

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
(415) 749-5073

Board of Directors Regular Meeting
Wednesday, December 17, 2014

APPROVED MINUTES

Note: Audio and video recordings of the meeting are available on the website of the Bay Area Air Quality Management District at <http://www.baaqmd.gov/The-Air-District/Board-of-Directors/Agendas-and-Minutes.aspx>.

1. **CALL TO ORDER:** Chairperson Nate Miley called the meeting to order at 9:54 a.m.

Opening Comments: None.

Roll Call:

Present: Chairperson Nate Miley; Vice-Chairperson Carole Groom; Secretary Eric Mar; and Directors Susan Adams, John Avalos, Teresa Barrett, Tom Bates, John Gioia, Scott Haggerty, David Hudson, Ash Kalra, Liz Kniss, Jan Pepper, Mark Ross, Jim Spring, Brad Wagenknecht and Shirlee Zane.

Absent: Directors Cindy Chavez, Margaret Fujioka, Roger Kim (on behalf of Edwin Lee), Carol L. Klatt (resigned) and Mary Piepho.

Pledge of Allegiance: Chairperson Miley led the Pledge of Allegiance.

2. **PUBLIC COMMENT ON NON-AGENDA MATTERS:**

Andrés Soto, addressed the Board of Directors (Board) regarding the growing concern among the population, various community groups and entities of west Contra Costa County about the crude-by-rail operations and the Air District permit relative to Kinder Morgan's operations.

NOTED PRESENT: Director Avalos was noted present at 9:56 a.m.

David McCoard, Sierra Club, addressed the Board regarding the decision by the Sacramento Metropolitan Air Quality Management District to conduct an environmental review of a crude-by-rail project and to encourage the same by the Air District relative to the Kinder Morgan permit.

Sylvia Gray-White, Communities for a Better Environment (CBE), addressed the Board regarding the air quality in and around Richmond.

Bill Pinkham, 350 Bay Area / Sunflower Alliance / Richmond Environmental Justice Coalition, addressed the Board regarding the urgency of the decisions being made.

Diane Bailey, Natural Resources Defense Council (NRDC), addressed the Board to reiterate messages of grave concern from a coalition of the Bay Area population, various community groups and organizations relative to the Kinder Morgan crude-by-rail permit and to urge consideration of public safety with such significant infrastructure in close proximity to railways within the Bay Area and a response to the City of Richmond's letter request for revocation of the same permit.

NOTED PRESENT: Director Mar was noted present at 10:03 a.m.

Ratha Lai, Sierra Club SF Bay, addressed the Board to echo the comments of Ms. Bailey relative to public concern about the Kinder Morgan crude-by-rail project and to ask why the permit has not yet been revoked in the name of community safety and public health.

Marie Walcek, California Nurses Association (CNA), addressed the Board regarding the danger of the recent train derailment in Richmond and the implications for the community had it been transporting crude oil and to ask for the revocation of the Kinder Morgan crude-by-rail permit.

Pilar Schiavo, CNA, addressed the Board regarding the series of incidents at the Chevron Richmond refinery and the need to take action now to prevent additional incidents in the future and to request responses to the City of Richmond's and CNA's requests for revocation of the Kinder Morgan crude-by-rail permit.

Carolyn Bowden read from a written statement by the CNA regarding the health impacts of air pollution.

Michelle Veneziano, D.O., addressed the Board regarding the health impacts of refinery emissions and the reliance of the public on regulatory bodies to mitigate those impacts due to their inability to do so on an individual basis.

NOTED PRESENT: Director Kalra was noted present at 10:13 a.m.

Eduardo Martinez addressed the Board to announce the successful election to the Richmond City Council of three candidates supported by the Richmond Progressive Alliance and to request the revocation of the Kinder Morgan permit and a moratorium on permits for crude-by-rail projects.

Charles Davidson addressed the Board to request review and revocation of the Kinder Morgan permit and to relay detailed chemistry information regarding the volatility and flammability of the materials involved in the refining process.

CONSENT CALENDAR (ITEMS 3 – 8)

- 3. Minutes of the Regular Board Meeting of December 3, 2014;**
- 4. Board Communications Received from December 3, 2014 through December 16, 2014;**
- 5. Air District Personnel on Out-of-State Business Travel;**
- 6. Notice of Violations Issued and Settlements in Excess of \$10,000 in the month of November 2014;**

7. **Proposed Regulatory Agenda for 2015; and**
8. **Notification of Proposed Future Adoption of Amendments to the Air District's Administrative Code, Division I: Operating Policies and Procedures, Section 7 Advisory Council.**

Board Action:

Director Wagenknecht made a motion, seconded by Director Hudson, to approve Consent Calendar Items 3 through 8, inclusive.

