

BOARD MEETING DATE: November 3, 2023

AGENDA NO. 1

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the October 6, 2023  
Board Meeting.

RECOMMENDED ACTION:

Approve the October 6, 2023 Board Meeting Minutes.

Faye Thomas  
Clerk of the Boards

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**FRIDAY, OCTOBER 6, 2023**

Notice having been duly given, the regular meeting of the South Coast Air Quality Management District Board was conducted in a hybrid format (in person and remotely via videoconferencing and telephone). Members present:

Senator Vanessa Delgado (Ret.), Chair  
Senate Rules Committee Appointee

Councilmember Michael A. Cacciotti, Vice Chair  
Cities of Los Angeles County – Eastern Region

Supervisor Andrew Do  
County of Orange

Gideon Kracov  
Governor's Appointee

Mayor Larry McCallon  
Cities of San Bernardino County

Supervisor Holly J. Mitchell  
County of Los Angeles

Veronica Padilla-Campos  
Speaker of the Assembly Appointee

Councilmember Nithya Raman (Left the meeting at 11:50 a.m.)  
City of Los Angeles

Councilmember José Luis Solache  
Cities of Los Angeles County – Western Region

Absent: Mayor Lock Dawson  
Cities of Riverside County

Supervisor Curt Hagman  
County of San Bernardino

Supervisor V. Manuel Perez  
County of Riverside

Councilmember Carlos Rodriguez  
Cities of Orange County

For additional details of the Governing Board Meeting, please refer to the recording of the [Webcast](#) at: [Live Webcast \(aqmd.gov\)](#)

**CALL TO ORDER**: Chair Delgado called the meeting to order at 9:07 a.m.

- Pledge of Allegiance: Led by Councilmember Solache
- Roll Call  
Supervisor Do and Board Member Padilla-Campos arrived at 9:15 a.m.
- Opening Comments

Chair Delgado welcomed everyone to the Los Angeles Valley College (LAVC) and commented on the campus's status as a nationally recognized Tree Campus. She noted the passing of U.S. Senator Dianne Feinstein (CA) and acknowledged the Senator's work as a champion of air quality issues for creating the Targeted Airshed Grant Program. A moment of silence was observed in honor of Senator Feinstein.

Vice Chair Cacciotti commented that upon arriving to LAVC's campus he observed a gas-powered edger being used for landscaping. He recommended that staff provide information to LAVC about South Coast AQMD's Commercial Electric Lawn and Garden Incentive & Exchange Program. He shared photos of his visit to the Edison Informational Educational Facility in Irwindale and Tesla vehicles that will be part of South Pasadena's all-electric police fleet, which received funding from the MSRC. Vice Chair Cacciotti also shared photos of the youth soccer team he coaches and commented on one of the players with asthma which highlights the need to fight for clean air for our kids.

Executive Officer Wayne Nastri, reported on South Coast AQMD's annual Health and Benefits Fair that was held on Thursday, October 5, 2023 to kick off this year's open enrollment for employees. He thanked the Administrative and Human Resources staff for organizing a successful event.

Chair Delgado announced that the Board would be recessing to closed session for approximately 15 minutes.

### **CLOSED SESSION**

The Board recessed to closed session at 9:17 a.m., pursuant to Government Code sections:

- 54956.9(a) and 54956.9(d)(4) to consider initiation of litigation

Western States Trucking Association, Inc. v. EPA, et al., United States Court of Appeals, D.C. Circuit, Case No. 23-1143

- 54957.6 to confer with labor negotiators

Agency Designated Representative: A. John Olvera, Deputy Executive Officer – Administrative & Human Resources;

- Employee Organization(s): Teamsters Local 911, and South Coast AQMD Professional Employees Association; and
- Unrepresented Employees: Designated Deputies and Management and Confidential employees.

Following closed session, Bayron Gilchrist, General Counsel, announced that a report of any reportable actions taken in closed session will be filed with the Clerk of the Boards. The Board reconvened in open session at 9:37 a.m.

**PUBLIC COMMENT PERIOD – (Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3)**

The Public Comment Period on Non-Agenda Items was opened. The following individuals addressed the Board.

