

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

**Thursday, February 21, 2002
9:00 a.m.**

Meeting held via video conferencing (VTC) in the Central Region Office (Fresno) with the Northern Region Office (Modesto) and the Southern Region Office (Bakersfield) included via VTC.

1. **CALL TO ORDER** – The Chair, Councilmember Sam Armentrout, called the meeting to order at 9:13 a.m.
2. **ROLL CALL was taken and a quorum was present.**

Barbara Patrick, Supervisor	Kern County
Mike Maggard, Councilmember (*)	City of Bakersfield
William Sanders, Supervisor	Tulare County
Tony Barba, Supervisor	Kings County
Judith G. Case, Supervisor	Fresno County
Jerry O'Banion, Supervisor	Merced County
Nick W. Blom, Supervisor (absent)	Stanislaus County
Tom Applegate, Councilmember	City of Newman
Jack A. Sieglock, Supervisor (**)	San Joaquin County
Ronn Dominici, Supervisor, Vice Chair	Madera County
Sam Armentrout, Councilmember, Chair	City of Madera

(*) **Attended meeting in Southern Region Office (Bakersfield)**

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

3. **APPROVAL OF CONSENT CALENDAR** – Item Numbers **(12-21)**. (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).
 12. Approve Action Summary Minutes for the Governing Board Meeting of Thursday, January 17, 2002.
 13. Receive and file List of Scheduled Meetings for 2002.
 14. Receive and file Operations Statistics Summary for January 2002.

15. Receive and file Budget Status Report as of January 31, 2002.
16. Receive and file proposed Rule 4692 (Commercial Charbroiling) and proposed amendments to Rule 2020 (Exemptions). Set March 21, 2002 for the Public Hearing.
17. Receive and file proposed amendments to Rule 7050 (Asbestos-Containing Material for Surfacing Applications). The proposed rule is a verbatim adoption of an airborne toxic control measure established by the California Air Resources Board. Set March 21, 2002 for the Public Hearing.
18. Reappoint Hearing Board Primary Medical Members to serve a term of three years.
19. Approve and authorize the Chair to execute Amendment No. 2 to the Remove Program Contract #98-038 with the City of Fresno to extend the term of the contract to September 27, 2002.
20. Approve resolution increasing the 2001-2002 District Budget by \$2,601 for additional Carl Moyer Heavy-Duty Engine Program funds.
21. Approve resolution increasing the 2001-2002 District Budget by \$170,720 for additional local match funds for Congestion Mitigation and Air Quality (CMAQ) Heavy-Duty Engine Program funds.

APPROVED AS RECOMMENDED – *A motion was made by Board Member O'Banion to approve the Consent Calendar as recommended. The motion was seconded by Board Member Patrick and carried unanimously with the following Roll Call Vote:*

Ayes: O'Banion, Maggard, Barba, Applegate, Sanders, Case, Patrick, Sieglock, Dominici and Armentrout.

Noes: None.

Absent: Blom.

Therefore, the Board approved Consent Calendar Items 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 as submitted.

4. **PUBLIC COMMENT** – **Kevin Hall, Sierra Club**, noted that he has been serving as a representative from the Sierra Club on Measure "C" the Re- Authorization Committee. Mr. Hall stated that he has been valiantly struggling to bring up the issue of air quality in a sensitive way in the planning process. Mr. Hall stated that if the Board could offer any guidance, support or help in this matter it would be greatly appreciated.

Barbara Goodwin, Fresno COG, stated that the Measure “C” Steering Committee is very aware of the minimum level of transit funding needed in the project and that it has not been ignored.

5. **REPORT FROM CITIZENS ADVISORY COMMITTEE (CAC)** – David L. Crow, Executive Director/APCO, reported the February 5, 2002 CAC meeting activities to the Board.
6. **PUBLIC HEARING: ADOPT PROPOSED AMENDMENTS TO RULE 4354 (GLASS MELTING FURNACES)** – Staff presentation made by Scott Nester, Supervising Air Quality Engineer.

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

Phil Newell, Guardian Industries Corporation, spoke in support of the adoption of proposed amendments to Rule 4354.

APPROVED AS RECOMMENDED – *A motion was made by Board Member Case to approve Rule 4354 as recommended. The motion was seconded by Board Member O’Banion and carried unanimously with the following Roll Call Vote:*

Ayes: *Maggard, Case, Sieglock, Barba, Sanders, O’Banion, Patrick, Applegate, Dominici and Armentrout.*
Noes: *None.*
Absent: *Blom.*

Therefore, the Board adopted the proposed amendments to Rule 4354 (Glass Melting Furnaces) and authorized the Chair to sign the resolution.

7. **REQUEST ARB TO SUBMIT THE REQUEST TO EPA FOR WITHDRAWAL OF THE 1997 PM10 ATTAINMENT DEMONSTRATION STATE IMPLEMENTATION PLAN SUBMITTAL** – Staff presentation made by David L. Crow, Executive Director/APCO, Dave Jones, Planning Manager, Philip M. Jay, District Counsel and Mark Boese, Deputy Air Pollution Control Officer.

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

Barbara Goodwin, San Joaquin Valley Transportation Planning Agencies, spoke in support of staff’s recommendation.

