

BOARD MEETING DATE: February 4, 2011

AGENDA NO. 1

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the January 7, 2011 meeting.

**RECOMMENDED ACTION:**

Approve Minutes of the January 7, 2011 Board Meeting.

Sandra McDaniel,  
Clerk of the Boards

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**FRIDAY, JANUARY 7, 2011**

Notice having been duly given, the regular meeting of the South Coast Air Quality Management District Board was held at District Headquarters, 21865 Copley Drive, Diamond Bar, California. Members present:

William A. Burke, Ed.D., Chairman  
Speaker of the Assembly Appointee

Mayor Dennis R. Yates, Vice Chairman  
Cities of San Bernardino County

Supervisor Michael D. Antonovich  
County of Los Angeles

Supervisor John J. Benoit  
County of Riverside

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

Supervisor Bill Campbell  
County of Orange

Ms. Jane W. Carney  
Senate Rules Committee Appointee

Supervisor Josie Gonzales  
County of San Bernardino

Dr. Joseph K. Lyou  
Governor's Appointee

Councilmember Judith Mitchell  
Cities of Los Angeles County – Western Region

Councilmember Jan Perry  
City of Los Angeles

Mayor Miguel A. Pulido (left at 10:50 a.m.)  
Cities of Orange County

Members Absent:

Mayor Ronald O. Loveridge  
Cities of Riverside County

**CALL TO ORDER:** Chairman Burke called the meeting to order at 9:10 a.m.

- Pledge of Allegiance: Led by Mayor Yates.
- Swearing In of Reappointed Board Member Michael D. Antonovich

Chairman Burke administered the oath of office to Supervisor Antonovich, who was reappointed to the Board by the Los Angeles County Board of Supervisors, for a term ending January 15, 2015.

- Video Presentation: "State of the Air 2011"

Dr. Burke extended thanks to the staff that prepared the video and asked for the status of distributing the video via e-mail.

Ms. Carney requested that staff provide the Board with more detail regarding the 100 day challenge that the video introduced and expressed optimism for the potential to encourage more participation from residents of the Basin.

Dr. Wallerstein confirmed that staff will provide a report regarding the new effort at the February 4, 2011 Board meeting. In regards to the status of e-mailing the video to a large distribution list, he explained that staff is working with the contractor who is creating the database to ensure that distribution occurs in a timely manner.

Sam Atwood, Media Manager, provided an overview of the planned distribution for the video, indicating that in addition to the video being placed on the AQMD website, it would be provided to fifty or more local cable television access stations and local governments so that it can be played during city council meetings. In addition, copies will be distributed to the public library systems in all four counties, various health organizations, as well as provided to over 400 teachers who attended the A World We Can Change Conference.

- Opening Comments

Councilwoman Mitchell. Announced that she attended an event sponsored by the South Bay Cities Council of Governments in partnership with the AQMD on December 9, 2010, called EV101, in an effort to inform local government officials of the challenges ahead as electric vehicles are more widely available to the general population. She also explained a pilot program that is in effect in the

South Bay that utilizes local use vehicles or LUVs, which are small vehicles that can be used on low-speed, city streets. She added that the vehicles have been well received by those individuals who are using them for local driving trips and she expressed optimism for their potential expanded use as another step to improve air quality.

Supervisor Antonovich noted that air-powered vehicle technology is advancing and demonstration vehicles will soon be available.

### **CONSENT CALENDAR**

1. Approve Minutes of December 3, 2010 Board Meeting and Minutes of December 7, 2010 Special Board Meeting
2. Set Public Hearings February 4, 2011:
  - (A). Receive Public Input on Executive Officer's Priority Goals for FY 2011-12
  - (B). Amend Rule 1150.1 - Control of Gaseous Emissions from Municipal Solid Waste Landfills
  - (C). Amend Rule 317 – Clean Air Act Non-Attainment Fees

### **Budget/Fiscal Impact**

3. Adopt Resolution and Recognize Funds from California Department of Transportation
4. Execute Contract to Install and Maintain Air Filtration Systems in Wilmington Area Schools
5. Recognize Funds and Approve Issuance of Program Announcement for FY 2008-09 "Year 2" Proposition 1B-Goods Movement Program
6. Appropriate Funds for Purchase of One Gas Chromatograph/Mass Spectrometer/Flame Ionization Detector and Authorize Purchase of Gas Chromatograph/Mass Spectrometer/Flame Ionization Detector System

7. Revise Procurement Policy and Procedure
8. Amend Administrative Code to Include Policy for Distribution of Tickets to Officials and Employees

