

Action Summary Minutes

San Joaquin Valley Unified Air Pollution Control District

GOVERNING BOARD

Central Region Office, Governing Board Room
1990 E. Gettysburg Avenue, Fresno, CA

Thursday, February 18, 2010

9:00 a.m.

*Meeting held via teleconferencing with the Central Region Office (Fresno), the Northern Region Office (Modesto) and the Southern Region Office (Bakersfield).
This meeting was webcast.*

1. CALL MEETING TO ORDER
The Chair, Tony Barba called the meeting to order at 9:05 a.m.
2. ROLL CALL was taken and a quorum was present.

Present:

David G. Ayers, Councilmember	City of Hanford
Tony Barba, Supervisor, Chair	Kings County
Judy Case, Supervisor	Fresno County
Ronn Dominici, Supervisor	Madera County
Michael G. Nelson, Supervisor	Merced County
William O'Brien, Supervisor*	Stanislaus County
Leroy Ornellas, Supervisor*	San Joaquin County
John G. Telles, M.D.	Appointed by Governor
Chris Vierra, Councilmember*	City of Ceres
Raymond Watson, Supervisor**	Kern County
J. Steven Worthley, Supervisor, Vice Chair	Tulare County

*Attended meeting in Northern Region Office

**Attended meeting in Southern Region Office

Absent:

Henry J. Forman, Ph.D.	Appointed by Governor
Ann Johnston, Mayor	City of Stockton
Randy Miller, Councilmember	City of Taft

3. APPROVAL OF CONSENT CALENDAR – Item numbers 15 – 24 *These matters are routine in nature and are usually approved by a single vote. Prior to action by the Board, the public is given the opportunity to comment on any consent item.*
 15. APPROVE ACTION SUMMARY MINUTES FOR THE SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT GOVERNING BOARD MEETING OF THURSDAY, JANUARY 21, 2010
 16. RECEIVE AND FILE LIST OF SCHEDULED MEETINGS FOR 2010

17. RECEIVE AND FILE OPERATION STATISTICS SUMMARY FOR JANUARY 2010
18. RECEIVE AND FILE BUDGET STATUS REPORT AS OF JANUARY 31, 2010
19. RECEIVE AND FILE COMPREHENSIVE ANNUAL FINANCIAL REPORT AND SINGLE AUDIT REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2009
20. ADOPT AMENDMENT TO THE PERSONNEL RULES SECTION OF THE DISTRICT'S ADMINISTRATIVE CODE SECTION 15.1.33 – TEMPORARY EMPLOYEE
21. APPROVE BUDGET TRANSFER TO PROVIDE FUNDING FOR AIR MONITORING PROJECTS
22. APPOINT MEMBER TO THE DISTRICT'S ENVIRONMENTAL JUSTICE ADVISORY GROUP
23. APPROVE AND AUTHORIZE CHAIR TO SIGN AGREEMENT WITH THE ENTERPRISE FOR EDUCATION CORPORATION TO FUND THE CLEAN AIR CHALLENGE MIDDLE- AND HIGH- SCHOOL CURRICULUM PROGRAM IN THE AMOUNT OF \$30,000
24. APPROPRIATE \$66,750 IN UNANTICIPATED REVENUE FROM THE TEJON MOUNTAIN VILLAGE VOLUNTARY EMISSION REDUCTION AGREEMENT FOR USE IN THE DISTRICT'S EMISSION REDUCTION INCENTIVE PROGRAM

Supervisor Case thanked staff for updating the format of the Operations Statistics Summary.

Moved: Case
Seconded: Worthley
Ayes: Watson, Telles, Dominici, Ayers, Worthley, Case
Nelson, Ornellas, O'Brien, Vierra, Barba
Nays: None

Motion unanimously carried to approve Consent Calendar Items 15-24.

4. PUBLIC COMMENT - None
5. REPORT ON DISTRICT CITIZENS ADVISORY COMMITTEE ACTIVITIES – Manuel Cunha, Chair of the CAC, gave the report on the meeting held on February 2, 2010. He stated the CAC approved a proposal to include a brief written report,

consisting of highlights from each monthly CAC meeting, in Governing Board meeting agenda packages. He noted they also received an update on potential changes to the state Truck Rule. He reported the CAC approved a proposal for the committee to help with outreach and compliance assistance efforts for recently adopted Rule 9410 (Employer Trip Reduction). Lastly, he stated the CAC tabled action until next month on a proposed District Policy for waiving copying charges for public information.

Several Board members stated their appreciation for the brief written report included in the agenda packages. Supervisor Case also expressed appreciation for CAC outreach efforts for Rule 9410 (Employer Trip Reduction).

6. REVIEW FEDERAL CLEAN AIR ACT REQUIREMENTS RELATED TO SECTION 185 NONATTAINMENT FEE PROGRAMS AND PROVIDE GUIDANCE TO STAFF ON CRAFTING AN ALTERNATIVE EQUIVALENT PROGRAM – Seyed Sadredin, Executive Director/APCO, presented the item along with Dave Warner, Permit Services Director. Mr. Sadredin stated this item, when it comes back to the Board for final action, will be one of the most important legislative matters before the Board in the upcoming year. He noted today, the Board is asked to give guidance to staff to begin a public process to develop an approvable and more equitable alternative to the costly ozone nonattainment fee program mandated in section 185 of the federal Clean Air Act.

