

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

**Thursday, November 14, 2002  
9:00 a.m.**

<p><b>Meeting held via video teleconferencing (VTC) in the Central Region Office (Fresno) with the Northern Region Office (Modesto) and the Southern Region Office (Bakersfield) included via VTC.</b></p>
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1. **CALL TO ORDER** – The Vice Chair, Supervisor Ronn Dominici, called the meeting to order at 9:20 a.m.
2. **ROLL CALL was taken and a quorum was present.**

Barbara Patrick, Supervisor ( <b>absent</b> )	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 ( <b>absent</b> )	Stanislaus County
Tom Applegate, Councilmember	City of Newman
Jack A. Sieglock, Supervisor ( <b>absent</b> )	San Joaquin County
Ronn Dominici, Supervisor, <b>Vice Chair</b>	Madera County
Sam Armentrout, Councilmember, <b>Chair (absent)</b>	City of Madera

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

3. **APPROVAL OF CONSENT CALENDAR** – (Item Numbers **(12-26)**). (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 San Joaquin Valley Unified Air Pollution Control District Governing Board Meeting of Thursday, September 19, 2002.
  13. Receive and file List of Scheduled Meetings for 2002 and 2003.
  14. Receive and file Operations Statistics Summaries for September and October 2002.

15. Receive and file Budget Status Report as of October 31, 2002.
16. Receive and file proposed amendments to Rule 4408 (Glycol Dehydration Systems) and set December 19, 2002 for the Public Hearing.
17. Receive and file proposed amendments to Rule 4610 (Glass Coating Operations) and set December 19, 2002 for the Public Hearing.
18. Receive and file proposed "Westside" amendments to Rule 4305 (Boilers, Steam Generators and Process Heaters) and Rule 4701 (Internal Combustion Engines) and set December 19, 2002 for the Public Hearing.
19. Receive and file proposed amendments to Rule 3160 (Prescribed Burning Fee) and set December 19, 2002 for the Public Hearing.
20. Receive and file proposed amendments to 2002-2005 Rate of Progress Plan (ROP) and set December 19, 2002 for the Public Hearing.
21. Approve and authorize the Chair to renew final contracts with Thielen and Associates (\$175,000) and Ken Fong and Associates (\$60,000) for media outreach campaigns in English and Spanish.
22. Approval of Employment Contract for Executive Director/APCO.
23. Approval of Employment Contract for District Counsel.
24. Authorize the Chair to execute an agreement with Shared Technologies Fairchild, Incorporated to implement the District's automated Smoke Management System for an amount not to exceed \$794,000.
25. Approve agreement with Jones & Stokes to update the Air Quality Guidelines for General Plans in the amount of \$29,871.
26. Accept additional Emission Reduction Credit (ERC) Bank Program funds in the amount of \$1,319,892.94 from the California Air Resources Board (ARB) to be placed in the District's Heavy-Duty Engine Emission Reduction Incentive Program.

**Board Member O'Banion**, requested that Consent Calendar Item # 21 be pulled for discussion.

**David L. Crow, Executive Director/APCO**, requested that Consent Calendar Item # 20 be pulled for discussion.

**Consent Calendar Item # 20** – Staff presentation made by Dave Jones. Mr. Jones indicated that one change was made in the staff report regarding this item and one change was made to the ROP Plan as follows:

- The last sentence of the Process section on page 4 was deleted. It was inadvertently included due to a misunderstanding of the mobile source emissions data provided by the California Air Resources Board in November 2002.
- Appendix A of the ROP Plan is provided; this Appendix was not available previously for inclusion with the ROP Plan in the Board package.

**Consent Calendar Item # 21 – Board Member O’Banion**, asked why the outreach campaign did not utilize the media market in the Merced area.

**Josette Merced Bello, Public Education Administrator**, noted that the District with the help of a consultant identifies major media markets.

**Board Member O’Banion**, requested that if the decision is going to be made to not use the stations we used last year that an explanation be made to them as to why they were not chosen to participate this year.

**Board Member Case**, stated that she met with the District’s Public Education staff yesterday to talk about ways to further changes in behavior for residents in our local area. Board Member Case noted that one of the things that they talked about is that maybe consideration by this Board to look at switching from the Lean Green Yard Machine Program to doing some sort of incentive program for natural gas inserts for fireplaces. Board Member Case asked if the Board had any flexibility in that area.

