

**Action Summary Minutes  
San Joaquin Valley Unified Air Pollution Control District  
Governing Board Meeting, Governing Board Room  
1990 E. Gettysburg Avenue, Fresno, CA.**

**Thursday, August 19, 2004  
9:00 a.m.**

**The Meeting was held in the Central Region Office (Fresno) with the Northern Region Office (Modesto) and the Southern Region Office (Bakersfield) participating via VTC.**

1. **CALL TO ORDER** – The Chair, Supervisor Barbara Patrick, called the meeting to order at 9:09 a.m.

The Chair welcomed new Governing Board Member Supervisor Susan B. Anderson, Chair, Fresno County Board of Supervisors.

2. **ROLL CALL was taken and a quorum was present.**

Mike Maggard, Councilmember	City of Bakersfield
J. Steven Worthley, Supervisor ( <b>absent</b> )	Tulare County
Tony Barba, Supervisor	Kings County
Susan B. Anderson, Supervisor	Fresno County
Ronn Dominici, Supervisor	Madera County
Sam Armentrout, Councilmember	City of Madera
Michael G. Nelson, Supervisor	Merced County
Jack A. Sieglock, Supervisor (*)	San Joaquin County
Dan Prince, Councilmember (*)	City of Ripon
Thomas W. Mayfield, Supervisor, <b>Vice Chair</b> (*)	Stanislaus County
Barbara Patrick, Supervisor, <b>Chair</b>	Kern County

(\*) Attended meeting in Northern Region Office (Modesto)

3. **PRESENTATION FROM THE SOUTHERN CALIFORNIA GAS COMPANY AND THE TULARE COUNTY OFFICE OF EDUCATION TO ANDREW WATERS OF GOLDEN WEST HIGH IN VISALIA FOR BEING THE TOP SCHOLARSHIP WINNER IN THE GAS COMPANY'S SAN JOAQUIN VALLEY AIR QUALITY ESSAY CONTEST**

Colby Morrow, Southern California Gas Company, introduced Colby Wells, Southern California Gas Company, Regional Public Affairs Manager, and John Jansen, Tulare County Office of Education.

Mr. Wells awarded, on behalf of the Southern California Gas Company and the Tulare County Office of Education, a \$1,000 scholarship to be used at any four

year university to Andrew Waters of Golden West High in Visalia for being one of the top scholarship winners in the Gas Company's San Joaquin Valley Air Quality Essay Contest.

The Board congratulated Andrew Waters for his award.

4. **APPROVAL OF CONSENT CALENDAR** – Item Numbers **(14-27)**. (These matters are routine in nature and are usually approved by a single vote. Prior to action by the Board, the public will be given the opportunity to comment on any consent item).
  14. Approve Action Summary Minutes from the Governing Board Meeting of Thursday, June 17, 2004.
  15. Receive and file List of Scheduled Meetings for 2004.
  16. Receive and file Operations Statistics Summaries for June and July 2004.
  17. Receive and file Budget Status Report as of July 31, 2004.
  18. Approve contract with R&W Software for programming support for the Permit Administration System for an amount not to exceed \$118,560.
  19. Accept funds in the amount of \$75,000 from the United States Environmental Protection Agency (EPA) to be placed in the District's Heavy-Duty Engine Emission Reduction Incentive Program.
  20. Receive and file amendments to Rule 4103 (Opening Burning) and set September 16, 2004 for the public hearing to consider adoption of the proposed amendments.
  21. Approve and authorize Chair to execute agreement with Local Government Commission for Transportation and Community and System Preservation (TCSP) project tasks in the amount of \$90,000.
  22. Approve and authorize the Chair to execute Amendment No. 2 to the Heavy-Duty Engine Emission Reduction Incentive Program Agreement # ALI-008 with the City of Fresno, Fresno Area Express to extend the term of the agreement to April 30, 2005.
  23. Approve resolution increasing the 2004/05 District Budget in the amount of \$42,000 for air monitoring network enhancements funded by the United States Environmental Protection Agency.
  24. Approve and authorize the Chair to execute an agreement with Board of

Regents of the University and Community College System of Nevada on behalf of Desert Research Institute for an amount not to exceed \$25,000 for meteorology and forecast model improvements.

25. Reappoint Primary and Alternate Attorney and Engineer Members to Regional Hearing Boards.
26. Approve lease agreement with County of Kern for a portion of the Parks and Recreation Maintenance Yard located on Golden State Avenue for air monitoring purposes.
27. Appropriate funds in the amount of \$1,284,812 in Back-Up Generator (BUG) funds to be placed in the District's Heavy-Duty Engine Emission Reduction Incentive Program.