Manuel Cunha, Nisei Farmers League, spoke about concerns in respect to staff’s recommendation. Mr. Cunha noted that EPA has failed the public after five years for not acting on the District’s 1997 PM10 Plan.

Kevin Hall, Sierra Hall Club, spoke in opposition to staff's recommendation.

Roger Isom, California Cotton Growers Association, stated that his organization does not have a position because they have not had sufficient time to review staff's recommendation.

Jason Baldwin, Madera County Farm Bureau, spoke of concerns with staff's recommendation.

Brent Newell, Center on Race, Poverty and the Environment (CRPE), stated that whatever the Board chooses to do today you can rest assured that his coalition will enforce the law. Mr. Newell explained that the Clean Air Act provides citizens the opportunity to enforce it's provisions. Mr. Newell stated that CRPE intends to remain an active stakeholder in District and EPA proceedings.

Alene Taylor, Kings County, Board of Supervisors, spoke in support of staff's recommendation.

Suzanne Noble, Western States Petroleum Association (WSPA), spoke about concerns with staff's recommendation.

Les Clark, Independent Oil Producers Agency (IOPA) and Citizens Advisory Group of Industries (CAGI) – requested the Board delay their decision for one month.

Chris Reardon, Manufacturers Council of Central Valley, echoed the comments of Les Clark and Suzanne Noble. Mr. Reardon requested the Board delay their decision for one month.

Steve Burke, Protect Our Waters, requested the Board delay their decision for one month.

MOTION TO DELAY FOR ONE MONTH – *A motion was made by Board Member Case to delay action for one month to allow stakeholders the opportunity to look at the recommendations. The motion was seconded by Board Member Dominici. The motion failed with the following Roll Call*

Vote:

Ayes: *Maggard, Case and Dominici.*

Noes *Applegate, Barba, Sieglock, O'Banion, Patrick, Sanders, Armentrout.*

Absent: *Blom.*

APPROVED AS RECOMMENDED – A motion was made by Board Member Patrick to approve Option # 2 as recommended. The motion was seconded by Board Member Applegate and carried with the following **Roll Call Vote**:

Ayes: Sieglock, Sanders, Maggard, Barba, Applegate, Patrick, O'Banion, Dominici and Armentrout.

Noes: Case.

Absent: Blom.

Therefore, the Board approved the following action:

Option # 2, Plan Withdrawal

Board Break at 11:13 a.m.

Returned from Break 11:23 a.m.

8. **VERBAL REPORT: CALIFORNIA AIR RESOURCES BOARD (ARB) BOARD MEETING** – Ravi Ramalingam, ARB representative and ARB Liaison for the Valley Air District. Mr. Ramalingam announced that the ARB Board Meeting will be held in Sacramento today. The Board will hear a short update on recent results of the southern California Children's Health Study. The Board will also hear an informational item which is a retrospective look at California's air quality accomplishments, focusing on the last 20 years.

9. **EXECUTIVE DIRECTOR/APCO COMMENTS** – David L. Crow, Executive Director/APCO, briefed the Board on the status of Regulation 8. Mr. Crow stated that EPA has given a timeframe of mid March to act on Regulation 8.

Mr. Crow announced that EPA official Sally Shaver, EPA, Director of Emission Standards Division, Research Triangle Park, is planning on visiting California in early March and will be in the District's Central Region Office on March 7.

Mr. Crow stated that the US EPA has commented on the deficiencies in the District's fireplace rule requirements. Therefore, the District will be holding two public scoping meetings tentatively set for April 1 and April 4. These meetings will be held via video teleconferencing in the three regional offices in the daytime and evening in an effort to provide all stakeholders the opportunity to participate. The first round of workshops will be held in late June and the second round in August and with potential Governing Board action in a November timeframe.

10. **GOVERNING BOARD MEMBER COMMENTS** – The Chair expressed his gratitude to Josette Merced Bello, Public Education Administrator, for her help particularly over the last few days. The Chair noted that Josette does a great job

and probably a lot of the work she does goes unnoticed and we just kind of take it for granted.

OTHER BUSINESS – No Other Business.

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

- ❖ Conference with Legal Counsel – Anticipated Litigation: Initiation of litigation pursuant to Government Code Section 54956.9 (b) (1) One potential case.

Philip M. Jay, District Counsel, noted that he needs a two-thirds vote to add an item to Closed Session. Mr. Jay stated that this item came to our attention after the posting of the Agenda. Mr. Jay stated that the District received a letter from Mount Whitney Ginning Company threatening a legal action and the District was mentioned in regards to the ERCs. Mr. Jay stated that he would like a vote from the Board to put that item on the Closed Session Agenda.

APPROVED ADDING ITEM TO CLOSED SESSION – *A motion was made by Board Member Applegate to add the item to Closed Session Agenda. The motion was seconded by Board Member Sanders and carried unanimously with the following Roll Call Vote:*

Ayes: Sanders, Patrick, Case, Applegate, O'Banion, Sieglock, Dominici and Armentrout.

Noes: None.

Absent: Maggard, Barba and Blom.

The Board exited the Governing Board Room for the Closed Session at 11:45 a.m.

Mr. Jay returned to the Governing Board Room and made the following announcement. The Board voted to initiate litigation. Mr. Jay stated that if anyone is interested in the particulars to please contact him.

Mr. Jay stated that the Board adjourned the meeting from Closed Session at 12:05 p.m.