

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## APPROVED MINUTES

Board of Directors' Regular Meeting– July 30, 2008

### Call To Order

Opening Comments: Chairperson Jerry Hill called the meeting to order at 9:45 a.m.

Roll Call: Present: Jerry Hill, Chair, Directors Harold Brown, Chris Daly, Dan Dunnigan, John Gioia, Scott Haggerty, Yoriko Kishimoto, Carol Klatt, Liz Kniss, Janet Lockhart, Jake McGoldrick, Nate Miley, Mark Ross, Michael Shimansky, John Silva, Gayle Uilkema, Brad Wagenknecht, Ken Yeager

Absent: Tom Bates, Erin Garner, Tim Smith, Pamela Torliatt

Pledge of Allegiance: The Board of Directors recited the Pledge of Allegiance.

### Public Comment Period:

There were no public comments.

### Consent Calendar (Items 1 – 7)

Director Uilkema requested removal of Item 5, requested that the Policy on District Personnel on Out-of-State Business Travel be referred to the Executive Committee, and supported the item's approval.

1. Minutes of July 9, 2008 Regular Meeting
2. Communications  
*Information only*
3. Quarterly Report of Air Resources Board Representative – Honorable Jerry Hill  
*A summary of Chairperson, Hill's activities on the Air Resources Board was provided for information only.*
4. Quarterly Report of the Executive Office  
*A summary of Board of Directors, Hearing Board and Advisory Council meeting activities for the second quarter is provided for information only.*
5. District Personnel on Out of State Business Travel  
*In accordance with Section 5.4(b) of the District's Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified that the attached memoranda lists District personnel who traveled on out-of-state business.*

6. Consideration of Recommendation for Adjustment to Salary Range for the Senior Policy Advisor Classification Series  
*The Board of Directors' considered approval of a recommendation for a salary range adjustment to the Senior Policy Advisor classification series from Range 151 to Range 148.*
7. Consideration of Recommendation to Establish a Job Classification Description of Communications Director with a Salary Range set at Range 151M  
*The Board of Directors considered approval of a recommendation to establish a job classification description for Communications Director set at pay range 151M.*

**Board Action:** Director Uilkema moved approval of Consent Calendar, as amended to require the Out-of-State Travel Policy be reviewed by the Executive Committee; seconded by Director Wagenknecht; carried unanimously without opposition.

### **COMMITTEE REPORTS AND RECOMMENDATIONS**

#### **8. Report of the Mobile Source Committee Meeting of July 9, 2008**

Secretary Wagenknecht gave the report of the Mobile Source Committee, stating that the Committee had met on Wednesday, July 9, 2008 and approved the Mobile Source Committee minutes of May 15, 2008.

The Committee recommended Board of Directors' approval of the following:

- A) Allocation of \$20,756,901 in funding from a combination of Carl Moyer Program funding and Mobile Source Incentive Funding (MSIF) for projects listed in Attachment 1 of Agenda item 4 in reports to the Committee and authorize the Executive Officer/APCO to expend funding on eligible projects and execute all necessary funding agreements with recipients of grant award projects;
- B) Expenditure Plans for FY 2008/09 TFCA County Program Manager Projects listed in Attachment 1 of Agenda item 5 of the reports to the Committee and authorization of Executive Officer/APCO to enter into funding agreements with the County Program Managers for Board approved projects;
- C) Authorization of the Executive Officer/APCO to execute all necessary contract agreements with TIAX LLC for administrative consultation relative to the implementation of I-Bond funding in an amount not to exceed \$796,573 with the authorization of the Executive Officer/APCO to renew this contract annually for up to three years based on the performance of the consultant and approval of the Committee; and
- D) Allocation of \$3.375 million in MSIF revenues to the Lower-Emission School Bus Program (LESBP) for the purchase of new public school buses; and authorize the Executive Officer/APCO to enter into all necessary funding agreements with recipients of grant awards under the LESBP.

**Board Action:** Secretary Wagenknecht moved to approve the report and recommendations of the Mobile Source Committee; seconded by Director Uilkema; carried unanimously without opposition.

## **RESOLUTION(S)**

9. **Consideration and Adoption of Resolution Urging the Port of Oakland to Adopt User Fees to Fund the Mitigation of Air Pollution Health Risk in the West Oakland Community.**

*The Board of Directors considered adoption of a resolution in support of the Port of Oakland's container fee proposal.*

Executive Officer/APCO Broadbent gave the staff report, stating that the resolution before the Board is designed to encourage the Port of Oakland to provide a separate fund dedicated to air pollution mitigation and to match the District's incentive funds. He then provided a brief background on the Health Risk Assessment in West Oakland.

