

BOARD MEETING DATE: September 7, 2018

AGENDA NO. 1

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the July 6, 2018 meeting.

RECOMMENDED ACTION:

Approve Minutes of the July 6, 2018 Board Meeting.

Denise Garzaro
Clerk of the Boards

DG

FRIDAY, JULY 6, 2018

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

Dr. Clark E. Parker, Sr., Vice Chairman
Senate Rules Committee Appointee

Supervisor Marion Ashley
County of Riverside

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

Dr. Joseph K. Lyou
Governor's Appointee

Mayor Pro Tem Judith Mitchell
Cities of Los Angeles County – Western Region

Supervisor Shawn Nelson (Arrived at 9:20 a.m.)
County of Orange

Council Member Dwight Robinson
Cities of Orange County

Supervisor Janice Rutherford
County of San Bernardino

Supervisor Hilda L. Solis
County of Los Angeles

Members absent:

Mayor Ben Benoit
Cities of Riverside County

Council Member Joe Buscaino
City of Los Angeles

Mayor Larry McCallon
Cities of San Bernardino County

CALL TO ORDER: Chairman Burke called the meeting to order at 9:05 a.m.

- Pledge of Allegiance: Led by Chairman Burke
- Opening Comments

Mr. Nastri noted that the public hearing for proposed Rule 1469 was previously set by the Board for the September 7, 2018 Board meeting. He added that staff was requesting that Item 27 be pulled from consideration to provide time for additional public input.

Dr. Lyou acknowledged the presence of the 2018 SCAQMD student interns and thanked them for their efforts.

CONSENT CALENDAR

1. Approve Minutes of June 1, 2018 Board Meeting

Budget/Fiscal Impact

2. Approve Memorandum of Agreement Between CARB and SCAQMD to Implement and Enforce Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities and Recognize Revenue
3. Recognize Revenue from Participating Members of California Natural Gas Vehicle Partnership, Transfer Funds for SCAQMD's Membership, and Approve Budget and Expenditures for Activities and Projects during FYs 2018-19 and 2019-20
4. Recognize and Transfer Revenue and Execute Contract to Develop and Demonstrate Zero Emission Trucks and EV Infrastructure
5. Execute and Amend Contracts for Technical Assistance for Advanced, Low and Zero Emissions Mobile and Stationary Source Technologies and Implementation of Incentive Programs
6. Recognize Revenue and Transfer and Appropriate Funds for Air Monitoring Programs, and Issue Solicitations and Purchase Orders for Air Monitoring and Laboratory Equipment Plus One Vehicle

7. Authorize Executive Officer to Enter into CARB AB 197 Grant Agreement, Recognize Revenue, and Appropriate Funds to Support SCAQMD's Annual Emissions Reporting Software
8. Transfer and Appropriate Funds and Execute Contract for Short- and Long-Term Systems Development Maintenance and Support Services
9. Approve Contract Awards and Modification as Approved by MSRC

Items 10 through 16 - Information Only/Receive and File

10. Legislative, Public Affairs and Media Report
11. Report to Legislature and CARB on SCAQMD's Regulatory Activities for Calendar Year 2017
12. Hearing Board Report
13. Civil Filings and Civil Penalties Report
14. Lead Agency Projects and Environmental Documents Received by SCAQMD
15. Rule and Control Measure Forecast
16. Status Report on Major Ongoing and Upcoming Projects for Information Management

Supervisor Ashley announced his abstention on Item No. 2 because of a potential conflict of interest; on Item No. 3 because of campaign contributions from CR&R, Inc. and Waste Management; and on Item No. 9 because of campaign contributions from CR&R, Inc. and Waste Management, and because the County of Riverside is one of the recipients under Item No. 9.

Dr. Lyou announced his abstention on Item No. 3 because Clean Energy Fuels, CR&R, Inc., Sempra Energy Utilities, Trillium CNG, Waste Management, Inc. and Gladstein, Neandross & Associates are potential sources of income to him; Item No. 4 because San Pedro Bay Port Complex is potential source of income to him; Item No. 5 because Gladstein, Neandross & Associates, Sonoma Technology, Inc. and University of California Riverside are potential sources of income to him; and Item No. 9 because County of Riverside and City of Los Angeles are potential sources of income to him.

Supervisor Rutherford announced her abstention on Item No. 3 because of campaign contributions from CR&R, Inc.

Mayor Pro Tem Mitchell noted that she is a Board Member of the CARB which is involved with Item Nos. 2 and 7.

Agenda Item Nos. 2, 3, 4, 5, 7 and 9 were withheld for comment and discussion.