Daniel Heydari, Pacific Environment and Long Beach resident, commented on adverse health impacts and premature mortality affecting port workers and port-adjacent communities and emphasized the need to move forward with a strong Ports ISR that includes infrastructure for shore power for all ships; offshore power for ships that are awaiting entry into the ports; accelerated transition to zero-emission trucking, as well as cargo handling equipment; and interim benchmarks to help the Ports meet their Clean Air Action Plan. For additional details, please refer to the [Webcast](#) at 40:11.

Thomas Jelenic, Pacific Merchant Shipping Association, noted concerns with the rule concept brought forward at the June 1, 2023 at the Proposed Rule 2304 – Indirect Source Rule for Commercial Marine Ports Working Group Meeting and thanked the Board for the additional time to work on the development of the Ports ISR. He commented that significant emission reductions have been achieved by the Clean Air Action Plan and noted that recently reported emissions inventories show port-related emissions at their lowest levels ever, which he attributes to the collaborative approach taken to reduce emissions at the Ports. He requested that the South Coast AQMD resume the Port Technical Working Group that used to be part of the ISR process. The meetings were suspended at the onset of the pandemic. For additional details, please refer to the [Webcast](#) at 43:26.

Harvey Eder, Public Solar Power Coalition, questioned information provided in the November 2022 CEQA report about the cost-effectiveness of solar energy. He commented on the lawsuit related to climate change filed in September 2023 by the state of California against oil and gas companies. For additional details, please refer to the [Webcast](#) at 45:41.

Monty Rowan, Marina Del Rey resident, thanked South Coast AQMD staff for their efforts in monitoring the construction renovations at Dolphin Marina Apartments. There was an agreement between the County and the property management company, and residents were promised at the outset that only a limited number of units at one time would be worked on to ensure some degree of safety for the residents. Mr. Rowan expressed his concern for residents living and workers located in the construction area that may be exposed to asbestos, dust, and toxic vapors. For additional details, please refer to the [Webcast](#) at 49:03.

Theral Golden, West Long Beach Association, expressed concern that the Ports are relying on technology, which takes time, and the community needs relief quickly. He emphasized the importance for everyone to come together to make changes to improve health impacts because the community is paying for the progress of goods movement with their lives. For additional details, please refer to the [Webcast](#) at 52:12.

There being no further requests to speak, the Public Comment Period on non-agenda items was closed.

### **Written Comments Submitted Regarding Mandatory Indirect Source Rules**

One letter signed by the following organizations: Earthjustice, Center for Biological Diversity, Center for Community Action and Environmental Justice, East Yard Communities for Environmental Justice, Long Beach Alliance for Children with Asthma, and Move L.A.



### **CONSENT AND BOARD CALENDAR**

#### **Items 1 and 2 – Action Items/No Fiscal Impact**

1. Approve Minutes of September 1, 2023 Board Meeting
2. Set Public Hearing November 3, 2023 to Consider Adoption of and/or Amendments to South Coast AQMD Rules and Regulations:
  - 2A. Set Public Hearing November 3, 2023 to Determine That Proposed Rule 1110.3 – Emissions from Linear Generators and Proposed Amended Rule 1110.2 – Emissions from Gaseous- and Liquid-Fueled Engines, Are Exempt from CEQA; and Adopt Rule 1110.3 and Amend Rule 1110.2
  - 2B. Determine That Proposed Amended Rule 2011 - Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SOx) Emissions and Proposed Amended Rule 2012 - Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NOx) Emissions

#### **Items 3 through 16 – Budget/Fiscal Impact**

3. Recognize Revenue, Appropriate Funds, Execute and/or Amend Contracts, and Issue Solicitations and Purchase Orders for U.S. EPA Grants
4. Issue RFP for Technical Assistance to Support South Coast AQMD's Technology Advancement Office Activities and Implementation Efforts
5. Amend Contract with Coachella Valley Association of Governments
6. Execute Contract for Development and Demonstration of Electric-Powered Trailer for Heavy-Duty Vehicles

7. Execute Contract to Develop and Demonstrate a Portable Liquid Hydrogen Fueling System for Medium- and Heavy-Duty Equipment Applications
8. Adopt Resolution, Recognize Revenue, Appropriate Funds, Execute and/or Amend Contracts, and Issue Solicitations and Purchase Orders for Continued AB 617 Implementation
9. Approve Amendments to MOU with Teamsters Local 911 and Administrative Code Provisions for Non-Represented Employees Regarding Employer Contributions for Health Insurance Premiums