Director Shimansky confirmed with Mr. Broadbent that the Ad Hoc Committee on Port Emissions met earlier in the month, a status update was provided, and the resolution is timely because the fee will be considered by the Port's Board of Directors over the next months.

Director Gioia supported the resolution, reiterated that the impacts of the Port are the most intense in West Oakland; however, rail impacts go beyond Oakland. He therefore requested the resolution be broader to include impacts to other communities, such as Richmond, as they will have increased rail traffic. He requested, "and other impacted communities" be added to the end of the NOW, THEREFORE, BE IT RESOLVED" paragraph of the resolution.

Director Hill opened the public comment period and there were no public comments.

**Board Action:** Director Gioia moved to Adopt Resolution Urging the Port of Oakland to Adopt User Fees to Fund the Mitigation of Air Pollution Health Risk in the West Oakland Community, as amended to add "and other impacted communities" to the end of the NOW, THEREFORE, BE IT RESOLVED clause; seconded by Director Ross; carried unanimously without opposition.

10. **Consideration and Adoption of Proposed Resolution Continuing to Reduce Contaminants in Impacted Communities**

*The Board of Directors considered adoption of a resolution regarding continuing to reduce air contaminants in impacted communities.*

Mr. Broadbent gave the staff report, stating that the resolution speaks to the on-going commitment the Board has in addressing cumulative impacts. The work came about as a result of discussions with many groups, it calls for implementation of the CARE Mitigation Action Plan, participating in State processes, working with community groups in promoting interagency collaborations, and he recommended its adoption.

Chair Hill opened the public comment period.

Public Comments:

Karen Pierce, San Francisco Department of Public Health and BAEHC, presented and read a letter from Bay Area Ditching Dirty Diesel Collaborative regarding the need to address impacts of diesel pollution, developing policy and regulations to achieve public health goals, and she applauded the Board's efforts in adoption of the resolution.

Wafuu Aborashed, Healthy 880 Communities, EJAQC, BAEHC, thanked the Board for support of the resolution, felt it is important to recognize the challenges in reducing impacts, and hoped to put some teeth in the enforcement of the policy.

Dr. Henry Clark, Executive Director of the West County Toxics Coalition, said he believed this was a historic moment for environmental justice, said the State formed a committee but is not as far as the Air District is, and thanked the Board for adoption of the resolution.

Lee Tim Ly, BAEHC and the Chinese Progressive Association, thanked the Board for their leadership in addressing cumulative impacts head on, he hopes the Air District will continue to implement and enforce the program through its governance, and encouraged the Board to continue to work with community organizations to address language access needs, as well.

Antonio Diaz, PODER/BAEHC, said they have collaborated with the Chinese Progressive Association to work with environmental justice issues, spoke in favor of the resolution, thinks it is an important first step, wants to continue to build and work to develop enforceable measures, enhanced language access, and address poor land use decision-making.

Latrice Alexander said she supported the resolution.

Marie Harrison, Green Action for Health and Environmental Justice, commended the Board on their work, urged support and approval of the resolution and in continuing to work together.

**Board Action:** Director Ross moved to Adopt the Resolution Continuing to Reduce Contaminants in Impacted Communities; seconded by Director Dunnigan; carried unanimously without opposition.

**PUBLIC HEARING**

11. **Public Hearing to Consider Adoption of Proposed Amendments to Regulation 9, Rule 7: Nitrogen Oxides and Carbon Monoxide from Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters; Amendments to the Manual of Procedures, Volume I, Chapter 5: Boiler, Steam Generator and Process Heater Tuning Procedure; Amendments to Regulation 3: Fees, Schedule R: Equipment Registration Fees; and Adoption of a CEQA Negative Declaration**

*The Board of Directors considered adoption of proposed amendments to Regulation 9; Rule 7: Nitrogen Oxides and Carbon Monoxide from Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters will extend the applicability of the rule to smaller devices and reduce emissions of NOx, CO,*

*secondary particulate matter and greenhouse gases from all devices subject to the rule.*

Senior Air Quality Engineer Julian Elliot presented a PowerPoint presentation on amendments to Regulation 9, Rule 7: NO<sub>x</sub> and CO from industrial, institutional and commercial boilers, steam generators and process heaters. He provided background on the proposed amendments, proposed NO<sub>x</sub> limits, energy efficiency and other requirements, emission reductions, the average installed costs per device and average cost effectiveness, the Rule's development process, conclusions and recommendations.