Public Comments:

Jed Holtzman, 350 Bay Area, addressed the Board regarding Agenda Item 7, *Proposed Regulatory Agenda for 2015*, to praise the wide range of topics and, specifically, those relating to climate protection efforts; to suggest strong climate action, instead of monitoring, in the face of the knowledge that global fossil fuel reserves will generate carbon emissions well in excess of the carbon budget suggested by climate scientists.

Greg Karras, CBE, , addressed the Board regarding Agenda Item 7, *Proposed Regulatory Agenda for 2015*, to note that over 100 rules are slated for adoption in 2015 with only three making mention of greenhouse gases (GHG) and to echo the comment of Mr. Holtzman regarding fossil fuel reserves.

Mark Roest, Bay Climate Action Plan / Seawave Battery, submitted written material and addressed the Board regarding Agenda Item 7, *Proposed Regulatory Agenda for 2015*, to urge the Air District to follow the lead of local jurisdictions that have mandated the transition from wood to electricity and the reduction of energy and water use, to incentivize solar and to suggest that with near cost parity of fossil and renewable fuels, there is no public need to continue with business as usual.

Steven Nadel, Sunflower Alliance, addressed the Board regarding Agenda Item 7, *Proposed Regulatory Agenda for 2015*, to request greater democratization of the Air District processes, reduced energy demand through electrification, increased analysis of implementation of best available control technology (BACT), replacement of all possible combustion with electrical power, development of programs that promote new technology and greater protections of community health and safety.

Board Comments:

Director Gioia clarified that all of the rules and regulations scheduled for possible work in 2015 are on the list prepared by staff.

Board Action (continued):

The motion carried by the following vote of the Board:

AYES:	Adams, Avalos, Barrett, Gioia, Groom, Haggerty, Hudson, Kalra, Kniss, Mar, Miley, Pepper, Ross, Spering, Wagenknecht and Zane.
NOES:	None.
ABSTAIN:	None.
ABSENT:	Bates, Chavez, Fujioka, Kim, Klatt and Piepho.

COMMITTEE REPORTS

9. Report of the Personnel Committee (PC) Meeting of December 15, 2014

Committee Chairperson Wagenknecht

The PC met on Monday, December 15, 2014, and approved the minutes of September 22, 2014.

The PC received and discussed the staff presentation *Discussion Regarding Advisory Council (Council) Structure for 2015*, including a summary of the recently adopted Senate Bill 1415; future Council Structure and function; and next steps.

The PC then received the staff report *Consider Recommending Board Approval of Incumbent Reappointments to the Air District's Council* and the PC recommends Board approval of incumbent reappointments to the Council.

The PC then received and discussed the staff presentation *Equal Employment Opportunity and Plan (EEOP)*, including the purpose of EEOPs; the history of the EEOP at the Air District; Air District recruitment process; and other equal employment opportunity-related provisions at the Air District.

The next meeting of the PC is at the call of the Chairperson.

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Wagenknecht made a motion, seconded by Director Adams, to approve the recommendations of the PC; and the motion carried by the following vote of the Board:

AYES: Adams, Avalos, Barrett, Bates, Gioia, Groom, Haggerty, Hudson, Kalra, Kniss, Mar, Miley, Pepper, Ross, Spering, Wagenknecht and Zane.

NOES: None.

ABSTAIN: None.

ABSENT: Chavez, Fujioka, Kim, Klatt and Piepho.

10. Report of the Ad Hoc Building Oversight Committee (AHBOC) Meeting of December 15, 2014

Committee Chairperson Miley

The AHBOC met on Monday, December 15, 2014, and approved the minutes of June 18, 2014.

The AHBOC received and discussed the staff presentation *Regional Agency Headquarters – 375 Beale Street, Project Status Report*, including a construction update and future schedule and photographs of construction and schematics of floor designs.

The AHBOC then received and discussed *Regional Agency Headquarters – 375 Beale Street, Construction, Furniture, and Network Redesign Costs*, including background; progress on construction and shared services to date; fiscal year ending (FYE) 2015 shared services and construction project budget plan; and staff recommendations. The AHBOC recommends the Board:

1. Authorize the Executive Officer/Air Pollution Control Officer (APCO) to reimburse the Bay Area Headquarters Authority an additional \$500,000 for building redesign and construction; furniture; network redesign and consulting work associated with the Air District’s tenant improvements and shared services costs at 375 Beale Street; and
2. Increase the FYE 2015, Program 702, budget by a corresponding \$500,000, to be transferred from the Air District’s Building and Facilities reserve.