**Items 10 through 16 – Information Only/Receive and File**

10. Legislative, Public Affairs and Media Report
11. Hearing Board Report
12. Civil Filings and Civil Penalties Report
13. Intergovernmental Review of Environmental Documents and CEQA Lead Agency Projects
14. Rule and Control Measure Forecast
15. Report of RFQs/RFPs Scheduled for Release in October
16. Status Report on Major Ongoing and Upcoming Projects for Information Management

**Items 17 through 23 – Reports for Committees and CARB**

17. Administrative Committee
18. Investment Oversight
19. Legislative Committee
20. Mobile Source Committee
21. Stationary Source Committee
22. Technology Committee
23. California Air Resources Board Monthly Report
24. Items Deferred from Consent and Board Calendar  
Agenda Item No. 3 was pulled for comment or discussion.

**Disclosures**

Councilmember Raman reported that she had no financial interest in Agenda Item No. 3 but is required to identify for the record that she is a Councilmember for the City of Los Angeles, which is involved in this item.

Board Member Kracov recused himself from Agenda Item No. 8, because of a financial interest in Microsoft which is involved in this item. Mr. Gilchrist recommended a separate vote be taken on this item.



## **24. Item Pulled for Comments or Discussion**

Agenda Item No. 3 – Recognize Revenue, Appropriate Funds, Execute and/or Amend Contracts, and Issue Solicitations and Purchase Orders for U.S. EPA Grants

Vice Chair Cacciotti commented on whether cities he represents that are part of the goods movement areas impacted by pollution, such as Pomona, El Monte, and South El Monte, will be considered to receive funds being allocated to expand the Sensor Library Program to include other communities in the Basin. For additional details, please refer to the [Webcast](#) at 57:16.

Dr. Jason Low, Deputy Executive Officer/Monitoring and Analysis, noted that the additional funds for this U.S. EPA grant will allow for up to four communities for this additional program in the Sensor Library Program. He commented that staff is already working with the City of Pomona's community-based organization Clean & Green Pomona. This opportunity will allow community members in other communities to work with schools. For additional details, please refer to the Webcast at 57:52.

The public comment period was opened for Agenda Item Nos. 1-23; and there being no requests to speak, the public comment period was closed.

Supervisor Do noted for the record that he is opposed to the recommendation to support ACA 13 (Ward), a proposed constitutional amendment that would require that a ballot measure to increase the vote threshold for a future initiative must pass by that same margin. He would register a "No Vote" on the recommendation to support ACA 13 in Agenda Item No. 19. For additional details, please refer to the [Webcast](#) at 59:04.

Mr. Gilchrist noted for the record that Agenda Item No. 9 is to approve an amendment to the South Coast AQMD Administrative Code for an increase of \$75 per month to the employer contribution towards health insurance premiums to cover 2024 insurance rates. If approved, the increase would be applied to employees in the Teamsters bargaining units and to non-represented employees, which includes confidential, management and executive staff employees. For additional details, please refer to the [Webcast](#) at 59:48.

### **Written Comments Submitted Regarding Agenda Item No. 14:**

Letter from Dillon Clark on behalf of the Central San Pedro Neighborhood Council

### **Board Action (Items 1-7, and 9-23)**

MOVED BY SOLACHE, SECONDED BY CACCIOTTI TO APPROVE AGENDA ITEMS 1 THROUGH 7 AND 9 THROUGH 23 AS RECOMMENDED, RECEIVE AND FILE THE COMMITTEE, MSRC, AND CARB REPORTS, AND APPROVE THE RECOMMENDATIONS ON LEGISLATION AS SET FORTH BELOW.

THE MOTION PASSED BY THE FOLLOWING VOTE:

AYES: Cacciotti, Delgado, Do (excluding ACA 13 in Agenda Item No. 19), Kracov, McCallon, Mitchell, Padilla-Campos, Raman, and Solache

NOES: Do (only for ACA 13 in Agenda Item No. 19)

ABSTAIN: None

ABSENT: Lock Dawson, Hagman, Perez, and Rodriguez

<b>Legislation/Agenda Item</b>	<b>Recommendation</b>
Air District/Public Agency Board Member Compensation Limit Increase Bill Proposal	Approve
Moyer Policy Adjustments Bill Proposal	Approve
ACA 13 (Ward) Voting Thresholds	Support

Mr. Gilchrist announced that in addition to recusing from Agenda Item No. 8, Board Member Kracov would like to identify for the record that he is a Board Member of CARB, which is involved in that item but it is not considered a financial interest. For additional details, please refer to the [Webcast](#) at 1:01:47.