**David L. Crow, Executive Director/APCO**, stated the Board could consider that issue depending on the availability of resources to carry on that kind of incentive program.

**Board Member Case**, stated that she realizes that we are going to talk about this issue when we discuss the Clean Air Action Plan. But, we have had a subcommittee before that has looked at different ways to educate and advise the public. Board Member Case stated that she would certainly be willing to participate on that and maybe Board Member Applegate might like to participate as well.

**Board Member Maggard**, noted that he would be very eager to hear back from staff on what options we have and how soon we might be able to do a incentive program for fireplaces.

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

**Ayes:** O'Banion, Maggard, Barba, Applegate, Sanders, Case and Dominici.

**Absent:** Blom, Patrick, Sieglock and Armentrout.

**Action:** Approved Consent Calendar Items 12, 13, 14, 15, 16, 17,18, 19, 20, 21, 22, 23, 24, 25 and 26 as submitted.

**Direction to Staff in respect to Item # 21:** if local media is not going to be used in our campaigns and they have been used in the past we need to make sure and explain to them why they are not being used this year.

4. **PUBLIC COMMENTS**

**Jennifer Longan** spoke to the Board regarding the proposed rule making the voluntary Please Don't Light Tonight a mandatory program. Ms. Longan requested that the Board consider putting a limit on the number of mandatory No Burn Nights of no more than 20 nights a year.

**Mark Boese, Deputy Air Pollution Control Officer**, stated that the draft rule will be available to the public next week. Mr. Boese stated that it will also be on the District's web site at: [www.valleyair.org](http://www.valleyair.org) and be distributed to the public and available in all three of the District offices. Mr. Boese stated that the workshops are coming up in December.

December 3, 2002 (Tuesday) 6:30 p.m.  
In person workshop: Fresno  
VTC: Bakersfield and Modesto

December 4, 2002 (Wednesday) 2:00 p.m.  
In person workshop: Bakersfield  
VTC: Fresno and Modesto

December 5, 2002 (Thursday) 1:30 p.m.  
In person workshop: Modesto  
VTC: Fresno and Bakersfield

**Kevin Hall, member of the Sierra Club, Tehipite Chapter**, stated that he read in today's paper that the lawsuit has been settled in the D.C. circuit that requires the Environmental Protection Agency (EPA) to go ahead and implement the eight hour standard for ozone. Mr. Hall stated that settlement is going to vault us to number one on the list for the number of violations in the country.

Mr. Hall made comments in respect to Item 6 the Clean Air Action Plan. Mr. Hall stated that he is meeting with Mayor Alan Autry next week and he met with Supervisor Bob Waterston yesterday to discuss the Clean Air Action Plan. Mr. Hall noted that he is very interested in working with them on the Clean Air Action Plan and will be taking the Plan to the Sierra Club and working it through their process.

**Suzanne Noble, Western States Petroleum Association (WSPA)**, noted that her presentation is for the Study Agency Governing Board Meeting. Ms. Noble announced WSPA's 2002 contribution to the Central California Ozone Study (CCOS) in the amount of \$50,000 and authorizes the money to be utilized for reimbursement of expenses incurred by McGuiness Norris & Williams, LLP.

The Board thanked WSPA for their contribution.

Correspondence from: Western States Petroleum Association, To: Supervisor Nick Blom, Chairman SJVAPSA, Dated: November 14, 2002

5. **VERBAL REPORT FROM CITIZENS ADVISORY COMMITTEE (CAC)** – Pheakdey Preciado, Environmental/Primary, Merced County, made the CAC Report to the Board.
6. **DISTRICT PARTICIPATION IN THE DEVELOPMENT OF CLEAN AIR ACTION PLAN** – Staff presentation made by David L. Crow, Executive Director/APCO.

**Board Member Case**, stated that she would like to hear from the District's Public Education staff to tell us just a little bit more about the information that's been passed out to the Board today. Along with what kind of information is available to the public and with some public outreach.

