



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS REGULAR MEETING

June 5, 2013

A meeting of the Bay Area Air Quality Management District Board of Directors will be held in the 7th Floor Board Room at the Air District Headquarters, 939 Ellis Street, San Francisco, California.

Questions About an Agenda Item

The name, telephone number and e-mail of the appropriate staff Person to contact for additional information or to resolve concerns is listed for each agenda item.

Meeting Procedures

The public meeting of the Air District Board of Directors begins at 9:45 a.m. The Board of Directors generally will consider items in the order listed on the agenda. However, any item may be considered in any order.

After action on any agenda item not requiring a public hearing, the Board may reconsider or amend the item at any time during the meeting.

This meeting will be webcast. To see the webcast, please visit <http://www.baaqmd.gov/The-Air-District/Board-of-Directors/Agendas-and-Minutes.aspx> at the time of the meeting.

Public Comment Procedures

Persons wishing to make public comment must fill out a Public Comment Card indicating their name and the number of the agenda item on which they wish to speak, or that they intend to address the Board on matters not on the Agenda for the meeting.

Public Comment on Non-Agenda Matters, Pursuant to Government Code Section 54954.3 For the first round of public comment on non-agenda matters at the beginning of the agenda, ten persons selected by a drawing by the Clerk of the Boards from among the Public Comment Cards indicating they wish to speak on matters not on the agenda for the meeting will have three minutes each to address the Board on matters not on the agenda. For this first round of public comments on non-agenda matters, all Public Comment Cards must be submitted in person to the Clerk of the Boards at the location of the meeting and prior to commencement of the meeting. The remainder of the speakers wishing to address the Board on non-agenda matters will be heard at the end of the agenda, and each will be allowed three minutes to address the Board at that time.

Members of the Board may engage only in very brief dialogue regarding non-agenda matters, and may refer issues raised to District staff for handling. In addition, the Chairperson may refer issues raised to appropriate Board Committees to be placed on a future agenda for discussion.

Public Comment on Agenda Items After the initial public comment on non-agenda matters, the public may comment on each item on the agenda as the item is taken up. Public Comment Cards for items on the agenda must be submitted in person to the Clerk of the Boards at the location of the meeting and prior to the Board taking up the particular item. Where an item was moved from the Consent Calendar to an Action item, no speaker who has already spoken on that item will be entitled to speak to that item again.

Up to ten (10) speakers may speak for three minutes on each item on the Agenda. If there are more than ten persons interested in speaking on an item on the agenda, the Chairperson or other Board Member presiding at the meeting may limit the public comment for all speakers to fewer than three minutes per speaker, or make other rules to ensure that all speakers have an equal opportunity to be heard. Speakers are permitted to yield their time to one other speaker; however no one speaker shall have more than six minutes. The Chairperson or other Board Member presiding at the meeting may, with the consent of persons representing both sides of an issue, allocate a block of time (not to exceed six minutes) to each side to present their issue.

BOARD OF DIRECTORS REGULAR MEETING AGENDA

WEDNESDAY
JUNE 5, 2013
9:45 A.M.

BOARD ROOM
7TH FLOOR

CALL TO ORDER

Opening Comments
Roll Call
Pledge of Allegiance

Chairperson, Ash Kalra
Clerk of the Boards

PUBLIC COMMENT ON NON-AGENDA MATTERS

Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3

For the first round of public comment on non-agenda matters at the beginning of the agenda, ten persons selected by a drawing by the Clerk of the Boards from among the Public Comment Cards indicating they wish to speak on matters not on the agenda for the meeting will have three minutes each to address the Board on matters not on the agenda. For this first round of public comments on non-agenda matters, all Public Comment Cards must be submitted in person to the Clerk of the Board at the location of the meeting and prior to commencement of the meeting.

CONSENT CALENDAR (ITEMS 1 – 4)

Staff/Phone (415) 749-

1. Minutes of the Board of Directors Special Budget Hearing and Regular Board of Directors Meeting of May 15, 2013

Clerk of the Boards/5073

2. Board Communications Received from May 15, 2013 through June 4, 2013

J. Broadbent/5052

jbroadbent@baaqmd.gov

Copies of communications directed to the Board of Directors received by the Air District from May 15, 2013 through June 4, 2013, if any, will be at each Board Member's place.

3. Air District Personnel on Out-of-State Business Travel

J. Broadbent/5052

jbroadbent@baaqmd.gov

In accordance with Section 5.4 (b) of the Air District's Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified that the Air District personnel in the attached memo have traveled on out-of-state business.

4. Approval of Employee Contract Amendments for the Executive Officer/APCO and District Counsel

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Board of Directors will consider authorizing the Chairman of the Board of Directors to execute amendments to the employment contracts of the Executive Officer/APCO, Jack P. Broadbent, and District Counsel, Brian C. Bunger.

COMMITTEE REPORTS AND RECOMMENDATIONS

5. Report of the **Executive Committee** Meeting of May 20, 2013
CHAIR: A. Kalra
J. Broadbent/5052
jbroadbent@baaqmd.gov
6. Report of the **Stationary Source Committee** Meeting of May 20, 2013
CHAIR: J. Gioia
J. Broadbent/5052
jbroadbent@baaqmd.gov
7. Report of the **Mobile Source Committee** Meeting of May 23, 2013
CHAIR: S. Haggerty
J. Broadbent/5052
jbroadbent@baaqmd.gov

The Committee recommends Board of Directors' approval of the following items:

A) Selection of Vehicle Buy-Back Program and Direct Mail Service Contractors:

1. *Environmental Engineering Studies, Inc. (EES) and Pick-N-Pull Auto Dismantlers (Pick-N-Pull) as the vehicle retirement contractors and AdMail as the direct mail service contractor; for the fiscal year ending (FYE) 2014 Vehicle Buy Back Program (VBB);*
2. *Authorization for the Executive Officer/Air Pollution Control Officer (APCO) to execute contracts for:*
 - a. *Vehicle scrapping and related services with EES and Pick-N-Pull, for a combined amount up to \$7 million;*
 - b. *Direct mail services for the VBB Program with AdMail for up to \$133,417; and*
 - c. *Additionally, each contract shall grant the ability to extend these services for an additional three years, at the Air District discretion, based on contractor performance.*

B) FYE 2014 Transportation Fund for Clean Air (TFCA) Funding Allocations:

1. *Allocate \$22.75 million in TFCA funding to the projects and programs listed in Table 1.*
2. *Authorize the Executive Officer/APCO to enter into funding agreements and contracts up to \$100,000 for projects and programs listed in Table 1.*
3. *Authorize \$1.4 million in TFCA funding to match \$2.8 million from the Metropolitan Transportation Commission (MTC) for the Regional Bicycle Sharing Pilot Program to bring the system to 1,000 bicycles.*
4. *Authorize the Executive Officer/APCO to execute all amendments necessary to contracts for the Regional Bicycle Sharing Pilot Program to accept and expend MTC and TFCA monies.*

8. Report of the **Public Outreach Committee** Meeting of May 29, 2013
CHAIR: M. Ross

J. Broadbent/5052
jbroadbent@baaqmd.gov

The Committee recommends Board of Directors' approval of the following item:

Funding Approval for Spare the Air Resource Teams

Approve funding for the 2014 Fiscal Year End in the amount not to exceed \$227,000.

CLOSED SESSION

9. **EXISTING LITIGATION (Government Code Section 54956.9(a))**
Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session with legal counsel to consider the following case:

Lehigh Southwest Cement Company v. Bay Area AQMD, Santa Clara County Superior Court, Case No. 112CV236602.

OPEN SESSION

PUBLIC COMMENT ON NON-AGENDA MATTERS

Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3

Speakers who did not have the opportunity to address the Board in the first round of comments on non-agenda matters will be allowed three minutes each to address the Board on non-agenda matters.

BOARD MEMBERS' COMMENTS

Any member of the Board, or its staff, on his or her own initiative or in response to questions posed by the public, may: ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)

OTHER BUSINESS

10. Report of the Executive Officer/APCO
11. Chairperson's Report
12. Time and Place of Next Meeting is Wednesday, June 19, 2013, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.
13. Adjournment

**CONTACT THE CLERK OF THE BOARDS
939 ELLIS STREET SF, CA 94109**

**(415) 749-5073
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov**

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities. Notification to the Executive Office should be given at least 3 working days prior to the date of the meeting so that arrangements can be made accordingly.

Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all, members of the body to which this Agenda relates shall be made available at the Air District's headquarters at 939 Ellis Street, San Francisco, CA 94109, at the time such writing is made available to all, or a majority of all, members of that body.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109
FOR QUESTIONS PLEASE CALL (415) 749-4963

EXECUTIVE OFFICE:
MONTHLY CALENDAR OF DISTRICT MEETINGS

JUNE 2013

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	5	9:45 a.m.	Board Room
Board of Directors Legislative Committee <i>(At the Call of the Chair)</i>	Thursday	6	9:30 a.m.	4 th Floor Conf. Room
Advisory Council Regular Meeting <i>(Meets on the 2nd Wednesday of each Month)</i>	Wednesday	12	9:00 a.m.	Board Room
Board of Directors Executive Committee <i>(Meets on the 3rd Monday of each Month)</i>	Monday	17	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Stationary Source Committee <i>(Meets on the 3rd Monday of each Month) - CANCELLED</i>	Monday	17	10:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	19	9:45 a.m.	Board Room
Board of Directors Budget & Finance Committee <i>(Meets on the 4th Wednesday of each Month) - CANCELLED</i>	Wednesday	26	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee <i>(Meets on the 4th Thursday of each Month)</i>	Thursday	27	9:30 a.m.	Board Room

JULY 2013

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	3	9:45 a.m.	Board Room
Advisory Council Regular Meeting <i>(Meets on the 2nd Wednesday of each Month)</i>	Wednesday	10	9:00 a.m.	Board Room
Board of Directors Executive Committee <i>(Meets on the 3rd Monday of each Month)</i>	Monday	15	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Stationary Source Committee <i>(Meets on the 3rd Monday of each Month) - CANCELLED</i>	Monday	15	10:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	17	9:45 a.m.	Board Room
Board of Directors Climate Protection Committee <i>(Meets on the 3rd Thursday every other month)</i>	Thursday	18	9:30 a.m.	4 th Floor Conf. Room

JULY 2013

Board of Directors Budget & Finance Committee <i>(Meets on the 4th Wednesday of each Month)</i> - CANCELLED	Wednesday	24	9:30 a.m.	4 th Floor Conf. Room
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Board of Directors Mobile Source Committee <i>(Meets on the 4th Thursday of each Month)</i>	Thursday	25	9:30 a.m.	Board Room
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AUGUST 2013

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i> - CANCELLED	Wednesday	7	9:45 a.m.	Board Room
Advisory Council Regular Meeting <i>(Meets on the 2nd Wednesday of each Month)</i> - CANCELLED	Wednesday	14	9:00 a.m.	Board Room
Board of Directors Executive Committee <i>(Meets on the 3rd Monday of each Month)</i> - CANCELLED	Monday	19	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Stationary Source Committee <i>(Meets on the 3rd Monday of each Month)</i> - CANCELLED	Monday	19	10:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i> - CANCELLED	Wednesday	21	9:45 a.m.	Board Room
Board of Directors Budget & Finance Committee <i>(Meets on the 4th Wednesday of each Month)</i> - CANCELLED	Wednesday	28	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee <i>(Meets on the 4th Thursday of each Month)</i> - CANCELLED	Thursday	29	9:30 a.m.	Board Room

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: May 22, 2013

Re: Minutes of the Board of Directors Special Budget Hearing and Regular Meetings of
May 15, 2013

RECOMMENDED ACTION

Approve the attached draft minutes of the Board of Directors Special Budget Hearing and Regular Meetings of May 15, 2013.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Special Budget Hearing and Regular Meetings of May 15, 2013.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Ana Sandoval

Attachments

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

Board of Directors Special Budget Hearing Meeting
Wednesday, May 15, 2013

DRAFT MINUTES

CALL TO ORDER

Chairperson Ash Kalra called the meeting to order at 9:52 a.m.

