

Substitute for Item No. 1

On December 18, 2007, the Board of Supervisors approved a motion to intervene in the application proceedings before the California Energy Commission (CEC) concerning the proposed Vernon power plant in order to ensure that the heavily emitting plant was not built, or that if built, a simultaneous equal or greater emissions reduction occurred.

That CEC application has not been acted upon because on July 28, 2008, Justice Jones of the Superior Court ruled that Southern California Air Quality Management District (AQMD) violated the California Environmental Quality Act when it failed to conduct a complete and comprehensive environmental review prior to adopting AQMD rule 1315 and amending rule 1390.1. Taken together, those rules allowed AQMD to create air emission credits and allot them to profit-making power plants when they previously were reserved for necessary public projects like schools, police stations and hospitals. In her tersely worded 32 page opinion, Judge Jones wrote that the rule changes *“results in the anticipated emission of hundred of tons of pollution into the*

MOTION

Molina _____

Ridley-Thomas _____

Yaroslavsky _____

Antonovich _____

Knabe _____

basin every day, (and) expanded exponentially the universe of pollution credits available to entities to increase emissions into an already polluted basin". Judge Jones also noted that "the program will allow facilities to be built in already heavily (air pollution) impacted neighborhoods and then, in its unfettered discretion allow the mitigation fees to be spent making the air cleaner in communities where air quality has not been compromised".

As a consequence of the Superior Court decision, on March 31, 2009, AQMD notified the City of Vernon that their AQMD permit was denied. However, at the same time, AQMD is sponsoring legislation (SB 696 Wright) that would overturn the Superior Court decision referenced above; would exempt future AQMD rule changes from the California Environmental Quality Act; and would again open the door to the Vernon power plant, and others, without guarantees that offsetting emission reductions occur. Clearly, California needs newer, cleaner energy facilities. California needs a system to allow public facilities and small businesses a method to secure AQMD permits. But this need not be done at the expense of the Federal Clean Air Act, or the California Environmental Quality Act. The Legislature should end the permit moratorium by creating legislation that would again allow AQMD to issue permits for essential public projects and small business projects. The Legislature should enact legislation that will allow for the transfer of emission credits from aged heavily polluting plants to newer cleaner burning facilities.

I, THEREFORE, MOVE THAT the Board of Supervisors direct County Legislative Advocates to OPPOSE S.B. 696 (Wright) and any state legislation that would exempt the Southern California Air Quality Management District from the

California Environmental Quality Act.

I, FURTHER, MOVE THAT the County Legislative Advocates be directed to SUPPORT legislation that immediately allows essential public projects, hospitals, and exempt projects such as small business to gain AQMD permits, and emission credits as they have historically.

I, FURTHER, MOVE THAT the County Legislative Advocates be directed to SUPPORT legislation that is consistent with the Federal Clean Air Act, the California Environmental Quality Act and also allows the replacement of aging heavily polluting power plants with more efficient cleaner operating facilities conditioned upon the verifiable and enforceable transfer of emission credits, and adequate protections to ensure that communities already burdened with the region's poorest air quality do not experience a further deterioration of their air quality.

GH/ch