MOVED BY SOLIS, SECONDED BY CACCIOTTI, AGENDA ITEMS 1, 6 AND 8 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Ashley, Burke, Cacciotti, Lyou, Mitchell, Parker, Robinson, Rutherford and Solis

NOES: None

ABSENT: Benoit, Buscaino, McCallon and Nelson

17. Items Deferred from Consent Calendar

2. Approve Memorandum of Agreement Between CARB and SCAQMD to Implement and Enforce Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities and Recognize Revenue

Dr. Lyou left the room during the discussion of Item 2. (He remained out of the room for the discussion of Items 3, 4, 5, 7 and 9.)

(Supervisor Nelson arrived at 9:20 a.m.)

Harvey Eder, Public Solar Power Coalition, expressed concerns about importing non-renewable natural gas, and stressed that solar should be used more widely.

Council Member Cacciotti asked staff what type of facilities are included in this agreement and how often they will be inspected.

Mr. Nastri responded that the agreement includes smaller oil derricks and independent oil facilities. He added that the inspection schedule will vary depending on the size of the facility, but they will likely be inspected every one to three years.

MOVED BY CACCIOTTI, SECONDED BY SOLIS, AGENDA ITEM 2 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Burke, Cacciotti, Mitchell, Nelson, Parker, Robinson, Rutherford and Solis

NOES: None

ABSTAIN: Ashley

ABSENT: Benoit, Buscaino, Lyou and McCallon

3. Recognize Revenue from Participating Members of California Natural Gas Vehicle Partnership, Transfer Funds for SCAQMD's Membership, and Approve Budget and Expenditures for Activities and Projects during FYs 2018-19 and 2019-20

Supervisor Ashley left the room during the discussion of Item 3.

Council Member Robinson noted that he is a member of the California Natural Gas Vehicle Partnership which is involved with Item 3.

Mr. Eder expressed concerns about natural gas and recommended funding for solar implementation and conversion.

MOVED BY NELSON, SECONDED BY CACCIOTTI, AGENDA ITEM 3 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Burke, Cacciotti, Mitchell, Nelson, Parker, Robinson and Solis

NOES: None

ABSTAIN: Ashley, Lyou and Rutherford

ABSENT: Benoit, Buscaino and McCallon

4. Recognize and Transfer Revenue and Execute Contract to Develop and Demonstrate Zero Emission Trucks and EV Infrastructure

Mr. Eder urged support for solar technologies and recommended hearings be held to discuss the viability of solar.

Jessica Durrum, Los Angeles Alliance for a New Economy, asked that fleet partners for the proposed project be disclosed and stressed the importance of including conditions in all agreements that require full compliance with all laws. She referenced a report that documented the financial hardships experienced by truck drivers who participated in a lease-to-own program sponsored by Daimler at the Port of Long Beach. She expressed concern that Daimler may be partnering with NFI who recently acquired CalCartage, who has violated labor laws. (Submitted Written Comments)

Mayor Pro Tem Mitchell asked staff to respond to the speaker's inquiry about fleet partners for the project.

Mr. Nastri explained that Daimler will build the trucks and partner with Penske and NFI to demonstrate the trucks. He asked staff to provide additional information.

Dr. Matt Miyasato, DEO/Science and Technology Advancement, explained that NFI will be demonstrating trucks out of their Chino facility, which is not run by CalCartage.

Mayor Pro Tem Mitchell noted that CARB and the state of California strongly support electrification of the Ports of Los Angeles and Long Beach. She noted the importance of meeting the goals set forth in the AQMP and supporting demonstration projects that promote heavy-duty electric trucks. She recognized the hardships experienced by truck drivers and the importance of incentive programs.

Bayron Gilchrist, General Counsel, explained that the contracts could be drafted to include provisions that require compliance with federal and state laws.

Supervisor Solis expressed concern with supporting a project where a company that is known to have violated labor laws will benefit financially.

Chairman Burke asked staff about the potential to continue the item so that further discussion by the Technology Committee could occur.

Dr. Miyasato explained that it is important to proceed with the project as the development of this technology could assist with meeting federal attainment standards. He noted that this is the first major equipment

manufacturer to engage in a heavy-duty electric truck project. He added that the fleet partners will simply operate the trucks to accumulate data for Daimler.

Mr. Nastri noted that if it was the Board's desire, the item could be heard at the July Technology Committee meeting and return to the Board for consideration in September.

Rossmery Zayas, CBE Youth Organizer, expressed concerns about subsidies being awarded to companies who are in violation of safety and labor laws for warehouse and truck drivers at the ports.