**Items 9 through 15 -- Information Only/Receive and File**

9. Legislative & Public Affairs Report
10. Hearing Board Report
11. Civil Filings and Civil Penalties Report
12. Rule and Control Measure Forecast
13. Lead Agency Projects and Environmental Documents Received by AQMD
14. Report of RFPs and RFQs Scheduled for Release in January
15. Report on Major Projects for Information Management Scheduled to Start During Last Six Months of FY 2010-11

**BOARD CALENDAR**

17. Administrative Committee
18. California Air Resources Board Monthly Report
19. Response to U.S. EPA's Proposed Partial Approval and Partial Disapproval of 2007 Air Quality Management Plan PM2.5 Plan

Supervisor Gonzales and Councilwoman Mitchell announced their abstentions on Item No. 1 because they were not in attendance at the December 3, 2010 Board Meeting. Dr. Lyou announced his abstention on Item No. 1 because he was not in attendance at the December 7, 2010 Special Meeting. Ms. Carney announced her abstention on Item No. 2C due to Loma Linda University Medical Center being a source of income to her.

Agenda item 4 was withheld for comment.

MOVED BY GONZALES, SECONDED BY CAMPBELL, AGENDA ITEMS 1 THROUGH 3, 5 THROUGH 15, AND 17 THROUGH 19 APPROVED AS RECOMMENDED, ADOPTING RESOLUTION NO. 11-1 RECOGNIZING \$1,799,612 IN GRANT FUNDS FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION IN THE PROP 1B FUNDING-GOODS MOVEMENT SPECIAL REVENUE FUND TO REPLACE EXISTING HEAVY-DUTY DIESEL TRUCKS WITH NEW HEAVY-DUTY NATURAL GAS TRUCKS, AND IDENTIFYING THE EXECUTIVE OFFICER OR DESIGNEE AS THE OFFICIAL AUTHORIZED TO EXECUTE THE SUBJECT GRANT AGREEMENT BETWEEN AQMD AND CALTRANS; ADOPTING RESOLUTION NO. 11-2 AMENDING THE ADMINISTRATIVE CODE TO INCLUDE SECTION 45 WHICH SETS FORTH A POLICY FOR DISTRIBUTION OF TICKETS TO OFFICIALS AND EMPLOYEES; AND RECEIVING AND FILING THE BOARD COMMITTEE AND CARB REPORTS, BY THE FOLLOWING VOTE:

AYES: Antonovich, Benoit, Burke, Cacciotti, Campbell, Carney (*except Item #2C*), Gonzales (*except Item #1*), Lyou (*except Item #1*), Mitchell (*except Item #1*), Perry, Pulido and Yates.

NOES: None.

ABSTAIN: Gonzales, Lyou and Mitchell (*Item #1 only*); and Carney (*Item #2C only*).

ABSENT: Loveridge.

16. Items Deferred from Consent Calendar

4. Execute Contract to Install and Maintain Air Filtration Systems in Wilmington Area Schools

After announcing his abstention on Agenda Item 4 because Coalition for Clean Air is a source of income to him, Dr. Lyou left the room.

DREW WOOD, Kids IAQ, NPO

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Expressed concern with the testing process and the efficiency of the filters that are scheduled for installation and indicated that the Los Angeles Unified School District was not satisfied with the current plan.

Dr. Wallerstein suggested that Mr. Wood meet with a staff person in the back of the room to provide more information regarding his statements, because staff was not aware of any problems with the test program.

GLORY DOLPHIN, IQ Air North America

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Assured the Board that their products come out on top relative to performance, as further validated by the testing completed by CE-CERT prior to them being recommended for award of the contract. She has been involved in meetings with the LAUSD and has not heard of any concerns or problems that would impede the installation of the filters in the schools.

Chairman Burke trailed Item No. 4 until clarification could be obtained from Mr. Wood regarding any objections made by the LAUSD.

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Chairman Burke noted the Board would go back to Item No. 19 in order to hear comments from a member of the public whose request to speak card had been inadvertently overlooked.

**BOARD CALENDAR (continued)**

19. Response to U.S. EPA's Proposed Partial Approval and Partial Disapproval of 2007 Air Quality Management Plan PM<sub>2.5</sub> Plan

Jim Stewart, Los Angeles Chapter of the Sierra Club, urged the Board to take this opportunity to put pressure on CARB to act on the on- and off-road vehicle components that so greatly affect the PM<sub>2.5</sub> levels.