ROLL CALL

Present: Chairperson Ash Kalra; Vice-Chairperson Nate Miley; Secretary Carole Groom; and Directors Susan Adams, Teresa Barrett, Tom Bates, John Gioia, Scott Haggerty, David Hudson, Carol Klatt, Liz Kniss, Jan Pepper, Mary Piepho, Mark Ross, Jim Spering, Ken Yeager and Shirlee Zane.

Absent: Directors John Avalos, Edwin Lee, Eric Mar, Tim Sbranti and Brad Wagenknecht.

PLEDGE OF ALLEGIANCE

Chairperson Kalra led the Pledge of Allegiance.

OPENING COMMENTS: None.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

PUBLIC HEARING

- 1. Public Hearing to Consider Testimony on the Air District's Proposed Budget for Fiscal Year End (FYE) 2014. A Final Public Hearing is scheduled for Wednesday, June 19, 2013, to Consider Adoption of the Proposed Budget for FYE 2014**

Jeffrey McKay, Deputy Air Pollution Control Officer (DAPCO) gave the staff presentation Proposed Fiscal Year End 2014 Budget, including revenue projections for current FYE 2013, overview of proposed budget for FYE 2014, general fund revenue sources and expenditures, personnel costs, strategic staffing principles, fees and reserve funds budgeted projection.

NOTED PRESENT: Director Yeager was noted present at 9:59 a.m., Director Zane was noted present at 10:00 a.m., Director Gioia was noted present at 10:02 a.m., and Director Kniss was noted present at 10:06 a.m.

Board Comments:

Director Spering asked, regarding slide 7, Personnel Costs, about the valuation of and reasoning behind maintaining 43 budgeted vacancies, which questions were answered by Mr. McKay. Jack Broadbent, Executive Officer/Air Pollution Control Officer, provided a history of the budgeted vacancies, overall staffing levels and related budget considerations. Director Spering said the positions should be cut or filled.

Chairperson Kalra asked whether the positions are needed but going unfilled out of fiscal restraint and for information relative to the twelve vacant positions being filled, which questions were answered by Mr. Broadbent.

Director Piepho echoed the comment of Director Spering, asked that the item be referred to the Budget and Finance Committee for review and asked about an Other Post-Employment Benefits actuarial study and the current payment approach, which questions were answered by Mr. McKay.

Director Piepho expressed her support for promotional hiring, when appropriate, and her concern about the 6.4% average fee increase reflected in slide 9, Fees, in the context of the current economy. Chairperson Kalra clarified that the fee increase is an effort at catching up from the unsustainably low cost recovery levels in the past.

Director Zane noted that the current reserves are nearly at the 2010 level and asked if they should continue to increase over time, which question was answered by Messrs. McKay and Broadbent.

Director Adams said, regarding slide 7, Personnel Costs, the 43 outstanding vacancies should be considered when analyzing staff efficiencies that could result from the move to 390 Main Street and echoed Director Piepho's concern about the 6.4% average increase.

Mr. Broadbent explained the 6.4% average fee increase in the context of the larger conversation at the Air District about attaining an 85% cost recovery level pursuant to the direction of the Board.

Director Adams suggested that overly ambitious increases may result in decreased compliance levels amongst the regulated community and recommended that a maximum level be set for reserves so that money that might be usefully applied elsewhere is not left sitting in reserve needlessly.

Director Ross asked how many vacancies will remain after the twelve positions are filled, which question was answered by Mr. McKay.

Director Groom recalled the history of the cost recovery policy and fee increase proposal in the Budget and Finance Committee and said the vacancies should remain for the time being, at least until the move to 390 Main Street is complete.

Director Gioia said the fee increases should always be considered in the context of the cost recovery policy and suggested 6.4% may not be the most informative number to present as it is only an average of the actual increases seen in various categories.

Director Piepho restated her request that the vacancy issue be referred to the Budget and Finance Committee, as well as to the Personnel Committee.

Director Zane asked about where in the organization the 43 vacancies exist, which questions were answered by Mr. McKay. Director Zane urged for the filling of any vacancies within the Compliance and Enforcement Division as soon as possible.

Director Bates said the Air District will confront big changes in 2014 and the current reserves levels are prudent.

Chairperson Kalra made closing statements.

Public Comments: None.

Board Action:

Director Kniss made a motion, seconded by Director Spering, to close the first of two required public hearings on the proposed Air District FYE 2014 Budget for public review and comment. The motion carried unanimously.

OTHER BUSINESS

2. **Board Members' Comments:** None.
3. **Time and Place of Next Meeting:** Regular Board of Directors Meeting on Wednesday, June 19, 2013, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.
4. **Adjournment:** The Board meeting adjourned at 10:26 a.m.

Sean Gallagher
Clerk of the Boards

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

Board of Directors Regular Meeting
Wednesday, May 15, 2013

DRAFT MINUTES

CALL TO ORDER

Chairperson Ash Kalra called the meeting to order at 10:28 a.m.

ROLL CALL

Present: Chairperson Ash Kalra; Vice-Chairperson Nate Miley; Secretary Carole Groom; and Directors Susan Adams, Teresa Barrett, Tom Bates, John Gioia, Scott Haggerty, David Hudson, Carol Klatt, Liz Kniss, Jan Pepper, Mary Piepho, Mark Ross, Jim Spering, Ken Yeager and Shirlee Zane.

Absent: Directors John Avalos, Edwin Lee, Eric Mar, Tim Sbranti and Brad Wagenknecht.

OPENING COMMENTS: None.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

CONSENT CALENDAR (ITEMS 1 – 5)

- 1. Minutes of the Board of Directors Regular Meeting of May 1, 2013;**
- 2. Board Communications Received from May 1, 2013, through May 14, 2013;**
- 3. Air District Personnel on Out-of-State Business Travel;**
- 4. Notice of Violations Issued and Settlements in Excess of \$10,000 in April 2013; and**
- 5. Quarterly Report of Executive Office and Division Activities.**

Board Comments: None.

Public Comments: None.

Board Action: Director Gioia made a motion to approve Consent Calendar Items 1, 2, 3, 4 and 5; Director Kniss seconded; and the motion carried unanimously.

COMMITTEE REPORTS AND RECOMMENDATIONS

- 6. Report of the Personnel Committee (PC) Meeting of May 6, 2013**
Committee Chairperson Wagenknecht (as delivered by Chairperson Kalra)

The PC met on Monday, May 6, 2013, and approved the minutes of March 11, 2013.

The PC met in closed session to continue the performance evaluations of both the Executive Officer/Air Pollution Control Officer (APCO) and District Counsel, with no reportable action regarding either. The PC Chair will brief the Board on the evaluations during today's closed session.

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

Public Comments: None.

Board Comments: None.

Board Action:

Director Piepho made a motion to approve the report of the PC; Director Groom seconded; and the motion carried unanimously.

7. Report of the Legislative Committee (LC) Meeting of May 6, 2013
Committee Chairperson Bates

The LC met on Monday, May 6, 2013, and approved the minutes of March 14, 2013.

The LC received an update on the Air District's legislative agenda of which there are two primary components. The first is passing Assembly Bill (AB) 8 Perea and Skinner and Senate Bill (SB) 11 Pavley and Cannella to reauthorize critical air quality funding programs due to expire in the next several years, including the Carl Moyer and AB 923 programs. The second is the bill the Air District is sponsoring, SB 691 Hancock, in response to the August 6, 2012, fire at the Chevron Richmond refinery, which would encourage compliance by establishing higher penalty ceilings for one-day incidents that disrupt communities.

The LC discussed new bills, and is recommending the following positions to the Board of Directors:

SB 793 Lara: Watch and direct staff to send a letter to the California Air Resources Board (CARB) urging an administrative solution

SB 792 DeSaulnier: Oppose

SB 605 Lara: Oppose

The next meeting of the Committee is on Thursday, June 6, 2013, at 9:30 a.m.

Board Comments:

Director Bates noted that Senator DeSaulnier amended SB 792 DeSaulnier on May 14, 2013, a copy of which was distributed to the Board, and suggested the Board adopt a "watch" instead of "oppose" position.

Board Action:

Director Bates made a motion to approve the report and recommendations of the LC with an amendment to a “watch” position on SB 792 DeSaulnier, and Director Piepho seconded.

Chairperson Kalra asked for staff input on SB 792 DeSaulnier, as amended on May 14, 2013.

Director Haggerty called for a point of order regarding the amendment to the Committee recommendation by Director Bates.

Jack Broadbent, Executive Officer/APCO, introduced the amendments and Thomas Addison, Senior Advanced Projects Advisor.

Board Action:

Director Bates made an amended motion to approve the report and recommendations of the LC with the exception of adopting any position on SB 792 DeSaulnier; Director Piepho seconded; and the motion carried unanimously.

Mr. Addison briefed the Board on the amendments to SB 792 DeSaulnier.

Board Comments:

Chairperson Kalra asked staff to clarify its current recommendation, which clarification was provided by Mr. Broadbent and Jean Roggenkamp, Deputy APCO (DAPCO).

The Board discussed SB 792 DeSaulnier.

Public Comments: None.

Board Action:

Director Bates made a motion, seconded by Director Pepper, to adopt a “watch” position on SB 792 DeSaulnier and that it be referred to the Legislative Committee for further consideration.

The Board further discussed SB 792 DeSaulnier.

The motion carried unanimously.

8. Report of the Climate Protection Committee (CPC) Meeting of May 9, 2013
Committee Chairperson Avalos (as delivered by Director Hudson)

The CPC met on Thursday, May 9, 2013, and approved the minutes of March 14, 2013.

The CPC received a staff presentation on Climate Change Science Overview, including indicators of and milestones in the science of climate change, summaries of global energy balance and the greenhouse effect, a look at the role of water vapor and clouds in the greenhouse effect, an overview of greenhouse gases and trends in atmospheric levels, a look at radiative climate forcings and climate feedbacks, projections of future global warming potential, and a comparison of greenhouse gas emissions by country.

The CPC then received a staff presentation Overview of District Climate Protection Program 2005 – 2013, including overall climate program approach, history of regional summits, grants and incentives, community outreach efforts, stationary source activities, assistance to local governments, local and regional planning activities, and regional and state-wide collaboration opportunities.

The CPC also received a staff presentation Next Steps for Air District Climate Protection Program, in which staff discussed the 2014 Clean Air Plan, including the Plan as a vehicle for organizing regional climate protection activities, the change in landscape since 2010, options for including climate protection in the 2014 Plan, possible measures in a multi-pollutant control strategy and what they require, and considerations going into the process for developing the 2014 Plan.

The CPC postponed the staff presentation Discussion on Proposed Keystone XL Pipeline for lack of time but accepted public comment on the same before adjourning.