**Alan Autry, Mayor, City of Fresno**, gave the Board a brief update on the Clean Air Action Plan. Mayor Autry noted that he wanted to commend Tom Jordan and Dave Crow and stated that they are absolutely committed and engaged in every single meeting that we have had. Mayor Autry stated that the Clean Air Action Plan's mission statement and goal is that *economic prosperity and clean air must coexist in the Valley*. Mayor Autry stated the elected officials that he has talked to are very excited about this effort.

Mayor Autry announced that the City of Fresno will be committing \$50,000 to this effort. Mayor Autry noted that he will asking mayors up and down the Valley to contribute what funds they can. Mayor Autry stated that he wanted to alert the Board to the fact that the timeline in the Board briefing states that we will take the Clean Air Action Plan to Washington, D.C. by late February early March. Mayor Autry noted that those Plans need to be in place in the various cities up and down the Valley in order to take it to Washington, D.C. to request a major

commitment of resources. Mayor Autry stated that the coalition will be working towards that timeline but we need to talk about that timeline again to give our representatives at the federal level the best chance for victory.

**The Chair stated that on behalf of the Board and personally he wanted to thank Mayor Autry who is the Mayor of the biggest city in this Valley for having the gumption to come forward and tell other politicians and other citizens that hey we've got to do something together. Its not just the Air Pollution Control District its everybody that lives in this Valley that's going to have to take care of it. The Chair stated that he thinks that this is a great, great thing and he thinks that it is going to go forward.**

**Manuel Cunha, Nisei Farmers League**, stated that he agrees with Mayor Alan Autry that the timeline is extremely important. Mr. Cunha noted that the end of February and the beginning of March is when the fund raising group goes to Washington, D. C. to raise funds for the Valley Air Studies. That is when the fund raising group meets with the appropriations committees at all levels including transportation. Mr. Cunha stated that he thinks that if the Plan is ready to go he thinks it would be worthwhile to use that same mechanism that we have in place to help raise funding for the Clean Air Action Plan. Mr. Cunha stated that he would like to offer that up to this Board and if possible we could coordinate that mechanism. Mr. Cunha thanked the Mayor and his staff for pulling this effort together and bringing Valley cities together.

**Vreeland Jones, a member of the Fresno Business Council and a member of the Air Quality Task Force**, spoke in favor of the proposal for the District's participation in the development of the Clean Air Action Plan. Mr. Vreeland noted that the Board has a very well prepared memo that Mr. Jordan and Mr. Crow presented. Mr. Jones stated that he has nothing to add to that other than his support and the support of the Fresno Business Council. Mr. Jones stated that he would ask the District to take a leadership role as requested in this alliance between government and business to address these issues. And, also a thank you to the Mayor for his leadership in this matter.

**Charles Sant'Agata, Director of the American Lung Association, Central Valley**, urged the Board to accept the staff's recommendation to be an active participant and financial partner in the development of the Clean Air Action Plan and Clean Air Summit. Mr. Sant'Agata stated that our Association has been promoting such a summit for over a year now and is willing and able and can't wait to be a partner in such an endeavor. Mr. Sant'Agata noted that he is extremely pleased of course of the Mayor's involvement and he thinks that we need to continue to do more and work together to solve this problem. Mr. Sant'Agata explained that we have differences but he thinks that the differences have to be put aside because we have a problem that impacts all of us in one

way or the other. So, he was hopeful that this Board will approve the proposal presented by the staff.

**Suzanne Noble, Western States Petroleum Association (WSPA)**, stated that WSPA supports a broad-based collation to develop an effective Clean Air Action Plan and supports organizing a Clean Air Summit to identify the most cost-effective emission control strategies that are scientifically based and will move down a collective path of achieving cleaner air. Ms. Noble announced that WSPA is pleased to offer a \$10,000 contribution to this partnership and applauds all those who join in a collective effort to design a successful air quality program while trying to preserve the economic vitality that makes the Valley a great place to live and work.

Correspondence: from Western States Petroleum Association, To: David Crow, SJVAPCD, Dated: November 14, 2002

Correspondence: from Fresno Business Council, To: Sam Armentrout, Chair, SJVUAPCD Governing Board, Dated: November 13, 2002

**1.) APPROVED AS RECOMMENDED** – Board Member O'Banion made the motion to approve 1.) items a. and b. Seconded by Board Member Barba and carried unanimously with the following **Roll Call Vote:**

**Ayes:** Applegate, Barba, Sanders, O'Banion, Maggard, Case and Dominici.

**Absent:** Blom, Patrick, Sieglock and Armentrout.

**Action:** 1.) Committed the District to be active participants in the Development of the Clean Air Action Plan by:

a.) Establishing a Governing Board subcommittee to provide a link between the Governing Board and the groups that want to partner with the District.