Dr. Wallerstein responded that staff believes that the response does request that CARB contribute its fair share of emission reductions and take on more of the burden due to mobile sources being highest.

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**PUBLIC HEARINGS**

20. Adopt Proposed Rule 1315 – Federal New Source Review Tracking System

Mohsen Nazemi, DEO/Engineering & Compliance, gave the staff presentation.

The public hearing was opened, and the following individuals addressed the Board on Agenda Item 20.

MAYA GOLDEN-KRASNER, Communities for a Better Environment

SHABAKA HERU, Society for Positive Action

JIM STEWART, Los Angeles Chapter of the Sierra Club

\*ADRIAN MARTINEZ, Natural Resources Defense Council

ROBINA SUWOL, California Safe Schools

\* (Submitted Written Comments)

Expressed opposition to the credit-generating mechanisms in Rule 1315 which would have extremely detrimental impacts to air quality and public health, particularly children and Southern Californians afflicted with respiratory diseases; and noted that should the Board go forward, they must select Alternative D to comply with CEQA.

CYNTHIA BABICH, Del Amo Action Committee

Expressed discontent that Rule 1315 would create more pollution credits from businesses that have already closed, which would negate the benefit of cleaner air that the Basin has benefited from. She added that the community members are doing their best to speak out against a rule that will have significant impacts, but that their attempts to meet with Board Members prior to the meeting were refused.

Dr. Burke noted that he was not contacted by the speaker and asked other Board Members if they were contacted, as he did not believe Ms. Babich's claims were justified.

JASMINE CORTEZ, PATRICIA ESTRADA, JONATHAN IARIA RIOS,  
DARRYL MOLINA and JENNIFER GANATA, Communities for a Better  
Environment

Expressed concern for the health of their loved ones and community members that are subject to poor air quality; and expressed their opposition to Rule 1315 and the potential harm that will arise if the rule is adopted, including death and increased hospitalizations as a result of increased illness, cancer and asthma risks.

ANGELA JOHNSON MESZAROS, Clean Air Matters

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Addressed the Board in response to previous testimony regarding attempts to contact Board Members prior to the hearing to discuss concerns about the impacts of Rule 1315. She indicated it was their belief that they were not allowed to reach out to larger than a quorum of the Board.

Dr. Burke responded that that assumption is incorrect and does not apply to the Board, and clarified that of the few members that were contacted, that communication was made so recently, that meeting with the organizations with such little notice was not feasible.

Councilwoman Mitchell commented that her assistant was contacted by counsel for NRDC, but as an attorney herself, she felt it inappropriate to meet with that individual because the AQMD is involved in litigation with NRDC on a number of matters. She also pointed out that she was only contacted within the week of the Board meeting which left little time to meet with the requestor.

Mayor Yates commented that he was contacted by Adrian Martinez two days prior to the meeting, but the lack of notice made it impractical for Mayor Yates to meet with him. He did receive a letter from Mr. Martinez in lieu of meeting with him, pursuant to Mr. Martinez' request.

Ms. Johnson Meszaros continued her testimony, noting that she submitted comments that further detailed the basis for her opposition to this rule; however, she felt it necessary to testify in order to emphasize that a major flaw of the rule is that it will generate far more credits than are necessary for the District to meet its obligations to a limited number of facilities; and highlighted staff's report which shows that there are solutions that can be initiated to meet the objectives of the project but that will also protect the health of those in the Basin.

SOFIA CARRILLO, JESSE MARQUEZ and RICARDO PULIDO, Coalition for a Safe Environment

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Explained that the many members of their organization strongly oppose the proposal because 1) it includes the creation of offset credits; 2) it will lead to an increase in air pollution; and 3) it will allow continued and increased health impacts, including premature death. They expressed concern that the EIR showed a majority of significant impacts, as well as staff's own data which shows that emissions in every category will increase every year for the next twenty years; and urged the Board to delay a decision on the matter so that further discussions could occur.

Mayor Yates noted that no representatives from any of the community groups that testified thus far had participated in the most recent Stationary Source Committee meeting where the item was on the agenda. He urged organizations and individuals to attend the committee meetings so that their

concerns can be shared and the committee can possibly direct staff to address the concerns prior to the item coming before the Board.

(Mayor Pulido left the meeting at 10:50 a.m.)

GENE SNITKER, Wright Business Graphics

Explained that his company has operated a printing business in Southern California since 1958 and they currently employ 78 people, with 38 of those jobs being added in the last year thanks to the successful permitting of three new presses; and he expressed appreciation for the role the Board plays in balancing the needs of the public with those of the business sector.