The next meeting of the CPC is on Thursday, July 18, 2013, at 9:30 a.m.

Board Comments: None.

Public Comments: None.

Board Action:

Director Hudson made a motion to approve the report of the CPC and Director Piepho seconded.

Director Zane said she was frustrated by the public speakers' reading of the full text of their proposed resolution and expressed her hope that future meetings are conducted differently.

Chairperson Kalra clarified that a previous statement that carbon dioxide level had reached 400 parts per million (ppm) was inaccurate and clarified the current level as 399.52 ppm, a level no less urgent to address for the sake of survival.

The motion carried unanimously.

PUBLIC HEARING

9. Public Hearing to Receive Testimony on Proposed Amendments to Air District Regulation 3: Fees and Regulation 5: Open Burning

Jeff McKay, DAPCO, gave the staff presentation Draft Amendments to Regulation 3: Fees and Regulation 5: Open Burning, including cost recovery background, proposed changes to fee changes and impact on small businesses, proposed new incident response and open burning fees, public comments and rule development schedule.

Board Comments:

Director Gioia asked, regarding slide 12, Incident Response Fee, for more information on the proposed fee and enhanced monitoring efforts currently underway, which information was provided by Mr. Broadbent.

Director Zane said, regarding slide 13, Open Burning Fee, there is very real public concern about the fee and asked what kind of outreach was done and if and to what extent the proposal is consistent with other air districts' fees, which questions were answered by Mr. McKay and Wayne Kino, Director of Compliance & Enforcement. Director Zane requested that staff do additional outreach to constituent groups in Sonoma County.

Mr. Broadbent clarified that the proposed amendments are in response to a long-standing issue that generates numerous complaints and reflect an effort at equity in terms of cost recovery.

Director Zane acknowledged the issue, expressed her support for the fees and requested additional, carefully timed outreach.

Public Comments:

Steven Chappell, Suisun Resource Conservation District, addressed the Board in opposition to the proposed burn fees, namely as it applies to marsh management and the lack of a reimbursement clause for those situations where a request is denied.

Laura Fultz Stout, American Lung Association of California, addressed the Board in support of burn fees as proposed or at higher rates with more stringent burning restrictions.

Board Comments:

Director Adams thanked staff for outreach in Marin County, noted the cumulative effect of government fees on small business, encouraged improved communication and outreach regarding the application of the proposed fees as well as the development of an incentive program, warned of the likelihood of noncompliance by the regulated community if they feel their concerns are not adequately heard or addressed, suggested that staff explore the possibility of establishing partnerships with local fire marshals in an effort to lower the costs of oversight, suggested the implementation of a graduated fee schedule based on historic levels of compliance, said she appreciated the public comment by Mr. Chappell regarding a reimbursement clause and suggested the development of a credit system, and urged creative solutions to addressing public safety concerns regarding restrictions imposed by these rules on prescribed burns used as preventative measures against wild fires.

Director Piepho echoed Director Adams, noted the current Air District approach of attempting to change culture one fee at a time, and requested that staff consider a more comprehensive vision in bringing forward recommendations while being mindful of the varying constituencies that will be affected.

Director Spring asked staff to meet with constituent groups on developing alternatives through compromise.

Mr. Broadbent committed staff to exploring the possibility of an incentive program and conducting additional public outreach.

Board Action: None; informational only.

CLOSED SESSION

The Board adjourned to Closed Session at 11:41 a.m.

10. EXISTING LITIGATION (Government Code Section 54956.9(a))

Pursuant to Government Code Section 54956.9(a), a need existed for the Board to meet in closed session with legal counsel to consider the following case:

California Building Industry Association v. Bay Area AQMD, Alameda County Superior Court, Case No. RG-10548693; California Court of Appeal, First Appellate District, Case No. A135335.

11. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957 and 54957.6)

Pursuant to Government Code Section 54957 and 54957.6, a need existed for the Board to meet in closed session to continue the performance evaluation of the Executive Officer.

12. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957 and 54957.6)

Pursuant to Government Code Section 54957 and 54957.6, a need existed for the Board to meet in closed session to continue the performance evaluation of the District Counsel.

OPEN SESSION

The Board resumed Open Session at 11:55 a.m. with no reportable action at this time but with direction to staff that will be represented in a future agenda item.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

BOARD MEMBERS' COMMENTS:

Director Piepho thanked Mr. Kino for staff outreach efforts.

Director Zane announced the launch of electric bicycle lockers in the City of Santa Rosa by Sonoma County and the continued development of the Sonoma Clean Power project by Sonoma County.

OTHER BUSINESS

13. Chairperson's Report:

Chairperson Kalra announced the appointment of Director Gioia as the Air District representative to the CARB. The Board discussed the past service of Director Yeager and anticipated service of Director Gioia.

Chairperson Kalra announced the resignation of Director Sbranti from the Board and the likely appointment of his successor on June 12, 2013.

14. Report of the Executive Officer/APCO:

Mr. Broadbent presented a summary of the Summer Ozone Season, announced the Expert Air Monitoring Panel to be hosted by the Air District on July 11, 2013, and wished Director Gioia well in his new role at CARB.

15. Time and Place of Next Meeting: Wednesday, June 5, 2013, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

16. Adjournment: The Board meeting adjourned at 12:05 p.m.

Sean Gallagher
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: May 22, 2013

Re: Board Communications Received from May 15, 2013 through June 4, 2013

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Copies of communications directed to the Board of Directors received by the Air District from May 15, 2013 through June 4, 2013, if any, will be at each Board Member's place at the June 5, 2013 Board meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Maricela Martinez
Reviewed by: Ana Sandoval

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chair Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: May 22, 2013

Re: Air District Personnel on Out-of-State Business Travel

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In accordance with Section 5.4 (b) of the District's Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified that the following Air District personnel have traveled on out-of-state business:

The report covers the out-of-state business travel for the period April 24, 2013 through May 22, 2013. Out-of-state travel is reported in the month following travel completion.

DISCUSSION

Cuong Tran, Senior Atmospheric Modeler, Planning, Rules & Research Division, attended U.S. Environmental Protection Agency CMAQ Air Quality Model Training in Chapel Hill, NC, April 24, 2013 – April 27, 2013

Yiqin Jia, Atmospheric Modeler, Planning, Rules & Research Division, attended the U.S. Environmental Protection Agency CMAQ Air Quality Model Training in Chapel Hill, NC, April 24, 2013 – April 27, 2013

Eric Stevenson, Director of Technical Services attended the NACAA Board and Membership Meeting as Jack Broadbent's representative in Saint Louis, MO, May 5, 2013 – May 7, 2013

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Marina Smotkin
Reviewed by: Jack M. Colbourn

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: May 21, 2013

Re: Approval of Employee Contract Amendments for the Executive Officer/APCO and
District Counsel

RECOMMENDED ACTION

Approve attached Contract Amendments with the Executive Officer/APCO, Jack P. Broadbent, and District Counsel, Brian C. Bunger, reflecting merit-based adjustments to certain benefits for these Board appointed non-represented employees.

BACKGROUND

In a closed session that took place during its May 1, 2013, Regular Meeting, the Board of Directors (“Board”) conducted performance evaluations of the Executive Officer/APCO and the District Counsel. On the basis of those performance evaluations, the Board decided to provide merit-based adjustments to certain benefits to the Executive Officer/APCO and the District Counsel in accordance with the terms of the Employment Contracts with these individuals. In accordance with direction provided, these merit-based changes are reflected in the attached contract amendments. Approval of these contract amendments will constitute final action on these merit-based benefits adjustments for these Board appointed non-represented employees.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

The annual cost associated with these contract amendments will be up to approximately \$10,000.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian C. Bunger
Reviewed by: Jeffrey McKay

Attachments

**THIRD AMENDMENT TO EMPLOYMENT AGREEMENT
BETWEEN
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
AND
JACK P. BROADBENT**

This **AMENDMENT TO EMPLOYMENT AGREEMENT**, is made and entered into this ____ Day of _____, 2013(the “Amendment Date”) between the **Bay Area Air Quality Management District**, herein referred to as “**District**” and **Jack P. Broadbent**, herein referred to as “**Employee**” pursuant to Article VIII, AMENDMENTS, of the Employment Agreement.

WHEREAS, District and Employee have entered into an Employment Agreement effective as of November 2, 2005 (the “Employment Agreement”); and

WHEREAS, District and Employee have previously executed an Amendment to Employment Agreement dated October 3, 2007, and a subsequent additional Amendment to Employment Agreement dated May 4, 2011; and

WHEREAS, the District and Employee wish to enter into this third amendment to the Employment Agreement, effective as of the Amendment Date (the “Amendment”) to modify certain provisions in Article V COMPENSATION, of the Employment Agreement;

NOW, THEREFORE, the parties agree to be mutually bound as follows:

1. **Article V, Section A (“Salary”)** of the Employment Agreement is hereby amended in its entirety to read as follows:

“District shall pay Employee an annual salary of \$262,415.84 (Two Hundred Sixty-Two Thousand, Four Hundred Fifteen Dollars and Eighty-Four Cents) payable in bi-weekly installments in accordance with the Air District’s regular payroll practices, and subject to withholdings required by law. As an exempt manager, Employee shall not be eligible for overtime or compensatory time off.

District shall increase Employee’s salary from time-to-time at the same time and in the same percentage as it increases the salaries of non-represented non-Board appointed District Management staff.

District in consultation with Employee will determine by no later than December 1 of each calendar year, the amount it will contribute to Employee’s 401(a) retirement plan to take effect beginning on January 1 of the following year. Once District in consultation with Employee determines the contribution amount to Employee’s 401(a) retirement plan, Employee’s annual salary will be reduced by the amount by which such contribution exceeds the minimum \$20,000.00 to be contributed on Employee’s behalf in accordance with Article V, Section D (“Deferred Compensation”) of the Employment Agreement.

District also agrees to provide Employee with a performance evaluation approximately once each year at or around May 1 of each year, and may as a result, in its sole discretion, provide Employee with a merit-based salary increase.”

2. **Article V, Section C (“Vacation”)** of the Employment Agreement is hereby amended in its entirety to read as follows:

“District shall provide Employee with Annual Leave (vacation) hour accruals at the same rates as approved by the Board for non-represented management employees, except that there is no maximum accumulation of accrued vacation hours. Employee’s vacation schedules shall be approved in advance by the Chairperson of the Board. District shall pay Employee earned unused vacation upon termination of employment.

The Annual Leave (vacation) hour accruals as approved by the Board for non-represented management employees is currently:

An employee with ten years or more of employment will earn annual leave at the rate of 6.48 hours per pay period (approximately 1-3/4 days per month).

An employee with more than twenty years and up to thirty years of employment will earn annual leave at the rate of 7.69 hours per pay period (approximately 2 days per month).

An employee with thirty or more years of employment will earn annual leave at the rate of 9.23 hours per pay period (approximately 2-1/2 days per month).

Once per calendar year, Employee may exchange unused vacation hours for the equivalent amount in wages at Employee’s then-current salary. Each such request may not exceed 240 hours.”

3. **Article V, Section D (“Deferred Compensation”)** of the Employment Agreement is hereby amended in its entirety to read as follows:

“District shall annually contribute at least \$20,000.00 (Twenty Thousand Dollars) to the District’s Money Purchase Pension Plan (401(a) Plan) on behalf of Employee. Partial years of employment shall be pro-rated to the closest full month of service. Such contributions shall be made in equal monthly installments consistent with the District’s regular practice for transmitting employee contributions to its 401(a) Plan.

