



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
ADMINISTRATION COMMITTEE

COMMITTEE MEMBERS

JOHN J. BAUTERS – CHAIR
MARGARET ABE-KOGA
CAROLE GROOM
TYRONE JUE
KATIE RICE
BRAD WAGENKNECHT

DAVINA HURT - VICE CHAIR
JOHN GIOIA
DAVID HUDSON
KAREN MITCHOFF
MARK ROSS

THIS MEETING WILL BE CONDUCTED UNDER PROCEDURES AUTHORIZED BY ASSEMBLY BILL 361 (RIVAS 2021) ALLOWING REMOTE MEETINGS. THIS MEETING WILL BE ACCESSIBLE VIA WEBCAST, TELECONFERENCE, AND ZOOM. A ZOOM PANELIST LINK WILL BE SENT SEPARATELY TO COMMITTEE OR BOARD MEMBERS

- **THE PUBLIC MAY OBSERVE THIS MEETING THROUGH THE WEBCAST BY CLICKING THE LINK AVAILABLE ON THE AIR DISTRICT’S AGENDA WEBPAGE AT**

www.baaqmd.gov/bodagendas

- **THE PUBLIC MAY PARTICIPATE REMOTELY VIA ZOOM AT THE FOLLOWING LINK OR BY PHONE**

<https://bayareametro.zoom.us/j/83783643795>

(669) 900-6833 or (408) 638-0968

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- **THOSE PARTICIPATING BY PHONE WHO WOULD LIKE TO MAKE A COMMENT CAN USE THE “RAISE HAND” FEATURE BY DIALING “*9”. IN ORDER TO RECEIVE THE FULL ZOOM EXPERIENCE, PLEASE MAKE SURE YOUR APPLICATION IS UP TO DATE**

ADMINISTRATION COMMITTEE MEETING AGENDA

WEDNESDAY, NOVEMBER 2, 2022

2:00 PM

1. **Call to Order - Roll Call**
2. **Pledge of Allegiance**
3. **Public Meeting Procedure**

The Committee Chair shall call the meeting to order and the Clerk of the Boards shall take roll of the Committee members.

This meeting will be webcast. To see the webcast, please visit www.baaqmd.gov/bodagendas at the time of the meeting. Closed captioning may contain errors and omissions and are not certified for their content or form.

***Public Comment on Agenda Items:** The public may comment on each item on the agenda as the item is taken up. Members of the public who wish to speak on matters on the agenda for the meeting, will have two minutes each to address the Committee. No speaker who has already spoken on that item will be entitled to speak to that item again.*

CONSENT CALENDAR (Items 4 - 7)

4. Approval of the Minutes of June 15, 2022

The Committee will consider approving the attached draft minutes of the Administration Committee meeting of June 15, 2022.

5. Hearing Board Quarterly Report: April - June 2022

The Committee will receive the Hearing Board Quarterly Report for the period of April through June 2022.

6. Hearing Board Quarterly Report: July - September 2022

The Committee will receive the Hearing Board Quarterly Report for the period of July 2022 through September 2022.

7. Committee Authorization for Chair Bauters and Vice Chair Hurt to Attend United Nations Climate Change Conference (COP27)

The Committee will consider approving Chair Bauters and Vice Chair Hurt to attend the United Nations (UN) Climate Change Conference (COP27) from November 11, 2022 to November 19, 2022, and reimbursement for actual and necessary travel expenses incurred in connection with such attendance.

ACTION ITEMS

8. Proposed Amendments to Administrative Code – Board Member Compensation for Meeting Attendance and Board Meeting Start Time

This is an action item to consider recommending the Board of Directors approve amendments to the Air District's Administrative Code regarding (i) Board member compensation for meeting attendance and (ii) the start time for regular Board meetings. The item will be presented by District Counsel Alexander Crockett.

9. Management Audit Recommendations on Air District Organizational Structure

This is an action item for the Administration Committee to (i) receive a report from the Management Auditor on the Air District's Organizational Structure Assessment; (ii) in accordance with the Organizational Structure Assessment, direct the Interim Executive Officer to prepare and present to the Board of Directors for approval, recommendations for position classifications and assignments of the twenty (20) vacant and unassigned positions listed in Table 1 of Appendix H in the Fiscal Year Ending (FYE) 2023 Budget; and (iii) direct the Interim Executive Officer to prepare an Action Plan to address the Organizational Structure Assessment 's restructuring recommendations and present the Plan to the Administration Committee as soon as practicable. The item will be presented by George Skiles of Sjoberg Evashenk Consulting.

10. Management Audit Report on Air District Human Resources Functions

This is an action item for the Administration Committee to (i) receive and file the Management Auditor's Human Resources Audit Report; and (ii) consider directing the Interim Executive Officer to prepare an action plan to address the Human Resources Audit Report's recommendations and to present the action plan to the Administration Committee for approval within 60 days. The item will be presented by George Skiles of Sjoberg Evashenk Consulting.

OTHER BUSINESS

11. Public Comment on Non-Agenda Matters

Pursuant to Government Code Section 54954.3

Members of the public who wish to speak on matters not on the agenda for the meeting, will have two minutes each to address the Committee.