The next meeting of the AHBOC is at the call of the Chairperson.

Board Action:

Chairperson Miley made a motion, seconded by Director Sperring, to approve the recommendations of the AHBOC.

Board Comments:

The Board and staff agreed to postpone the staff presentation, *Regional Agency Headquarters – 375 Beale Street, Project Status Report*, until the Board’s annual Special Meeting and Retreat on January 21, 2015, and discussed the level of reserves remaining after the proposed transfer.

Public Comments: No requests received.

Board Action (continued):

The motion carried by the following vote of the Board:

AYES:	Adams, Avalos, Barrett, Bates, Gioia, Groom, Haggerty, Hudson, Kalra, Kniss, Mar, Miley, Pepper, Ross, Sperring, Wagenknecht and Zane.
NOES:	None.
ABSTAIN:	None.
ABSENT:	Chavez, Fujioka, Kim, Klatt and Piepho.

PRESENTATIONS

11. Bay Area Refinery Emissions Reduction Strategy

Jack Broadbent, Executive Officer/APCO, introduced the topic and Gregory Nudd, Rule Development Manager of the Planning, Rules and Research Division, who gave the staff presentation *Bay Area Refinery Emissions Reduction Strategy*, including background; evaluation criteria; Bay Area RECLAIM [REgional CLean Air Incentives Market]; community/worker; WSPA [Western States

Petroleum Association]; periodic control technology review; BARCT [Best Available Retrofit Control Technology]/focused toxics; “grandfathered” sources and high emitters; identifying emission reduction opportunities for Clean Air Plans; opportunities for emission reductions; summary of evaluation; proposed approach; and next steps.

The Board and staff discussed, at slide 11, “*Grandfathered*” Sources and High Emitters, the impact of and total emissions for the less than 3% that are not subject to either BARCT or BACT.

Mr. Nudd continued the presentation.

The Board and staff discussed, at slide 13, *Opportunities for Emission Reductions*, the definitions of the terminology and color coding used; the amount of emissions avoided through control technology that are not reported in the chart; whether red areas leave room for improvement; how and when control technologies are further enhanced; whether refinery opportunities for sulfur oxides (SOx) emissions reductions means there are no rules relative to SOx at this time and whether other SOx opportunities exist among non-refinery emitters; the public health impact of SOx; the best prioritization of opportunities and whether the emission types will be dealt with sequentially or collectively; and the impact of emissions limits and regulations on “grandfathered” sources.

Mr. Nudd concluded the presentation.

Mr. Broadbent commented on the staff process of exchanging proposals and thanked the stakeholder participants; suggested the staff proposal is comprised of the best aspects of each proposal; explained that the staff proposal does not address GHGs based on the staff recommendation that the Air District wait for the results of the State’s cap-and-trade program to avoid potential conflicts; and suggested that adoption of the staff proposal would represent a historic decision that will lead to significant reductions.

Board Comments:

The Board and staff discussed the proposals as very specific strategies for addressing a very complex situation and operations; the importance of developing rules in tandem, not serially, and the likely timeline under that approach; the likelihood that proposed rules would be bundled for development and approval and then refined further later as part of an overall package around the end of 2015; the noteworthiness of the significant reductions achieved under the Air District’s stewardship and the Air District as the first agency in the United States to impose fees on GHGs; the importance of addressing SOx and nitrogen oxides (NOx) emissions from both refinery and non-refinery sources simultaneously; the recent emergency declaration in Sonoma County as evidence of the importance of Air District reductions of GHGs to avoid climate impacts; who conducts the required health risk assessments (HRAs) for refineries and who reviews or approves them; the importance of independent review in place of guidelines and protocols; the possibility of asking the California Office of Environmental Health Hazard Assessment to comment on each HRA; whether self-monitoring by refiners relative to continuous improvement and additional controls is an acceptable substitute for Air District evaluations; gratitude for public participation; clarification that the continuous improvement

process, when finalized, will include Air District evaluation and how that will likely work; the meaning of “strive to achieve” on slide 15, *Proposed Approach*, and how that will transpire in light of the applicable Health and Safety Code (HSC) and the rule-making process; and the likely impact of 20% reductions on the numbers provided on slide 13, *Opportunities for Emission Reductions*.

