PERFORMANCE AUDIT OF
THE ENGINEERING DIVISION

BY SJoberg EVASHENK CONSULTING, INC.
The performance audit of the Air District's Engineering Division included an evaluation of:

- The efficiency of the Division's business operations, including regulatory and Air District requirements, permitting activities and process workflows.
- Key performance metrics, including mandated requirements, timeliness of permit processing, workload indicators, and other measures.
- Workload and resource trends and contributing factors (staffing, information technology)
- The extent to which the Division dedicates resources to non-core functions, and whether non-core functions can be reduced or reassigned to divisions that may be more suitable in the long term.
REPORT FINDINGS

PERMIT APPLICATIONS ARE NOT ALWAYS PROCESSED IN A TIMELY MANNER AND BACKLOG EXISTS

Between FY2013 and FY2022, the percent of New Source Review permits not processed timely increased from 13% to 25%.

The number of new permit applications remained stable since FY2013; yet, fewer applications are processed each year.

As of May 30, 2023, the Air District had a permit backlog of 632 applications.

345 incomplete permit applications remained active, despite the District’s policy to cancel them.

In FY2022, 37% of permit application fees and 17% of permit renewal fees were paid late, with nearly $3 million in permit fees collected 91 or more days late.

The Division is unable to easily determine how many facilities owe permit fees, how much is owed, or the age of the delinquency.

<table>
<thead>
<tr>
<th>Report</th>
<th>Number of Delinquent Invoice FY 2018 – 2022</th>
<th>Amount Outstanding FY 2018 – 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report 1</td>
<td>68,819</td>
<td>$1.6 Million</td>
</tr>
<tr>
<td>Report 2</td>
<td>2,406</td>
<td>$0</td>
</tr>
<tr>
<td>Report 3</td>
<td>850</td>
<td>$1.2 Million</td>
</tr>
<tr>
<td>Report 4</td>
<td>Unknown</td>
<td>Unknown</td>
</tr>
</tbody>
</table>
REPORT FINDINGS

The Division does not have adequate measures in place to record and monitor performance indicators. It does not:

- Fully track time spent by exempt employees on permitting and non-core activities
- Track progress by each step of the permitting process
- Track, analyze, or report on late payments or delinquent accounts.

Common Inefficiencies in Permit Processes

- Errors in Applications
- Approval Bottlenecks
- Incomplete Applications
- Redundant Review or Data Entry
- Backlogs
- Unnecessary Rework on Permits
- Poor Visibility of Permit Status
- Unbalanced Allocation of Work
- Lack of Templates
REPORT FINDINGS

SEVERAL FACTORS IMPACT THE DIVISION’S ABILITY TO MEET WORKLOAD DEMANDS

Employee attrition and recruiting challenges result in persistent vacancies.

Existing workload has become more complex since the adoption of AB 617, Rule 12-15, Rule 11-18, and amendment of Rules 2-1 and 2-5.

Time spent on non-core duties doubled over the past five years, from 6% in 2018 to 13% in 2022.

Procedures for prioritizing and assigning work were outdated.

Although staffing levels remained relatively consistent over the past five years, permit workload metrics suggest workload increased.

<table>
<thead>
<tr>
<th>Metric</th>
<th>FY 2018</th>
<th>FY 2022</th>
<th>5-Year Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filled Permit Processing Positions</td>
<td>40</td>
<td>40</td>
<td>0%</td>
</tr>
<tr>
<td>Total Permit Renewals</td>
<td>4,621</td>
<td>10,229</td>
<td>+121%</td>
</tr>
<tr>
<td>Total Active Permit Applications</td>
<td>1,670</td>
<td>2,032</td>
<td>+22%</td>
</tr>
<tr>
<td>Total Permit Applications Submitted</td>
<td>1,076</td>
<td>1,124</td>
<td>+4%</td>
</tr>
<tr>
<td>Permitted Devices and Operations</td>
<td>24,347</td>
<td>25,873</td>
<td>+6%</td>
</tr>
<tr>
<td>Health Risk Screening Analysis</td>
<td>230</td>
<td>334</td>
<td>+45%</td>
</tr>
</tbody>
</table>
The Air District has yet to achieve its goal of full cost recovery, which was established in 2012.

- The Air District’s Cost Recovery Policy is overly-restrictive.
- The methodology employed to calculate proposed rate increases further impeded full cost recovery.
- Some fee schedules have become obsolete due to legislative changes.

The Air District improved its cost recovery from 82% to 86% between Fiscal Year 2016 and Fiscal Year 2022.

