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March 11, 2008

The Honorable Dave Cox
California State Senate
State Capitol, Room 2068
Sacramento, CA 95814

RE: **SB 1662 (Cox) Air districts: emission reduction offsets - SUPPORT**

Dear Senator Cox:

On behalf of the El Dorado County Board of Supervisors, I would like to express our strong support for Senate Bill 1662. This local bill is a common sense fix to the Health and Safety Code that empowers the region to have continued economic prosperity by acknowledging the simple and undisputed scientific fact that air currents, as correctly identified by the Federal Environmental Protection Agency (EPA), do not recognize political boundaries to form air basins but rather are effected by physical boundaries. This technical fix will allow the region to continue to place jobs near where people live in a manor necessary for successful implantation of the regions award winning Blueprint land use plan.

Under current California state law, El Dorado County is designated by the Air Resources Board as part of the Mountain Counties Air Basin and is not included in the Sacramento Valley air basin and is divided along an arbitrary political boundary, not a physical boundary, which is what truly divides and creates air basins. However, under a similar Federal air quality designation process, the United States Environmental Protection Agency includes portions of El Dorado and Placer Counties in the Sacramento Metro Federal nonattainment area, which includes portions of the state designated areas of the Mountain Counties. Under Senate Bill 1662, the federal air quality designation process would be recognized and would allow Emission Reduction Credit transfers to be transferred to El Dorado County from any area within the Sacramento Metro federal non attainment area.

Currently, El Dorado County does not have a significant amount of Emission Reduction Credits in reserve. SB 1662 would allow further potential for economic prosperity in El Dorado County while providing opportunities to fund emission reductions inside the federal non attainment area. This will only contribute to improved air quality in our region.

The Honorable Dave Cox

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As El Dorado County continues to thrive, it is important that the community has the ability to grow and not become caught in a strangle hold of legislation that is need of a technical amendment to make current law reflect the scientific reality of air patterns. By supporting AB 1662 and falling into accordance with the federal designation process, we can support both business friendly legislation, while continuing to lead the charge in environmental responsibility

Respectfully,

RUSTY DUPRAY

Chairman

El Dorado County Board of Supervisors

cc: The Honorable Alan Nakanishi, California State Assembly
The Honorable Ted Gaines, California State Assembly

metrochamber



**Need for Amendment of Health & Safety Code §40709.6(a)
to Allow Air Emission Credit Transfers Between
Sacramento and El Dorado Counties**

**SB 1662
(Cox)**

2/27/08

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Background

The Sacramento Metro Chamber is interested in sponsoring legislation to amend Health & Safety Code §40709.6(a) to allow air pollution Emission Reduction Credit (ERC) transfers between the Sacramento Metropolitan Air Quality Management District (SMAQMD) and other districts in the Sacramento federal non attainment area, and the portion of the El Dorado Air Quality Management District (EDAQMD) that is in the Sacramento federal non attainment area.

El Dorado County was designated by the California Air Resources Board (ARB) as part of the Mountain Counties air basin under state air quality designation process (Health and Safety Code (HSC) § 39606), and is not included in the Sacramento Valley air basin. ARB established serious classification (HSC §39608 and 40921.5) for both the El Dorado Hills portion of El Dorado County and Sacramento, Yolo, western Placer County, and southern Sutter County. The eastern portions of Placer and El Dorado Counties were not classified.

Under a similar federal air quality designation process, Clean Air Act Section 107, (42 USC §7407(d)) the United States Environmental Protection Agency included most of El Dorado and Placer Counties in the Sacramento Federal Ozone nonattainment area. The federal non attainment area includes the state designated areas of the Mountain Counties portions of Placer and El Dorado counties.

HSC §40709.6(a) only includes reference to the state designation process, and although it allows transfers between districts in different air basins, those transfers must be from a more polluted district to a less polluted one. The proposed legislative change will recognize the federal air quality designation process and allow ERCs to be transferred to El Dorado County from any area within the Sacramento federal nonattainment area that is not within the Mountain Counties air basin. This includes all of Sacramento and Yolo Counties, and parts of the following counties: eastern Solano, southern Sutter, and western Placer.

Several studies show that ozone is formed from pollution that accumulates from a broad geographic area. Most recently, the Central California Ozone Study has demonstrated the regional nature of ozone problem in the Sacramento federal nonattainment area. In general, summer winds cause pollution from the western parts of the federal nonattainment area (San Francisco Bay delta area) to accumulate in the eastern part of the region where the worst air quality levels are recorded. Consequently, El Dorado County has the same or worse air quality than the more western parts of the federal nonattainment area. Because ozone is a regional air pollutant, it is appropriate to recognize the emission reductions in other areas as contributing to improved air quality in El Dorado County. Consequently, an amendment to HSC §40709.6(a) to allow inter-district transfers of ERCs between sources in the same federal nonattainment, as well as districts within the same air basins, is consistent with the intent of the ERCs transfers in state law because the air pollution in the federal nonattainment is a shared problem.

