

**Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109
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APPROVED MINUTES

Summary of Board of Directors
Stationary Source Committee Meeting
9:30 a.m., Monday, January 12, 2009

- 1. Call to Order – Roll Call:** Chairperson John Gioia called the meeting to order at 9:34 a.m.

Present: Chairperson John Gioia; Vice Chairperson Carol Klatt; Committee Members Sue Garner, Scott Haggerty, Nate Miley, Michael Shimansky, Gayle B. Uilkema and Brad Wagenknecht

Absent: Mark Ross

- 2. Public Comment Period:**

Audrey LePell, Citizens Against Pollution (CAP), questioned CARE program efforts and requested a calendar of meetings.

Michael Boyd, CARE, questioned the Air District's compliance with Brown Act and Clean Air Act requirements, and requested the agenda contain additional, descriptive information.

Francisco DaCosta, Environmental Justice Advocacy, spoke of recent investigations by law enforcement officials regarding pollution activities by Lennar.

Willie Ratcliffe voiced concerns about pollution in Bay View Hunters Point.

Mr. Broadbent explained that Bay View Hunters Point would be discussed under Agenda Item 6. Mr. Bunger reported that the agenda was Brown Act-compliant, and that additional description could be provided in the future.

- 3. Approval of Minutes of September 15, 2008:** Director Shimansky moved approval of the minutes, seconded by Director Haggerty; carried unanimously without objection.

Chairperson Gioia announced that Item 6 would be moved up on the agenda for the benefit of audience members.

- 6. Status Update on Various Bay Area Projects and Facilities:** *The Committee received a status report on various Bay Area projects and facilities.*

Deputy APCO Jeffrey McKay, gave the staff report, stating concern had been expressed regarding several Bay Area projects and facilities which fall under the Air District's regulatory jurisdiction, which includes:

1. Pacific Steel Casting Company;

2. Custom Alloy Scrap Sales;
3. Russell City Energy Center Project;
4. Lennar Bay View Hunters Point Shipyard Parcel A' Redevelopment Project;
5. Lehigh Southwest Cement Plant (formerly Hanson).

Mr. McKay described each facility, its products and operations, emission controls, and specific community concerns associated with each facility, as follows:

Pacific Steel Casting Company - Foundry facility that produces steel castings, consisting of three separate plants that produce castings of different sizes and shapes. Sources of PM are controlled by baghouse and odorous pouring and cooling emissions are controlled by baghouse and carbon adsorber. Community concerns consist of odors and toxics-especially metals.

Actions taken: Carbon adsorbtion units; capture of fugitive emissions from furnaces; switch to lower VOC binders; odor management plan; health risk assessment; Berkeley air monitoring station results due in February, and continuation of frequent inspections.

Committee members requested specific data regarding emissions, actual numbers of the source and investment by company of technology improvements, and asked that a cumulative risk assessment be reviewed when the District embarks upon this in the upcoming year.

Custom Alloy Scrap Sales, Inc. – Metal recycling facility established in 1970. Sweat and holding furnace are abated by afterburners and baghouse; reverberatory furnace is abated by baghouse; control devices have continuous monitors. Community concerns consist of toxics – especially metals, odors, visible emissions, and truck emissions.

Actions taken: Health risk screening analysis; increased frequency of inspections; commitment to conduct ambient air monitoring; outreach to truck operators regarding grant funding.

Mr. McKay confirmed with Committee members that specific data and numbers regarding emissions, as well actual numbers of the source and investment by company of technology improvements, could similarly be provided for all projects.

Russell City Energy Center (Proposed) – Power plant project. Exclusive use of natural gas; NOx: Selective catalytic reduction; CO, POC: Oxidation catalysts; All necessary regulatory approvals in 2002 and there is an amended proposal in 2006 to move the site 1,300 feet. The 2006 Permit Amendment - CEC License issued in September 2007; District Authority to Construct issued in November 2007, and unsuccessful appeals to the CA Supreme Court and Hearing Board; EPA Environmental Appeals Board remanded PSD Permit; re-noticing has been completed, and a public hearing is scheduled for January 21, 2009.

