

**Bay Area Air Quality Management District**  
**939 ELLIS STREET**  
**SAN FRANCISCO, CALIFORNIA 94109**  
**(415) 771-6000**

**APPROVED MINUTES**

Summary of Board of Directors  
Executive Committee Meeting  
9:45 a.m., Wednesday, June 30, 2004

1. **Call to Order - Roll Call:** Chairperson Scott Haggerty called the meeting to order at 9:49 a.m.  
**Present:** Scott Haggerty, Chair, Julia Miller (10:08 a.m.), Mark Ross, Pamela Torliatt, Marland Townsend, Gayle Uilkema.  
**Absent:** Mark DeSaulnier, Jerry Hill, Tim Smith.
2. **Public Comment Period:** There were no public comments.
3. **Approval of Minutes of April 30, 2004:** Director Townsend moved approval of the minutes; seconded by Director Torliatt; carried unanimously without objection.
4. **Quarterly Report of the Hearing Board:** Hearing Board Chair Thomas Dailey, M.D., presented the *Hearing Board Quarterly Report – January 2004 – March 2004*. Dr. Dailey reported that Deputy Clerk Neel Advani provided training on the Hearing Board procedures to six new inspectors and also assisted in re-writing the brochure for Variances. Dr. Dailey expressed his thanks to the Board of Directors for his and Mr. Colline's reappointments.
5. **Report of the Advisory Council:** *Report of Council Meetings*.  
  
This report was not presented.
6. **Status Report on the 2004 Ozone Strategy:** *Staff presented a status report on the 2004 Ozone Strategy*.

Peter Hess, Deputy APCO, presented the report and stated that this Plan addresses both the state and national ozone attainment and maintenance issues that the District will be facing. Mr. Hess noted the other agencies and stakeholders who have provided input on a wide range of potential control measures. Based on evaluations of the potential control measures, District staff has identified 14 stationary source measures, three mobile source measures, 19 transportation control measures, and 20 further study measures. The further study measures will be analyzed to determine whether they warrant inclusion in the Ozone Strategy. Mr. Hess explained that preparation of the 2004 Ozone Strategy has included substantial public outreach and he reviewed the District's outreach efforts.

In response to a question from Chairperson Haggerty, Mr. Hess stated that the Air District, the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) are tri-lead agencies and approval is needed from all three agencies to submit the Plan to the California Air Resources Board (CARB). Brian Bunker, Counsel, added that there is a statutory requirement in the Health and Safety Code in addition to ARB regulations that require the three agencies to act together to approve the Plan.

In response to a question from Director Torliatt, Mr. Hess stated that the District looks at a 10-year projection in this Plan.

In response to a question from Director Uilkema, Jack Broadbent, Executive Officer/APCO, stated that the Environmental Protection Agency (EPA) has 18 months to make a decision on the District's re-designation. The maintenance Plan will be a demonstration to EPA that the District can maintain the one-hour standard. With respect to the new eight-hour standard, the District will have to take steps to continue to achieve and maintain the eight-hour standard.

EPA is proposing to revoke the federal one-hour standard in June 2005. There was discussion on possible litigation of the matter. Mr. Broadbent noted that the South Coast AQMD and other agencies are considering litigating EPA on revoking the one-hour standard because they do not want to see a time lapse between the one-hour standard and the eight-hour standard.

**Committee Action:** None. This report provided for information only.

#### 7. **Information Systems Division Update:**

Jeff McKay, Director, Information Services Division, presented the report and stated that now that the District has completed the implementation of JD Edwards, the focus will now be on the production system. Mr. McKay reviewed the old and new systems, the purpose of the production system, and the current status. The production system implementation method of buy/build was discussed along with the implementation steps. The steps include the following: 1) module breakdown, 2) tool selection, 3) a design would be developed during the first quarter of 2005 and then a delivery date and cost would be established, and 4) building the system, which is projected to be in 2007. Funds in the amount of \$2.75 Million are included in the 2004/2005 District budget.

**Committee Action:** None. This report provided for information only.

#### 8. **Legal Report on the Use of Small Claims Court for Enforcement Cases:** *Staff presented a report on the use of Small Claims Court in Enforcement cases.*

Brian Bunker, Counsel, presented the report and stated that one of the ways the Legal Division is addressing the "back log" of cases is to go to Small Claims Court. Mr. Bunker reviewed Health and Safety Code Section 42403, which describes what the District should take into consideration before assessing a penalty. Mr. Bunker discussed the attributes of Small Claims Court as follows: 1) there is a \$5,000 limit, 2) a simple claim form initiates the case, 3) there is no discovery or motions, 4) the hearings are informal and there is no representation by an attorney, and 5) they can

be appealed to Superior Court. Mr. Bungler noted the advantages and disadvantages of the use of the Small Claims Court and the types of cases that can be brought to Small Claims Court.

In conclusion, Mr. Bungler noted the following statistics:

- The District has filed 20 cases over the past year.
- Five cases are awaiting hearings.
- Six cases have settled after filing.
- Of the 9 cases that have gone to judgment, the District lost only one case.
- One win has been appealed.
- The District has received \$20,604.38 in awards and settlements.

During discussion Mr. Bungler reported that most cases settle for less than \$5,000 and he reviewed the limits on civil penalties that is in the Health and Safety Code. Mr. Bungler indicated that there are between 2,000 and 2,500 open cases at any given time.

**Committee Action:** None. This report provided for information only.

9. **Closed Session: Public Employee Performance Evaluation:** *Pursuant to Government Code Section 54957, the Committee met in Closed Session to conduct a performance evaluation of the District Counsel.*

The Committee adjourned to Closed Session at 10:46 a.m.

The Committee reconvened to Open Session at 11:14 a.m.

Mr. Broadbent reported that the Committee met in Closed Session to conduct a performance evaluation of the District Counsel. The Committee provided Mr. Broadbent with direction on the performance review and the matter will be presented to the full Board at its next meeting.

10. **Committee Member Comments:** Chairperson Haggerty requested that the District produce an Annual Report before the end of the year.
11. **Time and Place of Next Meeting:** 9:30 a.m., Wednesday, September 29, 2004, 939 Ellis Street, San Francisco, CA.
12. **Adjournment.** The meeting was adjourned at 11:16 a.m.

*/s/ Mary Romaidis*

Mary Romaidis

Clerk of the Boards

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