12. Committee Member Comments

Any member of the Committee, 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)

13. Time and Place of Next Meeting

Wednesday, December 21, 2022, at 11:00 a.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

CLOSED SESSION

14. Conference with Legal Counsel re Anticipated Litigation (Government Code Sections 54956.9(a) and (d)(2))

Pursuant to Government Code sections 54956.9(a) and (d)(2), the Board will meet in closed session with legal counsel to discuss a significant exposure to litigation, based on facts and circumstances not known to a potential plaintiff or plaintiffs: Two cases.

OPEN SESSION

15. Adjournment

The Committee meeting shall be adjourned by the Chair.

CONTACT:

MANAGER, EXECUTIVE OPERATIONS
375 BEALE STREET, SAN FRANCISCO, CA 94105
vjohnson@baaqmd.gov

(415) 749-4941
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov

- 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 offices at 375 Beale Street, Suite 600, San Francisco, CA 94105, at the time such writing is made available to all, or a majority of all, members of that body.

Accessibility and Non-Discrimination Policy

The Bay Area Air Quality Management District (Air District) does not discriminate on the basis of race, national origin, ethnic group identification, ancestry, religion, age, sex, sexual orientation, gender identity, gender expression, color, genetic information, medical condition, or mental or physical disability, or any other attribute or belief protected by law.

It is the Air District's policy to provide fair and equal access to the benefits of a program or activity administered by Air District. The Air District will not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activity offered or conducted by the Air District. Members of the public who believe they or others were unlawfully denied full and equal access to an Air District program or activity may file a discrimination complaint under this policy. This non-discrimination policy also applies to other people or entities affiliated with Air District, including contractors or grantees that the Air District utilizes to provide benefits and services to members of the public.

Auxiliary aids and services including, for example, qualified interpreters and/or listening devices, to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the benefits, activities, programs and services will be provided by the Air District in a timely manner and in such a way as to protect the privacy and independence of the individual. Please contact the Non-Discrimination Coordinator identified below at least three days in advance of a meeting so that arrangements can be made accordingly.

If you believe discrimination has occurred with respect to an Air District program or activity, you may contact the Non-Discrimination Coordinator identified below or visit our website at www.baaqmd.gov/accessibility to learn how and where to file a complaint of discrimination.

Questions regarding this Policy should be directed to the Air District's Non-Discrimination Coordinator, Suma Peesapati, at (415) 749-4967 or by email at speesapati@baaqmd.gov.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

375 BEALE STREET, SAN FRANCISCO, CA 94105

FOR QUESTIONS PLEASE CALL (415) 749-4941

EXECUTIVE OFFICE:

MONTHLY CALENDAR OF AIR DISTRICT MEETINGS

NOVEMBER 2022

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Nominating Committee	Wednesday	2	8:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Meeting	Wednesday	2	9:00 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Administration Committee	Wednesday	2	2:00 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Community Equity, Health and Justice Committee	Thursday	3	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Advisory Council Meeting – CANCELLED AND RESCHEDULED TO DECEMBER 15, 2022 AT 8:30 A.M.	Monday	14	8:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Legislative Committee	Monday	14	1:00 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Meeting - CANCELLED	Wednesday	16	9:00 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Administration Committee - CANCELLED	Wednesday	16	11:00 a.m.	Webcast only pursuant to Assembly Bill 361
Community Advisory Council Meeting	Thursday	17	6:00 p.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Stationary Source and Climate Impacts Committee	Monday	21	9:00 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Budget and Finance Committee	Wednesday	23	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Mobile Source and Climate Impacts Committee– CANCELLED AND RESCHEDULED TO NOVEMBER 28, 2022 AT 9:30 A.M.	Thursday	24	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Board of Directors Mobile Source and Climate Impacts Committee	Monday	28	9:30 a.m.	Webcast only pursuant to Assembly Bill 361
Path to Clean Air Community Emissions Reduction Plan Steering Committee	Monday	28	5:30 p.m.	Webcast only pursuant to Assembly Bill 361

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Administration Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: November 2, 2022

Re: Approval of the Minutes of June 15, 2022

RECOMMENDED ACTION

Approve the attached draft minutes of the Administration Committee (Committee) meeting of June 15, 2022.

BACKGROUND

None.

DISCUSSION

Attached for your review and approval are the draft minutes of the Administration Committee meeting of June 15, 2022.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Draft Minutes of the Administration Committee Meeting of June 15, 2022

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

DRAFT MINUTES

Administration Committee Meeting
Wednesday, June 15, 2022

This meeting was conducted under procedures authorized by Assembly Bill 361 (Rivas 2021), allowing remote meetings. Members of the Board of Directors participated both by teleconference (via Zoom) and in person.

1. CALL TO ORDER – ROLL CALL

Administration Committee (Committee) Chairperson John J. Bauters called the meeting to order at 12:41 p.m.

