

Bay Area Air Quality Management District
375 Beale Street, Suite 600, San Francisco, CA 94105
(415) 749-5073

Board of Directors Special Meeting
Wednesday, December 19, 2018

APPROVED MINUTES

*Note: Audio recordings of the meeting are available on the website of the
Bay Area Air Quality Management District at
www.baaqmd.gov/bodagendas*

CALL TO ORDER

1. **Opening Comments:** Board of Directors (Board) Chairperson, David Hudson, called the meeting to order at 9:00 a.m.

Roll Call:

Present: Chairperson David Hudson; Vice Chair Katie Rice; Secretary Rod Sinks; and Directors Teresa Barrett, John J. Bauters, David Canepa, Cindy Chavez, Pauline Russo Cutter, John Gioia, Carole Groom, Scott Haggerty, Tyrone Jue, Liz Kniss, Rafael Mandelman, Karen Mitchoff, Nate Miley, Hillary Ronen, Mark Ross, Jim Spering, Brad Wagenknecht, and Shirlee Zane.

Absent: Directors Margaret Abe-Koga, Doug Kim, and Pete Sanchez.

COMMENDATIONS / PROCLAMATIONS / AWARDS

2. The Board of Directors recognized outgoing Board Member Pete Sanchez, in absentia, for his service, leadership, and dedication to protecting air quality in the Bay Area from 2016-2018.

NOTED PRESENT: Director Mitchoff was noted present at 9:01 a.m.

CLOSED SESSION (9:03 a.m.)

3. **CONFERENCE WITH LEGAL COUNSEL**

NOTED PRESENT: Director Canepa was noted present at 9:17 a.m.; Director Jue was noted present at 9:20 a.m.; Director Ronen was noted present at 9:24 a.m.; Director Zane was noted present at 9:32 a.m.; Director Ross was noted present at 9:34 a.m.; and Directors Wagenknecht and Mandelman were noted present at 9:35 a.m.

EXISTING LITIGATION (Government Code Section 54956.9(a))

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

- A. **Western States Petroleum Association, Valero Refining Company – California, Tesoro Refining & Marketing Company, LLC, and Phillips 66 Company v. Bay Area Air Quality Management District (AQMD)**, Contra Costa County Superior Court, Case No. N16-0963

REPORTABLE ACTION: Chair Hudson reported that no action was taken by the Board.

- B. **Valero Refining Company – California, Tesoro Refining & Marketing Company, LLC and Phillips 66 Company v. Bay Area AQMD**, Contra Costa County Superior Court, Case No. N16-0095

REPORTABLE ACTION: Chair Hudson reported that no action was taken by the Board.

OPEN SESSION (9:32 a.m.)

PUBLIC COMMENT ON NON-AGENDA MATTERS

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

Public comments were given by Jed Holtzman, 350 Bay Area; Haili Wang, Fremont resident; Kat Chan, Union City resident; Ling Kao, Newark resident; Domenico Tanzarella, Fremont resident; Jan Warren, Interfaith Climate Action Network of Contra Costa County (ICANCC); Bob Brown, Western States Petroleum Association; Richard Gray, 350 Bay Area; and Peter Welte, ClimateAction.tech.

NOTED PRESENT: Director Kniss was noted present at 9:44 a.m.

Board Comments

The Board and staff discussed complaints from parents of students attending The Stratford and E.M. Grimmer Elementary Schools in Fremont regarding dust and emissions from Tri-City Rock, affecting both campuses; the community meeting hosted by the Air District (District) for stakeholders on November 19; and the District's investigations and mitigation of the particulate matter (PM) emissions from the facility.

CONSENT CALENDAR (ITEMS 5 – 9)

5. Minutes of the Board of Directors Regular Meeting of August 1, 2018 and Board of Directors Special Meeting of November 19, 2018
6. Board Communications Received from November 19, 2018 through December 18, 2018
7. Air District Personnel on Out-of-State Business Travel
8. Notices of Violations Issued and Settlements in Excess of \$10,000 during the month of November 2018
9. Proposed Regulatory Agenda for 2019

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Groom made a motion, seconded by Director Bauters, to **approve** the Consent Calendar Items 5 through 9, inclusive; and the motion **carried** by the following vote of the Board:

AYES: Barrett, Bauters, Canepa, Chavez, Cutter, Gioia, Groom, Haggerty, Hudson, Jue, Kniss, Mandelman, Mitchoff, Rice, Ronen, Ross, Sinks, Spering, Wagenknecht, and Zane.