Board Member Nelson stated he had some comments and questions regarding Item #20. Board Member Nelson stated that the Merced County Fire Department has noted some concerns regarding the issue of exemptions of training burns in Rule 4103 (Open Burning). Board Member Nelson noted the rule states that training burns are exempt but in Appendix A, page A-2, ARB comments that SB 705 provides a timeline after which no burning will be permitted. Board Member Nelson asked if training burns, and contraband burns would still be exempt pursuant to Rule 4103.

Seyed Sadredin, Deputy Air Pollution Control Officer, stated that staff believes that training fires and also fire prevention fires would still be exempt from the prohibition.

**APPROVED AS RECOMMENDED** – Board Member Dominici made the motion to approve the Consent Calendar as submitted. Seconded by Board Member Barba and carried unanimously with the following **Roll Call Vote**:

**Ayes:** Sieglock, Nelson, Dominici, Armentrout, Anderson, Barba, Maggard, Prince, Mayfield and Patrick.

**Absent:** Worthley.

**Action:** The Board approved Consent Calendar Items 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27 as submitted.

5. **PUBLIC COMMENT** – Jerry Frost, Kern Oil Refining Company, congratulated Supervisor Barbara Patrick for her reappointment as a Board Member to the California Air Resources Board.

The Chair thanked Mr. Frost for his comments and stated she was very pleased with her reappointment to the ARB Board.

Sean Edgar, Clean Fleets Coalition, echoed Mr. Frost's comments and congratulated Supervisor Patrick on her reappointment to the California Air Resources Board.

Caroline Simunovic, Fresno Metro Ministry, welcomed Supervisor Susan B. Anderson to the District's Governing Board.

Ms. Simunovic reported on recent meetings of the local community group. Ms. Simunovic noted the group meets on the first Monday of each month with District staff to learn about the Air District. Ms. Simunovic noted the group has received presentations regarding permitting services, source testing and air monitoring. Ms. Simunovic stated staff has been very responsive and the group has appreciated that type of communication.

Manuel Cunha, Nisei Farmers League, stated on behalf of Les Clark, the Chair of the Citizens Advisory Group of Industries (CAGI), he wanted to congratulate Supervisor Susan B. Anderson as the new Governing Board Member from Fresno County.

Mr. Cunha stated that Mr. Clark also wanted to convey his congratulations to Supervisor Barbara Patrick and Dorene D'Adamo for their reappointments on the ARB Board.

Mr. Cunha stated he wanted to recognize District staff for all of their hard work over the last several months, working with agriculture on all issues relating to SB 700.

The Chair stated she personally thinks it is terrific to hear the accolades that we are getting about our staff working with members of the community. The Chair indicated that she knows the District staff members are very busy and she appreciates them sitting down with the stakeholders. The Chair stated she is hopeful the stakeholders will be in Bakersfield at the symposium on September 29 and 30, 2004.

6. **REPORT FROM CITIZENS ADVISORY COMMITTEE (CAC)** – Mary-Michal Rawling, Environmental Primary Member, Merced County, made the CAC Report.

Ms. Rawling reported on the recent activities of CAC Technical Rule Subcommittee, and noted that the School Bus Rule and the Indirect Source Review Rule have become the main focus of the subcommittee.

Ms. Rawling stated that the CAC is planning on having a booth at the District's Air Quality Symposium on September 29 and 30, 2004. Ms. Rawling noted that it was discussed to have as many CAC Members as possible attend the symposium.

Board Member Nelson stated he will be contacting all Merced County CAC Members encouraging them to attend the symposium and suggested the remainder of the Board do the same in their respective counties.

The Chair stated, on behalf of the Board, their appreciation for the CAC's efforts in respect to rule development activities, and she looks forward to meeting the CAC Members at the symposium.

7. **PUBLIC HEARING: ADOPT RULE 4550 (CONSERVATION MANAGEMENT PRACTICES) AND RULE 3190 (CONSERVATION MANAGEMENT PRACTICES PLAN FEE) AND APPROVE LIST OF CONSERVATION MANAGEMENT PRACTICES** – This hearing is in addition to the hearing held on May 20, 2004. This additional hearing is necessary because some members of the public might not have received proper notice of the previous hearing. There are no changes proposed to the versions of the rules or list of Conservation Management Practices (CMPs) heard on May 20, 2004.

David L. Crow, Executive Director/APCO, introduced the item to the Board.

No Public Comment received on this item.

