Rule 2301
Emission Reduction Credit Banking: amendments to allow registration of GHG emission reductions

Item #11

January 19, 2012

Open agenda item # 11

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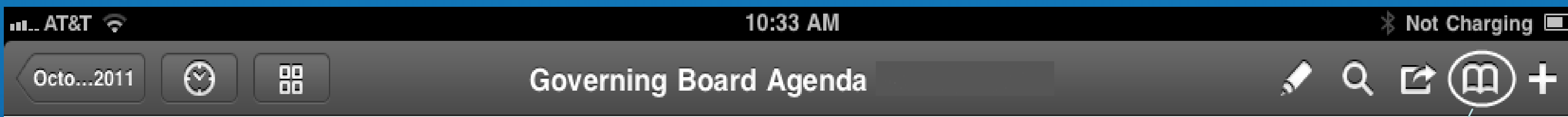

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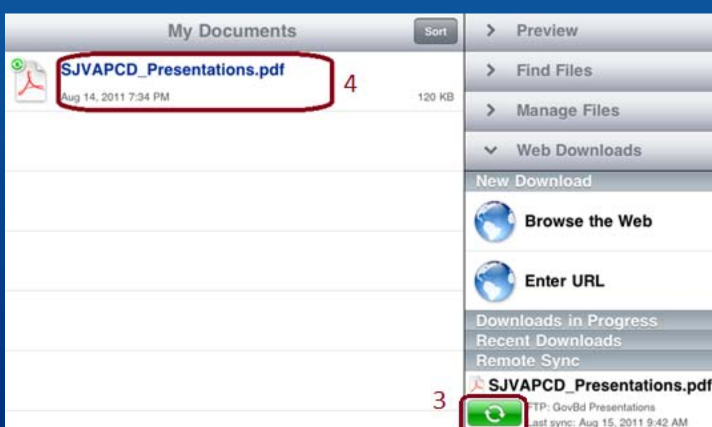

3. Tap green button to sync presentation list (if needed).

4. Tap on SJVAPCD_Presentations.pdf to open the list of presentations.

5. Tap presentation #11, "Adopt Proposed Amendments to Rule 2301…" on the list to open.

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Why a Local Credit Bank?

- Recognizes voluntary efforts to reduce emissions
- Encourages early emissions reductions
  - Recover costs through sale of credits
- Assures high-quality credits
- Provides opportunities for persons to purchase and retire credits for societal benefit
- Provides opportunities for CEQA Mitigation
  - By District, or others using District's CEQA guidance
  - By agencies using other CEQA guidance/policies
  - Even by agencies elsewhere in the state

California Environmental Quality Act

- State law now requires greenhouse gas (GHG) impacts be considered under CEQA
- Before discretionary decision (land-use permit, District Authority to Construct), agency must:
  - Assess <u>all</u> environmental impacts
  - If an impact is significant, must mitigate impact to the extent feasible
- General mitigation options for GHG impacts
  - Onsite reductions
  - National GHG credit markets
  - International markets

Problems with Mitigation Options

- GHG mitigation under CEQA is fairly new, poorly understood
- Difficult for land-use agencies to know about and understand GHG mitigation options
- Significant impacts with "overriding considerations" open to legal challenge if feasible mitigations remain
- On-site reductions not always possible
- Existing credit markets are of unknown quality
- No local benefits (environmental or economic) if credits come from elsewhere

District CEQA Policy

- District CEQA policy for GHG impacts:
  - Technical workgroup provided guidance
  - 17 meetings and conf calls over one year period
- Staff conclusions:
  - Science doesn't support establishing a numeric threshold, below which GHG impacts aren't significant
  - Should require mitigation for any proposed GHG increase, consistent with AB 32 reduction targets
- District Policy adopted by Board December 2009
  - Requires 29% reduction in GHG increases
  - Established "Best Performance Standards" (BPS) for specific sources of GHG
  - Also adopted CEQA guidance for other agencies

Why District CEQA Approach is Better

- All projects with increased GHGs are mitigated
- Provides a clear path for permitting agencies
- Approach validated by California Courts
- BPS provides significant CEQA streamlining
- Rule 2301 remedies problems with other CEQA mitigation options
  - Provides avenue for GHG mitigation under CEQA
  - Eliminates questions about credit quality
  - Encourages local investment in GHG reductions
  - Creates opportunity for local co-benefit of simultaneous reductions in criteria pollutants (health benefit)