### Proposed Fee Schedule Rate Increase Methodology

<table>
<thead>
<tr>
<th>Cost Recovery Rate Range</th>
<th>Proposed Rate Change</th>
<th>Cost Recovery Rate Range</th>
<th>Proposed Rate Change</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fiscal Year 2018</strong></td>
<td></td>
<td><strong>Fiscal Year 2019-2022</strong></td>
<td></td>
</tr>
<tr>
<td>Above 100%</td>
<td>No Increase</td>
<td>Above 110%</td>
<td>No Increase</td>
</tr>
<tr>
<td>95-100%</td>
<td><strong>CPI-W</strong></td>
<td>95-110%</td>
<td><strong>CPI-W</strong></td>
</tr>
<tr>
<td>85-94%</td>
<td>7% Increase</td>
<td>85-94%</td>
<td>7% Increase</td>
</tr>
<tr>
<td>75-84%</td>
<td>8% Increase</td>
<td>75-84%</td>
<td>8% Increase</td>
</tr>
<tr>
<td>Less than 75%</td>
<td>9% Increase</td>
<td>50-74%</td>
<td>9% Increase</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Less than 50%</td>
<td>15% Increase</td>
</tr>
<tr>
<td><strong>Fiscal Year 2023</strong></td>
<td></td>
<td><strong>Fiscal Year 2024 and Forward</strong></td>
<td></td>
</tr>
<tr>
<td>Above 110%</td>
<td>No Increase</td>
<td>Above 110%</td>
<td>No Increase</td>
</tr>
<tr>
<td>Less than 110%</td>
<td>15% Increase</td>
<td>100 &lt; 110%</td>
<td>Consumer Price Index (CPI-W) Increase</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Less than 100%</td>
<td>15% Increase</td>
</tr>
</tbody>
</table>
The text on the page reads:

**KEY RECOMMENDATIONS**

- Develop a plan to address the permit backlog and update procedures for prioritizing and assigning workload.
- Work with the My Air Online team to:
  - Ensure necessary permitting and accounts receivable information is tracked
  - Develop standardized reports for management
  - Identify and correct erroneous information
- Once necessary information is tracked, management should:
  - Identify staffing resource needs
  - Review permit processes
  - Refer delinquent accounts to the Compliance and Enforcement Division
Management Audit Report on Air District Engineering Functions
Initial District Response

Finance and Administration Committee Meeting
December 20, 2023

Meredith Bauer
DEO, Engineering & Compliance
mbauer@baaqmd.gov

Pamela Leong
Director, Engineering Division
pleong@baaqmd.gov
Presentation Outline

• Key Audit Findings
• Current Continuous Improvement Initiatives
• Corrective Action Strategy
• Next Steps
Consider directing the Executive Officer/APCO to prepare an action plan to address the Engineering Audit Report’s recommendations to be presented to the Finance and Administration Committee for approval within 90 days.
Key Audit Findings

- **Timeliness/Backlog:** Permit applications are not always processed in a timely manner and a backlog exists.
- **Tracking:** Engineering does not track all information necessary to assess efficiency of permitting processes and identify resource needs.
- **Staffing:** Hiring freeze, attrition, training, loss of institutional knowledge
- **Fee Recovery:** Opportunities exist to enhance current fee schedule to better recover costs.
Key Audit Findings (cont.)

- **Timeliness/Backlog**: Permit applications are not always processed in a timely manner and a backlog exists.
- **Tracking**: Engineering does not track all information necessary to assess efficiency of permitting processes and identify resource needs.
- **Staffing**: hiring freeze, attrition, training, loss of institutional knowledge
- **Fee Recovery**: Opportunities exist to enhance current fee schedule to better recover costs.
Continuous Improvement: Timeliness/Backlog

• Enforcement of Permit Streamlining Policy
  – Addresses: incomplete applications, revisions, request responsiveness (timeboxing)

• My Air Online: Improved online customer access and tools
Continuous Improvement: Tracking

- Updated Productivity Reports
- My Air Online: Improved tracking, metrics and reports
  - Evaluation Subcategories
    - HRA
    - CEQA
    - Public Notice (existing)
Continuous Improvement: Staffing

- Vacancies filled
  - 4 new Engineers and 2 new Technicians starting in December/January
  - 3 Senior Engineers recruited, and recommendations made
- 4 Knowledgeable Retirees – process/oversee overdue complex applications
- Creating New Entry Level Engineer Position
Corrective Action Strategy

Efficiency Measures
- automation, SOPs, templates

Rule/Policy Updates
- HRAs (11-18, BUGs), Emissions Inventory (12-15)

Complex Facilities
- Project management with improved tracking and issue resolution