**APPROVED AS RECOMMENDED** – Board Member Barba made the motion to adopt as recommended. Seconded by Board Member Dominici and carried unanimously with the following **Roll Call Vote**:

**Ayes:** Anderson, Dominici, Barba, Prince, Nelson, Armentrout, Sieglock, Maggard, Mayfield and Patrick.

**Absent:** Worthley.

**Action:**

1. ***Adopted Rule 4550 (Conservation Management Practices)***
2. ***Adopted Rule 3190 (Conservation Management Practices Plan Fee)***
3. ***Approved list of Conservation Management Practices***
4. ***Adopted proposed Negative Declaration for the rules***
5. ***Authorized the Chair to sign the resolution***

8. **PUBLIC HEARING: ADOPT PROPOSED AMENDMENTS TO REGULATION VIII (FUGITIVE PM10 PROHIBITIONS)** – Presentation made by David L. Crow, Executive Director/APCO, Seyed Sadredin, Deputy Air Pollution Control Officer,

Hector R. Guerra, Senior Air Quality Planner, and Dave Mitchell, Planning Manager.

Prior to public discussion, there was an extensive discussion among the Governing Board Members regarding their concerns about the potential fiscal impact on cities and counties. They were particularly concerned about the costs associated with any additional paving and/or related maintenance of roads required as a result of the proposed amendments to Regulation VIII.

**The following persons provided comments during the public comment portion of this item:**

Jenny Huntsman, Air Quality Coordinator for Caltrans, encouraged the Board to talk with their respective local and regional Transportation Planning Agencies (TPAs). Ms. Huntsman noted that local and regional Valley TPAs have been very involved in the development of these regulations.

James Blair, Tulare County Road Commissioner, provided the Board and staff with a handout titled "*Proposed Rule 8061 Changes and Estimated Impact to Tulare County Road Fund*", August 19, 2004. Mr. Blair requested clarification on Rule 8061. After discussion with the Board and staff Mr. Blair indicated his interpretation of Rule 8061 was perhaps incorrect and he would be revising his handout.

Manuel Cunha, Nisei Farmers League, stated this rule is a concern to the farmers in the Valley, but it has to go forward. Mr. Cunha indicated the rule should be looked at by the federal government on an economic bases.

Jeff Hartsuyker, Madera Fire Marshall, stated he had a concern over Rule 8021-1, Section 4.4. Mr. Hartsuyker read that section of the rule into the record: "...dealing with the disking of weeds and dried vegetation related to fire prevention required by Federal, State or local agency on a site less than one-half (1/2) acre. Activities performed in conjunction with disking are not exempt from complying with the provisions of other applicable rules under Regulation VIII..." Mr. Hartsuyker requested clarification or other latitude allowed within this rule for the disking of properties to provide those firebreaks.

Carolina Simunovic, Fresno Metro Ministry, urged the Board to adopt this rule as recommended by staff.

Michael Kovacevich, WM. Bolthouse Farms, stated he had several concerns over the financial hardship of Regulation VIII.

Jerry Frost, Kern Oil Refining Company, asked if the CAC representative of the Technical Rule Subcommittee had a recommendation for Regulation VIII.

Mr. Frost commented as a private citizen that he has a problem with counties stating a District regulation would cause them to seek a financial hardship to comply with District regulations, and industry is not allowed to use that option.

Mary-Michal Rawling, CAC Member, stated she did not have a CAC recommendation for this rule.

Wayne Zipser, Stanislaus County Farm Bureau, spoke in support of the Board adopting Regulation VIII.

The Chair directed staff to meet with Mr. Hartsuyker on this issue.

**MOTION TO ADOPT AS RECOMMENDED** – Board Member Barba made the motion to adopt Regulation VIII as proposed with the understanding staff will work on the hardship issue. Seconded by Board Member Nelson.

**AMENDED MOTION** – Board Members Barba and Nelson amended their motion to include the following language: Rule 8071 (Unpaved Vehicle/ Equipment Traffic Areas), and Rule 8081 (Agricultural Sources) will not be adopted today. The Public Hearing for Rule 8071 and Rule 8081 will be held on September 16, 2004.

The amended motion carried with the following Roll Call Vote:

**Ayes:** Prince, Nelson, Anderson, Armentrout, Maggard, Barba and Patrick.

**Noes:** Sieglock, Dominici and Mayfield.

**Absent:** Worthley.

**Action:**

1. Adopted the Negative Declaration prepared for the Project.
2. Adopted proposed amendments to Regulation VIII (Fugitive PM10 Prohibitions) Rules 8011, 8021, 8031, 8041, 8051 and 8061. Rules 8071 and 8081 Public Hearing will be held on September 16, 2004.
3. Authorized the Chair to sign the resolution.