District in consultation with Employee will determine by no later than December 1 of each calendar year, the amount it will contribute to the Employee’s 401(a) plan to take effect beginning on January 1 of the following year with a minimum contribution of \$20,000.00 dollars each year that the agreement is in effect. District’s yearly contribution to the 401(a) Plan shall not exceed the Internal Revenue Code 401(a) maximum contribution amount.”

4. **Article V, Section E (“Fringe Benefits”)** of the Employment Agreement is hereby amended in its entirety to read as follows:

“District shall provide Employee with such other fringe benefits as approved by the Board for non-represented Deputy Air Pollution Control Officer management employees under the same terms and conditions. Such other benefits currently include: medical, dental and vision insurance, life insurance, holidays, floating holidays, management leave, sick leave and long term disability insurance.”

5. Except as expressly modified by this Amendment, District and Employee agree that all other terms and conditions of the Employment Agreement shall remain in full force and effect and are hereby ratified, confirmed and approved.

IN WITNESS WHEREOF, this Amendment to Employment Agreement has been executed as of the Amendment Date.

EMPLOYEE

**BAY AREA AIR QUALITY
MANAGEMENT DISTRICT**

By: Jack P. Broadbent

By: Chairperson Ash Kalra
Title: Chairperson of the Board of
Directors

**FOURTH AMENDMENT TO EMPLOYMENT AGREEMENT
BETWEEN
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
AND
BRIAN C. BUNGER**

This **AMENDMENT TO EMPLOYMENT AGREEMENT**, is made and entered into this ____ Day of _____, 2013(the “Amendment Date”) between the **Bay Area Air Quality Management District**, herein referred to as “**District**” and District Counsel, **Brian C. Bunger**, herein referred to as “**Bunger**” pursuant to Article IX, AMENDMENTS, of the Employment Agreement.

WHEREAS, District and Bunger have entered into an Employment Agreement dated September 18, 2002 (the “Employment Agreement”);

WHEREAS, District and Bunger have previously executed an Amendment to Employment Agreement dated July 21, 2004, a subsequent Second Amendment to Employment Agreement dated November 2, 2005, and a subsequent Third Amendment to Employment Agreement dated October 3, 2007; and

WHEREAS, District and Bunger wish to enter into this fourth amendment to the Employment Agreement, (“Amendment”) to modify Article VI COMPENSATION, of the Employment Agreement;

NOW, THEREFORE, the parties agree to be mutually bound as follows:

1. **Article VI, Section A (“Salary”)** of the Employment Agreement is hereby amended as follows:

“District shall pay Bunger an annual salary of \$246,914.73 (Two Hundred Forty-Six Thousand Nine Hundred Fourteen Dollars and Seventy-Three Cents), payable in bi-weekly installments in accord with District’s regular payroll practices, and subject to withholdings required by law. As an exempt manager, Bunger shall not be eligible for overtime or compensatory time off.

District shall increase Bunger’s salary from time-to-time at the same time and in the same percentage as it increases the salaries of non-represented District Management staff.

District also agrees to provide Bunger with a performance evaluation approximately once each year at or around May 1 of each year, and may as a result, in its sole discretion, provide Bunger with a merit-based salary increase.

District in consultation with Bunger will determine by no later than December 1 of each calendar year, the amount it will contribute to Bunger’s 401(a) retirement plan to take effect beginning on January 1 of the following year. Once District in consultation with Bunger determines the contribution amount to Bunger’s 401(a) retirement plan, Bunger’s annual salary will be reduced by amount by which such contribution exceeds the

minimum \$1,023.72 to be contributed on Bunger's behalf in accordance with Article VI, Section C ("Deferred Compensation") of the Employment Agreement."

2. **Article VI, Section C ("Deferred Compensation")** of the Employment Agreement is hereby amended as follows:

"District shall contribute \$7,219.52 (Seven Thousand Two Hundred Nineteen Dollars and Fifty-Two Cents) each calendar year to the District's Deferred Compensation Plan(s) in which Bunger is eligible to participate, provided that such contribution shall be pro-rated for partial year of service. Such contribution shall be made in equal installments in accord with District's regular practice for transmitting employee contributions to its Deferred Compensation Plans.

In addition, District shall annually contribute at least \$1,023.72 (One Thousand Twenty-Three Dollars and Seventy-Two Cents) to the District's Money Purchase Pension Plan (401(a) Plan) on behalf of Bunger. Partial years of employment shall be pro-rated to the closest full month of service. Such contributions shall be made in equal monthly installments consistent with the District's regular practice for transmitting employee contributions to its 401(a) Plan.

District in consultation with Bunger will determine by no later than December 1 of each calendar year, the amount it will contribute to Bunger's 401(a) plan to take effect beginning on January 1 of the following year with a minimum contribution of \$1,023.72 (One Thousand Twenty-Three Dollars and Seventy-Two Cents) each year that the agreement is in effect. District's yearly contribution to the 401(a) Plan shall not exceed the Internal Revenue Code 401(a) maximum contribution amount."

3. **Article VI, Section D ("Annual Leave (Vacation)")** of the Employment Agreement is hereby amended as follows:

"The District shall provide Bunger with Annual Leave (vacation) hour accruals at the same rates as approved by the Board for non-represented management employees, except that there is no maximum accumulation of accrued vacation hours. Vacation shall be approved in advance by the Chief Executive Officer of the District. District shall pay Bunger earned unused vacation upon termination of employment.

The Annual Leave (vacation) hour accruals as approved by the Board for non-represented management employees is currently:

An employee with ten years or more of employment will earn annual leave at the rate of 6.48 hours per pay period (approximately 1-3/4 days per month).

An employee with more than twenty years and up to thirty years of employment will earn annual leave at the rate of 7.69 hours per pay period (approximately 2 days per month).

An employee with thirty or more years of employment will earn annual leave at the rate of 9.23 hours per pay period (approximately 2-1/2 days per month).

Once per calendar year, Bunger may exchange unused Annual Leave for the equivalent amount in wages at Bunger's then current salary. Each such request may not exceed 240 hours."

4. **Article VI, Section E ("Fringe Benefits")** of the Employment Agreement is hereby amended as follows:

"District shall provide Bunger with such other fringe benefits as approved by the Board for non-Board appointed Deputy Air Pollution Control Officer management employees under the same terms and conditions. Such other benefits currently include: sick leave, medical, dental and vision insurance, life insurance, holidays, floating holidays, management leave and long term disability insurance.

In addition, District recognizes 22 (twenty-two) days of accrued sick leave earned prior to Bunger's appointment as District Counsel. Upon termination of employment, District shall pay Bunger his accrued sick leave balance or the equivalent of 22 (twenty-two) days' pay at his salary then in effect, whichever is less."

5. Except as expressly modified by this Amendment, District and Bunger agree that all other terms and conditions of the Employment Agreement shall remain in full force and effect and are hereby ratified, confirmed and approved.

IN WITNESS WHEREOF, this Amendment to Employment Agreement has been executed as of the Amendment Date.

BUNGER/EMPLOYEE

**BAY AREA AIR QUALITY
MANAGEMENT DISTRICT**

By: Brian C. Bunger

By: Chairperson Ash Kalra
Title: Chairperson of the Board of
Directors

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: May 22, 2013

Re: Report of the Executive Committee Meeting of May 20, 2013

RECOMMENDED ACTION

The Executive Committee received only informational items and has no recommendations of approval by the Board of Directors.

BACKGROUND

The Committee met on Monday, May 20, 2013. The Committee received the following reports:

- A) Hearing Board Quarterly Report – January through March 2013
- B) Report of the Advisory Council - January through May 2013
- C) Update on Joint Regional Agency Co-location at 390 Main Street
- D) Discussion on Directors’ Obligation to Vote

Attached are the staff reports presented in the Committee packet.

Chairperson Ash Kalra will give an oral report of the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

- A) None.
- B) None.
- C) None.
- D) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Ana Sandoval

Attachments

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Executive Committee

From: Chairperson Terry Trumbull, Esq., and Members
of the Hearing Board

Date: May 6, 2013

Re: Hearing Board Quarterly Report – January through March 2013

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

During the first quarter of 2013 (January through March), the Hearing Board:

- Held four (4) hearings consisting of one (1) Accusation (3646), three (3) Appeals (Evidentiary hearing, days 1 through 3, in 3644) and zero (0) Variances;
- Processed a total of five (5) orders consisting of one (1) Accusation (3638), zero (0) Appeals, zero (0) Variances, zero (0) Emergency Variances and four (4) Requests for Withdrawal/Dismissal (3624, 3640, 3641 and 3645); and
- Collected a total of \$3,290.00.

Below is a detail of Hearing Board activity during the same period:

Location: Contra Costa County; City of Martinez

Docket: 3624 – TESORO REFINING AND MARKETING COMPANY, GOLDEN EAGLE REFINERY (B2758) AND AMORCO TERMINAL (B2759) – *Appeal from Final Major Facility Review Permit issued June 28, 2011*

Regulation(s): Final Major Facility Review Permit

Synopsis: Applicant's Title V Permit must be renewed every two years. Applicable regulations were amended in the interim period and the conditions of the Title V Permit were not amended to conform to same.

Status: Order for Dismissal filed 03-07-2013, upon the request of Appellant.

Period of Variance: N/A

Estimated Excess Emissions: N/A

Fees collected this quarter: \$0

Location: San Mateo County; City of La Honda

Docket: 3638 AIR POLLUTION CONTROL OFFICER OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT VS. COSTA LOMA LIMITED CORPORATION, A CALIFORNIA CORPORATION and JAMES A. WILKINSON, A/K/A HIM WILKINSON, INDIVIDUALLY AND D/B/A COSTA LOMA LTD. CORPORATION – *Accusation*

Regulation(s): 2-1-302

Synopsis: Respondent is alleged to operate an unsafe facility with no permit to operate in place or accompanying fees paid.

Status: Conditional Order for Abatement filed 01-10-2013.

Period of Variance: N/A

Estimated Excess Emissions: N/A

Fees collected this quarter: N/A (action initiated by the Air District)

Location: Contra Costa County; City of Martinez

Docket: 3640 TESORO REFINING AND MARKETING COMPANY – *Application for Regular Variance*

Regulation(s): 8-2-301 regarding compliance with Condition 22070 and Table VII – B.6 of Permit to Operate; 2-6-307; and 2-1-307

Synopsis: Applicant's Hydrogen Plant includes two carbon dioxide removal systems that include carbon dioxide vents, one of which is believed to have measured excess emissions.

Status: Order for Dismissal filed 01-18-2013, upon the request of Applicant.

Period of Variance: N/A

Estimated Excess Emissions: Between 1.34 and 288.9 lb/day carbon over the limit of 15 lb/day.

Fees collected this quarter: \$0

Location: Contra Costa County; City of Concord

Docket: 3641 AIR POLLUTION CONTROL OFFICER OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT VS. ALL STAR SERVICE, INC., D/B/A ALL STAR GASOLINE AND KELLY ENGINEER, INDIVIDUALLY AND D/B/A ALL STAR GASOLINE – *Accusation*

Regulation(s): 2-1-302

Synopsis: Respondent is alleged to own and/or operate a gas dispensing facility without a permit to operate since January 1, 2011.

Status: Order for Dismissal filed 01-10-2013, upon the request of Complainant.

