

- (i) "Pre-1990" emission reduction credits
- (ii) Post 1990 "major-source orphan shutdowns"

An NSR Tracking System is used to account for credit withdrawals and deposits

2002

In connection with other NSR rule amendments EPA asked SCAQMD to memorialize NSR Tracking system in a SCAQMD regulation



Actions Taken by SCAQMD in 2006 and 2007

SCAQMD Adopted Rule 1315 →

NSR Tracking Rule

- Replaced some of pre-1990 credits with creditable minor source orphan shutdowns

Use of SCAQMD Credit Bank



SCAQMD Rule 1309.1- Priority Reserve

- Essential Public Services (i.e. sewage treatment plants, landfills, hospitals)
- Amended to add power plants

SCAQMD Rule 1304 (Exemptions)

- Credit exemptions for certain sources



Status of New Source Review Litigations

Kurt Wiese
General Counsel



NSR Litigations

Natural Resources Defense Council,
Communities for a Better Environment,
Coalition for a Safe Environment and
California Communities Against Toxics
filed two lawsuits against SCAQMD:

- One in State Court challenging SCAQMD's Adoption of Rules 1309.1 and 1315
- One in Federal Court challenging validity of SCAQMD's Offsets



Current Status of Permitting

Mohsen Nazemi
Deputy Executive Officer



As A Result of the Court Decision

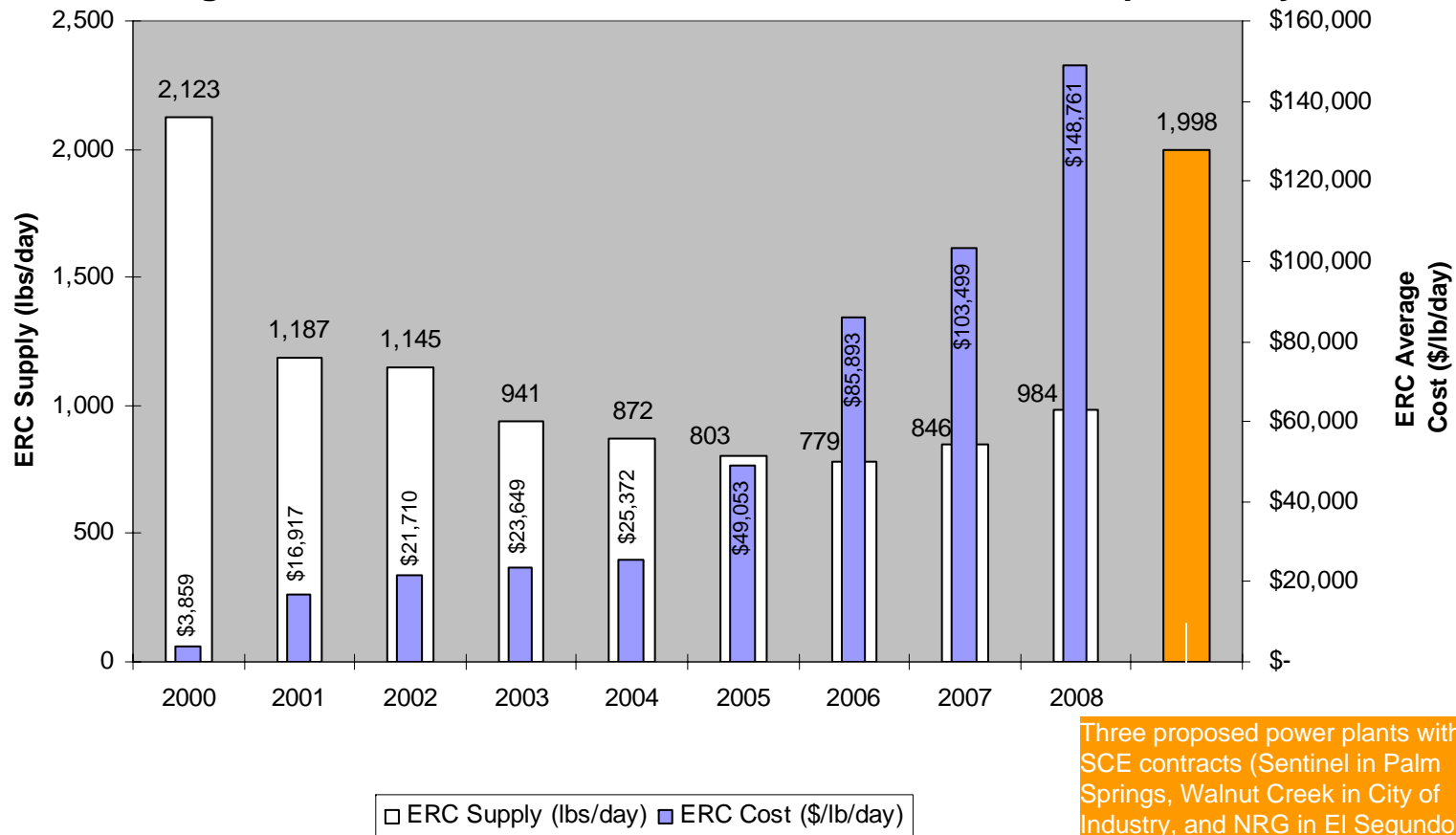
- Without SCAQMD's bank of offset credits:
 - No essential public service projects can be permitted
 - No other local government & business permits can be issued
 - No new power plants can be permitted
- The only remaining option for local government and business is to purchase ERCs in Open Market
 - Not enough ERCs in the open market
 - ERCs are expensive and potentially unaffordable



