



# County of Santa Cruz

## DEPARTMENT OF PUBLIC WORKS

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JOHN A. FANTHAM  
DIRECTOR OF PUBLIC WORKS

AGENDA: March 23, 1999

March 11, 1999

SANTA CRUZ COUNTY BOARD OF SUPERVISORS  
701 Ocean Street  
Santa Cruz, California 95060

SUBJECT: BUENA VISTA LANDFILL GAS POWER PROJECT

Members of the Board:

On February 9, 1999, your Board received a report on the status of the Buena Vista Landfill Gas Power Project and approved several agreements to begin final implementation of this project. Public Works was directed to return on March 23, 1999, with the remaining project related agreements and the necessary funding arrangements to begin construction.

On February 17, 1999, the Monterey Bay Unified Air Pollution Control District (District) considered a report from District staff recommending actions related to the issuance of Emission Reduction Credits (ERCs) for the Buena Vista Landfill Gas Power Project. ERCs are required when emission levels from a project exceed source standards for a specific pollutant. ERCs are maintained through a "banking" system controlled by the District. ERCs go into the "Regular" Bank when emission sources within the District are shut down or emissions from a source are reduced. These ERCs can be bought and sold through private transactions for development of new projects within the District boundaries. The District also maintains a separate "Community" Bank of ERCs specifically for use with Public Service Projects. The ERCs contained within the Community Bank are available, at no cost, to public agencies constructing projects such as ours.

District staff had completed a **draft** permit for our project which indicated the need for supplemental ERCs to complete the permit. Public Works was informed early this year that a policy exists within the District rules that limits the use of ERCs within the Community Bank to no more than 50% of the total credits in any single calendar year. The ERC requirements for our landfill gas project exceed the 50% limit of the current ERC Community Bank. The result is that in order to receive the final District permit the County must purchase a portion of the ERCs needed for our project through the Regular Bank. Statewide sales figures indicate a cost of approximately \$11,000 to \$12,000 per credit. The Buena Vista Landfill Gas Power Project needs to purchase 22 ERCs from the Regular Bank at an estimated cost of \$242,000 to \$264,000.

District staff has been very supportive of our project. They have indicated that over the 15 year history of the ERC Community Bank account system, only two withdrawals have been made. Both of those withdrawals were for a landfill gas power project at the Marina Landfill in north Monterey County. Based on the limited use of this account and the fact that the account has a very limited balance, staff recommended that the District waive the policy and issue the County its full ERC allocation from the Community Bank, at no cost. District staff went on further to recommend long term changes in the District's Basin Plan to place the Emission Reduction program for Public Service Projects within the Basin Plan itself, eliminating the need for a Community Banking program all together. This is becoming a common practice in air districts across the state and provides a streamlined, low cost process for public agencies considering new Public Service Projects. The February 17, 1999, District staff report is attached for your reference.

At the February 17, 1999, public hearing before the District regarding this subject, the Board members voted 6-4 against the staff recommendation to waive the 50% Community Bank policy for our project and to initiate the process to create a long term solution for future Public Service Projects within the District. Due to the potentially significant financial impacts associated with this decision, Public Works is recommending deferral of any further actions on this project until the full impact of this decision is assessed. Once we have a complete picture of the financial impact of the District's decision, we will return to your Board for a decision on the available alternatives.

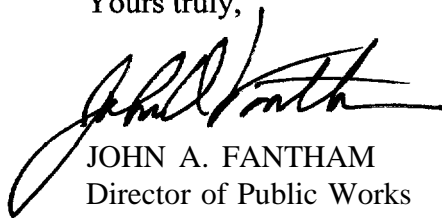
Staff is currently soliciting information from the ERC holders in the Regular Bank regarding pricing, availability, and the potential for discounting or donation of ERCs for a Public Service Project. To date, staff has found a strong reluctance from the Regular Bank holders to sell their ERCs. Most are maintaining their ERC balances for future developments. If we are unable to find a willing seller, or the actual ERC market rates within the District reduce the financial viability of the project, staff will return to the District with a request for reconsideration of their February 17, 1999, staff recommendation. Should we need to return to the District to take this issue up again, we would recommend a letter from the Board of Supervisors indicating the County's strong support of the District staffs recommendation.

It is therefore recommended that the Board of Supervisors take the following action:

1. Accept and file this status report on the Buena Vista Landfill Gas Power Project.
2. Direct Public Works to continue working with the Monterey Bay Unified Air Pollution Control District to find a solution to the Emission Reduction Credit requirements for the Buena Vista Landfill Gas Power Project.
3. Direct the Chair of the Board of Supervisors, in consultation with Public Works, to draft a letter of support to the Monterey Bay Unified Air Pollution Control District, in the event the availability or market cost of Emission Reduction Credits prove to be an unreasonable financial burden for the Buena Vista Landfill Gas Power Project.