**Clear Air Action Ad Hoc Subcommittee:**

**Councilmember Mike Maggard, City of Bakersfield  
Councilmember Tom Applegate, City of Newman  
Supervisor Judith G. Case, Fresno County  
and Vice Chair, Supervisor Ronn Dominici, Madera County**

b.) Offering Information from the District's extensive voluntary emission control programs to the effort.

**2.) APPROVED AS RECOMMENDED** – Board Member Case made the motion to approve 2.) the budget resolution. Seconded by Board Member Applegate and carried unanimously with the following Roll Call Vote:

**Ayes:** Case, Maggard, Sanders, O'Banion, Applegate, Barba and Dominici.

**Absent:** Sieglock, Patrick, Blom and Armentrout.

**Action:** 2.) Approved budget resolution increasing the 2002/2003 District Budget in the amount of \$25,000 to assist in the development of the Clean Air Action Plan.

7. **PUBLIC HEARING: ADOPT PROPOSED AMENDMENTS TO RULE 2020 (EXEMPTIONS) AND RULE 2201 (NEW AND MODIFIED STATIONARY SOURCE REVIEW RULE)** – Staff presentation made by Seyed Sadredin, Director of Permit Services. Mr. Sadredin announced that the language that is presented to the Board and the public today is significantly different than the language that was presented on September 19, 2002 for Receive and File. Mr. Seyed requested that the Board not take final action on this matter until the December 19, 2002 Governing Board Meeting. Mr. Seyed noted that this would allow for full public participation and comment on the revised language between now and December 19, 2002 meeting.

Mr. Seyed provided an Addendum to Proposed Rule 2201 (New and Modified Stationary Source Review Rule) Sections: 3.10, 3.12, 3.24, 3.39, 4.13, 7.1.1 and 7.1.4.5.

**Kerry Drake, Associate Director with Air Division, U.S. Environmental Protection Agency (EPA), Region IX**, stated that his main focus right now for Region IX is on the San Joaquin Valley and on agriculture. Mr. Drake stated that he is impressed with the challenge that the Board has before them, its daunting. Mr. Drake stated that at the same time he is impressed at the ability with the dedication that your staff has to be able to address that challenge and the many challenges that we have ahead of us.

Mr. Drake noted for future deliberation that if the rules that we have worked out with District staff does in fact eventually get approved, EPA would be able to finally, once and for all propose approval of those rules. That is not a small accomplishment given the history that has been going on here. Once EPA proposes approval there will also be additional chances for public comment from all stakeholder groups. Mr. Drake noted that a proposal of approval would before the sanctions kick-in, in February is at the same time we could issue an interim finding that would stay those sanctions. Mr. Drake noted that at that time public comment would still be coming in and all the various stakeholders would still have a chance to comment. Mr. Drake explained that he did want to leave the



Board with the impression that from now to December is the only chance for public comment. When EPA proposes approval then there is additional chance for public comment as well.

**The Board thanked Mr. Drake for attending today's meeting.**

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

**Tom Hadden, Hadden Environmental Solutions**, stated that he came here today to congratulate the District in the proposed amendments to the biomass-fire powered cogeneration facility definition and other minor changes within the New Source Review Rule. And, we are surprised to find out that, that proposal has been withdrawn. Mr. Hadden suggested that the definition of 3.10 if its not going to be amended as proposed in the original amendment would be to just simply delete it or restore it to the original proposed amendment.

**Darryl Gunderson, Aera Energy**, stated that Aera Energy would like to meet with staff on this issue.

**Manuel Cunha, Nisei Farmers League**, stated that he supports moving this item to December 19, 2002.

**Brent Newell, Center of Race, Poverty and the Environment (CRPE)**, stated that as a preliminary matter he wanted to adopt by reference comments contained in a letter written by Earthjustice, addressed to: George Heinen and dated: October 21, 2002, re: Rule 2201, Section 4.5. Mr. Newell noted that the Clean Air Act, a federal law, governs what happens here in respect to agriculture sources. Mr. Newell stated that the Clean Air Act is a federal law and does not contain an exemption for agriculture sources. Mr. Newell stated that any rule that comes out of this air district that goes to the EPA which contains an agriculture exemption is going to be illegal and its as simple as that.