Committee members questioned the purpose of the public hearing and best available technology, confirmed that the CEC is the lead agency, that the Air District does not have a Rule on imposing additional conditions on the permit relative to the cumulative impacts the facility may cause, but additional or more stringent permit conditions could be imposed if significant, new information were brought forward.

Lennar Bay View Hunters Point Shipyard Parcel A' Redevelopment Project – 1,600 single family home project; area of naturally occurring asbestos; requires an Asbestos Dust Mitigation Plan (ADMP) which District approved. Grading began in January 2006 and two NOV's were issued. District staff continues to conduct daily on-site inspections and hold meetings with community members. Recent events include air monitor readings exceeding the "stop-work" action level on

12/29/08 and 12/30/08, and an investigation is underway to determine facts and analysis of cause.

Committee members confirmed with staff that the stop work orders were one-day orders. An investigation timeline would be prepared and a process for utilization of settlement funds can be developed potentially through an advisory group process.

Lehigh Southwest Cement Plant (formerly Hanson) – A quarry and cement plant established in 1939. Facility converted from a wet process to a more efficient dry process kiln system in 1980; permit condition change issued in May 2007 to allow for switch to 100% coke usage. EPA requested demonstration that the fuel switch project did not trigger PSD permit requirements.

Community concerns include quarry reclamation plan amendment, currently on hold, which would move their quarry work closer to the community, concerns of hexavalent chromium, mercury, asbestos, dust/particulate matter and truck emissions.

The Health Risk Assessment determined mercury and chromium emissions were not significant. Further testing is being done for metals content in fugitive dust. CARB determined that asbestos ATCM does not apply, the District has installed continuous PM ambient air monitor, and outreach continues with truck operators regarding grant funding.

Committee members discussed the investigation and legal processes if it is determined violations occurred and confirmed that the matter would be addressed in an expedient timeframe.

Committee members requested that a briefing be provided on the two new power plants in Contra Costa County, specifically Antioch and Pittsburg. Also requested were Fact Sheets to be posted to the District's website for each project.

Public Comments:

Cameron Wilson, Global Community Monitor, expressed concerns of odor, dismantling activities and emissions at Custom Alloy Scrap Sales in Oakland.

Ray Kidd, West Oakland Air Monitors, felt the CASS issue was best addressed under the CARE program, discussed a nearby school downwind from the facility, air sampling and elevated levels of contaminants.

Michael Boyd, CARE, distributed a claim/complaint to bring legal action against Lennar in federal court for exposure of residents and workers in Bay View Hunters Point. He discussed various allegations and extended an invitation to staff and Board Members to the January 15th Town Hall meeting at the Grace Tabernacle Church.

Committee members confirmed with Mr. Boyd that he hoped to specifically gain public participation prior to entering into settlement agreements, wants meaningful and informed CEQA noticing on the Asbestos Dust Mitigation Plan, assistance in collecting damages and confirmed that a public meeting would be held Wednesday, January 21, 2009 at the Hayward City Hall.

In response to questions of Committee members, Mr. Bunger explained the legal process in addressing the complaint.

Denny Larson, Global Community Monitor, requested immediate action be taken against open air dismantling operations at CASS by the public, which was causing high levels and release of toxics.

Ernest Pacheco, Citizens Against Pollution, disagreed with the adequacy of noticing requirements for the Russell City Energy Center and asked that the District identify that the PDOC is invalid and require the applicant to re-file for a license.

In response to questions of Committee Members, Mr. Bunger said the District's noticing was done correctly and staff was moving forward with the required process. He confirmed the public meeting would be held Wednesday, January 21st and that the comment period closes January 23, 2009.

Audrey LePell, Citizens Against Pollution, described the additional presence of Acrolein, questioned the PSD process and noted the numerous public comments made.

Linda McFadden, WDAM, said she looks forward to moving forward and collaborating on the CARE program, discussed the notice of violations issued to CASS and asked for enhanced enforcement and regulation of scrap metal industries.

Andy Wilson, CAP and CAL Pilots, discussed a paper regarding thermal plumes which he said may affect the Russell City project and airports. He requested a new, 45-day notice for the first hearing and an additional 45-day notice on the second hearing in Hayward.