4. Direct Public Works to return on or before May 18, 1999, with a status report on the Buena Vista Landfill Gas Power Project.

Yours truly,



JOHN A. FANTHAM  
Director of Public Works

RPM:rw

Attachments

RECOMMENDED FOR APPROVAL:



for County Administrative Officer

copy to:     Public Works  
              General Services  
              Auditor-Controller  
              Brown, **Vence** and Associates  
              Monterey Bay Unified Air Pollution Control District



**MONTEREY BAY**  
Unified Air Pollution Control District  
serving Monterey, San Benito, and Santa Cruz counties  
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AIR POLLUTION CONTROL OFFICER  
Douglas Quetin

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Date of Board Consideration:

February 17, 1999

**TO:** The Air Pollution Control Board  
**FROM:** Fred Thoits, Engineering Division Manager  
**SUBJECT:** Board Policy On Mitigation Of Emissions From Essential Public Service Projects And The Use Of Emission Reduction Credits From The Community Account Of Rule 215 - Banking of Emission Reductions

RECOMMENDATION

Receive presentation and direct staff to pursue revisions co Rule 207 that would exempt Essential Public Service projects from emission offsets requirements, and make necessary revisions to the federal Air Quality Maintenance Plan to provide for the mitigation of these projects. Additionally, staff recommends the Board set aside the 50% annual usage limit on the Community Account.

BACKGROUND

This item was initially presented at the January 20, 1999 Board meeting. On January 20th, the Board directed staff to:

allocate from the Community Account as administratively provided, the amount of emission reduction credits that have been requested and that meets the cap on the usage limit in the Community Account, i.e. the maximum annual withdrawal can not exceed 50% of the emission reduction credits for each individual pollutant in the Community Account;

further investigate the pluses and minuses of moving forward in the direction recommended by staff, i.e. eliminating the annual cap on the use of emission reduction credits in the Community Account: and

provide the Board with a full review of both tiers so that the Board knows what options exist.

The Board needs to consider this issue in two aspects. The overall, long term handling of mitigation of emissions from Essential Public Service projects, and establishing a policy in the near term that considers the needs of existing and proposed projects.

As a point of clarification, not all projects are required to mitigate their emissions. It is only the projects with larger emissions which trigger levels specified in Rule 207, Review of New or Modified Sources, that are required to provide the emission offsets. Historically, there have not been many projects that have triggered the requirement to utilize emission reductions credits from the bank.

### MITIGATION OF EMISSIONS FROM ESSENTIAL PUBLIC SERVICE PROJECTS

The consideration of the overall, long term issue of mitigation for Essential Public Service projects is being presented first, as it helps define the options for near term policy consideration. It appears that there are sufficient offsets in the Community Account to nearly mitigate the emission increases from all current or proposed projects now known by the District. However, without further regulatory change, policy revision, or replenishment of the Community Account, current and proposed projects will likely consume all of the emission reduction credits now in the Community Banking Account.

The options that exist for dealing with mitigation of Essential Public Service projects are:

- Make no policy changes or rule revisions and rely on the 10% deduction from future emission reduction credit deposits to fund the community account. Historically, this has contributed very little to the amount of credits in the Community Account and it is unlikely to generate significant additional future Community Account offsets. If there are insufficient offsets that can be provided out of the Community Account, Essential Public Service projects would then be placed on an equal basis with all other projects, requiring offsets to be generated internally or purchased from the holders of emission reduction credits in the regular bank. Emission reduction credits in the regular bank are not always for sale, as they may be banked for internal future use. Since Essential Public Service projects are defined as being publicly owned, the associated governmental entity may have difficulty including the cost of the purchase of emission reduction credits into the project budget.
- Transfer credits from the Regular Account into the Community Account, as was done by the Board in 1993. This would take away credits that are currently held privately and considered to have value to the holders, and relieve Essential Public Service projects from the need to provide mitigation. Reducing the quantity of offsets in the regular bank limits the mitigation available for private sector growth, although based on the lack of historic usage, this does not seem to be an issue.

- Revise Rule 207, Review Of New Or Modified Sources, to specifically exempt Essential Public Service projects from the requirement to provide offsets. Rule 207 has been approved in its present form by the Environmental Protection Agency as the basis of granting delegation to the MBUAPCD, the New Source Review and Prevention Of Significant Deterioration Federal permitting programs. Thus, any revision of this rule results in a careful scrutiny and broad program review by the Environmental Protection Agency to ensure that the District's program continues to meet the equivalency of the Federal permitting programs. Historically, revisions to Rule 207 have involved considerable staff resources and the outcome of the Environmental Protection Agency's action is never certain. Staff have obtained specific guidance from the Environmental Protection Agency, dated July 1, 1994, which states that:

Rather than having to apply offsets of a case-by-case basis, States may consider adopting (as part of their attainment plans) specific control measures or strategies for the purpose of generating offsets to mitigate the projected collateral emissions increases from a class or category of pollution control projects.