MOVED BY SOLACHE, SECONDED BY CACCIOTTI TO APPROVE AGENDA ITEM 8 AS RECOMMENDED TO:

1. ADOPT RESOLUTION NO. 23-20 TO ACCEPT THE TERMS AND CONDITIONS FOR THE AB 617 IMPLEMENTATION COMMUNITY AIR PROTECTION PROGRAM GRANT AWARD;
2. RECOGNIZE REVENUE, UPON RECEIPT, UP TO \$3,326,667 FROM CARB INTO THE GENERAL FUND FOR CONTINUED AB 617 IMPLEMENTATION;
3. APPROPRIATE UP TO \$3,400,000 FROM THE GENERAL FUND UNDESIGNATED (UNASSIGNED) FUND BALANCE (AB 617 FUNDS) INTO THE FY 2023-24 AND/OR FY 2024-25 BUDGET FOR AB 617 IMPLEMENTATION; AND



4. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE AND/OR AMEND CONTRACTS, AND ISSUE SOLICITATIONS AND PURCHASE ORDERS FOR AB 617 IMPLEMENTATION FOR: FY 2023-24 AND/OR FY 2024-25 PROPOSED CAPITAL OUTLAY/INTANGIBLE ASSET EXPENDITURES FOR AB 617 (CAPITAL OUTLAYS MAJOR OBJECT); FY 2023-24 AND/OR FY 2024-25 PROPOSED CONTRACTS/CONTRACT AMENDMENTS FOR AB 617 (SERVICES & SUPPLIES MAJOR OBJECT); AND FY 2023-24 AND/OR FY 2024-25 PROPOSED OTHER SERVICES AND SUPPLIES EXPENDITURES FOR AB 617 (SERVICES & SUPPLIES MAJOR OBJECT)

THE MOTION PASSED BY THE FOLLOWING VOTE:

AYES: Cacciotti, Delgado, Do McCallon, Mitchell, Padilla-Campos, Raman, and Solache

NOES: None

ABSTAIN: None

RECUSED: Kracov

ABSENT: Lock Dawson, Hagman, Perez, and Rodriguez



### **STAFF PRESENTATION/BOARD DISCUSSION/RECEIVE AND FILE**

25. Overview of Proposed MATES VI (Presentation in Lieu of Board Letter)

Dr. Scott Epstein, Program Supervisor/Planning, Rule Development and Implementation, gave the staff presentation.

Vice Chair Cacciotti asked how locations are selected for measurements at near-road sites. Dr. Epstein explained that there are four existing near-road sites located in places with the highest emissions. Staff plans to conduct MATES monitoring at two existing near-road sites, tentatively the 60 freeway in Ontario, and 710 freeway in Long Beach. For additional details, please refer to the [Webcast](#) at 1:20:23.

Mayor McCallon asked when the workplan would be available for public comments and noted the importance of public input. Dr. Epstein responded that the workplan will be vetted through the Technical Advisory Group and those meetings will be open to the public. For additional details, please refer to the [Webcast](#) at 1:21:19.

Supervisor Mitchell asked how the Technical Advisory Group informs what will be monitored. Dr. Epstein explained that the Technical Advisory Group provides input and guidance throughout the MATES process. He added that the advisory group is comprised of a highly qualified group of experts from throughout the country on air toxics. For additional details, please refer to the [Webcast](#) at 1:22:03.

Board Member Padilla-Campos asked about the locations of the 10 fixed air monitoring locations. Dr. Epstein commented that monitoring locations are generally consistent with previous MATES studies to allow for observation of trends over time. For MATES VI, three sites will be shifted so that one is relocated to the Coachella Valley and the two near-road sites. For additional details, please refer to the [Webcast](#) at 1:23:18.

Board Member Padilla-Campos asked if staff has considered selecting an air monitoring site in the northeast valley of Los Angeles County. Dr. Epstein noted that the Burbank Area station in MATES V is located in Pacoima. For additional details, please refer to the Webcast at 1:25:14.