JANE WILLIAMS, California Communities Against Toxics

Questioned why the Board would want to reemit pollution into the air that has already been reduced by reissuing ERCs; and also asked why the AQMD does not establish a buyback program where businesses planning to close could receive monetary incentive in exchange for turning over the ERCs they have earned.

JUDY YORK, York Engineering  
HENRY NUÑEZ, San Gabriel Valley Economic Partnership  
CURTIS COLEMAN, Southern California Air Quality Alliance  
PAUL CHOE, Drycleaners Association of Southern California  
LINDA HOLCOMB, California Auto Body Association  
BILL QUINN, California Council for Environmental and Economic Balance  
MIKE CARROLL, Latham & Watkins  
BILL LAMARR, California Small Business Alliance  
CLAYTON MILLER, Construction Industry Air Quality Coalition

Commented on the hardships that their various industries and small businesses faced when the permit moratorium was in place; and urged the Board to adopt the proposed rule in order to allow for facility modernization, through permitting and the use of ERCs, which will increase efficiency and reduce air pollution without causing disruptions that could have unintended consequences to the economy and to public health, which might occur if an alternative is selected.

STEPHEN ATCHLEY, Councilmember for the City of Pomona

Expressed appreciation for the incredible improvement in his quality of life as a result of AQMD's presence in the South Coast; and urged the Board to adopt Rule 1315 as proposed in order to make accommodations for the inevitable population growth in the region.

JESSICA DUBOFF, Los Angeles Area Chamber of Commerce  
KATE KLIMOW, Orange County Business Council  
DAN HOFFMAN, Wilmington Chamber of Commerce

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Spoke in support of proposed Rule 1315, on behalf of their organizations and the businesses they represent, and the resulting ability for the District to continue to issue permits to qualifying facilities, including essential public resources such as schools, hospitals and public transit, as well as economic drivers, such as small businesses and innovative technology and research operations which will greatly assist in the economic recovery in the region while maintaining an environmental and public health balance.

DAVID TIEU, Orange County Waste and Recycling  
FELIPE GREGORIO, Eastern Municipal Water District  
LEE WALLACE, Southern California Gas Company/San Diego Gas & Electric  
GREG ADAMS, Los Angeles County Sanitation Districts  
JOHN PASTORE, Southern CA Alliance of Publicly Owned Treatment Works  
VLAD KOGAN, Orange County Sanitation District

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Urged the Board to adopt Rule 1315 so that their various agencies can continue to provide essential public services such as wastewater treatment, operating landfills and providing energy; spoke about the difficulties that afflicted their agencies during the permit moratorium; and added that the priority reserve is essential for maintaining their current level of service as well as providing for necessary expansion projects.

MICHAEL PETRACCA, Kroger, Inc. – La Habra bakery

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Explained that in his role as plant engineer for Kroger's La Habra Bakery, which employs 250 people and provides products for 400 stores, he has seen firsthand the effects of businesses shutting down or moving out of California; and expressed hope that the adoption of Rule 1315 will provide for continued expansion projects at his facility that will further reduce their emissions as they increase production and hopefully provide more jobs in the area.

There being no further public testimony on this item, the public hearing was closed.

Due to the amount of testimony received and given the history on this rule, the Board 1) closed the public hearing; and 2) asked staff to review the information received and report back to the Board for their deliberation at the February Board Meeting.

MOVED BY YATES, SECONDED BY GONZALES, AND UNANIMOUSLY CARRIED (Absent: Loveridge and Pulido), AGENDA ITEM 20 WAS CONTINUED TO THE FEBRUARY 4, 2011 BOARD MEETING, FOR BOARD DELIBERATION ONLY.

**OTHER BUSINESS**

21. Notification of Executive Officer Enforcement Discretion Regarding Rule 1147

Dr. Wallerstein explained that stakeholders that are affected by Rule 1147 came to staff with concerns they had regarding a requirement to have certain technology in place as of January 1, 2011. Staff determined that rule amendments are appropriate; but, due to the lead time required for notice of a proposed rule amendment, Dr. Wallerstein explained that he would be utilizing enforcement discretion until such time that a proposal for modification of select elements of the rule can be brought to the Board.

Randy Wyatt, Wyatt's Paint and Body, commented on the difficulties that his business faces as a result of recent rule adoptions and amendments, including the switch to waterborne paint and restrictions on cleaning solvents; and urged the Board to consider the drawbacks to changing these products, including increased energy usage and the subsequent cost of the increased usage which is required to dry the new paint products.