PM10 ERC Supply & Average Cost Trends (2000-2008)

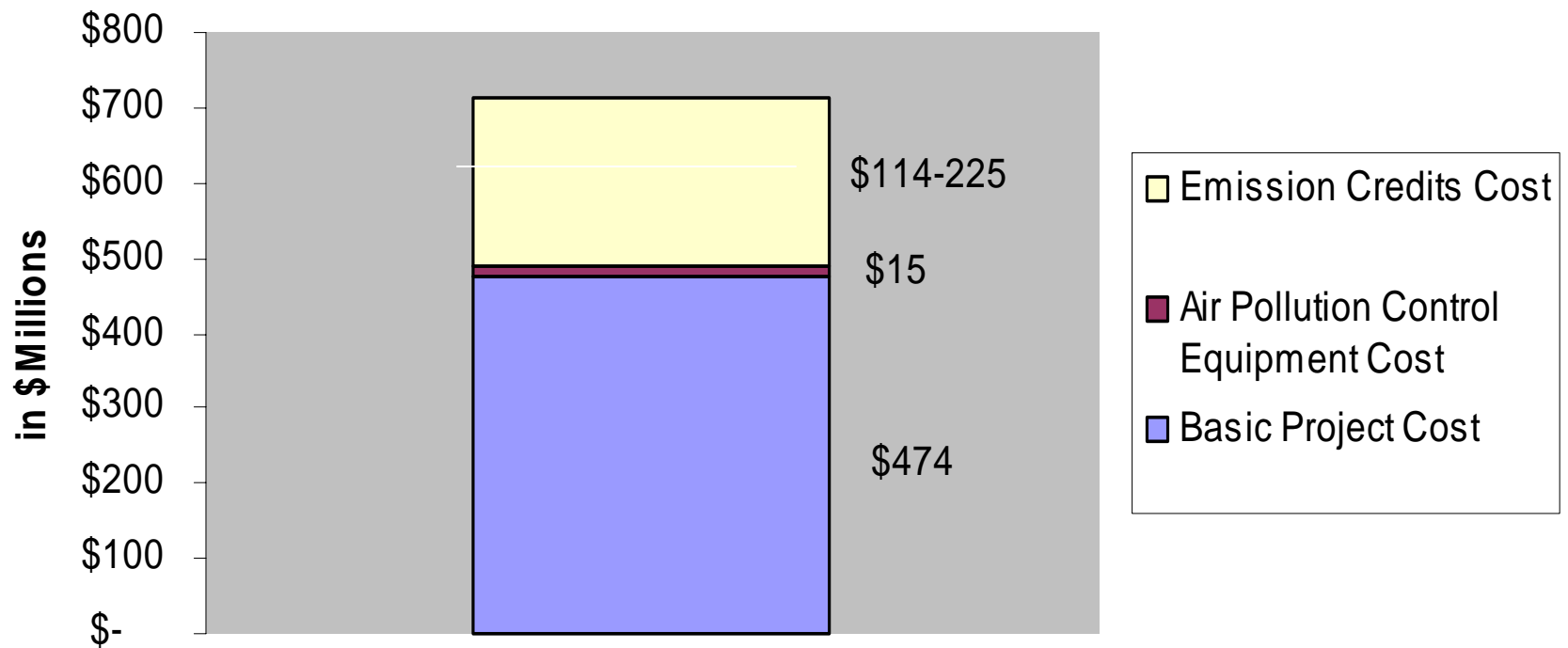
Supply dropped by 54% since 2000
Cost increased by 3,755% since 2000