Revisions to Rule 207 must be done in conjunction with revisions to the federal Air Quality Maintenance Plan to specifically account for the emission increases from essential public service projects. Since the District's Air Quality Maintenance Plan contains a surplus of state adopted emission reduction measures beyond that presently necessary to attain the Federal Ozone standard, there is a good chance that this could meet the Environmental Protection Agency's criteria. However, it should be noted that this guidance is limited to the emission increases from pollution control projects, defined as projects that result from a regulatory requirement, e.g. an engine installed at a landfill to comply with the federal regulations requiring a landfill gas collection and destruction system. Thus, the Environmental Protection Agency's acceptance of a blanket exemption for Essential Public Service projects or only those resulting from projects required by regulatory requirements is the issue that must be resolved. The length of time needed to resolve the issue is unknown, and such actions have historically taken much longer than anticipated. Staff anticipates the time frame as taking a year, or more, to complete.

Conceptually, staff supports providing the mitigation for projects that are essential public services as part of the air quality planning process, rather than from the case-by-case application of credits in the banking system. Thus, staff recommends that the Board direct staff to pursue revisions to Rule 207 that would exempt Essential Public Service projects from offset requirements, and incorporate the associated project emission increases into the Air Quality Maintenance Plan as the mechanism for providing the mitigation.

ANNUAL USAGE POLICY - COMMUNITY BANKING ACCOUNT

At the January 20th meeting the Board also directed staff to further investigate the annual usage policy for the Community Account and provide the Board with a review of available options.

The near term issues that are affected by the annual usage policy are the mitigation of emissions from an existing permit application for a Buena Vista Landfill project, and potentially from a conceptual project at the Marina Landfill. Board direction on the long term issue of mitigation of Essential Public Service projects influences the consideration of the annual usage policy options. Using the assumption that the Staffs recommendation to pursue revisions to Rule 207 is supported by the Board, action on the short term, annual usage policy is necessary to cover the interim period until such time as the Rule 207 revision can be completed and the Environmental Protection Agency concurrence obtained.

The options and affects on these two projects are presented below.

- Retain current 50% annual usage policy.

After awarding the Buena Vista Landfill project the 1999 Community Account emission reduction credits based on the 50% annual usage policy, the project still requires an additional 21.8 tons per year of emission reduction credits. The applicant has indicated that the potential cost of purchasing this quantity of emission reduction credits from the regular account makes the funding for the project questionable.

- Retain current 50% annual usage policy and act now to establish the annual usage policy for CY 2000 with the 50% usage cap.

The Buena Vista Landfill project could be granted the entire 1999 and 2000 annual Community Account credits, since it is now first in line. The project would require an additional 2.7 tons per year from the regular banking account. The applicant has indicated that if they can rely on this allotment of Community Account credits they can proceed with the project and operations can be limited until the year 2000 annual credits can be issued on January 1, 2000. No offsets would be available for other Essential Public Service projects until January 1, 2001.

- Set aside the 50% annual usage policy

The Buena Vista Landfill project could be totally offset, and could now proceed, and 16.4 tons per year of credits would remain in the Community Account. The conceptual Marina Landfill project emissions needing mitigation are estimated to be 13 tons per year. Thus, 1.6 tons per year would be needed from the regular banking account. This would consume all the existing credits in the Community Account.

Staff continues to recommend the 50% annual usage policy be set aside. Historically there has been limited demand on both the Community and Regular Banking Accounts, and the recommended Rule 207 rule revision option can be resolved prior to any future Essential Public Service project offset needs. In the event the Environmental Protection Agency's approval cannot be obtained for the Rule 207 revisions, or an Essential Public Service project needing emission mitigation assistance arises during the interim rule revision process, staff would return to your Board with a discussion of the issues and options.

#### CALIFORNIA ENVIRONMENTAL QUALITY (CEQA) S T A T U S

Pursuant to the California Environmental Quality Act (Division 13 of the Public Resources Code), the District prepared a Negative Declaration and Initial Study for setting aside the 50% annual usage limit on the Community Account. The review period was January 20, 1999 to February 15, 1999. No comments were received. If the Board approves the staff recommendation to set aside the 50% annual usage limit, you must find that there is no substantial evidence that the project will have a significant effect of the environment and approve the Negative Declaration.

Attachments: Negative Declaration  
Rule 215