Present: Committee Chairperson John J. Bauters; Committee Vice Chairperson Davina Hurt; and Directors Margaret Abe-Koga (Zoom), John Gioia (Zoom), Carole Groom (Zoom), David Hudson, Tyrone Jue (Zoom), Karen Mitchoff (Zoom), Katie Rice (Zoom), Mark Ross (Zoom), and Brad Wagenknecht (Zoom).

Absent: None.

2. PLEDGE OF ALLEGIANCE

3. PUBLIC MEETING PROCEDURE

4. APPROVAL OF THE MINUTES OF APRIL 20, 2022

Public Comments

No requests received.

Committee Comments

None.

Committee Action

Director Hudson made a motion, seconded by Vice Chair Hurt, to approve the Minutes of April 20, 2022; and the motion carried by the following vote of the Committee:

AYES: Abe-Koga, Bauters, Gioia, Groom, Hudson, Hurt, Jue, Mitchoff, Rice.
NOES: None.
ABSTAIN: None.
ABSENT: Ross, Wagenknecht.

5. MANAGEMENT AUDIT DISTRICT-WIDE RISK ASSESSMENT PRESENTATION

John Chiladakis, Director of Information Services, introduced George Skiles of Sjoberg Evashenk Consulting, Inc., who gave the presentation *Risk Assessment*, including: introduction & background; project objectives and approach; program risk profiles; organizational risk ratings; proposed audit topic – organizational assessment and staffing recommendation; and Proposed Task Order #3 approach (Steps 1-4).

Directors Ross and Wagenknecht were noted present at 12:50 p.m.

Public Comments

No requests received.

Committee Comments

The Committee members discussed concerns about the risks identified within the Air District’s Compliance & Enforcement and Strategic Incentives Divisions; and the status of Task Order #2 (Performance Audit of District-Wide Human Resources Management).

Committee Action

Although this was not an action item, the consensus of the Committee members present was to recommend the Board to direct staff to execute Task Order #3 (organizational assessment and staffing recommendation.)

6. BAY AREA REGIONAL COLLABORATIVE (BARC) UPDATE

Allison Brooks, BARC Executive Director, gave the presentation *Shared Work Plan*, including: timeline for development of Draft Shared Work Plan; public comment period; Shared Work Plan goals and initiatives; initiatives evaluation criteria; what is the optimal role regional agencies can play; climate adaptation initiatives; greenhouse gas (GHG) potential initiatives; and next steps.

Public Comments

No requests received.

Committee Comments

None.

Committee Action

None; receive and file.

OTHER BUSINESS

7. PUBLIC COMMENT ON NON-AGENDA MATTERS

No requests received.

8. COMMITTEE MEMBER COMMENTS

None.

9. TIME AND PLACE OF NEXT MEETING

Wednesday, November 2, 2022, at 2:00 p.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

10. ADJOURNMENT

The meeting adjourned at 1:22 p.m.

Marcy Hiratzka
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Administration Committee

From: Valerie J. Armento, Esq.
Chair, Hearing Board

Date: November 2, 2022

Re: Hearing Board Quarterly Report: April - June 2022

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

None.

DISCUSSION

This report covers the second calendar quarter (April – June) of 2022.

- Held two hearings;
- Processed three orders: and
- Collected a total of \$353.00 in Hearing Board filing fees.

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

Docket: 3732 – APCO vs. Chemtrade West US, LLC – Accusation and Stipulated Conditional Order for Abatement

Location: Contra Costa County; City of Richmond

Regulation(s): Regulation 1, Rule 522 (General Provisions, Continuous Emission Monitoring and Recordkeeping Procedures)

Synopsis: Respondent operates the Chemtrade sulfuric acid manufacturing plant, a source of sulfur dioxide (“SO₂”) emissions which are monitored, in part, by a Continuous Emissions Monitoring System (“CEMS”) on its Sulfuric Acid Manufacturing Plant (“S-1”). Air District

staff determined the S-1 CEMS is improperly configured and cannot comply with applicable monitoring requirements without replacement and reconfiguration. The Stipulated Order requests the Hearing Board enter a Conditional Order for Abatement against Respondent requiring Respondent to refrain from operating its Plant after the deadlines unless Respondent has completed all Compliance Actions by their deadlines. All Compliance Actions refer specifically to the CEMS unit installed at S-1.

Status: Accusation filed by Complainant (Air District) on February 24, 2022; Notice of Defense filed by Respondent on March 10, 2022; Notice of Hearing (for April 5, 2022) filed/issued on March 15, 2022; Notice of Continued Hearing (for April 12, 2022) filed/issued on March 17, 2022; hearing held on April 12, 2022 (10 members of the public present); Stipulated Conditional Order for Abatement filed/issued on April 12, 2022 (see language below).

THE HEARING BOARD ORDERED:

Respondent Chemtrade West US, LLC shall refrain from operating its Plant after the compliance action deadlines stated below, unless Respondent has completed all compliance actions enumerated below by their indicated deadlines:

Compliance Actions

I.1 – Adequately heat and maintain sample line above moisture dew point of stack gas. Install new/used or rental sample line if necessary. (Reg. 1-522.10). Complete by 4/15/2022.

