

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## APPROVED MINUTES

Board of Directors' Regular Meeting– November 19, 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, Erin Garner, Yoriko Kishimoto, Carol Klatt, Liz Kniss, Janet Lockhart, Jake McGoldrick, Nate Miley, Mark Ross, Michael Shimansky, John Silva, Tim Smith, Pam Torliatt, Gayle Uilkema, Brad Wagenknecht

Absent: Tom Bates, John Gioia, Scott Haggerty, Ken Yeager

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

### Public Comment Period:

Bradley Angel, Green Action, voiced concern about pollution in West Berkeley, specifically the Russell City Power Plant and its burden on communities.

Gabe Meyers, Global Community Property, spoke of the need to change the process at Pacific Steel Casting in how it is regulated and evaluated, and he asked for a comprehensive study of wind direction and tracing of emissions.

Piper Snow, Healthy Air Coalition, voiced concerns with asthma and the odor management plan at Pacific Steel Casting.

Carole Marospovic, Healthy Air Coalition, spoke of non-disclosure of a letter by Pacific Steel Casting and cited discrepancies and delay in inspectors handling complaints.

Niels Traynor, Healthy Air Coalition, cited continued odor problems from Pacific Steel Casting, spoke of asthma and illnesses and delay in response times to complaints.

Audrey LePell, President of Cap Systems Against Pollution (CAP), voiced concerns with pollution from Russell City Energy and noted they were forming a petition.

Laurie Price, Citizens Against Pollution, believed that the Russell City Plan is a serious environmental justice issue, spoke of increased risks for minorities, and requested the plan be thoroughly reviewed.

Andy Wilson, CAP, spoke of aviation and thermal plumes and said there are no laws or alerts dealing with emissions and hazardous materials releases for air traffic.

Ernest Pacheco, Citizens Against Pollution / Health SSO Communities, spoke of pollution caused by the Russell City Plant, stating the project will negate all gains made by the CARE Program, and asked the District to cease and desist all actions.

Wafaa Aborashed, CAP and Health 880 Communities, voiced disappointment in the outreach process, spoke of exceedances caused by the power plant, requested additional inspectors, believed many of the guidelines were lacking and felt that many rules and regulations are not enforceable.

Sean Cameron, Citizens Against Pollution, requested the Board undo the draft permit and cited the need for proper noticing.

Angela Higginbotham, CAP, spoke of the Environmental Appeals Board ruling which set best available control technology limits for CO<sub>2</sub>, which she believed should further the goal of protecting public health.

Rob Simpson spoke of the successful remand order from the EPA regarding the Russell City Power Plant, reported that another appeal was pending, and voiced concerns over public noticing requirements.

Mr. Broadbent reported that one of two plants being proposed is a 600 megawatt plant in Hayward; however, the second plant may no longer be moving through the process. He stated that “the California Energy Commission is the licensing authority for plants operating at 50 megawatts or greater and that the Air District must follow a prescriptive process.” In following guidelines about how to properly notice for the permit for PSD aspects, the EAB found in favor of the appellants that the District did not fully follow all procedures in terms of public noticing. He further stated that EAB’s findings were not air quality related in terms of emissions, but rather public noticing requirements. Therefore, the Air District is re-noticing the PSD permit and there will be a meeting in mid-January in Hayward at which time public input would be taken. Mr. Broadbent suggested providing the Stationary Source Committee an update in January regarding the facility, as well as the custom alloy recycling facility.

District Counsel, Brian Bunger added that preliminary determination of compliance and final determinations are not mutually exclusive and are two separate issues. Following a noticing program, the Air District is going through a separate noticing process for those federal permits and is continuing to work through these issues.

**Consent Calendar (Items 1 – 4):**

Director Kniss referred to Item 3 and briefly discussed the span of control for the number of supervisors to employees.

1. Minutes of November 5, 2008
2. Communications  
*Information only.*

3. Consideration and Approval to Establish a New Classification of Supervising Human Resource Analyst with a Salary Set at Pay Range 142  
*The Board of Directors considered approval to establish a new job classification of Supervising Human Resources Analyst with an annual salary range starting at \$88,251 and ending at \$107,270.*
4. Consideration and Approval of Contractor to Assist with Updating and Revising the Air District's California Environmental Quality Act (CEQA) Guidelines  
*The Board of Directors will consider approval of a contract with EDAW, Inc. to assist with the update and revision of the Air District's CEQA Guidelines for the purpose of providing guidance to local lead agencies on evaluating and mitigating air quality impacts of projects and plans, in an amount not to exceed \$94,690.*

**Board Action:** Director Brown moved approval of Consent Calendar Items 1, 2, 3 and 4; seconded by Director Wagenknecht; carried unanimously without opposition.