Francisco DaCosta, Environmental Justice Advocacy, voiced opposition over exceedances, the settlement amount, monitoring of Lennar, and health impacts.

Rob Simpson, discussed fast start technology, noted over 600 public comments were received on the Russell City project and said if the PSD permit was remanded, the Authority to Construct should also be remanded.

Willie Ratcliff spoke of exceedances at the Lennar site, voiced concern over the public's health, and asked that the settlement money be used to test emissions.

Elizabeth M. deRham, Rose Foundation for Communities and the Environment, discussed their work with high school students, said the City of Oakland has pressed charges against CASS for hazardous materials violations, asked that CASS be included in the CARE Program, voiced concern over scrap metals being broken down and lead, aluminum, cadmium and other toxins being released, and requested additional testing be provided.

Leslie Fowler, West Valley Citizens Air Watch, spoke of schools affected by the Lehigh Southwest Cement Plant, smells, residue on cars and driveways caused from the plant, requested the plant be retrofitted for cleaner, natural gas, and spoke of health impacts.

Joyce Eden, West Valley Citizens Air Watch, believed the Lehigh plant was not adequately regulated, voiced concern over cancer and asthma-related illnesses, disagreed that petroleum coke was less polluting, asked that the Fact Sheets be posted to the District's website, and believed that the Board had the power to make regulations more protective.

Lynne Brown, CARE, voiced concern about Lennar's continuation of work under stop notices, thinks that 16,000 cubic centimeters of asbestos is significant and spoke of health impacts.

Mr. Broadbent noted that decisions on permitting are established by the APCO and handled by staff that issue the permit and/or deny permit applications. They are not determined by the Board of Directors; however, staff was seeking further direction. He did not recommend extending the public comment period for Russell City and requested Mr. Bateman discuss the PSD process.

Director of Engineering, Brian Bateman, discussed the hearing process, public comment period, and process of determining the need for more stringent permit conditions.

Director of Enforcement, Kelly Wee, discussed approaches to controlling emissions from construction activities at Lennar through the Asbestos Dust Mitigation Plan and ambient monitoring, and said levels were set to be consistent with other air projects and guidelines.

Committee Members discussed with staff re-noticing of the public hearing, the CEC process, administration of the PSD permit, additional placement of monitoring devices, meetings between Air District staff and communities, request for website information and links to the Response to Comments document, retrofit of machinery and state-of-the-art technology, potential implementation of more stringent regulatory options, and keeping the Board of Directors updated weekly on each project.

4. Proposed Amendments To Regulation 8, Rule 33: Gasoline Bulk Terminals And Gasoline Delivery Vehicles And Regulation 8, Rule 39: Gasoline Bulk Plants And Gasoline Delivery Vehicles: *The Committee received an update on proposed amendments to Regulation 8, Rule 33: Gasoline Bulk Terminals and Gasoline Delivery Vehicles and Regulation 8, Rule 39: Gasoline Bulk Plants and Gasoline Delivery Vehicles*

Senior Air Quality Engineer, Guy Gimlen, presented an update on the proposed amendments to Regulation 8, Rule 33: Gasoline Bulk Terminals and Gasoline Delivery Vehicles and Regulation 8, rule 39: Gasoline Bulk Plants and Gasoline Delivery Vehicles.

He gave a background on the 2005 Ozone Strategy Control Measure SS-7 and said rules apply to loading of liquid gasoline from a gasoline terminal or a gasoline bulk plant. Terminals, bulk plants and delivery vehicles must meet California Air Resources Board requirements and be certified. He stated that Regulation 8, Rule 33 was adopted in 1983 and last amended in 1994, and Regulation 8, Rule 39 was adopted in 1987 and last amended in 1994.