Mr. Warner gave background information on section 185 which requires the District to collect fees from major sources of ozone precursors, if and when the District fails to meet an ozone standard by the attainment deadline. Mr. Sadredin described a possible alternative program which would eliminate inequities in the requirements by exempting sources that have already installed Best Available Control Technology from the fees and, to the extent legally permissible, distribute the responsibility for fees proportionally between stationary and mobile sources. He stated a staff proposal will be brought back to the Board for consideration in late 2010 or early 2011.

There was significant discussion by the Board with suggestions of issues staff should consider when developing a more equitable program. Supervisor Case recommended tying mobile source fees to air quality violations, so that fees would not continue when attainment was reached.

Public Comment: *The following persons provided testimony on this item:*

- Bob Poole, Western States Petroleum Association
- Kevin Abernathy, CA Dairy Campaign
- Sarah Sharpe, Fresno Metro Ministry
- Phillip Newell, Guardian Industries
- Manuel Cunha, Nisei Farmers League

Supervisor Worthley noted that it would be preferable to meet the air quality standard and not trigger the fee requirement. He and Supervisor Watson

recommended strategic use of funding in hot-spot, non-attainment localities to improve the likelihood that the standard would be attained. Supervisor Worthley also recommended actions be taken to reduce the impact of air pollution transport from other air basins. Supervisor Worthley made a motion to approve the recommendation for crafting an alternative equivalent program and revising the guiding principles to include: 1.) the strategic use of funding; 2.) addressing interbasin transport; and 3.) halting fees once attainment is reached. Before the vote, Supervisor O'Brien articulated that he was in favor of strategic expenditure of the funds but wanted to make sure that the non-attainment fees would be charged to sources that did not already have Best Available Control Technology. Supervisor Worthley agreed to include that in the motion.

Moved: Worthley
Seconded: O'Brien
Ayes: Dominici, Ayers, Case, Worthley, Nelson, Telles
Watson, O'Brien, Vierra, Ornellas, Barba
Nays: None

Motion unanimously carried directing staff to craft an alternative equivalent program equivalent to Clean Air Act Section 185 and revising the guiding principles to include: 1.) the strategic use of funding; 2.) addressing interbasin transport; 3.) halting fees once attainment is reached; and 4.) the non-attainment fees to be charged to sources without Best Available Control Technology .

*The Governing Board took a short recess at 10:22 a.m.
The Governing Board reconvened at 10:27 a.m.*

7. ENVIRONMENTAL JUSTICE ADVISORY GROUP (EJAG) EVALUATION AND RECOMMENDED ACTIONS – Mr. Sadredin gave the presentation on this item, which included the Bylaws of the District's Environmental Justice Advisory Group (EJAG) and amendments to the District's Environmental Justice Strategy. He noted EJAG advises the District through the Citizens Advisory Committee (CAC), on integrating environmental justice principles into its programs and policies. He also presented an evaluation report prepared with input from EJAG members, staff, and CAC members which complimented EJAG members on their hard work and dedication, and described opportunities for enhancing participation and making EJAG meetings more productive. Recommendations included: EJAG should focus more on goals and objectives, receive additional training, communicate more with CAC, and be able to fill vacancies more quickly. The report also recommended providing a follow up report to the Board in one year.

Supervisor Watson suggested it would be a good idea to receive periodic reports from staff on EJAG's progress. Dr. Telles suggested EJAG could possibly get involved in the discussions and actions at the state level on the Cap and Trade program.

Public Comment: *The following persons provided testimony on this item:*

- Melissa Kelly-Ortega
- Mary-Michal Rawling, Merced/Mariposa County Asthma Coalition
- Sarah Sharpe, Fresno Metro Ministry
- Manuel Cunha, Nisei Farmers League

Moved: Worthley

Seconded: Case

Ayes: Watson, O'Brien, Ornellas, Vierra, Ayers, Dominici,
Case, Nelson, Telles, Worthley, Barba

Nays: None

Motion unanimously carried to approve Environmental Justice Advisory Group (EJAG) evaluation and recommended actions.

8. APPROPRIATE \$1,100,000 IN UNANTICIPATED REVENUE FROM THE CALIFORNIA AIR RESOURCES BOARD TO OPERATE THE STATEWIDE ZERO-EMISSION AGRICULTURAL UTILITY TERRAIN INCENTIVE PROGRAM

9. APPROPRIATE \$464,000 IN UNANTICIPATED REVENUE FROM THE CALIFORNIA AIR RESOURCES BOARD TO IMPLEMENT THE LAWN AND GARDEN EQUIPMENT REPLACEMENT PROGRAM – Items 8 and 9 were combined for consideration by the Board. Mr. Sadredin gave the presentation on these items concerning funds made available under AB118, which provided state funding for greenhouse gas emission reductions. He stated \$1.1 million was awarded to operate the statewide Zero-Emission Agricultural Utility Terrain Vehicle (UTV) rebate project and \$464,000 was awarded to implement the District's lawn and garden equipment replacement program (Clean Green Yard Machines). He noted both will provide funds to replace older, polluting equipment with cleaner models under the state's Air Quality Improvement Program. He reported the funds will encourage and accelerate the use of zero-emission work vehicles in California agricultural operations, and add funding to the Clean Green Yard Machines program, which exchanges gas-powered lawn mowers for electric models.