Period of Variance: N/A

Estimated Excess Emissions: N/A

Fees collected this quarter: N/A (action initiated by the Air District)

Location: Solano County; City of Suisun City

Docket: 3644 POTRERO HILLS ENERGY PRODUCERS, LLC, AND DTE BIOMASS ENERGY – *Appeal from Conditions of Authority to Construct Requiring Selective Catalytic Reduction as Best Available Control Technology for the Landfill Gas to Energy Project*

Regulation(s): Conditions of Authority to Construct Requiring Selective Catalytic Reduction as Best Available Control Technology for the Landfill Gas to Energy Project

Synopsis: Appellant requested review of the conditions imposed by the Air District requiring Selective Catalytic Reduction as Best Available Control Technology in issuing an Authority to Construct.

Status: Evidentiary hearing days 1 through 3 held on 02-07-2013, 02-28-2013 and 03-21-2013, respectively. Appeal was granted.

Period of Variance: N/A

Estimated Excess Emissions: N/A

Fees collected this quarter: \$2,991.00 (filing fee)

Location: San Mateo County; City of La Honda

Docket: 3645 COSTA LOMA LIMITED CORPORATION – *Application for Regular Variance*

Regulation(s): 8-5-301

Synopsis: Applicant seeks temporary relief for the facility that is the subject of Docket 3638 APCO v. Costa Loma Limited Corporation (see above).

Status: Order for Dismissal filed on 01-10-2013, upon the request of Applicant.

Period of Variance: Requested 235 days

Estimated Excess Emissions: None

Fees collected this quarter: \$0 (Hardship waiver filed)

Location: Alameda County; City of Hayward

Docket: 3646 AIR POLLUTION CONTROL OFFICER OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT VS. KELLY ENGINEER, AN INDIVIDUAL – *Accusation*

Regulation(s): 2-1-302

Synopsis: Respondent is alleged to operate a gasoline dispensing facility with no permit to operate in place or accompanying fees paid.

Status: Evidentiary hearing held 03-07-2013 and Conditional Order for Abatement was granted, based upon the stipulation of the parties.

Period of Variance: N/A

Estimated Excess Emissions: N/A

Fees collected this quarter: N/A (action initiated by the Air District)

Location: Contra Costa County; Census Designated Place of Crockett

Docket: 3647 CROCKETT COGENERATION – *Application for Emergency Variance*

Regulation(s): 2-6-307 and 2-2-301

Synopsis: Request to allow for short term commissioning period of the gas turbine with a refurbished compressor to repair damage to the gas turbine compressor resulting from the combustion turbine blade failures.

Status: Request was denied.

Period of Variance: N/A

Estimated Excess Emissions: 736.1 lbs/day of NOx

Fees collected this quarter: \$747.00

Location: Santa Clara County; City of San Jose

Docket: 3648 SAN JOSE / SANTA CLARA WATER POLLUTION CONTROL PLANT –
Application for Emergency Variance

Regulation(s): 9-1-302; Permit Condition 17741 – Digester gas total sulfur content shall not exceed 650 ppm

Synopsis: Ferric chloride dosing tank leak that results in chemical release; must replace the tank after obtaining requisite permits and will be unable to dose during transition.

Status: Granted as requested.

Period of Variance: Requested 03-20-13 through 04-20-13

Estimated Excess Emissions: None at this time

Fees collected this quarter: \$747.00

Location: Contra Costa County; Census Designated Place of Crockett

Docket: 3647 CROCKETT COGENERATION – *Application for Variance (Short)*

Regulation(s): 2-6-307 and 2-2-301

Synopsis: Request to allow for short term commissioning period of the gas turbine with a refurbished compressor to repair damage to the gas turbine compressor resulting from the combustion turbine blade failures.

Status: Evidentiary hearing scheduled for 05-02-13

Period of Variance: Requested 04-22-13 through 05-05-13

Estimated Excess Emissions: 736 lbs/day of NOx

Fees collected this quarter: \$1,796.00

Respectfully submitted,

Terry Trumbull, Esq.
Chair, Hearing Board

Prepared by: Sean Gallagher
Reviewed by: Ana Sandoval

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Executive Committee

From: Chairperson Robert Bornstein and Members
of the Advisory Council

Date: May 8, 2013

Re: Report of the Advisory Council - January through May 2013

RECOMMENDED ACTION:

None; receive and file.

BACKGROUND

The Advisory Council studies and makes recommendations on specific matters referred from the Board of Directors or the Air Pollution Control Officer. Matters can include technical, social, economic and environmental aspects of air quality issues. For example, in 2004 and 2005, the Advisory Council focused on Climate Change and influenced the Air District's direction in establishing its Climate Protection Program in 2005. Over the last two years, the Advisory Council has focused on ultrafine particulate matter and provided recommendations that were included in the Air District report, *Understanding Particulate Matter; Protecting Public Health in the San Francisco Bay Area (November 2012)*.

The Advisory Council consists of 20 members, representing a variety fields and interests, including public health agencies, conservation organizations, colleges or universities, regional park districts, park and recreation commissions, public mass transportation system, agriculture, industry, community planning, transportation, registered professional engineers, general contractors, architects, and organized labor. A roster of current Advisory Council members is attached for reference.

Council members serve for a term of two years, for a maximum of four terms. Members serve without compensation but are reimbursed for travel related to their duty on the Council.

In an effort to keep the Board of Directors apprised of the activities and progress of the Advisory Council, the Executive Committee will be briefed by the Chair of the Advisory Council on a regular basis. The current report covers Advisory Council activity from January through May 2013.

DISCUSSION

This calendar year, the Advisory Council is focusing on the effects of black carbon on public health and the global climate. Presented below are summaries of the meetings of the Advisory Council thus far in 2013:

1. Advisory Council Regular Meeting and Retreat – January 9, 2013. The Council reviewed presentations and reports of 2012. The Council discussed plans for the 2013 Advisory Council Meetings including topics and dates. The Council received an overview of Air District activities regarding Black Carbon.
2. Advisory Council Regular Meeting – February 13, 2013. The Council received and discussed the following presentations on Black Carbon - Concepts and Issues, A National Perspective, by Sarah Rizk, of the U.S. Environmental Protection Agency, Region 9 Black Carbon - Concepts and Issues from a Statewide Perspective by Bart Croes of the California Air Resources Board.
3. Advisory Council Regular Meeting – March 13, 2013. The Council discussed their draft report summarizing the February 13, 2013 meeting on Black Carbon.
4. Advisory Council Regular Meeting – April 10, 2013. The Council finalized their report summarizing the February 13, 2013 meeting on Black Carbon.
5. Advisory Council Regular Meeting – May 8, 2013. The Council received and discussed the following presentations on Black Carbon – Exposure and Mitigation, by Professor V. Ramanathan of the University of California, San Diego and Black Carbon – Measurement and Modeling by Professor Robert Harley of the University of California, Berkeley.

Advisory Council Chair, Robert Bornstein will provide an update of the Advisory Council's activities at the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

Expenses associated with the administration of the Advisory Council are included in the FYE 2013 Budget under program 123.

Respectfully submitted,

Robert Bornstein
Chairperson, Advisory Council

Prepared by: Ana Sandoval
Reviewed by: Eric Stevenson

Attachment: 2013 Advisory Council Roster

BAY AREA AQMD ADVISORY COUNCIL – ROSTER: 2013

CHAIRPERSON

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BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Ash Kalra and Members
of the Executive Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: May 10, 2013

Re: Update on Joint Regional Agency Co-location at 390 Main Street

RECOMMENDED ACTION

None, receive and file.

DISCUSSION

At the February 25, 2013 Executive Committee Meeting, Air District staff described the terms of financing for the acquisition of the Air District's portion of 390 Main Street. The terms describe an approximate cost of \$29,000,000 for approximately 75,000 square feet of space.

The current status of the financing process will be discussed.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jeff McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Executive Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: May 9, 2013

Re: Discussion on Directors' Obligation to Vote

RECOMMENDED ACTION

None; for discussion only.

BACKGROUND

During the Legislative Committee meeting of March 14, 2013 and the subsequent Board of Directors Meeting of March 20, 2013, Board Members discussed a provision in the Air District's Administrative Code Operating Policies and Procedures for the Board of Directors regarding Failure to Vote; specifically, Section 5.4 which stated that if a Director remains silent on a voice vote or on a roll call, the Director shall be deemed to have voted with the prevailing side. This position also contained a sentence stating that it was the duty of each member present to vote. Staff was directed to develop an amendment to remove this provision.

Staff developed the requested amendment, and provided advanced notice of its adoption in the April 17, 2013 Board of Directors meeting agenda packet. At their meeting of April 17, 2013, the Board of Directors directed staff to move forward with the amendment removing Section 5.4 and also to agendize a discussion at the next Executive Committee Meeting regarding Directors' obligation to vote and whether a new provision should be added to the Administrative Code to address this topic.

Section 5 of the Administrative Code, as amended on May 1, 2013 by the Board of Directors, is attached for your reference.

DISCUSSION

At your committee meeting members will discuss a Director's obligation to vote.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Ana Sandoval

Attachments: Administrative Code Section 5

AGENDA: 7 - ATTACHMENT
(as Amended by the Board of Directors on May 1, 2013)

SECTION 5 BOARD OF DIRECTORS, VOTING

5.1 VOICE VOTE.

The usual method of taking a vote is by voice; provided, however, that the Chairperson may, and when requested to do so by two (2) Directors, shall, take a vote by roll call.

5.2 ROLL CALL.

All ordinances, rules, regulations or amendments thereto and any matters involving the disbursement of money shall be adopted by roll call, except where a voice vote is declared by the Chairperson to be unanimous, and shall require the affirmative vote of the majority of the members of the Board. In addition, all proposals to settle any pending litigation in which the District is a defendant in a judicial action, whether approved in open session or in closed session, shall require the affirmative vote of the majority of the members of the Board.

5.3 CONFLICT OF INTEREST.

When one or more members determines that participation by the member(s) is prohibited by Section 87100 of the Government Code, because of the member(s)' financial interest, the total membership of the Board shall be deemed to be reduced by the number of members prohibited from participation for the purpose of determining the number of affirmative votes required pursuant to Section I-5.2.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: May 22, 2013

Re: Report of the Stationary Source Committee Meeting of May 20, 2013

RECOMMENDED ACTION

The Stationary Source Committee received only informational items and has no recommendations of approval by the Board of Directors.

BACKGROUND

The Committee met on Monday, May 20, 2013. The Committee received the following reports:

- A) Update on the Development of Regulation 12, Rule 15: Petroleum Refining Emissions Tracking
- B) Update on Regulation 9, Rule 13: Nitrogen Oxides, Particulate Matter and Toxic Air Contaminants from Portland Cement Manufacturing

Attached are the staff reports presented in the Committee packet.

Chairperson John Gioia will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None. Staff intends on proposing a new fee schedule in order to recover the Air District's costs of developing and implementing the new rule.
- B) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher

Reviewed by: Ana Sandoval

Attachments

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: May 13, 2013

Re: Update on the Development of Regulation 12, Rule 15: Petroleum Refining
Emissions Tracking

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On October 17, 2012, the Board of Directors approved staff's *Work Plan for Action Items Related to Accidental Releases from Industrial Facilities* that included, among the key actions, the development of a new rule that would apply to Bay Area petroleum refineries. The new rule is intended to address potential increases in air emissions from Bay Area petroleum refineries that might occur over time, including emission increases associated with the use of lower quality crude slates. The proposed regulatory approach involves the following basic elements:

- A. Establish existing baseline air emissions from each refinery (i.e., the quantities of various air pollutants that are emitted);
- B. Track the quantity of air emissions from each refinery in the future on an on-going basis;
- C. Should air emissions from a refinery increase above baseline levels (in an amount that exceeds specified trigger-levels), require that the cause(s) of the emissions increase be identified, and a plan prepared and implemented to reduce emissions; and
- D. Establish fence-line and community air monitoring systems to better understand and track the impact that refinery emissions have on local air quality.