Mr. Gimlen presented a gasoline bulk terminal and bulk plant distribution system chart and a graphic of a typical gasoline cargo tank at a loading rack, and reported that the proposed amendments will:

- Reduce emissions standard
- Monitor vapor recovery performance
- Install pressure sensors
- Monitor vapor storage tanks
- Reduce liquid leak limit
- Install additional valves for maintenance
- Provide portable container for cleanup and maintenance
- Hang vapor hoses out of the truck driveway
- Install sample lines
- Develop a monitoring, inspection, notification and reporting protocol

He further described emission reductions and costs, stating that:

- Current emissions are 0.52 tons per day
- 10% emissions reduction – 0.06 tons per day
- Reduce frequency and magnitude of emissions from episodic events.

He presented cost estimates for the various proposals as follows:

- Vapor Recovery Unit monitors: \$100,000 capital, \$18,000 annually;
- Pressure sensors/alarms per loading rack: \$20,000 capital, \$3,400 annually;
- Additional Valves: \$1,000 each
- Portable Maintenance Container: \$5,000
- Vapor hose hanger: \$500 each
- Sample lines: \$1,500 each

He noted that cost effectiveness ranged from \$4,000 to \$25,000 per ton of reduced VOC's, that the California Air Resources Board has the sole authority to reduce vapor limits, and they have been asked to review this. Staff will be proposing a resolution for consideration by the Board to direct staff to request CARB lower limits across the state.

Committee Members briefly discussed vapor recovery systems, gasoline facility seals, and potential leakage when the smell of gas was present.

Regarding the Rule development process, Mr. Gimlen discussed the holding of several meetings and workshops with Western States Petroleum Association (WSPA), bulk terminal operators and regular terminal operators, conference calls, and said minor revisions were made based on comments received. He noted that seven facilities were already in compliance with the Rules, no significant adverse impacts were found after completion of CEQA and socio-economic analyses, the public comment period closes on January 21, 2009, and a public hearing is set for February 4, 2009.

Public Comments:

Dennis Bolt, WSPA, clarified that the locations are those that receive the finished product for distribution to retail outlets. He said their organization has not been able to meet, voiced concern about facilities being able to comply given manpower and technology, and asked that the Rules' adoption be held off another month.

There was consensus among Committee Members for the item to move forward to the full Board of Directors at the February 5, 2009 public hearing.

- 5. Proposed Amendments To Regulation 8, Rule 3: Architectural Coatings:** *The Committee deferred the item regarding an update on proposed amendments to Regulation 8, Rule 3: Architectural Coatings to the next regular meeting.*
- 7. Consideration and Discussion of Draft Protocol for Notification of Settlements:** *The Committee considered a protocol for notification of the Board and the Public when high profile settlements are reached.*

Executive Officer/APCO, Jack Broadbent said at its October 1, 2008 meeting, the Board directed that the Stationary Source Committee discuss and develop a threshold for notification of high profile settlements to the Board, which came out of facts surrounding the Lennar settlement. He discussed the proposed protocol, as follows:

- A notification threshold of \$100,000 will result in approximately five notifications per year;
- All Board Members will be notified within three business days of settlement;
- The public will have access to a list server to provide notification within three business days of settlement;
- Receipt of funds is not guaranteed following settlement: re-notification may be required.

Committee Members discussed the settlement agreement, notification process and the number of press releases per year. Chairperson Gioia requested that all Board Members be notified within one business day and for Mr. Broadbent to exercise his discretion in notifying the Board under circumstances where the threshold is under \$100,000.

Public comments:

Francisco DaCosta, Environmental Justice Advocacy, supported fine-tuning of the notification process.

Michael Boyd, CARE, voiced objection to the proposed protocol, stated it was not in compliance with the Clean Air Act and requested proper noticing.

Chairperson Gioia requested Mr. Bunker review the policy to ensure it met all legal requirements including the Clean Air Act, and to include the policy in the Board staff report for the January 21, 2009 Board of Directors meeting. Director Torliatt questioned whether there was a threshold for a press release and a threshold for notice to the Board, and requested that a written policy be developed.

There was no action to be taken, and the Committee received and filed the report.

8. **Committee Member Comments/Other Business:** There were none.
9. **Time and Place of Next Meeting:** Monday, 9:30 a.m., March 16, 2009.
10. **Adjournment:** The meeting adjourned at 12:17 p.m.

/s/ Lisa Harper
Clerk of the Boards