NOES: None.

ABSTAIN: None.

ABSENT: Abe-Koga, Kim, Miley, and Sanchez.

COMMITTEE REPORTS

10. Report of the Mobile Source Committee Meeting of December 17, 2018

Mobile Source Committee Chair, Director Haggerty, read the following Committee report:

The Committee met on Monday, December 17, 2018, and approved the minutes of October 25, 2018.

The Committee reviewed and discussed the staff presentation, Projects and Contracts with Proposed Grant Awards Over \$100,000. The Committee recommends the Board:

- 1. Approve recommended projects with proposed grant awards over \$100,000; and*
- 2. Authorize the Executive Officer/Air Pollution Control Officer to enter into all necessary agreements with applicants for the recommended projects.*

The Committee then reviewed and discussed the staff presentation Fiscal Year Ending 2017 Transportation Fund for Clean Air Program Audit Results.

Finally, the Committee reviewed and discussed the staff presentation Report on Transportation Fund for Clean Air Projects Expenditures and Effectiveness for Fiscal Year Ending 2018.

The next meeting of the Mobile Source Committee will be held on Thursday, January 24, 2019, at 9:30 a.m., at the Bay Area Air Quality Management District office, 375 Beale Street, San Francisco, CA 94105. I move that the Board approve the Mobile Source Committee's recommendations. This concludes the Chair Report of the Mobile Source Committee.

Public Comments

No requests received.

Board Comments

Chair Hudson praised the District for the emission reduction levels from/effectiveness of Transportation Fund for Clean Air-sponsored projects that were completed by June 30, 2018.

Board Action

Director Haggerty made a motion, seconded by Director Wagenknecht, to **approve** the recommendations of the Mobile Source Committee; and the motion **carried** by the following vote of the Board:

- AYES: Barrett, Bauters, Chavez, Cutter, Gioia, Haggerty, Hudson, Jue, Kniss, Mandelman, Mitchoff, Rice, Ronen, Ross, Sinks, Spering, Wagenknecht, and Zane.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Abe-Koga, Canepa, Groom, Kim, Miley, and Sanchez.

11. Report of the Legislative Committee Meeting of December 17, 2018

In the absence of the Legislative Committee Chair and Vice Chair, Chair Hudson read the following Committee report:

The Legislative Committee met on Monday, December 17, 2018, and approved the minutes of March 22, 2018.

The Committee then discussed the 2018 legislative year.

The Committee then reviewed and discussed at length a potential 2019 legislative agenda, and recommends that the Board of Directors considers a legislative agenda for 2019. This includes: seeking an author for a bill that appropriates money from the State's Greenhouse Gas Reduction Fund for clean air centers in the Bay Area, and potentially at a statewide level, during wildfire activity; securing state budget funding to cover the ongoing costs of work that the Air District has been assigned under Assembly Bill 617; and opposing changes to the composition of the Air District's governing Board that do not originate with ourselves.

The next meeting of the Legislative Committee will be held at the Call of the Chair. I move that the Board approve the Committee's recommendations. This concludes the Chair's report of the Legislative Committee.

At this time, Jack Broadbent, Executive Officer/Air Pollution Control Officer, gave the staff presentation *Wildfire Response Program*, including: program strategy; and legislative strategy.

Public Comments

No requests received.

Board Comments

The Board and staff discussed the request that the District be more proactive than reactive when championing new legislation and taking positions on bills; the components of the District's proposed Wildfire Response Program, for which the District is seeking State funding (and an author), and District staff's hope that the Board and Legislative Committee will support the District's efforts in Sacramento; the request that District staff change "clean air center" to "clean air shelter"; potential collaboration with other agencies who also prioritize and submit wildfire legislation; the anticipated frequency of Legislative Committee meetings starting in January 2019; the suggestion that public schools be equipped to be clean air shelters so that students do not have to be sent home during wildfire incidents, as the air quality in residences may be poor; the lack of dust respirator masks that are available during wildfire incidents; the suggestion that the District creates interactive air monitoring stations at schools to teach the students about air monitoring through their science departments; the Board Chairperson-Elect's anticipated establishment of a Public Health Committee in 2019; and the suggestion that the District partners with Canada regarding wildfire resiliency.