I.2 – Install calibration gas line to existing “T” on CEM probe and ensure daily calibrations challenge the entire CEM system. (Reg. 1-522.5, MOP Vol. V, Section 5.2) Complete by 4/15/2022.

I.3 – Ensure daily calibrations (O₂ and SO₂) are being conducted and are passing performance criteria. This can be achieved manually or automatically through the use of software. (Reg. 1-522.5, MOP Vol. V, Section 5.2). Complete by 4/15/2022.

I.4 – Install new/used or rental sample conditioning system for removal of moisture or directly measure moisture content in real-time. Alternatively, indicate to the District that a default value of 3 percent moisture will be assumed for all periods. (SO₂ limit= 300 ppm dry). Complete by 4/15/2022.

I.5 – Install new/used or rental stack flow probe or develop an alternative approach to measure stack flow in dry standard cubic feet (dscf). (Reg. 1-522.10, MOP Vol. V, Section 3). Complete by 4/15/2022.

I.6 – Ensure daily calibration records are being maintained and available upon request. (MOP Vol. V, Sec. 5.2, Reg. 1-522.9). Complete by 4/15/2022.

I.7 – Conduct 7-day calibration drift procedure and a Relative Accuracy Test Audit (RATA) on O2/SO2 analyzers as detailed in EPA 40 CFR 60, App. B, Performance Specification 2. The final report for the RATA shall include: exhaust gas flow rate in standard cubic feet per minute (scfm), exhaust gas moisture content (%), percent oxygen content (%), raw sulfur dioxide concentration (ppm), sulfur dioxide concentration at 12 percent oxygen (ppm, dry basis), and sulfur dioxide mass emission rate (lb/hour). Complete by 5/2/2022.

I.8 – Submit 7-Day drift and RATA results to the recipients below within 45 days of testing. (Reg.1-522.3). Submit by 6/16/2022.

Docket: 3733 – APCO vs. Green Sage Management, LLC, et al. – Accusation and Request for Order for Abatement

Location: Alameda County; City of Oakland

Regulation(s): Regulation 2, Rule 1, Section 301 (Permits – Authority to Construct; and Regulation 2, Rule 1, Section 302 (Permits – Permit to Operate)

Synopsis: Seven (7) respondents were originally named by the Air District:

Referred to collectively as “Landlord Respondents”:

1. Green Sage Management, LLC, a Colorado Limited Liability Corporation;
2. Oakland Cannery Real Estate, LLC, a California Limited Liability Corporation;
3. 5601 SLOCA, LLC, a California Limited Liability Corporation;
4. 5733 SLOCA, LLC, a California Limited Liability Corporation;
5. Romspen California Mortgage Limited Partnership; an Ontario Limited Partnership;

AND

Referred to collectively as “Cultivator Residents”:

6. 5601-A LLC, a California Limited Liability Corporation; and
7. 5601-B LLC, a California Limited Liability Corporation

Landlord Respondents are owners or operators of a 10+ acre floor area mixed-use (indoor cannabis cultivation, live-work residential lofts, and other uses) warehouse complex located at 5601 and 5733 San Leandro Street, Oakland, California (hereinafter, the "Site"). The Site principally consists of two large buildings historically known as "The Oakland Cannery" and "The Oakland Tinnery." Cultivator Respondents are owners or operators of expansive indoor cannabis cultivation facilities within the Site. Since at least July 2, 2021 - and possibly as early as mid-2020 - a number of Portable Equipment Registration Program (PERP)-registered portable diesel generators stationed within the Site's loading docks and other exterior spaces have supplied power to the Site without District-required permits. These generators operate all day and all night. These generators are connected to transfer boxes within the Site's buildings, providing *primary power*.

A PERP registration is not a valid authorization to operate where engines are "used to provide primary or supplemental power to a building, facility, stationary source, or stationary equipment," except, as the California Air Resources Board ("CARB") states, in "very specific circumstances." (13 Cal. Code Regs. § 2453(m)(4)(E); CARB 's 2019 Portable Equipment -- Frequently Asked Questions.) According to the Air District, none of the "very specific circumstances" that might allow a business or landlord to use generators as primary power to buildings are present. Additionally, the Air District is informed and believes that at least one - and possibly all nine - of the PERP-registered generators currently on Site have either (1) been at the Site for more than 12 consecutive months; or (2) replaced generators that collectively and consecutively have been at the Site for more than 12 months. As such, the Air District believes there is a second reason why PERP registration is invalid for continuing operation (i.e., a second reason a District permit must now be obtained and an abatement order must issue). 13 CCR. Section 2452(d).

Note: On June 13, 2022, prior to the first hearing regarding this matter, one of the seven original respondents, Romspen California Mortgage Limited Partnership, submitted 1) a Stipulation to Dismiss Romspen as a Respondent and File Intervention Application, and 2) Application for Intervention to the Hearing Board. Within these two documents, Romspen asserted that it was not an "owner/operator" of the site, that Romspen did not review or approve of any of the leases for the Site, that Romspen did not approve or authorize the use of diesel generators at the site, and that the Air District consented to dismissing Romspen as a respondent and agreed to let Romspen participate instead as an intervenor. Based upon Romspen's requests within these two documents, the Hearing Board Chairperson issued an Order of Dismissal of Respondent Romspen and Approval of Romspen as Intervenor, on June 22.