El Dorado County does not have substantial amount of banked ERCs. The proposed legislative change will allow greater opportunities for economic growth in El Dorado County while providing opportunities to fund emission reductions anywhere in the federal nonattainment area that will contribute to improved air quality in El Dorado County. ERCs are available from retired military base operations, industrial sources, and agricultural source emission reductions.

Legislative History

Health & Safety Code §40709.6 in its current form was enacted by Senate Bill 1416 in 1994 [Stats.94, Chapter 539]. That bill was sponsored by the Mojave Desert Air Quality Management District and supported by the City of Victorville and Town of Yucca Valley for the purpose of allowing inter-district and inter-basin transfers of ERCs from the South Coast AQMD to the Mojave Desert AQMD, which was prohibited by existing law at that time. According to the Senate Committee on Governmental Organization staff and Assembly Committee on Natural Resources analysis of the bill was originally opposed by the South Coast AQMD because it would harm economic development in the South Coast Basin by allowing “business flight” from the District, and undermine the District’s own intra-district RECLAIM Program. Amendments to the bill, which in part contributed to the need for amendment of this provision, were added to achieve consensus support for the bill. These restrictions included the conditions related to the upwind district being in worse non attainment, the downwind district being overwhelmingly impacted, and the requirement that both District Boards approve the transfer.

The proposed amendment (SB 1662) would add *the Sacramento Metro federal nonattainment area* as an alternative to air basin in determining whether transfers of ERCs should be subject to the conditions imposed by §40709.6(a)(1) and (2). The compromise language of Senate Bill 1416 would not be affected.

Amendments As Introduced In SB 1662 (2/22/08)

The Sacramento Metro Chamber’s proposal would amend HSC §40709.6(a) to add “*the Sacramento Metro federal nonattainment area*” as follows:

SECTION 1. Section 40709.6 of the Health and Safety Code is amended to read:

40709.6. (a) Increases in emissions of air pollutants at a stationary source located in a district may be offset by emission reductions credited to a stationary source located in another district if both stationary sources are located in the same air basin *or the Sacramento Metro federal nonattainment area* or, if not located in the same air basin *or the Sacramento Metro federal nonattainment area* , if both of the following requirements are met:

- (1) The stationary source to which the emission reductions are credited is located in an upwind district that is classified as being in a worse nonattainment status than the downwind district pursuant to Chapter 10 (commencing with Section 40910).
- (2) The stationary source at which there are emission increases to be offset is located in a downwind district that is overwhelmingly impacted by emissions transported from the upwind district, as determined by the state board pursuant to Section 39610.

This proposed amendment is fully consistent with federal and state law and current regulatory methodology.

Real Life Example

DST Output West, LLC has experienced substantial growth in its utility bill printing services business and is currently the largest employer in El Dorado County. DST uses state-of-the-art ink-jet printers which, despite their best available emissions control technology, emit up to two pounds per day of volatile organic compounds (VOCs) due to the sheer volume of printing conducted. In order to continue its growth, from time to time new printers must be installed at its El Dorado Hills campus, and because each new printer represents a source of VOCs, the emissions must be controlled either through scrubbing technology or off-set through the application of Emission Reduction Credits (ERCs). Due to the relatively low amount of VOC emissions, it is not technically or economically feasible to treat or scrub the emissions. Consequently, the only practical means of meeting the EDAQMD's pollution control requirements is to acquire ERCs. In 2006, DST acquired ERCs from Yolo Power that originated at Wetsel-Oviatt Lumber Company in El Dorado County.

In July 2006, in anticipation of future expansion, DST acquired 1.4 tons of ERCs from Evolution Markets, LLC that originated in Sacramento County. However, DST Output West, LLC was advised by the EDAQMD that the current language of Health & Safety Code §40709.6(a) placed an unforeseen obstacle to the transfer of Emission Reduction Credits (ERCs) from Sacramento County to El Dorado County. Health & Safety Code §40709.6(a) establishes conditions for transfers of ERCs between Districts in different basins, as follows:

“(a) Increases in emissions of air pollutants at a stationary source located in a district may be offset by emission reductions credited to a stationary source located in another district if both stationary sources are located in the same air basin or, if not located in the same air basin, if both of the following requirements are met:

(1) The stationary source to which the emission reductions are credited is located in an upwind district that is classified as being in a worse nonattainment status than the downwind district pursuant to Chapter 10 (commencing with Section 40910).