DISCUSSION

In this report, staff will provide the Committee with an update on the development of the new Petroleum Refining Emissions Tracking rule, including:

- The development and public release of a preliminary draft rule, Workshop Report, and other associated documents on March 21, 2013;
- A summary of important details of the preliminary draft rule including pollutant and source coverage, emission inventory methodologies, establishing and adjusting baseline emissions inventories, on-going emissions inventories, trigger-levels for emission

reduction requirements, emission reduction plans, and air monitoring methodologies and plans;

- A summary of three public workshops held to discuss the new rule with interested stakeholders on April 22, 24, and 26, 2013; and
- Review of the remaining rule development schedule.

BUDGET CONSIDERATIONS/FINANCIAL IMPACT

None. Staff intends on proposing a new fee schedule in order to recover the District's costs of developing and implementing the new rule.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian Bateman
Reviewed by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: May 1, 2013

Re: Update on Regulation 9, Rule 13: Nitrogen Oxides, Particulate Matter and Toxic
Air Contaminants from Portland Cement Manufacturing

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Board of Directors adopted Regulation 9, Rule 13: Nitrogen Oxides, Particulate Matter and Toxic Air Contaminants from Portland Cement Manufacturing at a Public Hearing on September 19, 2012. At that hearing, several members of the public requested more stringent emissions standards than those contained in the final proposed regulation.

During autumn 2012, the United States Environmental Protection Agency was reviewing proposed amendments to federal rules governing cement manufacturing, with one set of emissions standards for existing facilities and a more stringent set for new or modified facilities. These federal amendments were finalized in December of 2012, with compliance due in September 2015. Lehigh Southwest Cement in Cupertino is not subject to Federal emissions standards for “new or modified facilities,” as it is an existing facility. Nevertheless, during the September 19, 2012 hearing, several members of the public asked the District to apply these more stringent emissions standards to Lehigh through regulatory, permitting, or other means. The Board of Directors directed staff to analyze the feasibility of applying the Federal standards for new and modified facilities to the Lehigh Cupertino plant, and to report back by the second quarter of 2013.

At the end of last year, Breathe California commissioned a study by Andover Technology Partners to examine emission control options for Lehigh’s Cupertino facility. The stated objective of this effort was to determine if lower emissions of oxides of nitrogen (NO_x), sulfur dioxide (SO₂), mercury and particulate matter (PM) are possible, to identify what methods might be employed to reduce emissions and to estimate their costs. After publication of the study in February 2013, District staff met with Breathe California, along with other stakeholders, to discuss the report. Staff later discussed the report with representatives of Lehigh and subsequently helped to arrange a meeting between Breathe California and representatives of Lehigh.

DISCUSSION

In this report, staff will provide the Committee an analysis of the following:

- Costs and feasibility of federal standards for new or modified sources as applied to the Lehigh Cupertino facility;
- Breathe California Report recommendations; and
- Progress made by Lehigh toward regulatory compliance.

BUDGET CONSIDERATIONS/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Robert Cave
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: May 23, 2013

Re: Report of the Mobile Source Committee Meeting of May 23, 2013

RECOMMENDED ACTION

The Mobile Source Committee recommends Board of Directors' approval of the following items:

A) Selection of Vehicle Buy-Back Program and Direct Mail Service Contractors:

1. Environmental Engineering Studies, Inc. (EES) and Pick-N-Pull Auto Dismantlers (Pick-N-Pull) as the vehicle retirement contractors and AdMail as the direct mail service contractor; for the fiscal year ending (FYE) 2014 Vehicle Buy Back Program (VBB);
2. Authorization for the Executive Officer/Air Pollution Control Officer (APCO) to execute contracts for:
 - a. Vehicle scrapping and related services with EES and Pick-N-Pull, for a combined amount up to \$7 million; and
 - b. Direct mail services for the VBB Program with AdMail for up to \$133,417.
3. Additionally, each contract shall grant the ability to extend these services for an additional three years, at the Air District discretion, based on contractor performance.

B) FYE 2014 Transportation Fund for Clean Air (TFCA) Funding Allocations:

1. Allocate \$22.75 million in TFCA funding to the projects and programs listed in Table 1.
2. Authorize the Executive Officer/APCO to enter into funding agreements and contracts up to \$100,000 for projects and programs listed in Table 1.
3. Authorize \$1.4 million in TFCA funding to match \$2.8 million from the Metropolitan Transportation Commission (MTC) for the Regional Bicycle Sharing Pilot Program to bring the system to 1,000 bicycles.

4. Authorize the Executive Officer/APCO to execute all amendments necessary to contracts for the Regional Bicycle Sharing Pilot Program to accept and expend MTC and TFCA monies.

BACKGROUND

The Committee met on Thursday, May 23, 2013. The Committee received and considered the following reports and recommendations:

- A) Selection of Vehicle Buy-Back Program and Direct Mail Service Contractors
- B) FYE 2014 TFCA Funding Allocations

Attached are the staff reports presented in the Committee packet.

Chairperson Scott Haggerty will provide an oral report of the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None. Funds to implement the FYE 2014 VBB Program are included in the Air District's proposed budget. Up to \$7 million will be made available to EES and Pick-N-Pull on a reimbursement basis for vehicles retired from a combination of \$2 million in Carl Moyer Program (CMP) and \$5 million Mobile Source Incentive Funding (MSIF), and funding for the \$133,417 contract with AdMail will be provided by the TFCA program. Staff administrative costs for VBB are covered by a combination of revenue from CMP, MSIF and TFCA funds.
- B) None. The Air District distributes "pass-through" funds to grantees on a reimbursement basis. Administrative costs for the TFCA Regional Fund program are provided by the funding source.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Ana Sandoval

Attachments

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Haggerty and Members
of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: May 16, 2013

Re: Selection of Vehicle Buy-Back Program and Direct Mail Service
Contractors

RECOMMENDED ACTION

Recommend Board of Directors approve:

- 1) Environmental Engineering Studies, Inc. (EES) and Pick-N-Pull Auto Dismantlers (Pick-N-Pull) as the vehicle retirement contractors and AdMail as the direct mail service contractor; for the fiscal year ending (FYE) 2014 Vehicle Buy Back Program (VBB);
- 2) Authorization for the Executive Officer/APCO to execute contracts for:
 - a. Vehicle scrapping and related services with EES and Pick-N-Pull, for a combined amount up to \$7 million; and
 - b. Direct mail services for the VBB Program with AdMail for up to \$133,417.

Additionally, each contract shall grant the ability to extend these services for an additional three years, at the Bay Area Air Quality Management District (Air District) discretion, based on contractor performance.

BACKGROUND

VBB was a voluntary vehicle surrender and scrapping program that took older, higher-polluting vehicles off Bay Area roads. The Air District has in the past contracted with vehicle dismantlers to pay vehicle owners for their smog check compliant, eligible, operating, and registered older vehicles; which were then retired by dismantling, scrapping and shredding. To advertise this program, the Air District used a direct mail campaign to inform potentially eligible vehicle owners about VBB. VBB had historically been funded primarily through the Air District's Mobile Source Incentive Fund (MSIF), with some support from the Transportation Fund for Clean Air (TFCA) and Carl Moyer Program (CMP). Between 1995 and 2010, VBB retired more than 55,000 vehicles.

The Air District discontinued VBB at the end of 2010 to avoid competition with a new State program funded by Assembly Bill (AB) 118 monies and operated by the State's Bureau of Automotive Repair (BAR). BAR currently operates two vehicle retirement programs, one under AB 118 and the other under its Consumer Assistance Program. However, due to insufficient State funds, both BAR programs have had lapses during the months of April, May and June over the past two years. Additionally, due to this shortage of funding, the BAR programs currently focus on vehicles that have failed smog check and therefore would not be in direct competition with an Air District VBB that requires vehicles to pass smog check in order to receive funding.

Vehicles are required to pass smog check for participation in this program based on the fact that State and local grant programs must achieve excess emissions reductions. In other words, the incentive is encouraging a driver to retire the vehicle even though it could be operated legally in California. Vehicles failing the smog check program are not allowed to operate in California and it is assumed that those vehicles would be retired resulting in emissions reductions that would have occurred with or without the VBB incentive. This concept of excess emissions is a requirement of the funding sources for the program, (the Carl Moyer Program (CMP)/Mobile Source Incentive Fund (MSIF) guidelines) both of which are governed by California Air Resources Board - Voluntary Accelerated Light-Duty Vehicle Retirement (VAVR) Regulation.

VBB's direct mail effort uses the California Department of Motor Vehicles' (DMV) database to contact, by mail, the owners of older light-duty vehicles that may be eligible for the program. Mailings are conducted bi-monthly with potentially eligible vehicle owners receiving notice of the program approximately three (3) months prior to the expiration of their DMV registration.

DISCUSSION

As a result of analysis of BAR's programs and the lack of competition with the Air District's previous VBB, staff is now proposing to restart this program. As VBB requires significant contractor support, the Air District issued two (2) Request for Proposals (RFP) on March 25, 2013; one seeking vehicle retirement contractors and a second seeking a direct mail service provider. Responses to the RFPs were due to the Air District on April 12, 2013.

Vehicle Retirement RFP

The scope of work contained in the RFP for vehicle retirement contractors conforms to the ARB-VAVR Regulation and to the CMP/MSIF Guidelines. VBB would pay \$1,000 to eligible Bay Area vehicle owners for the retirement of 1994 and older vehicles. The RFP was mailed to 34 companies and posted on the Air District website. The Air District received two proposals in response to the RFP, one from EES and the other from Pick-N-Pull.

Air District staff evaluated the proposals using five criteria set forth in the RFP: cost, available resources/customer relations, coverage/availability, advertising, and responsiveness of proposal. The results of staff scoring of the proposals is summarized in Table 1 below:

Table 1 – Scoring of Vehicle Retirement Proposals

Name	Points (100 possible points)
Environmental Engineering Studies, Inc.	82
Pick-N-Pull	84

As both contractors scored well in this solicitation, have previously successfully operated VBB for the Air District and to maximize geographical distribution of buy back sites in the Bay Area, staff is recommending the Board approve both EES and Pick-N-Pull for this program.

Direct Mail RFP

The proposed direct mail campaign for VBB would contact approximately 17,000 vehicle owners bi-monthly, or 403,000 vehicle owners annually. The Air District received seven (7) proposals in response to the RFP.

The proposals were evaluated against five criteria set forth in the RFP: cost, technical expertise, past experience, responsiveness of the proposal and local/green business certification. The evaluation of cost included review of quotes for data management, letter and envelope production, and standard mail bulk rate postage. Based on staff review of the proposals, AdMail’s proposal scored the highest. AdMail is located in the City of Hayward, California.