Status: Accusation and Statement to Respondent filed by Complainant (Air District) on April 20, 2022; Notice of Defense & Objection to Accusation submitted by Green Sage Management, LLC on May 5, 2022; Notice of Defense filed by Romspen on May 5, 2022; Notice of Hearing (for June 28, 2022) filed/issued on June 2, 2022; Stipulation to Dismiss Romspen as a Respondent and File Intervention Application and Application for Intervention submitted by Romspen on June 13, 2022; Order of Dismissal of Respondent Romspen and Approval of Romspen as Intervenor filed on June 21, 2022; hearing held on June 28, 2022 (25 members of the public present, 6 speakers); Notice of Continued Hearing (for July 5, 2022) filed/issued on June 30, 2022.

Docket: 3734 – Cypress AMLOC Land Co. – Request for Emergency Variance

Location: San Mateo County; City of Colma

Regulation(s): Regulation 8, Rule 34, Section 301.1 (Organic Compounds, Solid Waste Disposal Sites, Landfill Gas Collection and Emission Control System Requirements)

Synopsis: Applicant is a closed landfill operating a McGill Model EGF-26 enclosed flare with a flow range from 200 -850 scfm. The flare currently operates 24 hours a day with a reducing gas generation and methane quality. The site consists of 33 vertical wells and 8 horizontal collectors. The collection system piping consists of an above ground headers and laterals. The Applicant sought a variance for the McGill enclosed landfill gas flare, A2. On May 7th, the flare had become in-operable due to a failed HMI controller damaged by a PG&E electrical outage. The purpose of the HMI controller is to controls all flare functions, such as flare startup sequence, blower operation, maintain flare temperature, and emergency shut down. The flare operation is essential to the company to stay in compliance with its Permit to Operate, PTO#1364. The Applicant claimed that the malfunction of the HMI controller was unforeseen and identified as a sudden equipment failure, and that there were no symptoms which would have caused the technician to take corrective action during his visual inspection. Blue Flame has recommended to facility to install an electrical surge protection on the incoming power to help eliminate damage to the controls.

Status: Application for Emergency Variance filed by Applicant on May 12, 2022; Air District staff response received on May 19, 2022; Hearing Board response received on May 26, 2022; Order Granting Emergency Variance filed on June 3, 2022.

Requested Period of Variance: May 7, 2022 to May 13, 2022

Estimated Excess Emissions: None.

Fees collected this quarter: \$353.00.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

/s/ Valerie J. Armento

Valerie J. Armento, Esq.
Chair, Hearing Board

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

None

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Administration Committee

From: Valerie J. Armento, Esq.
Chair, Hearing Board

Date: November 2, 2022

Re: Hearing Board Quarterly Report: July - September 2022

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

None.

DISCUSSION

This report covers the third calendar quarter (July – September) of 2022.

- Held three hearings;
- Processed three orders: and
- Collected a total of \$14,088.00 in Hearing Board filing fees.

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

Docket: 3733 – APCO vs. Green Sage Management, LLC, et al. – Accusation and Request for Order for Abatement

Location: Alameda County; City of Oakland

Regulation(s): Regulation 2, Rule 1, Section 301 (Permits – Authority to Construct; and Regulation 2, Rule 1, Section 302 (Permits – Permit to Operate)

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2. Oakland Cannery Real Estate, LLC, a California Limited Liability Corporation;

3. 5601 SLOCA, LLC, a California Limited Liability Corporation;
4. 5733 SLOCA, LLC, a California Limited Liability Corporation;
5. Romspen California Mortgage Limited Partnership; an Ontario Limited Partnership;

AND

Referred to collectively as "Cultivator Residents":

6. 5601-A LLC, a California Limited Liability Corporation; and
7. 5601-B LLC, a California Limited Liability Corporation

Landlord Respondents are owners or operators of a 10+ acre floor area mixed-use (indoor cannabis cultivation, live-work residential lofts, and other uses) warehouse complex located at 5601 and 5733 San Leandro Street, Oakland, California (hereinafter, the "Site"). The Site principally consists of two large buildings historically known as "The Oakland Cannery" and "The Oakland Tinnery." Cultivator Respondents are owners or operators of expansive indoor cannabis cultivation facilities within the Site. Since at least July 2, 2021 - and possibly as early as mid-2020 - a number of Portable Equipment Registration Program (PERP)-registered portable diesel generators stationed within the Site's loading docks and other exterior spaces had supplied power to the Site without District-required permits. These generators operated all day and all night. These generators were connected to transfer boxes within the Site's buildings, providing *primary power*.