Public Comments:

Guy Bjerke, WSPA, addressed the Board to suggest the current proposal prejudices and subverts the clean air plan prepared by staff, that the Board should let the traditional rule-making process occur instead and that SO_x was not addressed by staff in the past because the Air District is in attainment of the state and federal standards.

Kathy Wheeler, Shell, addressed the Board to opine that “grandfathered sources” is a misunderstood term relative to Bay Area refineries and that none of the Shell operations fall under the definition provided in today’s staff presentation; that thirty Air District rules apply to each and all of the Bay Area refineries, which taken together represent the most stringent standards in the nation and cover all of the sources; and that every source is regulated and will be further regulated by the refinery emissions tracking rule.

David Farabee, Pillsbury Winthrop Shaw Pittman on behalf of WSPA, addressed the Board to suggest that the key criterion for evaluation of strategies is compatibility with HSC and to provide a reminder of the legal requirements for Board actions.

Matthew Buell, Tesoro, addressed the Board regarding the significant improvements made through past rule-making; the Proposed Regulatory Agenda for 2015 shows further reductions are forthcoming; and to support the WSPA strategy based on its compatibility with HSC.

Bill Quinn, California Council for Environmental and Economic Balance (CCEEB), addressed the Board in support of the WSPA strategy based on its compatibility with HSC and regulatory transparency.

Don Cuffel, Valero, addressed the Board regarding his and his employer’s commitment to air quality and their support for a fact-based discussion and suggested the statements by CBE do not align with air quality information provided by the U.S. Environmental Protection Agency.

Greg Karras, CBE, addressed the Board to suggest the statements alluded to be Mr. Cuffel are drawn from Air District material; in support of and to compliment the staff proposal along with a request for direction to staff to adopt the rule in 2015; to request a strengthening of the study language; to suggest that additional GHG reductions will actually help, not conflict with, the cap-and-trade market; and to suggest that further reductions are possible.

Ms. Bailey addressed the Board to echo the comments by Mr. Karras and to suggest that while public health has improved, more work remains and that refinery emissions have a disproportionate impact for fence-line communities and federal ambient air quality standards do not speak accurately to this impact.

Mr. Soto addressed the Board to suggest that refinery self-evaluation is not a good policy given their track record and that federal ambient air quality standards are an inadequate final standard.

Nancy Rieser, Crockett-Rodeo United to Defend the Environment, addressed the Board to opine that jubilant WSPA representatives in the audience prior to the meeting being called to order implies a public loss and in support of imposing emission limits today that include GHGs.

Jed Holtzman, 350 Bay Area, addressed the Board in support of the staff proposal with reservations about the exclusion of GHGs; to note Air District literature suggests options for the public to minimize air quality impacts without equal demands on industry; to suggest that more is needed from Air District regulations than tracking, reviewing and reporting; and to request that GHGs are not ignored.

Ethan Buckner, Forest Ethics, addressed the Board to thank Director Kalra for his service; to suggest the public is disappointed with the staff proposal to leave railcars in the hands of the federal government; and to request the revocation of the Kinder Morgan permit.

Jeff Kilbreth, Richmond Planning Commission, addressed the Board regarding his lack of understanding about why the staff presentation being focused on only three of the hundreds of actual criteria air pollutants; to suggest there is no reason to believe that GHG reductions beyond 20% are not easily attainable; in support of increased transparency about the BACT for each emission; to opine that the health risk data and factors are completely unacceptable in the model; and to suggest there is a need to both determine where emissions tracking is adequate or inadequate and know the lead time for refinery updates.

Eduardo Martinez addressed the Board to suggest the WSPA proposal is obviously concerned with profitability, not health impacts, and there is a need to be concerned about global, not just local health.

Mr. McCoard addressed the Board to request retrofitting of the BACT for fluid catalytic crackers as soon as possible as there is no excuse for their continued toxic emissions; in support of 20% reductions by 2020; and to suggest the staff proposal is timid relative to GHGs and deserves another hard look at what can be achieved.

Mr. Lai addressed the Board to thank the staff and Board and to request the inclusion of GHGs.

Ms. Walcek addressed the Board to thank the staff and Board; to suggest that more can be done; to report that the impacts of air quality can be seen firsthand by nurses; and to opine that the cost-benefit analysis for the public is relative to the cost of their own health, not a profit.

Nick Despota, Sunflower Alliance, addressed the Board in gratitude and to question the statement by staff that a GHG proposal now may negatively impact the implementation of the State cap-and-trade program.

Colin Murphy addressed the Board to echo the statements by representatives of CBE and NRDC; and to suggest that international leaders are failing to combat climate change and the public depends on regional leaders to bring about the necessary change and that a social justice component is present in this debate.

Kristin Connelly, East Bay Leadership Council, addressed the Board in appreciation of the complexity of the issues and to urge all involved to work towards the promotion of economic vitality in balance with quality of life.

Heather MacLeod addressed the Board regarding her education on the topic being in preparation for educating her elementary school students; to report their concerns as relative to GHG-related impacts; and to suggest that many options exist to get away from fossil fuels now.

Jan Cecil, 350 / Sunflower Alliance, addressed the Board to suggest the State cap-and-trade program may worsen the air quality situation in the Bay Area and to ask whether the billion-dollar oil companies are the ones who get to determine what is cost effective.

Board Comments (continued):

The Board and staff discussed the great work that has been done and remains outstanding; that all of the measures discussed will create jobs, not eliminate them; to clarify that GHGs are an important concern, which the California Air Resources Board (ARB) indicates the state is on track to achieve the 20% target reductions by 2020, but that toxic air contaminants are the focus of this process because of their impacts for neighboring communities; encouraging industry representatives to cease obstructing GHG progress at the state level in light of comments made locally that GHGs are being dealt with at the state level; clarification of the timing of the staff proposed approach; and that the emissions tracking rule is in process for Board consideration in the spring of 2015 which will address many of the concerns raised today.

Board Action:

Director Gioia made a motion, seconded by Director Ross, to approve the staff proposed strategy.

Board Comments (continued):

The Board and staff discussed the context for a 20% reduction and the meaning of “strive to achieve” in slide 15, *Proposed Approach*, as it applies to various categories; the need for latitude in measures that acknowledges the challenges of achieving goals and a history of being sued by parties over measures they supported in public meetings; the inclusion of socio-economic impact reports in staff analyses; the history of reductions through the traditional rule-making approach and concern about deviating and remaining effective; the commendable targets despite industry dissatisfaction; encouragement of third-party independent review of HRAs; whether the proposed periodic technology reviews will be a public process and the possible complications that could arise under “business confidential” claims; what the Air District would do if there was a decision to regulate GHGs immediately and staff’s recommendation relative to the timing of GHG proposals; whether the Air District will be monitoring the rolling out of the State cap-and-trade program; whether staff can provide a number of potential opportunities and proposals in the interim; the commendable staff approach; whether and how Air District work relative to climate protection compliments the strategy being discussed; and whether Richard Corey, Executive Officer, ARB, might be able to present to the Board on the State cap-and-trade program and concerns relative to aligning it with other regulations and programs.

Board Action (continued):

The motion carried by the following vote of the Board:

AYES: Avalos, Barrett, Bates, Gioia, Groom, Haggerty, Hudson, Kalra, Kniss, Miley, Pepper, Ross, Spering, Wagenknecht and Zane.
NOES: None.
ABSTAIN: None.
ABSENT: Adams, Chavez, Fujioka, Kim, Klatt, Mar and Piepho.

Chair Miley clarified that the just carried motion was to direct staff to develop the staff proposed strategy, to which there was no objection.

12. Resolution Regarding Safety of Transporting Crude Oil by Rail

The Board postponed this item to a future meeting date.

13. PUBLIC COMMENT ON NON-AGENDA MATTERS: No requests received.

14. BOARD MEMBERS' COMMENTS:

Director Kalra thanked the Board, staff and community for their service and encouraged continued boldness from the Air District.

Director Barrett reported that the City of Petaluma joined Sonoma Clean Power and encouraged more to do the same.

OTHER BUSINESS

15. Report of the Executive Officer/APCO:

Mr. Broadbent gave the staff presentation *Winter PM_{2.5} [Fine Particulate Matter] Seasons*.

16. Chairperson's Report:

Chairperson Miley announced the cancellation of the Board meeting on January 7, 2015; that departing Directors Adams, Kalra and Klatt will be recognized at the annual Board retreat; the appointment of City of Cupertino Vice Mayor Rod Sinks to succeed Director Kalra on the Board; Sonoma County may get another seat on the Board; and the staff annual retreat is on December 18, 2014.

17. Time and Place of Next Meeting:

Wednesday, January 21, 2015, City of South San Francisco Municipal Services Building at 33 Arroyo Drive, South San Francisco, California 94080 at 9:45 a.m.

18. **Adjournment:** The Board meeting adjourned at 12:46 p.m.

/s/ Sean Gallagher

Sean Gallagher
Clerk of the Boards