Don MacAllister, Electric Vehicle Network, Inc., spoke in favor of the project and the importance of moving forward with zero-emission trucks. He noted that his company, in partnership with University of California Irvine, has developed a 30-second battery swap system for zero-emission trucks. He added that they will also be conducting a demonstration project at the port.

Council Member Cacciotti asked if staff has investigated this technology.

Dr. Miyasato explained that staff met with Mr. MacAllister regarding the battery systems application for small SUVs, but were not made aware of heavy-duty truck applications. He noted the importance of getting original equipment manufacturers engaged as they have the ability to produce a large number of trucks in a short amount of time to help to meet attainment goals. One of the primary goals of the project is to collect data related to battery size, capacity, range, charging infrastructure and cost benefit.

Celene Perez, Warehouse Worker Resource Center, expressed concern that NFI is a partner on the project and noted numerous labor law violations by NFI.

Council Member Robinson noted that Council Member Buscaino expressed support for the project and the involvement of Daimler Trucks. He added his support for the project noting that Daimler is one of the largest truck engine manufacturers and the District has been trying to engage Daimler for a number of years. He urged support for moving forward as quickly as possible and noted the significant efforts that are required to reduce emissions and meet attainment goals.

Mayor Pro Tem Mitchell noted that staff will continue to work on the legal concerns and clarified that this is a demonstration project and funds will not be going to truck drivers as an incentive. She noted the high priority to move toward zero-emission technology at the Ports.

Erik Neandross, representing Daimler Trucks North America, explained that Daimler seeks to get trucks on the road by the end of 2018 which is a very aggressive schedule. He added that the proposal provides that fifteen trucks will be allocated to Penske and five to NFI and, if necessary, they could allocate all trucks to Penske. He clarified that the funds would go to Daimler to build and deliver the trucks and the fleet partners would simply drive and test the trucks to provide data to Daimler.

Councilmember Cacciotti urged support for moving forward with the project and setting conditions in the contract that address the labor and safety violations that have been noted.

Mr. Gilchrist explained that staff could report to the Technology Committee with the proposed contractual language.

Mayor Pro Tem Mitchell moved to approve Item 4 and Council Member Cacciotti seconded with the condition that all vehicles be designated to Penske in the event the concerns with NFI cannot be resolved.

Dr. Parker requested clarification on the labor concerns and what kind of restrictions and limitations could be placed in the contract to ensure that law abiding companies are driving the trucks.

Mr. Gilchrist noted that many of the labor issues concern lease-to-own agreements and this project does not involve lease-to-own options. He added that the District is exploring placing conditions on contract awards that will address the violations that have occurred with lease-to-own agreements and the possibility that the contracts can be written to prohibit lease-to-own options.

Mr. Nastri recommended that if the labor concerns cannot be resolved with NFI that the District pursue another suitable partner or utilize Penske for all the trucks.

Mayor Pro Tem Mitchell amended her motion to include the suggestion made by Mr. Nastri.

Chairman Burke expressed support for staff's recommendation and acknowledged Daimler's strong business reputation.

MOVED BY MITCHELL, SECONDED BY CACCIOTTI, AGENDA ITEM 4 APPROVED WITH DIRECTION TO STAFF THAT IF LABOR VIOLATION CONCERNS CANNOT BE RESOLVED WITH NFI, THE FIVE TRUCKS PROPOSED TO BE PROVIDED TO THEM BY DAIMLER BE ALLOCATED TO AN ALTERNATIVE SUITABLE VENDOR OR PENSKE, BY THE FOLLOWING VOTE:

AYES: Ashley, Burke, Cacciotti, Mitchell, Nelson, Parker, Robinson, Rutherford and Solis

NOES: None

ABSTAIN: Lyou

ABSENT: Benoit, Buscaino and McCallon

5. Execute and Amend Contracts for Technical Assistance for Advanced, Low and Zero Emissions Mobile and Stationary Source Technologies and Implementation of Incentive Programs

Mr. Eder urged support for additional funding of solar technologies.

7. Authorize Executive Officer to Enter into CARB AB 197 Grant Agreement, Recognize Revenue, and Appropriate Funds to Support SCAQMD's Annual Emissions Reporting Software

(Mr. Eder had requested to speak on Item 7, but after speaking on other items did not have time remaining to do so.)

9. Approve Contract Awards and Modification as Approved by MSRC

Chairman Burke acknowledged that the current list of projects to be funded is the most robust he has seen in 25 years.

(Mr. Eder had requested to speak on Item 9, but after speaking on other items did not have time remaining to do so.)