A PERP registration is not a valid authorization to operate where engines are "used to provide primary or supplemental power to a building, facility, stationary source, or stationary equipment," except, as the California Air Resources Board ("CARB") states, in "very specific circumstances." (*13 Cal. Code Regs. § 2453(m)(4)(E); CARB 's 2019 Portable Equipment -- Frequently Asked Questions.*) According to the Air District, none of the "very specific circumstances" that might allow a business or landlord to use generators as primary power to buildings were present. Additionally, the Air District was informed, and believes that at least one - and possibly all nine - of the PERP-registered generators on Site were either (1) at the Site for more than 12 consecutive months; or (2) replaced generators that collectively and consecutively had been at the Site for more than 12 months. As such, the Air District believed there was a second reason why PERP registration was invalid for continuing operation (i.e., a second reason a District permit must be obtained and an abatement order must issue). *13 CCR. Section 2452(d).*

***Note:** On June 13, 2022, prior to the first hearing regarding this matter, one of the seven original respondents, Romspen California Mortgage Limited Partnership, submitted 1) a Stipulation to Dismiss Romspen as a Respondent and File Intervention Application, and 2) Application for Intervention to the Hearing Board. Within these two documents, Romspen asserted that it was not an "owner/operator" of the site, that Romspen did not review or approve of any of the leases for the Site, that Romspen did not approve or authorize the use of diesel generators at the site, and that the Air District consented to dismissing Romspen as a respondent and agreed to let Romspen participate instead as an intervenor. Based upon Romspen's requests within these two documents, the Hearing Board Chair issued an Order of Dismissal of Respondent Romspen & Approval of Romspen as Intervenor, on June 22.*

Status: Accusation and Statement to Respondent filed by Complainant (Air District) on April 20, 2022; Notice of Defense & Objection to Accusation submitted by Green Sage Management, LLC on May 5, 2022; Notice of Defense filed by Romspen on May 5, 2022; Notice of Hearing (for June 28, 2022) filed/issued on June 2, 2022; Stipulation to Dismiss Romspen as a Respondent and File Intervention Application and Application for Intervention submitted by Romspen on June 13, 2022; Order of Dismissal of Respondent Romspen and Approval of Romspen as Intervenor filed on June 21, 2022; hearing held on June 28, 2022; Notice of Continued Hearing (for July 5, 2022) filed/issued on June 30, 2022; both parties submitted their chronology of significant dates regarding this matter, as well as their Pacific Gas & Electric (PG&E) contacts, per the Hearing Board, by July 1, 2022; second hearing held on July 5, 2022; Notice of Continued Hearing (for July 12, 2022) filed/issued on July 5, 2022; Hearing Board issued subpoena to PG&E representatives related to the matter, to be present at July 12, 2022 hearing; PG&E submitted documentation on July 11, 2022, and attended the third hearing, held July 12, 2022; Order for Abatement filed/issued on July 21, 2022 (see language below).

THE HEARING BOARD ORDERED:

- 1. Immediately, Respondents and their agents, employees, successors and assigns shall cease violation of District Regulation 2, Rule 1, Sections 301 and 302 at 5601 and 5733 San Leandro Street, Oakland, California, by ceasing operation of any and all portable diesel generators at the Site unless and until they obtain a current and valid permit to do so; and*
- 2. Respondents shall demonstrate compliance with this Order by submitting to the Hearing Board either (a) a copy of a current and valid District permit to operate the Facility, or (b) written affirmation executed by Respondents that they have ceased operating all portable generators at The Site and that they shall not recommence operating any generators, if ever, until they have met all applicable requirements to obtain and maintain a valid District permit to operate pursuant to District Regulation 2, Rule 1. Respondents shall deliver such documentation via electronic mail and certified mail to the Clerk of the Hearing Board, by no later than fifteen (15) calendar days from the Effective Date, with a copy of such documentation to Adan Schwartz, Senior Assistant District Counsel, also delivered via electronic mail and certified mail; and*
- 3. The Hearing Board shall retain jurisdiction over this matter for three years from the date of conclusion of the hearing in this matter, pursuant to Hearing Board Rule 4.12, during which period the parties may apply to modify or terminate this Order in accordance with the Rules of the Hearing Board; and*
- 4. Landlord Respondents shall provide actual notice of this Order to all prospective tenants, buyers, lenders, and successors in interest in the Site for as long as the Hearing Board retains jurisdiction over this matter; and*
- 5. Cultivator Respondents shall provide actual notice of this Order to any prospective sub-tenants or assignees with respect to their leasehold interest in the Site for as long as the Hearing Board retains jurisdiction over this matter; and*

6. *Once the Order in this matter is finalized, that a copy of it be provided electronically to the City of Oakland City Attorney, City Administrator, Building Division and Fire Prevention Bureau; and*

7. *That a copy of the final Order be provided electronically to the United Rentals branch manager and account manager; and*

8. *That a copy of the final Order be provided to the Compliance Division of the California Department of Cannabis Control; and*

9. *That a copy of the final Order be posted by Green Sage, so that every page is readable, at every entrance to both 5601 and 5733 San Leandro Street, Oakland; and that the Order remain posted until all portable diesel generators are either removed from the properties or proper permits are obtained; and*

10. *On a monthly basis through December 2022, due no later than the fifth of the month, that Green Sage provides a list of all cannabis tenants with full contact information to the Air Pollution Control Officer.*

AFTERMATH:

Following the abatement order issued by the Hearing Board on July 21, 2022, ordering that all nine generators be shut down, the Respondent continued to use five generators, in defiance of the order, through August. The Respondent argued, in a late July court filing, that it needed more power than PG&E could provide in order to meet the needs of cannabis cultivation, citing millions of dollars of crop lost if there was a sudden change in energy supply.