Table 2 – Scoring for Direct Mail Proposals

Company Name	Points (100 possible points)
AdMail	91
Direct Mail Center	78
The Data Center	68
FTB Print & Mail	64
Pasco	64
Data Marketing	51
AD-Vantage Marketing	35

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None. Funds to implement the fiscal year ending (FYE) 2014 VBB Program are included in the Air District's proposed budget. Up to \$7 million will be made available to EES and Pick-N-Pull on a reimbursement basis for vehicles retired from a combination of \$2 million in CMP and \$5 million MSIF funding, and funding for the \$133,417 contract with AdMail will be provided by the TFCA program. Staff administrative costs for VBB are covered by a combination of revenue from CMP, MSIF and TFCA funds.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Joseph Steinberger

Reviewed by: Damian Breen

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Haggerty and Members
of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: May 9, 2013

Re: Fiscal Year Ending (FYE) 2014 Transportation Fund for Clean Air (TFCA)
Funding Allocations

RECOMMENDED ACTIONS

Recommend Board of Directors:

1. Allocate \$22.75 million in TFCA funding to the projects and programs listed in Table 1
2. Authorize the Executive Officer/APCO to enter into funding agreements and contracts up to \$100,000 for projects and programs listed in Table 1.
3. Authorize \$1.4 million in TFCA funding to match \$2.8 million from the Metropolitan Transportation Commission (MTC) for the Regional Bicycle Sharing Pilot Program to bring the system to 1,000 bicycles.
4. Authorize the Executive Officer/APCO to execute all amendments necessary to contracts for the Regional Bicycle Sharing Pilot Program to accept and expend MTC and TFCA monies.

BACKGROUND

In 1991, the California State Legislature authorized the Air District to impose a \$4 surcharge on motor vehicles registered within the nine-county Bay Area to fund projects that reduce on-road motor vehicle emissions. The Air District has allocated these funds to its Transportation Fund for Clean Air (TFCA) to fund eligible projects. The statutory authority for the TFCA and requirements of the program are set forth in California Health and Safety Code Sections 44241 and 44242.

Sixty percent (60%) of TFCA funds are awarded directly by the Air District. Portions of this funding are allocated by the Air District's Board of Directors (Board) for projects and programs implemented directly by the Air District, including the Spare the Air program and the Enhanced Mobile Source Enforcement and new Commuter Benefits projects. For the remainder of the funding received (referred to as the TFCA Regional Fund program), the Board adopts policies and evaluation criteria that govern expenditure of funding that is awarded on a competitive basis. TFCA funds are focused on eligible project categories that significantly reduce criteria pollutants and greenhouse gases including trip/vehicle miles traveled reduction (bicycle parking and lanes, shuttles and ridesharing) and alternative fuels-related (electric, natural gas) vehicle projects.

As part of 2007 and 2008 audits by the California Bureau of State Audits, California Air Resources Board (ARB) and California Department of Finance, a number of improvements were suggested for the Air District's administration of the Carl Moyer and Mobile Source Incentive Fund (MSIF) grant programs. Those recommendations were implemented first in those programs and have subsequently been applied to all Air District grant programs, including TFCA (completed in 2012). As a result of these new practices and improved accounting, approximately \$13.25 million in TFCA program funding has been identified for reprogramming. This funding includes monies from projects completed under budget or canceled (\$8 million), unspent funding from recent projects (Electric Vehicle Infrastructure - \$2.5 million, Port Truck Funding - \$1.94 million) and remaining unallocated monies and interest (\$810,000).

As part of this report, staff is recommending that \$22.75 million in TFCA funds be allocated to the projects and programs listed in Table 1 and that \$2 million be placed in a strategic reserve for allocation to projects later in 2013. These funds consist of the \$13.25 million described above and approximately \$11 million in TFCA funding that is anticipated to accrue through FYE 2014. Staff will also discuss the process that it will undertake this summer to complete policies and procedures for Board consideration in September and October 2013 to govern the allocation of TFCA Regional Fund Program monies.

DISCUSSION

Based on the availability of the one-time funding (\$13.25 million) described above, staff analyzed a number of different scenarios. While a single project category could benefit from the expenditure of this funding, a portfolio approach targeting a number of different emissions reductions strategies is most consistent with prior Board policy and would yield the best results. Therefore, staff is recommending the programs and dollar allocations in Table 1 (graphically represented in Figure 1):

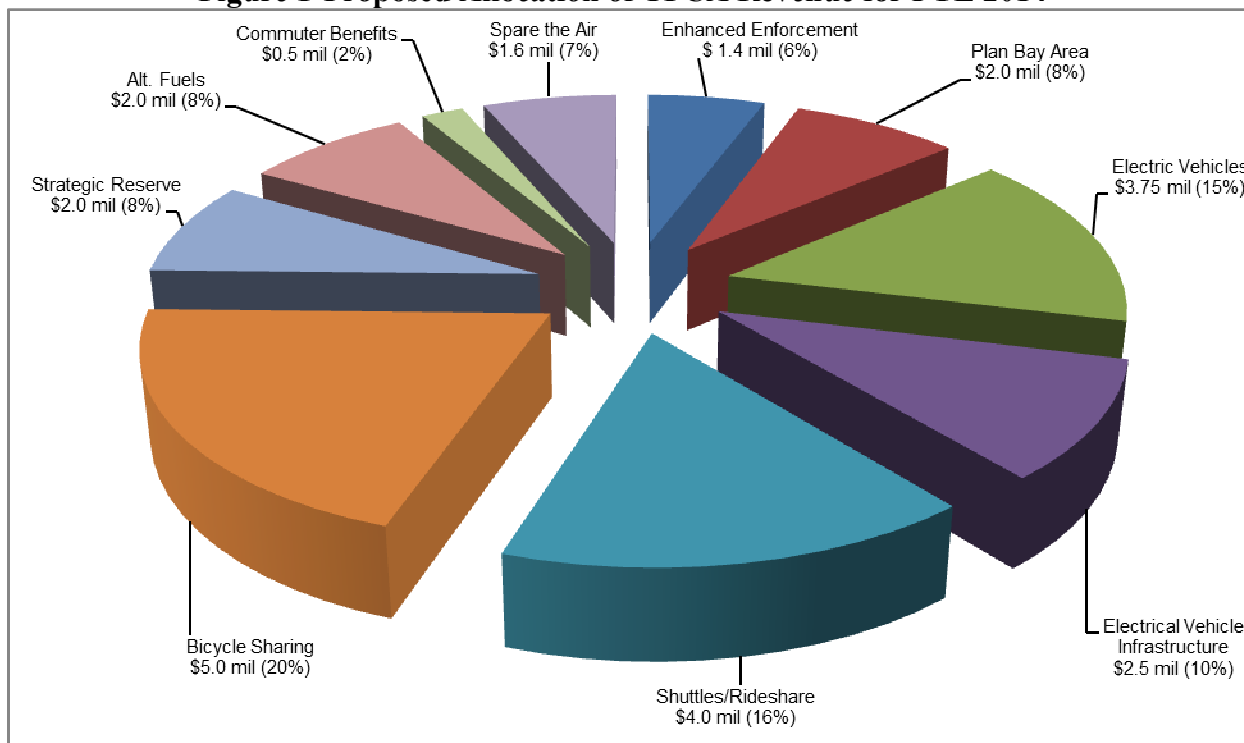
Table 1 - Proposed Allocation of TFCA Revenue for FYE 2014*

Program/Project	Proposed Funding (in Millions)
Regional Bicycle Sharing Project	\$5.00
Shuttle and Ridesharing Program	\$4.00
Electric Vehicle Project	\$3.75
Electric Vehicle Infrastructure Project	\$2.50
Plan Bay Area Reserve for Metropolitan Transportation Commission (MTC)	\$2.00
Alternative Fuels Project	\$2.00
Spare the Air Program	\$1.60
Enhanced Mobile Source Enforcement Project	\$1.40
Commuter Benefits Project	\$0.50
Total Funding Allocation:	\$22.75

**Does not include TFCA County Program Manager funds*

Additionally, staff is recommending that \$2 million be placed in a strategic reserve. This funding could either provide additional support to the project categories listed above (if necessary) or could fund other eligible emissions reductions projects. Staff would provide a recommendation to the Committee regarding allocation of the strategic reserve by the end of 2013. Figure 1, below illustrates the complete breakdown of the \$24.75 million available for allocation in FYE 2014:

Figure 1-Proposed Allocation of TFCA Revenue for FYE 2014*



*Does not include TFCA County Program Manager funds

A detailed explanation of each of the proposed allocations in Table 1 is as follows:

TFCA Regional Fund Program:

Staff is proposing that \$6 million in TFCA funding be allocated through the FYE 2014 TFCA Regional Fund Program to the categories listed below with funds being awarded to projects on a competitive basis within each category:

- ***Shuttle and Ridesharing Program - \$4 million:*** This program continues to support vehicle miles traveled emissions reductions through ridesharing and shuttle projects throughout the region. Staff is proposing some changes to this program (see below), and proposes to continue the funding of the Shuttle and Ridesharing Program at \$4 million.
- ***Alternative Fuels Program - \$2 million:*** Staff is proposing this project category to help advance deployment of natural gas and hydrogen projects that deliver infrastructure and vehicles to the region. Both of these fuels are key to achieving long term region wide emissions reductions of criteria pollutants and greenhouse gases from heavy-duty vehicles

(via nitrogen oxides and particulate matter emissions reductions in goods transportation) and from light duty vehicles (in support of ARB's Advanced Clean Cars initiative). Funding for this project category type was last available through the Regional Fund in the FYE 2010 cycle.

Policies for the project categories listed above will be developed over the summer and brought to the Mobile Source Committee for consideration in September and October 2013. In the case of Shuttle and Ridesharing projects, staff will be recommending administrative improvements to create a clear distinction between "transit" service (not eligible) and "local feeder bus and shuttle" service (eligible), and to clarify matching funds requirements for shuttle and ridesharing projects. Additionally, staff will provide the Committee an overview of policy options that will be explored with shuttle stakeholders this summer in advance of the development of proposed FYE 2014 Regional Fund Polices. A listing of these options is included in Attachment A.

Air District Program:

Staff is also proposing an allocation of \$16.75 million in TFCA funding to Air District operated programs and projects described below:

- ***Regional Bicycle Sharing Program - \$5 million:*** This allocation is proposed to provide \$1.4 million as matching funding to an increased MTC award (\$2.8 million) for the current Regional Bicycle Sharing Pilot Program. This funding will expand the pilot to the planned level of 1,000 bicycles. Additionally, staff proposes that a further \$3.6 million be reserved for expansion of the system pending the successful completion of the pilot project. In addition, the Air District has also begun discussions with its congestion management agency partners on how their TFCA County Program Manager funds could be used for further system expansion. Staff will also coordinate with MTC to discuss additional funding. This project is recommended for additional funding based on its potential to reduce criteria pollutants and greenhouse gases by reducing vehicle miles traveled and last mile commute emissions.
- ***Electric Vehicle Project (EVP) - \$3.75 million:*** This program is proposed to comprise two separate elements which are as follows:
 - ***EVP for Bay Area Residents and Business Fleets:*** A \$1.75 million project that will provide additional funding for battery electric and hybrid plug-in electric vehicles purchased in the Bay Area in exchange for participants providing vehicle usage data. This funding will help to bridge expected reductions in ARB funds for electric vehicles over the next 12 months and provide data to the Air District about Bay Area plug-in vehicle usage statistics that will guide future EV infrastructure and vehicle deployment programs. Under this project element, staff would partner with the ARB sponsored California Vehicle Rebate Project to help streamline the funding application process for Bay Area residents. Air District funds are anticipated to provide \$700 for full battery electric and \$400 for plug-in hybrid electric vehicles purchased over a period of up to two years.