Public Comment – *The following person provided testimony on this item:*

- Melissa Kelly-Ortega

Moved: Case
Seconded: Dominici
Ayes: Dominici, Worthley, Ayers, Case, Nelson, Telles
Watson, O'Brien, Vierra, Ornellas, Barba
Nays: None

Motion unanimously carried to appropriate \$1,100,000 in unanticipated revenue from the California Air Resources Board to operate the statewide Zero-Emission Agricultural Utility Terrain Incentive Program and appropriate \$464,000 in unanticipated revenue from the California Air Resources Board to implement the Lawn and Garden Equipment Replacement Program.

10. APPROVE FUNDING FOR PARK-AND-RIDE LOT PROJECT IN KERN COUNTY FOR \$510,000 UNDER THE REMOVE II PROGRAM – Todd De Young, ERIP Manager, gave the presentation on this item involving the District's Remove (Reduce Motor Vehicle Emissions) II Program. He stated this program funds a wide variety of projects that achieve emission reductions through reductions in vehicle miles travelled (VMT). He reported the park-and-ride project is a 365-space project in Kern County and that Golden Empire Transit Job Opportunity Bus Service (GET JOBS, Inc.) will build the park-and-ride lot in conjunction with a transit shuttle service for the employees of the Tejon Industrial Complex south of Bakersfield. Mr. Barry Hibbard, President of GET JOBS, Inc. also gave a portion of the presentation. He reported GET JOBS, Inc. is a non-profit collaboration of businesses and public agencies that gives employees access to jobs while reducing exposure to pollutants by increasing the availability of large-scale transit systems. He stated the vision of GET JOBS, Inc. is to create a link between the job creation center at the Tejon Industrial Complex and the population center in Bakersfield. Supervisor Watson and Supervisor Dominici commended project proponents for an effective public/private partnership to achieve cost-effective reductions in vehicle miles traveled. They also expressed hope that this project could serve as a model for other regions. Councilmember Vierra expressed concerns with the fact that project proponents had partly proceeded with the permitting process for the project prior to the Board's approval of the funding.

Public Comment – *The following persons provided testimony on this item:*

- Mary-Michal Rawling, Merced/Mariposa Asthma Coalition

Moved: Dominici
Seconded: Case
Ayes: Dominici, Case, Ayers, Nelson, Telles,
Watson, Worthley, Ornellas, Barba
Nays: Vierra, O'Brien

Motion carried 9-2 to approve funding for park-and-ride lot project in Kern County for \$510,000 under the Remove II Program.

11. VERBAL REPORT BY JOHN G. TELLES, M.D. ON AIR RESOURCES BOARD (ARB) ACTIVITIES – Dr. Telles gave a report on highlights from the California Air Resources Board (ARB) meeting of January 28, 2010 including revisions to state portable equipment regulations and amendments to verification procedures for diesel engine retrofits. He reported on a list of upcoming matters before ARB, including greenhouse gas emissions standards for cars, options for amending the On-Road Truck and Bus Regulation, regional greenhouse gas emissions targets under SB375 and the state Cap and Trade Regulation.

Mr. Sadredin stated he and Dr. Telles plan to discuss a recent proposal by ARB to revoke certain protocols they had previously approved for generating reductions in greenhouse gas emissions. He stated one of the previously approved protocols involved dairies, and stakeholders had already begun moving forward with projects to generate credits.

12. EXECUTIVE DIRECTOR/APCO COMMENTS – There were no Executive Director/APCO comments.
13. GOVERNING BOARD MEMBER COMMENTS – Dr. Telles suggested holding an Ad-Hoc committee meeting with legislators. Mr. Sadredin suggested facilitating a local meeting in late-March or early-April with state and federal legislators who will be on Easter break.
14. CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Government Code section 54956.9 (a))
- *California Building Industry Assn. v. San Joaquin Valley Unified Air Pollution Control Dist.* (2009) Cal. App. 4th 120; and *National Assn. of Home Builders v. San Joaquin Valley Unified Air Pollution Control Dist.*, Court of Appeals for the Ninth Circuit Case No. 08-17309

ADJOURN

Meeting adjourned at 11:40 a.m.

Next scheduled meeting of the Governing Board: Thursday, March 18, 2010. Meeting starts at 9:00 a.m., Central Region Office, Governing Board Room, and 1990 E. Gettysburg Avenue, Fresno. The meeting will be held via video teleconference (VTC) with the Northern Region Office (Modesto) and the Southern Region Office (Bakersfield) participating via VTC.