Current Rule 2301

- Provides for the banking, transfer, or use of criteria pollutant emission reductions (NOx, VOC, PM10, etc.)
- Defines eligibility standards, quantitative procedures, and administrative practices for recognizing and registering pollutant emission reductions
- Reductions must be real, permanent, quantifiable, surplus, and enforceable
  - Surplus: in excess of current or upcoming rules that require a reduction in emissions of a specific pollutant
- Over 20 years District experience with this banking rule
- EPA and ARB have both audited and approved our implementation of Rule 2301

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Overview of Rule 2301 amendments

- Provide a mechanism to bank voluntary GHG emission reductions
- Structure to purchase/retire GHG emission reductions
- Provide a much needed method to provide GHG mitigation in the CEQA process (with lead agency concurrence)
- Rule contains no mandates on the potential uses of banked GHG emission reductions

Overview of Rule 2301 amendments

Provides two different mechanisms to bank GHG emission reductions:

"Protocol" GHG emission reductions

- Must be based on CARB-approved GHG reduction banking protocols
- Possible uses include retirement for compliance with AB32 cap/trade (if CARB regs amended to allow), compatible with other GHG registries
- If needed, District to develop new protocols to meet needs of Valley stakeholders

Overview of Rule 2301 amendments

"Non-protocol" GHG emission reductions

- Uses same quality standards as for criteria pollutant emission reductions
- Possible uses include retirement for mitigation of GHG emissions in the CEQA process (if approved by lead agency)

Examples of GHG reductions that may be eligible for banking

- Efficiency upgrades to an existing process
  - changes to a boiler to increase efficiency (lower fuel use)
- Replacement of equipment with more efficient equipment
  - replacement of a diesel IC engine with an electric motor (difference between IC engine GHGs and power plant GHGs)

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GHG reductions that are not eligible

- Reductions required (or relied upon) by AB 32
- Reductions at Cap and Trade facilities
- Some shutdowns:
  - If global demand for product/service does not decrease, product/service will be produced elsewhere (and result in GHG emissions)
  - May be no global decrease in GHGs (unless replacement has lower GHG emissions)

Comments and Responses

- Attorney General and Center for Biological Diversity (CBD) Comment
  - To be banked, reductions must be additional (surplus) of requirements that do not apply to GHG emissions
- District Response
  - We disagree. Our CEQA policy uses compliance with AB32 to determine significance of emissions increases. Therefore, reductions must be additional of <u>AB 32 requirements</u> under our CEQA policy.
  - However, we modified our rule to also recognize other credits for use under other CEQA policies

Comments and Responses

- Attorney General Comment
  – Baseline period determination used in calculating GHG reductions should be the same as we use for criteria pollutants
- District Response
  – We agree, and modified the rule accordingly

Comments and Responses

- CBD Comment
  - The rule and the Environmental Impact Report rely on a flawed “business-as-usual baseline” under CEQA
- District Response
  - We disagree. Our CEQA policy requires compliance with a performance standard established by the State: AB32’s goal of achieving 1990-level emissions
  - AB32 establishes a 2020 “business-as-usual baseline” to establish the amount of reductions necessary
  - District’s CEQA policy concept (compliance with AB32, including reliance on AB 32’s business-as-usual basline) has been upheld by California courts

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Comments and Responses

- Western States Petroleum Association (WSPA) Comment
  - Should allow banking at Cap and Trade facilities
- District Response
  - We disagree. Issuing District credits would double-count reductions, since reductions in GHG emissions at Cap and Trade facilities are inherently counted towards meeting their GHG emissions reduction "compliance obligation"

Supplemental Comment and Response

- CBD Supplemental Comments
  - EIR does not adequately characterize the impact of adoption of the rule, because the banked reductions will be used as CEQA mitigation.
- District Response
  - We disagree. The rule does not mandate the use of these credits as CEQA mitigation. The rule is intended to recognize and encourage voluntary reductions in GHGs. However, to the extent practicable, the District did consider the effects of the use of banked credits as CEQA Mitigation and determined that no adverse impact will occur.
  - It should be noted that the proper time to assess adequacy of mitigation is at the time you are assessing an emissions increase under CEQA.