

Bay Area Air Quality Management District  
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## **APPROVED MINUTES**

Summary of Board of Directors  
Legislative Committee Meeting  
Thursday, November 12, 2009

- Call to Order:** Chairperson Tom Bates called the meeting to order at 9:34 a.m. without a quorum
- Roll Call:** Chairperson Tom Bates, Vice Chairperson Brad Wagenknecht, Jennifer Hosterman, Carol Klatt, Nate Miley (arrived late)
- Absent:** Dan Dunnigan, Susan Garner, Scott Haggerty and Mark Ross
- Public Comments:** There were no public comments.

### **Summary of 2009 Legislative Year**

Senior Advanced Projects Advisor, Tom Addison, gave the staff presentation, stating that 2009 was not a significant air quality year, primarily because of the State's financial problems. All policy bills that had primary or secondary impacts on State costs did not move far, and many bills which would improve air quality were introduced but did not move far.

He stated there were many efforts to weaken air quality programs and many bills would have imposed new restrictions or regulations on air quality programs. No bill that the District opposed was signed into law, and most of the bills with significant air quality harm or damage failed to make it out of their first policy committee. However, air quality programs were weakened as part of the budget process. The ARB off-road diesel rule was delayed, and agricultural equipment compliance can now be paid for with Carl Moyer program funds. Historically, incentive programs have not been used to pay for compliance, but instead have incentivized projects that go beyond compliance.

Vice Chairperson Wagenknecht questioned and confirmed with Mr. Addison that the action does not force the Air District to provide grant funding to agricultural projects. Rather, applicants would still need to apply and compete for funds.

Mr. Addison noted that the three most significant bills included AB 1431 (Hill) which requires the Port of Oakland to have an emissions reduction program of comparable stringency to those in Southern California. The bill did not move out of its first policy committee. A hearing was held regarding the Port of Oakland which resulted in positive action, and Directors commented that while AB 1431 did not move forward, it was successful because it has influenced the Port.

Mr. Addison stated that the second significant bill dealt with Enhanced Vapor Recovery (EVR), a new CARB regulation on operators and owners of gas stations. This issue was controversial

and the District was close to having a variety of measures passed that would have removed the requirement. This was an example of efforts by business to use the poor economy as an excuse to try to get regulatory rollback.

Director Hosterman confirmed with Mr. Bunger that Bay Area gas stations have an 80% to 90% compliance rate.

Mr. Addison reported that the third bill is SB 406 (DeSaulnier), which allows an increase of \$1 to \$2 in vehicle registration fees to implement SB 375. This passed the legislature but was vetoed by the Governor. There were a number of other bills that the Air District supported that were also vetoed, and Chairperson Bates suggested Mr. Addison briefly highlight them, which he did as follows:

- Senator DeSaulnier authored a bill that deals with a loophole that lets people operate very high polluting kit cars or hot rods. The Governor vetoed it.
- The District supported allowing a combination of grant funds to go towards a single project (AB 1527-Lieu), and the Governor vetoed it.
- SB 728 (Lowenthal) was signed into law, which affects parking policy. It deals with a small set (3%) of employers. Mr. Addison noted that the Air District is in compliance with the law and he briefly provided an explanation of it.

### **Potential Legislative Proposals for 2010**

Mr. Addison suggested that the most important thing the District can do in 2010 is to try not to go backwards, play good defense, and not lose existing programs and authorities. This will be challenging given the State's ongoing financial problems. There will be dramatic pressure to roll back a variety of programs and regulations as part of the budget process.

Director Hosterman suggested not particularly advancing policy, but to plant seeds for future years, and Chairperson Bates believed this could be done in the form of education. He voiced the need to garner support from business and believed it is important to go on the record supporting the majority vote budget without a tax provision being in place, which is before the Secretary of the State as an Initiative. He also suggested strong support for the Constitutional Amendment proposed by Senator Hancock.

Mr. Addison referred to violators of air pollution laws and the sanctions or penalties they face, stating that the last change in air penalties law was in 2000, which was co-sponsored by the Air District. Mr. Addison said that in looking forward to 2010, the District could co-sponsor legislation working on improving air penalties and addressing shortcomings in their structure. There are several environmental organizations interested in doing this and one idea could be for the District to co-sponsor a bill to improve and reform the historic air penalties, for example by increasing the penalty ceilings with inflation over time.

Mr. Addison said another idea has to do with the smog check program, which is dramatically underperforming in terms of emission reductions. This is mostly due to the fact that cars tend to be clean for a day, and a month later, they may be a gross polluter. He cited the existence of fraud, repairs not being durable and other reasons for the dysfunctional program. To improve smog check there was a Senate Bill the District had supported but did not sponsor, that failed to advance which included motorcycles in the program. He stated that motorcycles are 52 times

more polluting per mile driven than cars. In addition, many motorcycles are illegally modified by the time they leave the dealership.

Mr. Addison stated that a broader proposal would be fundamental reform of the smog check process, and he suggested an 'on-board diagnostics' (OBD) system, briefly explained its use and its financial advantage to consumers. Directors requested and confirmed with Mr. Addison that no one was legislating on the issue and that information on OBD be presented at the next Legislative Committee meeting.

Mr. Broadbent suggested the Committee also talk about efforts to get federal monies directed to the Air District. He suggested working with the Port of Oakland, returning to Washington, D.C. to lobby for some of the DERA money, TIGER grants, Federal stimulus funding, DOE money, and other federal funds, and Directors agreed with this direction.

Mr. Addison confirmed that direction is for staff to pursue three (3) bills: smog check reform, air pollution law penalties and COLA, and inclusion of motorcycles in smog check, and to bring information back at the next meeting.

Chairperson Bates also asked that the Air District pursue support for a majority vote budget by Senator Hancock and explore a legislative package with the Port of Oakland and work in strengthening ties in Washington, D.C.

**Approval of Minutes:** Director Hosterman moved to approve the minutes of April 15, 2009; seconded by Director Miley; carried unanimously without objection.

**Committee Members' Comments**

Director Miley referred to Alameda County's work with agencies in taking positions on ballot measures and questioned whether the District could do the same. Mr. Bunger agreed to follow-up with the request.

**Time and Place of Next Meeting:** Thursday, January 14, 2009 immediately following the Climate Protection Committee Meeting.

**Adjournment:** Meeting adjourned at 10:41 a.m.

*/s/ Lisa Harper*  
Lisa Harper  
Clerk of the Boards