(2) The stationary source at which there are emission increases to be offset is located in a downwind district that is overwhelmingly impacted by emissions transported from the upwind district, as determined by the state board pursuant to Section 39610.”

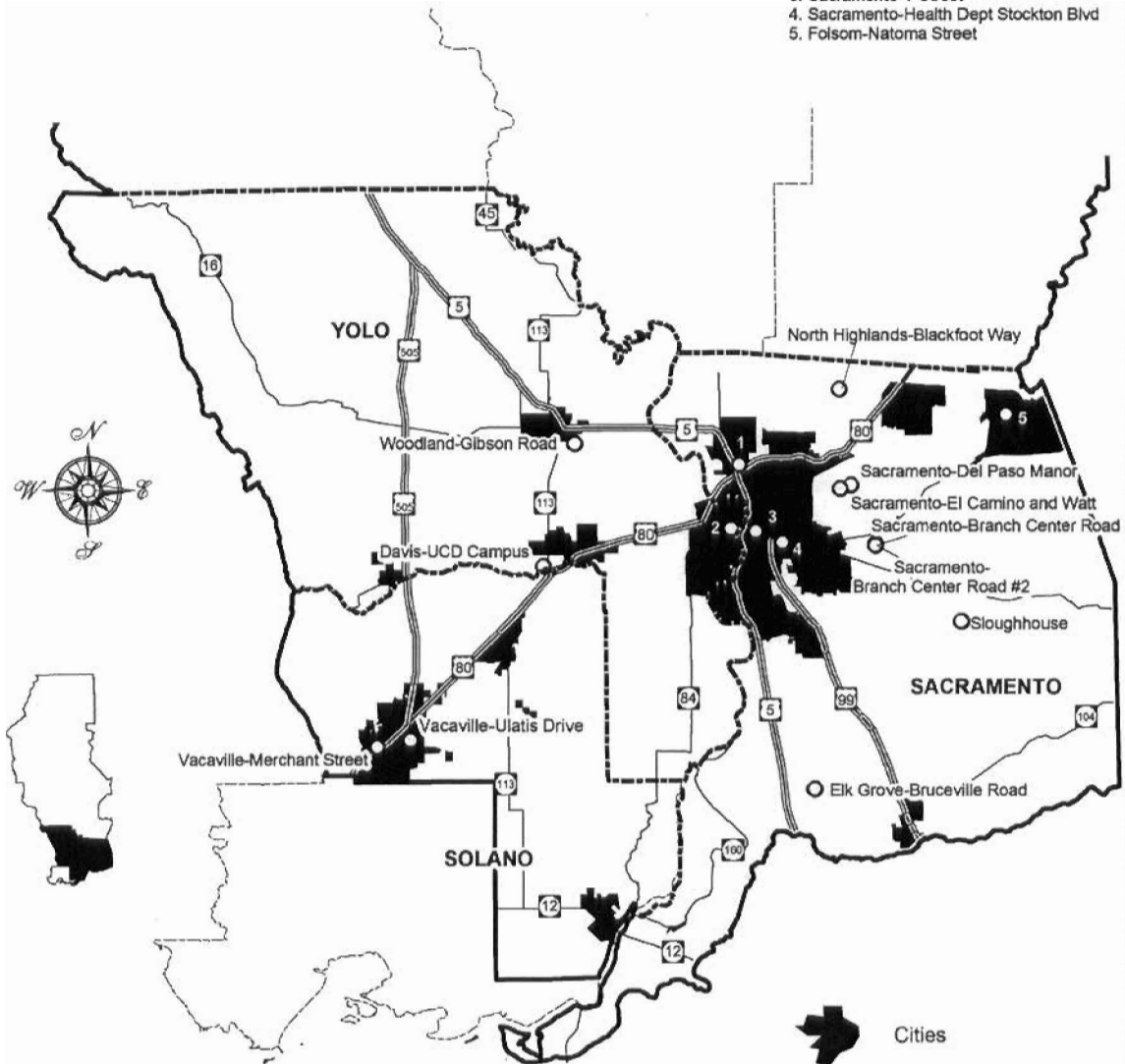
Under the current language, El Dorado and Sacramento Counties are in different air basins and therefore must meet both conditions §40709.6(a) (1) and (2). The first condition is not satisfied since the state nonattainment classifications are the same for the El Dorado Hills portion of El Dorado County, where DST is located, and Sacramento County. The second condition: “overwhelmingly impacted” is satisfied by Title 17 regulations that designate the Mountain Counties Air Basin including El Dorado County as non attainment for ozone, and specify in 17 CCR §70500(c) that the Mountain Counties Air Basin is “ozone impacted by the broader Sacramento area of origin of transport.”