Dr. Wallerstein suggested that Mr. Wyatt meet with staff at the conclusion of the meeting to discuss his specific concerns and allow staff to ascertain what specific cleaning agents he has tried. He clarified that before a rule is amended or adopted, an EIR analyzes the possibility for resulting increased electricity or natural gas usage.

Pursuant to a request by Dr. Lyou and Chairman Burke, Dr. Wallerstein confirmed that the Board will be kept apprised of any further developments in this matter. He reminded the Board that this item is simply a notification that he will be utilizing enforcement discretion to loosen current requirements of the rule, including the requirement of a fuel flow meter, and the rule will come before the Board for modification at a future meeting.

RECEIVED AND FILED; NO ACTION NECESSARY.

**CONSENT CALENDAR (continued)**

4. Execute Contract to Install and Maintain Air Filtration Systems in Wilmington Area Schools

Dr. Lyou left the room because of his previously announced abstention on Agenda Item 4.

Dr. Chung Liu, DEO/Science & Technology Advancement, notified the Board that he spoke with the Deputy Director of Maintenance and Operations for LAUSD and he confirmed that the School District does want to move forward on this item and they look forward to working with the AQMD on the project.

MOVED BY CAMPBELL, SECONDED BY CACCIOTTI, AGENDA ITEM 4 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Antonovich, Benoit, Burke, Cacciotti, Campbell, Carney, Gonzales, Mitchell, Perry and Yates.

NOES: None.

ABSTAIN: Lyou.

ABSENT: Loveridge and Pulido.

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

Ling Ling Chang, City of Diamond Bar Mayor Pro Tem, introduced herself to the Board as the newest member of the Diamond Bar City Council; expressed her appreciation for the great partnership that has been in effect with the AQMD; and commended the Board for the exemplary State of the Air video.

## **CLOSED SESSION**

The Board recessed to closed session at 12:05 p.m., pursuant to Government Code section 54956.9(a) to confer with its counsel regarding pending litigation which has been initiated formally and to which the District is a party, as follows:

- NRDC, et al. v. SCAQMD, et al., U.S. District Court Case No. CV08-05403 GW (PLAx) and United States Court of Appeals, 9th Circuit, Case No. 09-57064;
- CCAT, et al. v. State of California; SCAQMD, et al., Los Angeles Superior Court Case No. BS124264 and California Court of Appeal, Second District, Case No. B226692;
- Petition Before the Administrator of the U.S. Environment Protection Agency In the Matter of Alleged Failure of California to Comply with Mandatory Procedures to Amend SIP Regarding Internal Bank Offset Credits Held by the South Coast Air Quality Management District (filed December 10, 2009); and
- Communities for a Better Environment v. South Coast Air Quality Management District, et al., Los Angeles Superior Court Case No. BS091275, and Carlos Valdez, et al. v. South Coast Air Quality Management District, et al., Los Angeles Superior Court Case No. BS091276, Court of Appeal of the State of California Case No. B193500, and Supreme Court of California Case No. S161190.

In addition, it was also necessary for the Board to recess to closed session pursuant to Government Code sections 54956.8 to confer regarding real property negotiations regarding:

Property: 21825 Copley Drive, Diamond Bar, California 91765

Agency Negotiator: Barry Wallerstein

Negotiating Party: City of Diamond Bar

Under Negotiation: Price and terms of lease.

Following closed session, General Counsel Kurt Wiese announced that a report of any reportable actions taken in closed session will be filed with the Clerk of the Board and made available upon request.

## **ADJOURNMENT**

There being no further business, the meeting was adjourned by General Counsel Kurt Wiese at 12:35 p.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on January 7, 2011.

Respectfully Submitted,

Denise Pupo  
Senior Deputy Clerk

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

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Dr. William A. Burke, Chairman

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### **ACRONYMS**

AQMP = Air Quality Management Plan

BACT = Best Available Control Technologies

CARB = California Air Resources Board

CEQA = California Environmental Quality Act

CE-CERT = College of Engineering-Center for Environmental  
Research and Technology

EIR = Environmental Impact Report

ERC = Emission Reduction Credit

FY = Fiscal Year

GHG = Greenhouse Gas

NSR = New Source Review

PEA = Final Program Environmental Assessment

PM<sub>2.5</sub> = Particulate Matter ≤ 2.5 microns RECLAIM = Regional Clean Air Incentives Market

RFP = Request for Proposals

RFQ = Request for Quotations

SIP = State Implementation Plan

U.S. EPA = United States Environmental Protection Agency