

Judge's Decision May Block Future Southland Public Service Facilities

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Schools, Hospitals, Sewage Treatment Plants and Landfills Affected

LOS ANGELES -- A Los Angeles Superior Court judge today may have blocked future construction of major projects at essential public facilities including schools, hospitals, landfills and sewage treatment plants that need air emission credits.

"We are disappointed in today's decision," said Barry Wallerstein, executive officer of the South Coast Air Quality Management District. "This will seriously restrict if not totally prohibit some cities and government agencies in our region from meeting a growing need for essential public services in the future." AQMD will decide whether to appeal the judge's decision within the next two weeks, Wallerstein said.

The judge also invalidated air emission credits issued to several public service facilities since the rules governing these credits were adopted or amended in August 2007. Today's ruling by Los Angeles Superior Court Judge Ann I. Jones stems from a 2007 lawsuit challenging the AQMD's efforts to transfer pollution-reduction credits to power plants. Power plants must provide air emission credits before beginning construction.

Responding to a severe credit shortage preventing construction of even the lowest-polluting natural-gas-fueled plants, and projections by the California Energy Commission that an energy shortage would occur unless new plants were constructed in Southern California, AQMD took regulatory action in 2006 and 2007 to make credits from its internal bank available for new power-plant construction.

AQMD's actions were challenged in a lawsuit brought by several environmental groups including the Natural Resources Defense Council, Communities for a Better Environment, Coalition for a Safe Environment and California Communities Against

Toxics. The environmental groups challenged the environmental impact report for the rules governing air emission credits.

In her July 2008 ruling on the lawsuit, Judge Jones effectively barred construction of any new natural-gas power plants.

In addition, her ruling not only put a stop to planned power-plant projects in the Southland, but also threatened to halt essential public projects at landfills, sewage treatment plants, hospitals and schools.

At today's hearing, attorneys for AQMD informed the judge that except for two power plant projects in the Mojave Desert, it was dropping plans to transfer credits from its internal bank to power plants, but requested the ability to transfer credits on a temporary basis to essential public services. Judge Jones denied the AQMD's request. As a result, several planned essential public service projects will be in limbo, AQMD officials said.

AQMD is the air pollution control agency for Orange County and major portions of Los Angeles, San Bernardino and Riverside counties.

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