Councilmember Solache asked how many near-road sites will be located along the 710 freeway. Dr. Low responded that one near-road site will be located along the 710 freeway in Long Beach. For additional details, please refer to the [Webcast](#) at 1:26:43.

Mayor McCallon requested information about the first Technical Advisory Group meeting and the Administrative Committee. Dr. Epstein responded that the first Technical Advisory Committee meeting is scheduled for 1:00 p.m. on October 26, 2023 and the public is invited to attend. The meeting will be held through a hybrid format with in-person attendance in Conference Room GB at the South Coast AQMD headquarters and virtual attendance. Staff will be providing details on the required resources for MATES VI to the Administrative Committee at their November meeting. For additional details, please refer to the [Webcast](#) at 1:27:58.

Vice Chair Cacciotti inquired about the contribution of brake and tire wear PM emissions. Dr. Epstein explained that the goal is to better characterize and understand the emissions from brake and tire wear, especially with more electric vehicles. For additional details, please refer to the [Webcast](#) at 1:28:45.

The public comment period was opened for Agenda Item No. 25 and the following individual addressed the Board.

Harvey Eder, Public Solar Power Coalition, commented on the need to quantify PM emissions and noted PM's adverse effects on health, climate, and the environment. For additional details, please refer to the [Webcast](#) at 1:31:57.

There being no further requests to speak, the public comment period was closed for Agenda Item No. 25.

## 26. Update on Rail Yard Facility Based Mobile Source Measures

Ian MacMillan, Assistant Deputy Executive Officer/Planning, Rule Development and Implementation, gave the staff presentation.

Chair Delgado asked for clarification on emission reductions under the MOU relative to CARB's In-Use Locomotive Regulation. Mr. MacMillan responded that the emission reductions are consistent with CARB's regulation. The emission reductions vary under CARB's regulation depending on the compliance option selected by the Railroads. Mr. Nastri added that the MOU would accelerate reductions, and provides greater certainty, particularly ensuring specific emission reductions will occur for our region. For additional details, please refer to the [Webcast](#) at 1:55:01.

Mayor McCallon inquired about the status of the CARB In-Use Locomotive Regulation and lawsuit challenging the regulation. Mr. MacMillan reported that the rule was approved by the CARB Board but it has not yet gone through the Office of Administrative Law. Mr. MacMillan stated that he believes the lawsuit has been filed. For additional details, please refer to the [Webcast](#) at 1:56:48.

Chair Delgado asked if there is a drop-dead date for staff to decide whether to pivot to rulemaking. Mr. Nastri explained that there is no immediate drop-dead date. He wants to make sure staff is working on both the technical substance as well as the legal enforceability. Mr. Nastri suggested that within the next 30 days if it looks like the enforceability provisions cannot be resolved he would suggest not moving forward. For additional details, please refer to the [Webcast](#) at 2:00:14.

Chair Delgado asked whether the MOUs that South Coast AQMD has with the airports includes enforceability provisions. Mr. MacMillan noted that the MOU for the railroads would probably look different than the MOUs for the airports. Staff will be looking at the 1998 and 2005 CARB MOUs as examples. For additional details, please refer to the [Webcast](#) at 2:02:12.

The public comment period was opened for Agenda Item No. 26 and the following individuals addressed the Board.

For additional details regarding the following comments, please refer to the [Webcast](#) beginning at 2:03:10.

Fernando Gaytan, Earthjustice  
Chris Chavez, Coalition for Clean Air\*  
Yasmin Angelidis, Earthjustice  
Jan Victor Andasan, East Yard Communities for Environmental Justice  
\*(Written Comments Submitted)

These commenters addressed the following issues:

- Concern over the sudden shift to considering an MOU.
- Would like to continue the ongoing ISR process.
- Oppose efforts to negotiate a voluntary agreement.

- Support development of a strong Railyard and Ports ISR.
- Demonstrate the MOU or rulemaking maximizes emission reductions.
- Unclear how the MOU would have additional emissions compared to CARB's locomotive rule.
- Concern with the public process and transparency
- Need to ensure MOU is enforceable and offers third-party enforceability.
- Need to identify what locomotives will be covered under the MOU.
- MOU must be consistent with commitments to AB 617 communities.
- South Coast AQMD should protect the public.
- Health of frontline communities being impacted by emissions from railroads.
- Support prioritizing zero emissions.