On September 13, 2022, the Air District received a ruling from an Alameda County Superior Court judge, finding that the abatement order to shut down diesel generators at the Green Sage cannabis facilities in Oakland was immediately enforceable, by further order of the court. The judge's ruling rejected technical arguments that the order was not immediately enforceable and ratified the Hearing Board's order to post the abatement order on the property. The judge also invited the Air District to apply for a temporary restraining order in the event there is any evidence of renewed interest in bringing diesel generators to the property in defiance of the Hearing Board's order.

The Air District worked with the Oakland City Attorney's Office to contact the generator rental company, United Rentals, and have the generators removed. After the Hearing Board inquired directly with United Rentals on September 6, 2022, United Rentals confirmed that all nine generators had been removed from the Site.

On September 27, 2022, the Respondent submitted a Request for Dismissal of its court filing.

Docket: 3735 – Waste Connections: Potrero Hills Landfill, Inc. – Request for Emergency Variance

Location: Solano County; City of Suisun City

Regulation(s): Regulation 2, Rule 1 (Permits, General Requirements), and Permit Condition #27218.

Synopsis: Applicant is a municipal solid waste landfill (the “Facility”) located at 3675 Potrero Hills Lane, Suisun City, California, 94585. The Facility is considered an essential public service that serves as a critical public health function. The equipment that is the subject of the petition is two portable diesel tipper engines (S-38 and S-39) which are critical to the facility’s waste disposal operations. These engines are 174 brake-horsepower , Tier 4F certified engines. The tippers are mobile hydraulic platforms powered by a diesel engine and are used to tip cargo trailer truck containers vertically to empty the loads. On Friday, August 5, 2022, the Facility experienced a small, isolated fire in the active filling area, suspected to be caused by a hot load from a residential refuse hauling truck. The fire was centralized in the trash and caused damage to the two tippers, S-38 and S-39, rendering them inoperable. There was no damage caused to any other equipment or to the landfill gas system, nor were there any excess emissions as a result the event. The Tier 4F engines were not damaged by the fire. Applicant applied for an Emergency Variance for relief to temporarily operate two tippers that use a 174 bhp Tier 4 interim tipper engine and 156 bhp Tier 3 tipper engine.

Requested Period of Variance: 7:00 a.m. on August 15, 2022, to 7:00 a.m. on September 15, 2022.

Estimated Excess Emissions: (See below, provided by applicant)

Air Pollutant	Net Emissions Increase (Proposed Temp. Engines - Existing Tipper Engines)		
	lb/hr	tons/year	lbs - 30 days
VOCs	0.0462	0.0614	33.26
NOx	1.4514	1.9295	1,045.04
SOx	0.0006	0.0210	0.44
CO	1.0185	1.3508	733.30
PM10	0.0040	0.0055	2.88
Total HAPs	7.88E-06	2.69E-04	0.01

Emissions estimates based on proposed operation of 5,304 hrs/yr combined for the two temporary engines (2,652 hrs each).

Fees collected this quarter: \$2,009.00.

Status: Application for Emergency Variance filed by Applicant on August 11, 2022; Air District staff response received on August 18, 2022; Hearing Board response received on August 22, 2022; Order Granting Emergency Variance filed/issued on August 23, 2022.

Docket: 3736 – Waste Connections: Potrero Hills Landfill, Inc. – Request for Interim and Regular Variances

Location: Solano County; City of Suisun City

Regulation(s): Regulation 2, Rule 1 (Permits, General Requirements), and Permit Condition #27218.

Synopsis: Applicant is a municipal solid waste landfill (the “Facility”) located at 3675 Potrero Hills Lane, Suisun City, California, 94585. The Facility is considered an essential public service that serves as a critical public health function. The equipment that is the subject of the petition is two portable diesel tipper engines (S-38 and S-39) which are critical to the facility’s waste disposal operations. These engines are 174 brake-horsepower , Tier 4F certified engines. The tippers are mobile hydraulic platforms powered by a diesel engine and are used to tip cargo trailer truck containers vertically to empty the loads. On Friday, August 5, 2022, the Facility experienced a small, isolated fire in the active filling area, suspected to be caused by a hot load from a residential refuse hauling truck. The fire was centralized in the trash and caused damage to the two tippers, S-38 and S-39, rendering them inoperable. There was no damage caused to any other equipment or to the landfill gas system, nor were there any excess emissions as a result the event. The Tier 4F engines were not damaged by the fire. Applicant applied for an Emergency Variance for relief to temporarily operate two tippers that use a 174 bhp Tier 4 interim tipper engine and 156 bhp Tier 3 tipper engine.