- **EVP for Public Agencies:** A \$2 million project that will provide incentive funding for the purchase of 1,000 battery and hybrid plug-in electric vehicles to Bay Area public agencies either via purchases or leases. Air District funds are anticipated to provide \$2,000 for full battery electric and \$1,000 for plug-in hybrid electric vehicles purchased over a period of up to two years.

Currently, Northern California leads the state and nation in terms of the per capita purchase of electric vehicles (EV). Additionally, electric vehicles and their continued adoption are a significant component of the Air District's and MTC's strategy for criteria pollutant and greenhouse gas emissions reduction. This one-time targeted investment is designed to increase the visibility of electric vehicles via their deployment in public agencies and to continue to provide a push towards mass adoption by supporting the light duty EV market.

- ***Electric Vehicle Infrastructure Project - \$2.5 million:*** This \$2.5 million is unspent funding from previous Board allocations to electric vehicle charging infrastructure in FYE 2011 and 2012. Staff proposes to reprogram this funding to provide \$1 million for DC Fast chargers in regional transportation corridors and \$1.5 million for workplace and multifamily dwelling charging. Project sponsors would be required to provide at least 50% matching funds and projects would need to be completed by December 31, 2014. In support of this project category, the Nissan Motor Company (Nissan) has pledged 20 Nissan DC Fast Chargers at no cost to be included in the Air District program. These Chargers must be installed by March 2014 and staff would coordinate with Nissan and other project sponsors to ensure that a least one of the free chargers is installed each of the nine Bay Area counties. This project represents the completion of a district-wide electric vehicle supply equipment "safety net," expansion of EV range based on DC fast charge locations along transportation corridors and a bridge to funding to be supplied by MTC under the Sustainable Communities Strategy (SCS) for workplace and public charging.
- ***Plan Bay Area - \$2 million:*** Staff is also proposing to continue the \$2 million set aside for Plan Bay Area and to continue discussions with MTC on how to further emissions reductions projects as part of the SCS.
- ***Spare the Air Program - \$1.6 million:*** The "Spare the Air" program continues to be the Air District's flagship public outreach tool for the summer ozone season. Funding provided under this program goes to advertising, media and educational activities that reduce vehicle miles traveled (VMT) emissions by behavior modification.
- ***Enhanced Mobile Source Enforcement Project - \$1.4 million:*** Funding under this program helps to enhance Air District patrols for smoking vehicles and offsets the cost of drayage truck regulation enforcement at the Port of Oakland.

- **Commuter Benefits Project - \$0.5 million:** As part of the Air District’s joint efforts with MTC to implement a Senate Bill 1339 commuter benefits program, Staff is recommending that \$0.5 million in TFCA funding be set aside to cover the cost of project implementation, including resources to provide assistance to subject employers and to ensure compliance with any adopted program.

Administration

Per Board direction on December 16, 2009, it is proposed that the Executive Officer/APCO continue to approve Grant Agreements for individual grant awards up to \$100,000. TFCA projects with grant award amounts over \$100,000 will continue to be brought to the Committee for consideration at least on a quarterly basis.

TFCA Cost-Effectiveness

Per the direction of the Board, projects must achieve a cost-effectiveness of at most \$90,000 per ton of total of emissions reduced, unless a different value is specified for that project type. Cost-effectiveness is based on the ratio of TFCA funds provided divided by the sum total tons of reactive organic gases (ROG), oxides of nitrogen (NOx), and weighted particulate matter 10 microns in diameter and smaller (PM10) reduced (\$/ton).

Cost-effectiveness criteria for the Regional Fund projects and programs will be established and brought to the Board for consideration in September and October 2013. For the Air District sponsored programs, staff recommends reducing the required project duration period, or Project-Useful-Life (PUL), for vehicle-based alternative fuels projects to a maximum of 3 years. This would minimize the administrative burdens on project sponsors and ensure a higher rate of project success. Table 2 below summarizes the recommended cost-effectiveness levels for each of the proposed Air District sponsored projects and programs:

Table 2 - Proposed Cost Effectiveness for Air District Sponsored Projects and Programs

Cost-Effectiveness	Projects and Programs	PUL
\$500,000/ton	Regional Bicycle Sharing Project	5 Years
\$450,000/ton	EVP for Public Agencies	3 Years
\$250,000/ton	EVP for Bay Area Residents and Business Fleets	2 Years
\$250,000/ton	Electric Vehicle Infrastructure Project	2 Years
\$90,000/ton	Spare the Air Program	1 Year
\$90,000/ton	Enhanced Mobile Source Enforcement Project	1 Year
\$90,000/ton	Commuter Benefits Project	1 Year

BUDGET CONSIDERATION / FINANCIAL IMPACT

None. The Air District distributes “pass-through” funds to grantees on a reimbursement basis. Administrative costs for the TFCA Regional Fund program are provided by the funding source.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Karen Schkolnick
Reviewed by: Damian Breen

Attachment A: Options to improve and streamline the TFCA Regional Fund Shuttle Program

Agenda 5 - ATTACHMENT A

Options to improve and streamline the TFCA Regional Fund Shuttle Program

- ***Option 1: Limit Funding to New, Pilot Shuttle Projects (no change to Ridesharing):***

This scenario seeks to expand the number of shuttle services by providing new services access to start-up funding. Funding would be available for up to five years allowing new projects adequate time to develop and secure non-TFCA sources of funding. Under this scenario a phase-out period would be provided to projects that have received TFCA Regional Funds in previous funding cycles. An alternative option is to allow cost-effective projects that are no longer eligible for Regional Funds to continue to apply for TFCA funds from the County Program Managers (CPM).

- ***Option 2: Standardize Shuttle Project Funding Amounts (no change to Ridesharing):***

Staff would develop a standardized formula based on key criteria such as the location, usage and ridership, and vehicle emissions data. An analysis would be conducted to determine what pre-set award amount (based on boarders or riders) would ensure projects are cost-effective (for example, in the Bicycle Facility Program it has been pre-determined that \$60/capacity is the “right” award amount). This scenario could apply to existing and pilot projects, or only existing projects. Also, the award amount could be differentiated depending on whether the project was new or existing, located in a CARE area or not, etc. This option would simplify the application process and allow applicants to better understand how much funding their project is eligible to receive.

- ***Option 3: TFCA Regional Shuttle & Ridesharing Funds to be Administered by CMAs:***

This scenario would remove both shuttle and rideshare projects from the TFCA Regional Fund portfolio and consolidate these project categories under the CPM program. Given that many CMAs currently operate ridesharing programs and may be more in tune with their local shuttle needs, this option may allow for more strategic deployment of funding and fill any gaps in current shuttle services.

On an annual basis, Congestion Management Agencies (CMA) would be informed of their counties’ proportional share of the TFCA Regional Fund allocation that could be used to fund eligible shuttle or rideshare projects in their counties. For counties that do not have these projects types, the CMA could “Opt-Out” and the Air District would apply their share of Regional Funds to other District-funded programs (e.g., EV projects) in the respective County.

- ***Option 4: Limit Funding to Existing Projects (Shuttles and Ridesharing):***

Limit Regional Fund program funding to projects that are currently in operation and that have ridership data. Funding for pilot projects would be available via the CMAs. This option would address the challenge posed by pilots, projects that have no usage data, by allowing CMAs to fund locally-prioritized pilot projects until they have developed their services and the ridership data necessary to become eligible and able to compete for Regional Funding.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: May 29, 2013

Re: Report of the Public Outreach Committee Meeting of May 29, 2013

RECOMMENDED ACTION

The Public Outreach Committee recommends Board of Directors' approval of the following item:

- A) None. Informational item, receive and file.
- B) None. Informational item, receive and file.
- C) Approve funding for the 2014 Fiscal Year End in the amount not to exceed \$227,000 for Spare the Air Resource Teams.

BACKGROUND

The Committee met on Wednesday, May 29, 2013. The Committee received and considered the following reports and recommendations:

- A) Update on the Public Participation Plan Outreach
- B) 2013 Spare the Air Season Creative Elements
- C) Funding Approval for Spare the Air Resource Teams

Attached are the staff reports presented in the Committee packet.

Chairperson Mark Ross will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

- A) Funding for this project is included in the FYE 2013 Budget.
- B) Funding for the campaign is included in the FYE 2013 and FYE 2014 budgets. The campaign is funded primarily through the Congestion Mitigation Air Quality program, supplemented by the Transportation Fund for Clean Air.

C) Funding for this contract is included in the FYE 2014 budget in the amount of \$227,000.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher

Reviewed by: Ana Sandoval

Attachments

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Mark Ross and Members
of the Public Outreach Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: May 29, 2013

Re: Update on the Public Participation Plan Outreach

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In March 2013, staff updated the Committee on the public release of the Draft *Public Participation Plan*. The purpose of this plan is to develop a District-wide, consistent approach when engaging stakeholders in Air District public processes.

The Draft *Public Participation Plan* document was posted on the Air District website the first week of May and staff is now engaged in soliciting public comment on the document.

DISCUSSION

Staff will update the Committee on plans for public outreach.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for this project is included in the FYE 2013 Budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jim Smith
Reviewed by: Lisa Fasano

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Mark Ross and Members
of the Public Outreach Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: May 29, 2013

Re: 2013 Spare the Air Season Creative Elements

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

Since 1991, the Spare the Air campaign has encouraged the public to adopt long-term behaviors to reduce air pollution and protect air quality. Past Spare the Air campaigns have targeted the general population, household decision-makers, young adults and solo drivers.

DISCUSSION

This year's Spare the Air campaign features new creative elements that focus on the theme "a better way to work". The regional campaign runs through the end of October. Bay Area residents are being targeted to reconsider options to driving alone long distances to work. Craig the Bike Guy will be riding at summer festivals throughout the 9 counties. Online, TV and social media elements will be presented.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for the campaign is included in the FYE 2013 and FYE 2014 budgets. The campaign is funded primarily through the Congestion Mitigation Air Quality program, supplemented by the Transportation Fund for Clean Air.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Aaron Richardson
Reviewed by: Lisa Fasano

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Mark Ross and Members
of the Public Outreach Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: May 29, 2013

Re: Funding Approval for Spare the Air Resource Teams Contract

RECOMMENDED ACTION

The Committee will consider recommending that the Board of Directors authorize the Executive Officer to execute the year-two contract amendment for the Spare the Air Resource Teams.

BACKGROUND

The Air District's Communications and Outreach Division relies on contractors to assist with various aspects of its advertising and outreach programs. The Communications and Outreach Division completed a Request for Proposal (RFP) process in May 2012 to solicit responses for social marketing, civic engagement and facilitation services for the Spare the Air Resource Teams. Community Focus was the selected contractor.

A three-year contract was approved by the Board of Directors in June 2012 with Community Focus, a local vendor, and funding of up to \$227,000 was approved through FYE 2013. Staff is recommending Board approval of \$227,000 for the second year of the contract.

DISCUSSION

Resource Teams throughout the Bay Area continue to be a useful tool in developing and communicating clean air programs. In 2012, Community Focus fully satisfied the Air District contract requirements therefore staff is recommending Board approval for the 2013/14 contract.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for this contract is included in the draft FYE 2014 budget in the amount of \$227,000.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jim Smith
Reviewed by: Lisa Fasano