Directors confirmed with Mr. Elliott that the fee is a one-time fee for operators and that the cost effectiveness numbers did not include fuel savings and efficiencies.

Public Comments:

Eugene Fahei, Calpine Corporation, discussed Calpine's work to make their fleets the cleanest and most efficient and challenges they face to meet the energy needs of the State. He said amendments greatly impact their operations especially for some of their older facilities, and he asked the Board to consider the cost per device of the 75 MM BTU boilers and above which he said may not include ancillary devices, and rather use low efficient NO<sub>x</sub> burners which would help efficiency, and he asked the Board to consider changing the Regulation that affects the 75 MM BTU boilers to meet a 9 PPM limit. Secondly, he requested the Board to consider extending the compliance date to 2018, stating the units most impacted are also subject to Regulation 9, Rule 9. The 2018 date would better allow them to consider whether or not to replace the units and meet their contractual requirements.

Michael Kiddy, Environmental Studies student at SFSU, voiced two concerns: 1) ammonium emissions with catalytic technology; and 2) whether there was a specific target date with the standards set by the CARB.

Valerie Lear, Environmental Studies student at SFSU, supported increased regulations, reduction of emissions and increased energy efficiency requirements.

Mr. Elliott addressed the speakers' questions, stating staff spoke with CalPine and added a two-year extension to the Rule entirely for their benefit to offset when those costs would be incurred. He felt extension to 2018 was unreasonably long, agreed that it is possible for Calpine's costs to be higher given their facility, but statistics were provided by ARB and staff believes costs for 5 PPM standard are reasonably close to what has been estimated, and therefore staff could not support lowering the standard. Regarding comments related to the ammonium emissions from selective catalytic systems, Mr. Elliott said there are 7 devices that would be subject to new requirements. Ammonium emissions are regulated consistently through the permit process, which all limit emissions to 10 PPM, and they did look at the 7 devices, the majority of which are located in non-heavily populated areas.

Ms. Roggenkamp spoke regarding California Clean Air Act requirements and reiterated that the Air District's charge is to implement all feasible measures as expeditiously as possible; that this is a State law requirement and this is the reason the Rule is being brought forward today.

Regarding service life allowance, Mr. Elliott said the Air District wants to avoid the situation where someone just put in a device and will have to replace it or spend the value of that device on a retrofit. The Air District will allow some amount of time before they must retrofit it. With other devices, they will need to be replaced and 10 years is the maximum amount of time.

Boardmember Uilkema voiced concern with the significant cost of \$580,000 for the average installed cost per device for 75 MM BTU/hr units based on its average cost effectiveness. Mr. Broadbent explained that these are the largest units, reductions do occur, the Air District is trying to be consistent statewide, and it is important that progress be made.

Director Gioia said in perspective, the costs per device were most likely proportional to the actual cost of the units themselves; the larger they got the more expensive they are. Mr. Elliott agreed and reported that devices of 75 MM BTUs and larger account for 3% of the population and 17% of emissions. He described locations of the largest units and said the very largest was 410 MM BTU/hr., with an average size of approximately 115 MM BTU/hr.

**Board Action:** Boardmember Gioia moved the adoption of Proposed Amendments to Regulation 9, Rule 7: Nitrogen Oxides and Carbon Monoxide from Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters; Amendments to the Manual of Procedures, Volume I, Chapter 5: Boiler, Steam Generator and Process Heater Tuning Procedure; Amendments to Regulation 3: Fees, Schedule R: Equipment Registration Fees; and Adoption of a CEQA Negative Declaration; seconded by Director Wagenknecht; carried by the following vote: 15-0-1-6 (Uilkema abstained; Bates, Brown, Garner, Kishimoto, Smith and Torliatt absent).

## **PRESENTATION**

12. **Overview of the California Air Resources Board's Draft Scoping Plan Pursuant to AB 32, the California Global Warming Solution Act of 2006**  
*Staff provided an overview of the California Air Resources Board's draft Scoping Plan for implementing AB 32.*

Deputy Air Pollution Control Officer, Jean Roggenkamp, gave a PowerPoint presentation on the AB 32 Draft Scoping Plan. Highlights of the plan include an approach for implementing AB 32, key elements such as a cap and trade program to begin in 2012, implementation of new and existing regulations for vehicle standards, fuel standards and goods movement, transportation measures which include Pavley I and II, low carbon fuel standard, vehicle efficiency, goods movement, and high speed rail.