Theral Golden, West Long Beach Association, requested that staff provide clarification on the 2.4 tons per day NOx reductions that is estimated the MOU will achieve. For additional details, please refer to the [Webcast](#) at 2:12:20.

Harvey Eder commented on the history surrounding railroad land ownership and the need to ensure the railroads will not litigate. For additional details, please refer to the [Webcast](#) at 2:13:41.

There being no further requests to speak, the public comment period was closed for Agenda Item No. 26.

Vice Chair Cacciotti inquired about previous litigation from the railroad industry regarding several rules adopted by the South Coast AQMD. Mr. Gilchrist provided a brief overview of the case with Association of American Railroads vs. South Coast Air Quality Management District, that was heard in the U.S. Court of Appeals, Ninth Circuit in 2010, The case analyzed several South Coast AQMD rules that limited emissions from idling trains. The court determined that federal law, the Interstate Commerce Commission Termination Act (ICCTA), preempted those rules. For additional details, please refer to the [Webcast](#) at 2:19:32.

Vice Chair Cacciotti inquired about the number of locomotives for each Railroad company and the parties to the MOU. Mr. MacMillan responded that there is an estimated 150 to 200 locomotives covered by the MOU but would have to report back on the percentage. Mr. MacMillan added that the parties to the MOU will be BNSF Railway, Union Pacific Railroad, and South Coast AQMD. The utilities will be working directly with the railroads. For additional details, please refer to the [Webcast](#) at 2:21:19.

Vice Chair Cacciotti commented on the importance of addressing concerns regarding the proposed MOU that the Coalition for Clean Air highlighted in their letter. He emphasized the need for the MOU to include enforceability provisions, dispute resolution, and a robust public participation process. He inquired about how the community meetings would be structured. For additional details, please refer to the [Webcast](#) at 2:23:45.

Mr. MacMillan noted that the AB 617 communities and public will be invited to the community meetings. In addition to the community meetings, there will be separate briefings at the AB 617 Community Steering Committee meetings. For additional details, please refer to the [Webcast](#) at 2:25:34.

Vice Chair Cacciotti inquired about the status of the locomotive demonstration projects with the railroads. Dr. Aaron Katzenstein, Deputy Executive Officer/Technology Advancement Office, responded that the battery electric locomotive that will go from Los Angeles to Bakersfield is still being built and is expected to be ready in two years. There is another project for a fuel cell locomotive that is part of a California State Transportation (CalSTA) grant. For additional details, please refer to the [Webcast](#) at 2:26:24.

Vice Chair Cacciotti emphasized that it is important to get the MOU right and not rush. If things are moving forward, extending the discussions to February or March is acceptable. The Vice Chair added that there are also opportunities for community benefits programs. For additional details, please refer to the [Webcast](#) at 2:28:00.

Supervisor Mitchell expressed concern that community benefits are never large enough to address the decades of generations that have been harmed. Supervisor Mitchell asked when the Board would see draft language for the MOU. Mr. Nastri replied that staff anticipates a draft MOU after the community meetings which would likely be mid-November. For additional details, please refer to the [Webcast](#) at 2:30:54.

Supervisor Mitchell commented that enforceability is critical and is concerned about the ability to have an MOU that the railroad industry will adhere to. Supervisor Mitchell commented that she has heard that the airline industry has not fulfilled reporting requirements and expressed concern about implementation of the airport MOU. For additional details, please refer to the [Webcast](#) at 2:32:12.

Mr. MacMillan responded that staff will be providing an update to the Mobile Source Committee on implementation of the airport MOU. Mr. MacMillan explained that the railroad MOU will be structured differently than the airport MOU, and will look more like a rule with enforceable provisions. For additional details, please refer to the [Webcast](#) at 2:34:34.

Supervisor Mitchell asked when staff would shift back to an ISR for railroads. She expressed concerns about process, delays, and enforceability. Mr. Nastri responded that in the next 30 days he will inform the Board if staff does not have agreement on concepts for enforceable provisions and that he is sensitive to the timing and impacts to the community and wants an MOU that will deliver benefits. For additional details, please refer to the [Webcast](#) at 2:35:31.