Highest Price of PM10 ERC sold in 2008 was \$247,000 per lb/day





Cost of 850 MW Power Plant





Cost of ERCs for Businesses, If SCAQMD Does not Provide Offset Credits

Typical Projects

	<u>Cost of ERCs*</u>
■ Police Station (Emergency Backup Generator)	\$110,000
■ Gas Station	\$255,000
■ Printer (Printing Press)	\$390,000
■ Auto body Shop (Spray Booth)	\$500,000
■ Hospital (Boiler)	\$2 million
■ Food Processing (Tortilla Fryer & Oven)	\$2 million
■ Sewage Treatment Plant Expansion	\$3 million
■ Landfill Gas Recovery (Renewable Energy)	\$140 million
■ Power Plants (state-of-the-art)	\$100-200 million

** Based on typical project emissions and average market price of ERCs in 2008. Individual project emissions and ERC purchase prices may vary on a case-by-case basis.*



Permit Applications with Offset Exemptions on Hold

Presently, the following number of permit applications which qualify for offset exemptions are on hold:

- | | |
|--|-------|
| ■ For Rule 1309.1 Exemption | > 130 |
| ■ For Rule 1304 Exemption | >1100 |
| ■ Exempt Projects which Purchased ERCs | 11 |



Examples of Projects Currently on Hold

PROJECT NAME	LOCATION	TYPE OF FACILITY	PROJECT DESCRIPTION
Eastern Municipal Water District	Moreno Valley	Sewage Treatment	Expanding capacity at sewage treatment facility
Eastern Municipal Water District	San Jacinto	Sewage Treatment	Expanding capacity at sewage treatment facility
Riverside Co. Waste Management	Moreno Valley	Landfill	Air pollution control device consisting of a landfill gas flare
Los Angeles City	Terminal Island	Sewage Treatment	Air pollution control device consisting of digester gas flare
MM West Covina	West Covina	Landfill	Air pollution control device consisting of landfill gas to energy turbine
Montauk Energy	Irvine	Landfill	Air pollution control device consisting of landfill gas to energy turbine
Ridgewood Power Management	Brea	Landfill	Air pollution control device consisting of landfill gas to energy turbine
Sunshine Gas Producers	Sylmar	Landfill	Air pollution control device consisting of landfill gas to energy turbine
Los Angeles City Sanitation & DWP (SHARE Project)	Los Angeles	Sewage Treatment	Air pollution control device consisting of digester gas to energy turbine
Los Angeles County Sanitation District	Palos Verdes	Landfill	Air pollution control device consisting of landfill gas to energy turbine and ultra-low emission flare
Loma Linda University	Loma Linda	School	2 crematory furnaces



Other Potential Impacts

As a result of the Hold on Permits, there will be potential Delays in:

- Implementation of SIP Rules
- Implementation of soil or ground water cleanup orders from other agencies
- Implementation of requirements of the AB32 CARB Scoping Plan
- Facility & Equipment Modernizations
- Hundreds of Permits for small sources such as gas stations, print shops, auto body shops and other businesses