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***RED***  
***SCAP ALERT***

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**TO:** SCAP Member Agencies within the South Coast AQ Basin  
**FROM:** John Pastore, Executive Director  
**DATE:** November 14, 2008

## **SCAQMD “Priority Reserve” Lawsuits Status**

The SCAQMD's Priority Reserve (Rule 1309.1) provides free credits to essential public services including sewage treatment facilities, water delivery operations etc. The underlying rule has been under attack since 2006 for deficient CEQA documentation justifying SCAQMD's attempt to open up the Reserve to fund in-basin electric generating facilities. A recent California decision in July was re-affirmed last month which unfortunately has the effect of freezing most permitting activity at the SCAQMD that relies on the Priority Reserve. By extension, Rule 1304, by which "exempt" equipment such as standby generators and small business operations under four tons per year, has also been dragged in. A separate lawsuit has also been filed against SCAQMD and their Rule 1315. This rule establishes a federally-approvable tracking system for any credits the SCAQMD gives out. This second lawsuit questions the underlying validity of all the credits in the SCAQMD credit banks. These credits flow to the Priority Reserve quarterly to be distributed among essential public services permit activities. The SCAQMD is developing strategy for handling the lawsuits; several SCAP members have been asked to help out. Some interim guidance for permittees with permits in the mill at the SCAQMD will be released shortly. The SCAQMD is the largest holder of credits, by far, in the air basin; there is little or no recourse or alternative to the Priority Reserve for projects exhibiting an emissions increase of any kind. Stay tuned. SCAP will follow up with other news as it develops.