Other measures include a renewables portfolio standard, energy efficiency, combined heat and power, water efficiency, local government actions and regional targets, high GWP gases, forests, recycling and agriculture measures. Additional measures under evaluation include vehicle feebates, congestion pricing, pay-as-you-drive insurance, industrial source measures, and indirect source rules for new development.

Measures with the biggest reductions are the cap and trade, clean car standards, energy efficiency in buildings and appliances, renewable energy portfolio, low carbon fuel standard and high global warming potential measures. She said potential Air District roles include enforcement, tracking relationships between GHG reductions and toxic and criteria pollutants, permitting new equipment and technologies, collaborating on outreach and education, assisting local government with Climate Action plans, assisting in developing and tracking regional GHG reduction targets, and providing CEQA guidance. She also distributed Table 2: Recommended Greenhouse Gas Reduction Measures which reveal recommended reduction strategies by sector and total 2020 reductions of MMTCO<sub>2</sub>E and discussed the AB 32 schedule.

Directors confirmed with staff that Pavley I and II was named after its Legislator who moved the legislation forward, that more discussion would occur on the cap and trade issue which would be brought back to the Climate Protection Committee, and that the 1990 target year dates back to the Kyoto Protocol as a baseline. The Board thanked Ms. Roggenkamp for her presentation.

### **CLOSED SESSION**

13. **Closed Session with Air District's Labor Negotiators**  
(Government Code § 54957.6(a))

*Agency Negotiators:* Jack P. Broadbent, Executive Officer/APCO  
Michael Rich, Human Resources Officer

*Employee Organization:* Bay Area Air Quality Management District  
Employees' Association, Inc.

District Counsel reported that the Board had met in Closed Session and provided direction to staff.

### **OTHER BUSINESS**

14. **Report of the Executive Officer/APCO**

Mr. Broadbent reported on 2008 ozone exceedances, stating the Air District had an additional exceedance of the 8-hour standard; since the July 9<sup>th</sup> Board meeting, the 8-hour national ozone standard was exceeded on one day (July 9) and the 24-hour national PM<sub>2.5</sub> standard was exceeded on two days (July 9 and 10).

Since July 10<sup>th</sup>, inland temperatures have generally been near normal. Onshore flow has kept the air well mixed and has prevented ozone from building up. PM levels have been in the Moderate category on 75% of the days. The high frequency of PM in the Moderate category is probably due to wildfires. And, the outlook for the next two weeks shows continued onshore flow and near normal inland temperatures. With most of the fires coming under containment, it is not likely that the Bay Area will experience unhealthy levels of particulate matter.

In answer to questions of Directors, Mr. Broadbent further discussed thresholds and noted that EPA's guidelines are being developed and most likely will be issued once the Administration changes; to date there have been 11 PM health advisories, 9 days over the 2.5 standard which is unusual, and in late June/July, there were days where there was high ozone and PM at the same time. Director Dunnigan requested the website link to view satellite photographs, and Mr. Kendall agreed to forward the link to the entire Board.

**15. Chairperson's Report**

Chair Hill reported that the ARB adopted a new Rule in California last week which affects ships. He said there are 11,000 Ports of Call which create 20% of the statewide diesel PM, 50% of Sox and 70% NOx. The Rule adopted requires all ships coming in 24 miles out off the coast to change to a fuel which will reduce emissions by 80-90% of the requirement.

He further reported that the Air and Waste Management Association, People to People in India, is scheduled for December 9-18, 2008. Program tuition is \$5,000 and the Board's policy limits the expenditure to \$2,500. He requested staff forward the information on the event to the entire Board.

Chair Hill canceled the regular Board meetings of September 2<sup>nd</sup> and 17, stating the next regular Board meeting would be held on October 1, 2008.

**16. Board Members' Comments - None**

**17. Time and Place of Next Meeting** – 9:45 a.m., Wednesday, October 1, 2008 - 939 Ellis Street, San Francisco, CA 94109

**18. Adjournment** - The meeting adjourned at 11:20 a.m.

*/s/ Lisa Harper*  
Clerk of the Boards