Board Action

Director Haggerty made a motion, seconded by Director Mitchoff, to **approve** the recommendation of the Legislative Committee; and the motion **carried** by the following vote of the Board:

AYES: Barrett, Bauters, Chavez, Cutter, Gioia, Groom, Haggerty, Hudson, Jue, Kniss, Mandelman, Mitchoff, Rice, Ronen, Ross, Sinks, Spring, Wagenknecht, and Zane.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Canepa, Kim, Miley, and Sanchez.

PUBLIC HEARINGS

- 12. Public Hearing to Consider Adoption of Proposed Assembly Bill 617 Expedited Best Available Retrofit Control Technology (BARCT) Implementation Schedule, and the Certification of a Final Environmental Impact Report (EIR) Pursuant to the California Environmental Quality Act (CEQA)**

Chair Hudson opened the public hearing.

Greg Nudd, Deputy Air Pollution Control Officer of Policy, introduced David Joe, Principal Engineer, who gave the staff presentation *Assembly Bill 617 Industrial Cap and Trade Sources Best Available Retrofit Control Technology Expedited Implementation Schedule*, including: outline; BARCT schedule requirements, approach, and development; prioritization of projects; potential rule development projects; environmental impacts; and recommendations.

Public Comments

Public comments were given by Claire Broome, 350 Bay Area; Stephen Rosenblum, Palo Alto resident; Gary Hughes, Redway resident; Wileen Ellen Sweet, 350 Marin; David Gassman, No Coal in Oakland; Jed Holtzman, 350 Bay Area; Charles Davidson, Hercules resident; and Richard Gray, 350 Bay Area.

Board Comments

The Board and staff discussed the request that water demand impacts from operation of air pollution control equipment not utilize fresh-water resources, and the request that such impacts in future staff reports be highlighted; the estimated cost of expedited BARCT implementation, and whether State funding can be procured for it; the need for a sustained funding mechanism for AB 617 in future years; if and how mobile sources of emissions are to be affected by AB 617; whether any of the potential rule development projects address condensable PM; methods of wet scrubber wastewater treatment; whether cross-contamination between (air and water) sectors can occur; the level of involvement of regional water quality control boards, water districts, and aquifer managers with AB 617; whether fees will be recovered from expedited BARCT implementation; the fact that the expedited schedule is even more accelerated than originally proposed; whether wet scrubbers will be required at refineries; how cost-effectiveness of the retrofit controls will be measured; and whether the potential rule development project schedules include the certification of CEQA EIRs, and whether District staff believes that these schedules can be completed on time.

Chair Hudson closed the public hearing.

Board Action

Director Wagenknecht made a motion, seconded by Vice Chair Rice, to **adopt** the proposed AB 617 Expedited Best Available Retrofit Control Technology Implementation Schedule, and **certify** a Final Environmental Impact Report pursuant to the California Environmental Quality Act; and the motion **carried** by the following vote of the Board:

AYES: Barrett, Bauters, Chavez, Cutter, Gioia, Groom, Haggerty, Hudson, Jue, Kniss, Mandelman, Miley, Mitchoff, Rice, Ronen, Ross, Sinks, Spring, Wagenknecht, and Zane.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Canepa, Kim, and Sanchez.

13. **Public Hearing to Consider Adoption of Proposed Amendments to Regulation 6, Rule 5: Particulate Matter from Refinery Fluidized Catalytic Cracking Units; Proposed Amendments to Regulation 11, Rule 10: Hexavalent Chromium Emissions from All Cooling Towers and Total Hydrocarbon Emissions from Petroleum Refinery Cooling Towers; Proposed Amendments to Regulation 12, Rule 15: Petroleum Refining Emissions Tracking; and Certification of the Final Environmental Impact Report Pursuant to the California Environmental Quality Act**

Chair Hudson opened the public hearing.

Mr. Broadbent introduced Victor Douglas, Rule Development Manager, who gave the staff presentation *Refinery Rules Amendment Public Hearing*, including: overview; Rule 6-5: PM from Fluid Catalytic Cracking Units (FCCUs); Rule 11-10: Cooling Towers; Rule 12-15: Refinery Emissions Tracking; environmental and socioeconomic impacts; and recommendations.