Strategic Staffing
- backlog management
- long-term maintenance

Tracking:
- ID opportunities
- accountability
- transparency
- progress

Finance and Administration Committee
December 20, 2023
Corrective Action Plan

<table>
<thead>
<tr>
<th>Efficiency Measures</th>
<th>Staffing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rule Updates</td>
<td>Tracking</td>
</tr>
<tr>
<td>Manage Complex Facilities</td>
<td>Fee Recovery</td>
</tr>
</tbody>
</table>

Present to FAC 90 days

Integrate into Strategic Plan and Budget Proposal
Feedback Requested/Prompt

Consider directing the Executive Officer to prepare an action plan to address the Engineering Audit Report’s recommendations to be presented to the Finance and Administration Committee for approval within 90 days.
Funding Community Benefits from Penalty Funds

Finance and Administration Committee
December 20, 2023

Dr. Philip M. Fine
Executive Officer/APCO
pfine@baaqmd.gov
Presentation Outcomes

• Informational/Discussion Item.

• Provide information about penalties and their relation to the Air District budget.

• Outline a proposal to direct some penalty money to community benefits while addressing potential budget impacts.
• The Air District collects penalties from facilities that violate our regulations.

• In the past, these funds have varied from year-to-year but typically exceeded $3M per year.

• Penalty collections are expected to increase in 2024.

• The penalty funds are currently used to help fund our enforcement program consisting of 77 full time employees with a total direct costs of roughly $16M per year.
Develop a policy to automatically set aside a portion of penalty funds for community benefits. If approved by the Board, we would be the first Air District to implement this as a routine policy.

Policy could be retroactive to the beginning of this calendar year which would include $1.15M settlement with Chemtrade in Richmond from July 2023.
About the Penalties

• Most individual penalties are between $10-$50k (58%).
• But most of the penalty dollars collected are from a few large penalty agreements exceeding $1M (65%).
• Penalties > $1M are paid primarily by petroleum refineries and related industry. Over 85% of the penalties collected in recent years are from this sector.
### Example Allocation Idea

<table>
<thead>
<tr>
<th>Lower Break Point</th>
<th>Upper Break Point</th>
<th>% to Local Benefit Fund</th>
<th>% to Air District or Regional Benefit Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0</td>
<td>$100,000</td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>$100,000</td>
<td>$1,000,000</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>$1,000,000</td>
<td></td>
<td>80%</td>
<td>20%</td>
</tr>
</tbody>
</table>

- The first $100,000 of each penalty agreement would go to offset the Air District’s expenses in enforcing regulations. After the budget target is met ($3,000,000 for this year), those funds would go into a regional benefit fund.
- Between $100,000 and $1,000,000, 50% of the penalties would go to a fund to benefit the community impacted by the violation. The balance would go either to the Air District or the regional benefit fund (depending if budget target has been met).
- Above $1,000,000, 80% of the penalties would be reserved for local benefits programs., with 20% to the Air District/Regional Fund (depending if budget target has been met).
Example Allocation Idea (cont.)

First $100K

Next $100K-$1M

Over $1M

First $3M

Over $3M

District Budget

Regional Community Benefits Fund

Local Community Benefits
Example Results

• Using penalty data from fiscal year ending 2022, the Sample Allocation Idea would have had the following results:

  • Local benefit fund for Martinez area: $1,598,100
  • Local benefit fund for Benicia area: $168,200
  • Regional Benefit fund: $0 (budget target is not met)
  • Funding retained for Air District Operations: $2,722,990

• We expect larger penalties next year. Here’s how the Example Allocation would work for a $10M penalty if the budget target had already been met:

<table>
<thead>
<tr>
<th>Penalty</th>
<th>Local Fund</th>
<th>Regional Fund</th>
<th>Air District</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10,000,000</td>
<td>$7,650,000</td>
<td>$2,350,000</td>
<td>$0</td>
</tr>
</tbody>
</table>

Finance and Administration Committee
December 20, 2023

Bay Area Air Quality Management District
Focusing now only on allocation policy (not on programs for expenditures):

• Committee feedback on staff developing this idea further with the Community Advisory Council and representatives of the Richmond-North Richmond-San Pablo AB 617 Community Steering Committee?

• Any concerns about the general approach?
  • Allocation Method
  • Local Benefit Fund
  • Regional Benefit Fund
Possible Next Steps

• January 2024: Discuss proposal and allocation idea with Community Advisory Council

• February 14, 2024: Discuss proposal and results of Community Advisory Council consideration with Community, Equity, Health and Justice Committee

• February/March 2024: Return to Finance and Administration Committee/Board of Directors, with CAC recommendations, as a possible action item