5. Report of the **Ad Hoc Committee on Port Emissions** Meeting of November 17, 2008

Committee Chair Miley gave the report of the Ad Hoc Committee on Port Emissions and said the Committee met on Monday, November 17, 2008 and approved the minutes of July 2, 2008.

The Committee received an overview of the Port of Oakland's Maritime Air Quality Improvement Plan (MAQIP). Goals of the plan are to reduce health risks from Port sources by 85% by the year 2020, as well as adoption of funding mechanisms to fund air emissions reduction measures. The Port is committed to a three-fold emissions reduction strategy which will target emissions reductions earlier than required by regulations, support enforcement of regulations, and target emissions reductions above and beyond those required by law. Next steps will include review of the MAQIP and the container fee by the Port Commission Maritime Committee on November 20th, and the Port Commission's review on December 2<sup>nd</sup>.

The Committee then received a report on developments of the potential Comprehensive Truck Management Plan (CTMP) at the Port of Oakland, which is a solution for the future of the trucking industry to provide security, operations, truck routes, parking, community involvement, local jobs and air quality improvements. The CTMP schedule is slated for adoption by Port Commissioners in September of 2009. Staff summarized the upcoming Mobile Source Committee item regarding projects recommended for funding totaling \$41,498,544, the majority of which are for truck retrofits and replacements. Outstanding issues include:

- The availability of 2009 NO<sub>x</sub>-compliant ARB certified retrofit devices;
- Confusion for drivers because the CTMP is not in place; and
- Port of Los Angeles having a CTMP that requires "employee drivers"

A number of public speakers voiced concerns about independent truck drivers' inability to pay for the costs of retrofit/replacements, health impacts, enforcement of regulations, the Port's responsibility to pass a comprehensive plan, and the deadline for CARB requirements. The Air District will work with CARB to amend their guidelines to allow trucks to continue to be utilized in the Bay Area as a whole.

The Committee then considered staff's recommendation for Board of Directors approval of the "San Francisco Bay Area Green Ports Initiative – Program Description and Plan, which is an initiative intended to reduce emissions using regulations and grants at Bay Area Ports. Three program elements of the initiative include: 1) Enforcement of ARB regulations on Port mobile sources; 2) grants for earlier or greater emission reductions than required by regulations; and 3) targeting and evaluation of efforts through inventories, monitoring and outreach.

The Air District expects to apply for another \$35 million for the next fiscal year with a large portion devoted to truck replacements.

The Committee recommends that the Board of Directors approve the Green Ports Initiative program description and plan with the inclusion of a timeline of documents and agreements that need to be in place during the coming year. The next meeting of the Committee is at the call of the Chair.

I move that the Board of Directors approve the report and recommendation of the Ad Hoc Committee on Port Emissions.

**Board Action:** Director Miley made a motion to approve the San Francisco Bay Area Green Ports Initiative–Program Description Plan; seconded by Director Smith; carried unanimously without opposition.

Directors briefly discussed with Mr. Broadbent the progress regarding the Port of Oakland, proposed adoption of the MAQIP, user fee, electrification at berths, and issues relating to an employer model for independent truckers.

### **PUBLIC HEARING:**

13. Public Hearing to Consider Adoption of proposed amendments to Air District Regulation 8, Rule 20: Graphic Arts Printing and Coating Operations, amendments to Regulation 2, Rule 1: Permits, and amendments to Regulation 3: Fees, Schedule R: Equipment Registration Fees, and Adoption of a CEQA Negative Declaration.  
*Proposed amendments to Regulation 8, Rule 20 would reduce emissions from printing presses by reducing the allowable volatile organic compound (VOC) content in flexographic ink on porous substrates and in press cleaning products for all presses, and by subjecting lower-emitting printing facilities to the requirements of the rule. The lower-emitting facilities would be required to register with the District but would not need a permit. Proposed amendments to Regulation 2, Rule 1 would align the permitting requirements with the applicability limits in Regulation 8, Rule 20 and amendments to Regulation 3 would set registration fees for these facilities*

Air Quality Specialist II, William Thomas Saltz, gave an overview of the proposed amendments to Regulation 8, Rule 20: Graphic Arts Printing and Coating Operations. At the November 5, 2008, a minor change in the text of the Rule was omitted from the final Rule amendment. Having not published this sentence, the Health and Safety Code requires the item be brought forward for adoption at this public hearing. The text is now correctly incorporated, comments have been received since the last meeting, but no other changes are proposed to the Rule.