Public Comments

Public comments were given by Jed Holtzman, 350 Bay Area; Jan Warren, ICANCCC; Richard Gray, 350 Bay Area; Gary Hughes, Redway resident; Wileen Ellen Sweet, 350 Marin; and Charles Davidson, Hercules resident.

Board Comments

The Board and staff discussed the Rule 6-5-exemption for the Fluid Catalytic Cracking Unit at Valero that has been abated by wet scrubber technology; methodology of/requirements for measuring total hydrocarbon in cooling towers; the District's response to the community's concern that the proposed amendments will weaken the District regulations they affect; the reason for removing cargo carriers' emissions requirements from Rule 12-15; and transitioning from daily to weekly monitoring of cooling towers regarding Rule 11-10.

Chair Hudson closed the public hearing.

Board Action

Director Wagenknecht made a motion, seconded by Vice Chair Rice, to **adopt** a suite of amendments affecting petroleum refinery operations: proposed amendments to Regulation 6, Rule 5: Particulate Matter from Refinery Fluid Catalytic Cracking Units; proposed amendments to Regulation 11, Rule 10: Hexavalent Chromium Emissions from All Cooling Towers and Total Hydrocarbon Emissions from Petroleum Refinery Cooling Towers; proposed amendments to Regulation 12, Rule 15: Petroleum Refining Emissions Tracking; and **certify** a Final Environmental Impact Report pursuant to the California Environmental Quality Act; and the motion **carried** by the following vote of the Board:

AYES: Barrett, Bauters, Chavez, Cutter, Gioia, Groom, Hudson, Jue, Kniss, Mandelman, Miley, Mitchoff, Rice, Ross, Sinks, Wagenknecht, and Zane.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Canepa, Haggerty, Kim, Ronen, Sanchez, and Spring.

PUBLIC COMMENT ON NON-AGENDA MATTERS

14. **Public Comments on Non-Agenda Items, Pursuant to Government Code Section 54954.3**

No requests received.

BOARD MEMBERS' COMMENTS

15. **Board Members' Comments**

- Director Haggerty announced that the Dohsanjh Family Auto Group is looking for matching funds or other donations that will go towards the Camp Fire Relief Fund. www.driveforparadise.com
- Director Gioia announced that on December 14, 2018, the California Air Resources Board adopted Innovative Clean Transit (ICT) Regulation that requires California transit agencies to gradually transition their buses to zero-emission technologies.

- Director Ross requested a flow chart of the application/approval process from a facility for a District Permit to Operate.
- Director Groom announced that the San Mateo County Transit District purchased ten electric buses, which will be deployed in early 2019.
- Secretary Sinks announced that several Board members and legislator sent a letter to District staff regarding odor complaints in the South Bay sub-region of the Bay Area. Mr. Broadbent stated that the District will conduct an odor study there.
- Vice Chair Rice requested that the meeting be adjourned in memory of late former Marin County Supervisor, Peter Arrigoni.
- Director Kniss spoke about the number of Bay Area residents that drive over 90-minutes to work and commented on the low ratio of electric vehicles in the Bay Area, advocating for additional housing near workplaces to decrease longer commutes.

OTHER BUSINESS

16. Report of the Executive Officer/Air Pollution Control Officer

Mr. Broadbent explained that 15 Spare the Air alerts have already been called during the 2018 Winter Spare the Air season, which runs from November to February. He added that, although PM exceedances resulting from wildfires do not affect the District's National Ambient Air Quality Standards attainment status, the District wishes to launch the Wildfire Response Program to counter against future wildfire impacts in the Bay Area.

17. Chairperson's Report

Chair Hudson reiterated his excitement over the reduction in emission levels from Transportation Fund for Clean Air-sponsored projects that were completed by June 30, 2018, and said he hopes the reductions are even greater next year.

18. Time and Place of Next Meeting

Wednesday, January 16, 2019, at Embassy Suites, 101 McInnis Parkway, San Rafael, CA 94903 at 9:30 a.m.

19. Adjournment

The meeting adjourned at 12:04 p.m., in memory of Peter Arrigoni, former County Supervisor of Marin County.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards