

Felicia Miller - FW: SCAQMD Rule 1309.1 / 1304 status and implications

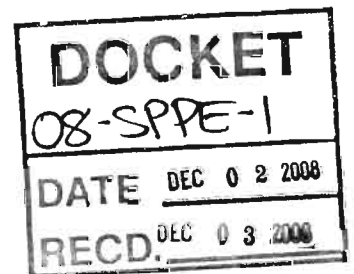
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Date: 12/2/2008 11:08 AM
Subject: FW: SCAQMD Rule 1309.1 / 1304 status and implications
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Felicia and Will,

Described below are two options for moving forward on RERC 3&4 as we discussed today in the DIS Workshop. Our approach is to ask SCAQMD to write the permit so it covers both possibilities, i.e., we operate the RERC facility so there is no net increase in emissions until such time that either SCAQMD reaffirms 1315 or RPU procures additional offsets.

Thanks,

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From: Karl Lany [mailto:klany@scec.com]
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Subject: SCAQMD Rule 1309.1 / 1304 status and implications

Our permitting engineer has not yet responded to our requite for an update regarding SCAQMD's strategy for dealing with the NRDC fallout, but SCAQMD is starting to advise that it could take 6-12 months to clear up the impacts of the NRDC suit and allow for "business as usual" permitting. Although we purchased offsets for PM10, VOC and NOx, we are relying on Rule 1304 exemption for SOx and CO. SCAQMD has determined that it cannot honor the Rule 1304 exemptions without resolution of the NRDC suit, and likely re-adoption of Rule 1315. SCAQMD will also likely have to re-adopt Rule 1315. To my knowledge, SCAQMD has determined that it can administratively waive CO offsets because the basin is now in attainment with both state and federal ambient CO standards, so SOX is likely to be our biggest concern.

It is obvious that CEC will bring up this issue during the workshop tomorrow. It is also reasonable to expect that CEC has also heard the 6 – 12 month window for resolution. I suggest that we consider the following two

options to allow for continued SCAQMD permit processing. Being able to discuss these options tomorrow should help us keep the project on CEC's front burner.

Option 1 – Develop a Two-stage Permit

SCAQMD has indicated that it is processing applications and issuing permits that result in “no net increase” in emissions. We would ask SCAQMD to include a permit condition that would allow operations with no net facility increase in SO_x, PM₁₀, VOC and CO emissions until the time that SCAQMD can honor 1304 offset exemptions or RPU surrenders acceptable offset credits. This would allow for continued permit processing and issuance on schedule, even if AQMD does not resolve the Rule 1304 issues by the time that the permit would otherwise be issued. Under this option, we would start operations by sharing existing monthly and annual limits among all four turbines until either AQMD can honor Rule 1304 exemptions, or until we purchase additional SO_x credits, and CO credits that may be required. Keep in mind that the permit allows 720 hours per month for each of turbines 1 and 2, so sharing with a third engine for a few months may not create an immediate burden. The permit limits annual operations to about 1100 hours for each of turbines 1 and 2. Sharing these hours with additional turbines does present more of a long-term burden. This option is similar to what we suggested when we doubted that we could not get PM offsets from either the district or from the open market. We would hold our PM, VOC and NO_x offsets until the second stage of operations takes effect.

Option 2 – Purchase Additional Offset Credits

We would purchase SO_x offset credits in the open market. We could not use RECLAIM credits and would instead have to purchase traditional emission reduction credits (ERCs). I estimate costs for SO_x credits to be \$150,000 - \$220,000. If we do not have to offset CO for SCAQMD due to ambient air quality attainment, our costs end here. If we have to offset CO for units 3 and 4, the additional cost would be \$900,000 - \$1,500,000. Again, I do not believe that AQMD will enforce CO offsets.

I suggest that we proceed with option #1 because it is low cost and offers maximum flexibility. I believe AQMD will be able to accommodate us because they were willing to pursue similar permit language prior to our purchase of PM offset credits. I will present the concept to SCAQMD via email today and try to discuss with SCAQMD prior to the CEC meeting tomorrow. We can subsequently discuss the merits of purchasing SO_x credits (option 2) as the situation at SCAQMD evolves. I hate to suggest that RPU incur the cost of SO_x credits if SCAQMD is likely to reopen permitting with Rule 1304 exemptions, especially since we have a fair amount of time before we will actually be operating units 3 and 4. I will also get another confirmation of the need to offset CO emissions, given SCAQMD's attainment classification.

For now, we should be able to convince CEC that even though AQMD is not issuing permits with Rule 1304 exemptions, we can reasonably expect to temporarily qualify as a no-net increase permit that does not rely upon Rule 1304 and that CEC should continue to process the SPPE.

Let me know if you want to discuss. Thanks.