MOVED BY ROBINSON, SECONDED BY MITCHELL, AGENDA ITEMS 5, 7 AND 9 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Ashley (*except Item #9*), Burke, Cacciotti, Mitchell, Nelson, Parker, Robinson, Rutherford and Solis

NOES: None

ABSTAIN: Ashley (*Item #9 only*) and Lyou (*Items #5 and #9 only*)

ABSENT: Benoit, Buscaino, Lyou (*Item #7 only*) and McCallon

MOVED BY CACCIOTTI, SECONDED BY SOLIS, AGENDA ITEMS 10 THROUGH 16 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Ashley, Burke, Cacciotti, Lyou, Mitchell, Nelson, Parker, Robinson, Rutherford and Solis

NOES: None

ABSENT: Benoit, Buscaino and McCallon

BOARD CALENDAR

18. Administrative Committee
19. Legislative Committee
20. Refinery Committee
21. Stationary Source Committee
22. Technology Committee

- 23. Mobile Source Air Pollution Reduction Review Committee
- 24. California Air Resources Board Monthly Report

MOVED BY MITCHELL, SECONDED BY CACCIOTTI, AGENDA ITEMS 18 THROUGH 24, APPROVED AS RECOMMENDED, RECEIVING AND FILING THE COMMITTEE, MSRC AND CARB REPORTS AND APPROVING THE FOLLOWING POSITIONS ON LEGISLATION, BY THE FOLLOWING VOTE:

AYES: Ashley, Burke, Cacciotti, Lyou, Mitchell, Nelson, Parker, Robinson, Rutherford and Solis

NOES: None

ABSENT: Benoit, Buscaino and McCallon

Agenda Item	Recommendation
AB 2145 (Reyes) Vehicular air pollution	Support
SB 1260 (Jackson) Fire prevention and protection: prescribed burn	Support with Amendments

Staff Presentation/Board Discussion

- 25. Recommend Communities and Initial Implementation Schedule for Assembly Bill 617

Dr. Philip Fine, DEO/Planning, Rule Development and Area Sources, gave the staff presentation on Item 25.

Supervisor Solis commended staff for the effort to identify the communities most in need of assistance. She inquired about the overlap of some of the potential areas for years two through five and expressed support for expanding these areas to include communities in San Gabriel Valley adjacent to the 605 freeway.

Christopher Chavez, Coalition for Clean Air, expressed agreement with the nominations for year one implementation and noted that these areas are among the most polluted in the South Coast Air Basin and home to a large socioeconomically disadvantaged population. He expressed support for

community monitoring programs and recommended adapting the community selection model created by the San Joaquin Valley's AB 617 Environmental Justice Steering Committee. He encouraged the District to develop a plan to incorporate the "Replace Your Ride" Program into AB 617 efforts.

Marc Carrel, Breathe LA, expressed support for the communities recommended by staff. He noted the importance of addressing exposure levels of residents in communities and commended staff for their analysis of schools and daycare centers in close proximity to freeways. He noted support for including the "Replace Your Ride" Program in AB 617 efforts to encourage the use of light-duty vehicles in these communities.

Dr. Lyou noted support for the communities that have been identified. He expressed the importance of utilizing a more bottom-up approach to engaging the community and advocacy organizations in the development of the prioritization of communities. He suggested an approach similar to that used by San Joaquin Valley APCD for selecting priority communities.

Mr. Nastri responded that he, along with administrators from the San Joaquin Valley APCD and Bay Area AQMD, met with Genevieve Gale from the Central Valley Air Quality Coalition, who assisted the San Joaquin Valley APCD in their process for identifying communities.

Mayor Pro Tem Mitchell expressed support for staff's recommendation and noted the importance of stakeholder involvement throughout the process. CARB had envisioned the formation of community steering committees for the duration of each program.

MOVED BY MITCHELL, SECONDED BY CACCIOTTI, AGENDA ITEM 25, APPROVED AS RECOMMENDED, APPROVING RECOMMENDATIONS FOR THE IMPLEMENTATION SCHEDULE FOR AB 617 COMMUNITIES AND THE DRAFT REPORT TO BE SUBMITTED TO CARB, BY THE FOLLOWING VOTE:

AYES: Ashley, Burke, Cacciotti, Lyou, Mitchell, Nelson, Parker, Robinson, Rutherford and Solis

NOES: None

ABSENT: Benoit, Buscaino and McCallon

PUBLIC HEARINGS

26. Determine that Proposed Amendments to Rule 1111 – Reduction of NOx Emissions from Natural-Gas-Fired, Fan-Type Central Furnaces are Exempt from CEQA and Amend Rule 1111

Tracy Goss, Planning and Rules Manager, gave the presentation on Item No. 26.