California Counties and Air Basins



Sacramento Valley Air Basin (Sacramento - Yolo - Solano Counties)

1. Sacramento-3801 Airport Road
2. West Sacramento-15th Street
3. Sacramento-T Street
4. Sacramento-Health Dept Stockton Blvd
5. Folsom-Natoma Street



0 5 10 20 Miles

Mountain Counties Air Basin

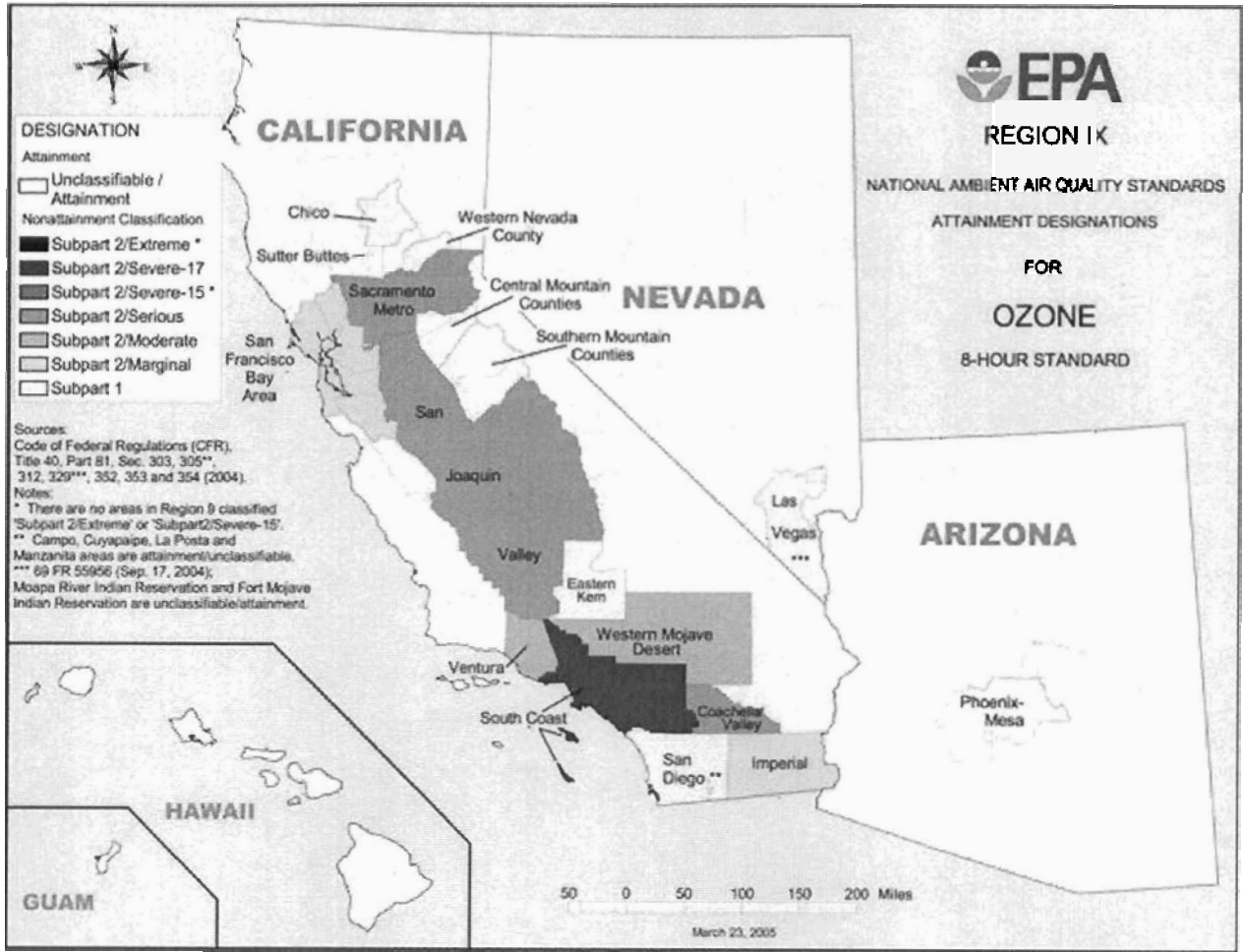


*State Nonattainment
Area Classification
OZONE*



Federal Map Showing Attainment/Non attainment Areas

(See Sacramento Metro)



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