Councilmember Raman concurred with Supervisor Mitchell about adhering to the original timeline set for the MOU. She asked about what was outstanding in the discussions with the railroads around enforceability and offered her support for what staff needs to ensure goals are met to achieve emission reductions. Mr. Nastri responded that staff is doing their own due diligence to develop enforceability provisions for the MOU and at this point there is not certainty what the outstanding issues are in regards to

enforceability. For additional details, please refer to the [Webcast](#) at 2:40:24.

Councilmember Raman asked when staff was working with the Ports on an MOU, what were the enforceability issues. Mr. Nastri responded that the bottom line is that the Ports did not want to accept enforceable provisions and explained that the conversations between the Railroads is very different and enforcement was one of the first things discussed. For additional details, please refer to the [Webcast](#) at 2:43:00.

Councilmember Raman commented that it is her understanding that one of the reasons that the agency is pursuing the MOU path is because the MOU will address all railyards – new and existing railyards. Councilmember Raman asked about legal limitations. Mr. Gilchrist commented that the case held that the South Coast AQMD's rules regulating idling locomotives and emissions reporting were preempted. Barbara Baird, Chief Deputy Counsel commented on the litigation and how the timing of the lawsuit did not allow staff an opportunity to submit the rules into the State Implementation Plan. For additional details, please refer to the [Webcast](#) at 2:44:44.

Supervisor Do asked for clarification on the enforceability of the MOU such as who will enforce the terms and how we ensure that the community will receive the benefits promised. Mr. Gilchrist responded that enforceability would be based on performance and the ability to enforce the requirements of the contract. Mr. Gilchrist discussed provisions for liquidated damages and dispute resolution and enforceability under the citizen lawsuit provision of the Clean Air Act, if the MOU is incorporated into the SIP. For additional details, please refer to the [Webcast](#) at 2:48:20.

Supervisor Do commented that it is his understanding that third party enforceability begins as soon as the rights are finalized and he urged staff to look into this as he believes the MOU already provides third party protections. Mr. Gilchrist responded that staff will look into this. For additional details, please refer to the [Webcast](#) at 2:51:10.

Board Member Padilla Campos commented that although a Community Benefit Agreements can be positive, some community members are offended because they feel that they are negotiating their health. She also underscored the importance of enforceability with an MOU and asked what happens after 2033. Mr. MacMillan explained that staff is considering interim milestones in the MOU to ensure actions are occurring along the path towards 2033 and staff is considering a technology assessment, a regulatory review, and possibly other items post 2033. For additional details, please refer to the [Webcast](#) at 2:52:23.

Mayor McCallon commented on the benefits of an enforceable MOU, including commitments from the railroads such as needed infrastructure, and achieving substantial emissions reductions quickly. The community can be involved and define what community benefits they would like from the railroads. For additional details, please refer to the [Webcast](#) at 2:57:10.

Board Member Kracov commented that it is important to have an open mind about the process and for everyone to talk about substance. For railroads, some people don't want to talk about substance unless it's an Indirect Source Rule. For ports, some people



don't want to talk about substance unless it's an MOU. Board Member Kracov commented that the fundamental goal is to clean the air. For additional details, please refer to the [Webcast](#) at 2:59:17.

Councilmember Solache was appreciative of all of the comments and underscored the importance of enforcement. Councilmember Solache commented that he looks forward to seeing more engagement with the community and the importance to protect the community. For additional details, please refer to the [Webcast](#) at 3:00:56.

Board Member Padilla-Campos asked for clarification on the timeframe for negotiating an MOU before pivoting to an ISR if the parties cannot come to an agreement. Mr. Nastri echoed the Vice Chair's comment that it is important to do it right and to make progress. He wants to move without haste and emphasized the importance of protection of the public. For additional details, please refer to the [Webcast](#) at 3:06:08.

**ADJOURNMENT**

There being no further business, the meeting was adjourned by General Counsel Bayron Gilchrist at 12:10 p.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on October 6, 2023.

Respectfully Submitted,

Faye Thomas  
Clerk of the Boards

Date Minutes Approved: \_\_\_\_\_

\_\_\_\_\_  
Vanessa Delgado, Chair

**ACRONYMS**

- AQMP = Air Quality Management Plan
- CARB = California Air Resources Board
- CEQA = California Environmental Quality Act
- FY = Fiscal Year
- ISR = Indirect Source Rule
- MOU = Memorandum of Understanding
- PAR = Proposed Amended Rule