The public hearing was opened and the following individuals addressed the Board on Item 26.

Mr. Eder expressed concern about natural gas and opposed the adoption of the rule. He recommended support for new solar thermal technologies.

Rusty Tharp, Goodman Manufacturing
Ryan Teschner, Rheem Manufacturing (Submitted Written Comments)
Expressed support for the provision to allow customer notification through brochures and on websites rather than labels on the furnaces.

David Winningham, Lennox International, expressed support for the amendments and the requirement to provide customer notification regarding compliant projects through brochures and on websites rather than labels on equipment. He added that Lennox does not support a sell-through period. (Submitted Written Comments)

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

Written Comments Submitted By:
Chris Forth, Johnson Controls

MOVED BY LYOU, SECONDED BY MITCHELL,
AGENDA ITEM 26 APPROVED AS
RECOMMENDED, ADOPTING RESOLUTION
NO. 18-12, DETERMINING THAT PROPOSED
AMENDMENTS TO RULE 1111 ARE EXEMPT
FROM THE REQUIREMENTS OF CEQA AND
AMENDING RULE 1111—REDUCTION OF NOx
EMISSIONS FROM NATURAL-GAS-FIRED, FAN-
TYPE CENTRAL FURNACES, BY THE
FOLLOWING VOTE:

AYES: Ashley, Burke, Cacciotti, Lyou, Mitchell, Nelson, Parker, Robinson, Rutherford and Solis

NOES: None

ABSENT: Benoit, Buscaino and McCallon

27. Receive and File 2017 Annual Report on AB 2588 Program; and Approve Updates to Facility Prioritization Procedure, Supplemental Guidelines for AB 2588 Program, and Guidelines for Participating in Rule 1402 Voluntary Risk Reduction Program

This item was pulled from consideration by staff.

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

Mr. Eder expressed concerns regarding global warming and discrepancies in the numbers reported for methane and CO₂ by the state and the District.

Florence Gharibian, Del Amo Action Committee, highlighted the dangers of hydrofluoric acid and asked for the status of the development of proposed Rule 1410.

Dr. Lyou asked staff if the next meeting of the Refinery Committee has been scheduled.

Mr. Nastri explained that the next proposed meeting date is September 22.

Maria Jacquez, Sun Valley Resident, expressed concerns about two recycling facilities in her community. She indicated that residents are experiencing respiratory illnesses and damage to their homes as a result of trucks carrying materials to the facilities. She explained that she has filed complaints with the District in the past, but is not aware that any action has been taken.

Chairman Burke asked staff to follow-up with Ms. Jacquez regarding her comments.

CLOSED SESSION

The Board recessed to closed session at 11:05 a.m., pursuant to Government Code sections:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

- 54956.9(a) and 54956.9(d)(1) to confer with its counsel regarding pending litigation which has been initiated formally and to which the SCAQMD is a party. The actions are:

Communities for a Better Environment v. SCAQMD, Los Angeles Superior Court Case No. BS161399 (RECLAIM);

People of the State of California, ex rel. SCAQMD v. Exide Technologies, Inc., Los Angeles Superior Court Case No. BC533528;

In re: Exide Technologies, Inc., U.S. Bankruptcy Court, District of Delaware, Case No. 13-11482 (KJC) (Bankruptcy Case);

Johnson Controls, Inc. v. SCAQMD, Los Angeles Superior Court Case No. BS173108;

Rainbow Transfer/Recycling, Inc. v South Coast Air Quality Management District, et al., Los Angeles Superior Case No. BS171620; and

In the Matter of SCAQMD v. Rainbow Transfer/Recycling, Inc., SCAQMD Hearing Board Case No. 4394-2.

CONFERENCE WITH LEGAL COUNSEL – INITIATING LITIGATION

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

Following closed session, Mr. Gilchrist announced that a report of any reportable actions taken in closed session will be filed with the Clerk of the Board's office and made available to the public upon request.

ADJOURNMENT

There being no further business, the meeting was adjourned by Mr. Gilchrist at 11:25 a.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on July 6, 2018.

Respectfully Submitted,

Denise Garzaro
Clerk of the Boards

Date Minutes Approved: _____

Dr. William A. Burke, Chairman

ACRONYMS

AQMP = Air Quality Management Plan
CARB = California Air Resources Board
CEQA = California Environmental Quality Act
CO₂ = Carbon Dioxide
DEO = Deputy Executive Officer
EV = Electric Vehicle
MSRC = Mobile Source (Air Pollution Reduction) Review Committee
NO_x = Oxides of Nitrogen