9. **APPROVE LEASE AND OPTION AGREEMENTS WITH P & N PROPERTIES FOR A TEN-YEAR LEASE FOR THE NORTHERN REGION OFFICE AND AN EXCLUSIVE OPTION TO PURCHASE THE BUILDING AFTER ONE YEAR** – Presentation made by David L. Crow, Executive Director/APCO and Roger McCoy, Director of Administrative Services.

**The following person provided comments during the public comment portion of this item:**

**Manuel Cunha, Nisei Farmers League**, spoke in support of staff's recommendation.

**APPROVED AS RECOMMENDED** – Board Member Sieglock made the motion to approve the lease and option agreements as recommended. Seconded by Board Member Dominici and carried unanimously with the following **Roll Call Vote**:

**Ayes:** Prince, Dominici, Barba, Anderson, Sieglock, Armentrout, Maggard, Nelson, Mayfield and Patrick.

**Absent:** Worthley.

**Action:** Approved, and authorized Chair to sign, the lease and option agreements with P & N Properties for a ten-year lease for the Modesto region office and an exclusive option to purchase the building after leasing for a minimum of one year.

10. **VERBAL REPORT: CALIFORNIA AIR RESOURCES BOARD (ARB) BOARD MEETING** – Report by Ravi Ramalingam, ARB representative, and ARB Liaison for the Valley Air District.

The Chair shared a Press Release regarding the Governor's recent appointments to the ARB Board.

11. **EXECUTIVE DIRECTOR/APCO COMMENTS** – David L. Crow, Executive Director/APCO, announced that the ARB Board will be meeting in the Governing Board Room, October 28 and 29, 2004.

Mr. Crow reported that SB 999 has been withdrawn by Senator Mike Machado.

12. **GOVERNING BOARD MEMBER COMMENTS** – Board Member Mike Maggard stated that he recently had a conversation with Board Member Dan Prince that caused him to ponder if we are doing all that we can to clean up the air. Because we view ourselves as living with a set of constraints, and he does not know that we have to live with them. Board Member Maggard stated he would like to have a policy discussion at a subsequent meeting about whether or not there might be things we can do to change the relationship and those things that are within our purview to effect here in the Valley between ARB and the local industry. Board Member Maggard noted he does not know all the implications of it and he has no idea where it will lead, but if we really want to clean up the air here in the Valley there are things he would like to have more of an impact on.



Board Member Maggard stated that if staff would have a discussion with us regarding this issue he would certainly enjoy that.

David L. Crow, Executive Director/APCO, indicated this topic is consistent with the theme of the symposium and will be discussed.

Board Member Mike Nelson stated that the farmers in Merced County seem to be pleased with the District's new Smoke Management Program.

Board Member Sam Armentrout commented on a recent editorial that was in the Fresno Bee about SB 999 regarding the makeup and structure of the Governing Board of the Air District. Board Member Armentrout stated he was disappointed, to say the least. Board Member Armentrout stated he was compelled to say that he firmly believes that he, and his counterparts on the Governing Board represent the health aspect of our air quality in the Valley, as much as, a change in the makeup of the Board might, as well.

Board Member Dan Prince thanked Board Member Maggard for his comments and stated that if we will be discussing such issues at the symposium he will be in Bakersfield, because he thinks that issue is very important. Board Member Prince stated that every time he talks to an individual Board Member it seems like we share the same frustrations. Board Member Prince noted that we're dealing with nit picking the devil out of everything but we're not really dealing with the real things that are causing us problems, because we don't have control over them. Board Member Prince thanked Board Member Maggard for bringing this issue up.

Board Member Jack A. Sieglock explained that the reason he voted no on the adoption of Regulation VIII was that he could have waited another month. Board Member Sieglock stated he felt like there needed to be more quantification of the issue and more knowledge with regard to what the actual impacts were going to be.

Philip M. Jay, District Counsel, made the following announcement:

13. **CLOSED SESSION** – The Governing Board will hold a Closed Session pursuant to Section **54957.6 and 54956.9** of the Government Code (Ralph M. Brown Act) as follows:

- Conference with labor negotiator – David L. Crow;  
Employee Organization SEIU, Local 700
- Western United Dairymen v. SJVUAPCD;  
Fresno Superior Court # 04 – CECG01596

**The Board adjourned the meeting to Closed Session at 12:01 p.m.**

Philip M. Jay, District Counsel, returned to the Board Room from Closed Session and announced that the Governing Board voted 8 to 0 to accept a settlement offer in the case of the Western United Dairymen. Mr. Jay noted that once the terms of that settlement offer is finalized in writing we will make it available to anyone who inquires, and wishes a copy.

**The Board adjourned the meeting at 1:05 p.m.**