Public Comments:

Burt Kallander, Bradbury and Bradbury Wallpapers, Benicia, said he had attended the November 5<sup>th</sup> meeting and has since learned that their small business will not be impacted by the Rule and he supported its approval.

The public hearing was closed.

**Board Action:** Director Wagenknecht made a motion to adopt the proposed amendments to Regulation 8: Organic Compounds, Rule 20: Graphic Arts Printing and Coating Operations, including a revision to Section 8-20-306; Adopt proposed amendments to Regulation 3: Fees, Schedule R: Equipment Registration Fees; Adopt proposed amendments to Regulation 2: Permits, Rule 1: General Requirements; and Adopt a California Environmental Quality Act (CEQA) Negative Declaration; seconded by Director Kishimoto; which was carried by the following roll call vote: (15-0-7) Ayes: Daly, Dunnigan, Garner, Kishimoto, Klatt, Kniss, McGoldrick, Ross, Shimansky, Silva, Smith, Torliatt, Uilkema, Wagenknecht and Hill. Noes: None; Absent: Gates, Brown, Gioia, Haggerty, Lockhart, Miley and Yeager.

**PROCLAMATION/COMMENDATION**

Incoming Chairperson Pamela Torliatt, on behalf of the entire Board of Directors, recognized outgoing Chairperson Jerry Hill for his dedicated leadership and service to air quality in the Bay Area. She cited accomplishments of adoption and implementation of a landmark greenhouse gas fee schedule, the acquisition of \$1.3 million in fees, adoption of the wood-burning device regulation, historic partnerships with CARB and the Port of Oakland, and significant efforts in cleaning up air pollution at the Port and in and around the Bay Area. She then presented him with a crystal gavel, base and service plaque, as well as a framed photograph of the Board of Directors with articles from the New York Times and Contra Costa Times on the Wood Smoke Rule. The Board congratulated outgoing Chairperson Hill and wished him continued success and happiness as Assembly member-elect.

Outgoing Chairperson Hill thanked the Board and spoke briefly of his public service career involving air quality and improvements. He then recognized Executive Officer/APCO Jack Broadbent for his 5 years of service, citing his vision and accomplishments, and welcomed incoming Chairperson Torliatt.

**CLOSED SESSION**

7. **Conference with Legal Counsel – Existing Litigation**

*Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session with legal counsel to consider the following case(s):*

*Peter Rogosin v. Bay Area AQMD, et al., San Francisco Superior Court Case No. CGC 08 478154*

## **OPEN SESSION**

**Report of Closed Session:** District Counsel Brian Bunger reported that the Board of Directors had met in Closed Session, received advice from Counsel and reached an agreement to waive some conflict of interests.

### **8. Report of the Executive Officer/APCO**

Mr. Broadbent gave the following report:

- Tonight is a Spare the Air Night. The Air District is anticipating higher levels of wood smoke and staff is employing outreach and enforcement resources;
- A successful and well-attended meeting was held on Saturday from 10:00 AM to 1:00 PM with Air District staff and Bayview-Hunters Point representatives, and a pilot home filter program was discussed for implementation;
- Mr. Broadbent thanked Chairperson Hill for his outstanding leadership, and on behalf of the Air District, presented him with a framed picture of San Mateo's clean air.

### **9. Chairperson's Report - None**

### **10. Board Member's Comments**

Director Shimansky discussed upcoming scheduled Board and Committee meetings. Director Garner announced his wife will be replacing him on the Board of Directors, as she recently won election to the City of Monte Sereno City Council.

### **11. Time and Place of Next Meeting – 9:45 a.m., Wednesday, December 3, 2008, 939 Ellis Street, San Francisco, CA 94109.**

### **12. Adjournment - The meeting adjourned at 11:23 a.m.**

*/s/ Lisa Harper*  
Clerk of the Boards