**Joseph Hofhaver, Baker Petrolite**, made comments in respect to Rule 2020, Low Emitting Units and requested staff retract 6.19.1 or reconsider the wording.

**Suzanne Noble, Western States Petroleum Association (WSPA) and also speaking on behalf of the Independent Oil Producers Agency (IOPA)**, stated that WSPA's and IOPA's issue is with Section 7 in Rule 2201. Ms. Noble requested more time to review the recent changes to Rule 2201 and urged the Board to not Receive and File this new proposal and noted that the Board could Receive and File this rule in December.

**PUBLIC HEARING: ADOPT PROPOSED AMENDMENTS TO RULE 2020 (EXEMPTIONS) AND RULE 2201 (NEW AND MODIFIED STATIONARY SOURCE REVIEW RULE) CONTINUED TO DECEMBER 19, 2002** – Board Member Applegate made the motion to continue to December 19, 2002. Seconded by Board Member Sanders and carried unanimously with the following **Roll Call Vote**:

**Ayes:** Sanders, Case, Barba, Applegate, Maggard, O'Banion and Dominici.

**Absent:** Sieglock, Blom, Patrick and Armentrout.

**Action:** The Board continued the Public Hearing: Adopt Proposed Amendments to Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary Source Review Rule) to December 19, 2002.

8. **VERBAL REPORT: CALIFORNIA AIR RESOURCES BOARD (ARB) BOARD MEETING** – Ravi Ramalingam, ARB representative and ARB Liaison for the Valley Air District, updated the Board on the Fresno Asthmatic Children's Environmental Study (FACES).
9. **EXECUTIVE DIRECTOR/APCO COMMENTS** – No Executive Director/APCO Comments.
10. **GOVERNING BOARD MEMBER COMMENTS** – No Governing Board Member Comments.

**OTHER BUSINESS** – Josette Merced Bello, Public Educator Administrator, noted that each Board Member received a packet today that contains information for the District's *Please Don't Light Tonight Program*.

**Board Member Applegate**, thanked Ms. Bello for the outstanding job she does in keeping the Board posted with all of these newspaper articles. Board Member Applegate stated that it really keeps him up to date on what's going on and what other people think.

**The Chair**, echoed Board Member Applegate comments.

**Board Member Case**, stated that the Board needs to make it a mission on the part of this Board to be a leader and disseminator of information. Board Member Case stated that she thinks that we need to enhance the public relations budget.

**Manuel Cunha, Nisei Farmers League**, stated that in December there will be members of the Board that will not be coming back. Mr. Cunha noted that the most senior member of the Board will be retiring. Mr. Cunha stated that we

would like to make sure that all of the Board Members come to the Central Region Office (Fresno) in December.

**The Chair requested that all Governing Board Members attend the December 19, 2002 Governing Board Meeting in the Central Region Office (Fresno).**

***Philip M. Jay, District Counsel, announced the following:***

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 – Existing Litigation (Government Code Section 54956.9) Name of Case: Our Children’s Earth v. San Joaquin Valley Unified Air Pollution Control District, Kern Superior Court # 247977.
  - ❖ Conference with Legal Counsel – Existing Litigation (Government Code Section 54956.9) Name of Case: San Joaquin Valley Unified Air Pollution Control District v. California Air Resources Board, Sacramento Superior Court # 02-CS-00362.
  - ❖ Conference with Legal Counsel – Anticipated Litigation – Initiation of litigation pursuant to Government Code Section 54956.9: two potential cases.

***Mr. Jay noted that after Closed Session any announcements that will be made will take place in the Governing Board Room.***

***The Board adjourned to Closed Session at 11:37 a.m.***

***Mr. Jay returned to the Governing Board Room and made the following announcement: the Board voted unanimously to initiate intervention in a lawsuit and when we do that we will make all particulars available to whoever wants information.***

***The Board adjourned from Closed Session at 12:20 p.m.***