Following the issuance of the Order Granting Emergency Variance on August 23, 2022, the Applicant contacted the Clerk of the Hearing Board on September 1, 2022, seeking relief beyond that stipulated within the granted Emergency Variance, in the form of an Application for Interim and Regular Variances. The Applicant’s plan for returning to compliance included repair, retrofitting, and replacement options, but all options were being impacted by either high workload demand or supply chain delays. Applicant represented that there were only two companies that made tippers appropriate for this facility; a repair quote and a replacement quote were obtained from Columbia Industries, but Columbia had not yet provided an estimated timeframe for implementation. The Applicant also represented that it had sought quotes from two companies for retrofitting the temporary tippers with the permitted Tier 4F engines. Some scenarios would have required an Air District permit application for Authority to Construct.

The Applicant promised to notify the Air District and provide a tentative schedule detailing the course of actions planned to return to compliance, once a decision has been made (whether to replace, retrofit, or repair the tippers.)

Requested Period of Variance: September 15, 2022, to September 15, 2023.

Estimated Excess Emissions: (See below, provided by applicant)

Air Pollutant	12 - Month Net Emissions Increase (Temporary - Existing Tipper Engines)		
	Existing Tippers S - 38 & S - 39	Temporary Tipper Engines	Net Emissions
	lbs - 12 Months	lbs - 12 Months	lbs - 12 Months
VOCs	15.18	136.89	121.71
NOx	455.38	4,281.06	3,825.68
SOx	1,891.94	1,795.71	-96.23
CO	30.36	2,729.77	2,699.41
PM10	15.18	25	9.82
Total HAPs	24.49	23.24	-1.25

Permit Condition #27218 allows S-38 and S-39 tipper engines to operate up to 5,304 hours combined during any 12-month consecutive (approximately 2,652 hours per year per engine.) Emissions estimates assumes each temporary engine will operate approximately 2,652 hours during the requested 12-month period, based on permitted annual operation.

Fees collected this quarter: \$12,079.00.

Status: Application for Interim and Regular Variances filed by Applicant on September 1, 2022; Notice of Hearings filed/issued on September 7, 2022; Interim Variance hearing held on September 13, 2022; Order Granting Interim Variance, granting relief from 10:30 a.m. on September 13, 2022 through the date the Hearing Board makes a determination on the regular variance application (anticipated to be October 18, 2022), filed/issued on September 22, 2022.

The Regular Variance hearing scheduled for October 18, 2022.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

/S/ Valerie J. Armento

Valerie J. Armento, Esq.
Chair, Hearing Board

Prepared by: Marcy Hiratzka

Reviewed by: Vanessa Johnson

ATTACHMENTS:

None

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John J. Bauters and Members
of the Administration Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: November 2, 2022

Re: Committee Authorization for Chair Bauters and Vice Chair Hurt to Attend United Nations Climate Change Conference (COP27)

RECOMMENDED ACTION

Consider approving Chair Bauters and Vice Chair Hurt to attend the United Nations (UN) Climate Change Conference (COP27) from November 11, 2022 to November 19, 2022, and reimbursement for actual and necessary travel expenses incurred in connection with such attendance.

BACKGROUND

For the last three decades, the UN has convened almost every country on earth for an annual global climate summit, or “Conference of the Parties” or “COP.” In that time, climate change has gone from being a fringe issue to a global priority. This year will be the 27th annual summit, thus “COP27.” COP27 takes place in Sharm El-Sheikh, Egypt, and will run from November 6, 2022 to November 18, 2022.

Directors may attend COP meetings upon approval by the Administration Committee. Directors are also authorized to receive reimbursement for actual and necessary expenditures incurred in connection with attendance at meetings of this type on behalf of the Air District pursuant to Division II, Section 5.1 of the Administrative Code. For meetings outside of California, travel needs to be approved in advance by the Administration Committee. Approval by the Administration Committee is sufficient to authorize such travel; the Administrative Code does not require further approval by the full Board of Directors.

Board members are also entitled to \$100 per diem compensation for attendance at such meetings pursuant to Division I, Section 1.2 of the Administrative Code. Compensation for meeting attendance for meetings outside of California needs to be approved in advance by the full Board of Directors. The Board of Directors approved compensation for Chair Bauters and Vice Chair Hurt at its meeting of October 19, 2022.

DISCUSSION

More than 190 world leaders will travel to Egypt to attend this conference. Joining them will be tens of thousands of negotiators, government representatives, scientists, policymakers, businesses, and citizens for twelve days of talks. Participation from the California delegation includes members from the Air District, California Air Resources Board, state legislators, and other organizations. Chair Bauters and Vice Chair Hurt have been nominated for approval by the Administration Committee for attendance at this meeting pursuant to Division II, Section 5.1(b) of the Administrative Code.

COP27 provides a unique and diverse experience for members of the Air District to participate in some of the important and consequential discussions surrounding climate change. The attendance of Chair Bauters and Vice Chair Hurt will be an asset to the Air District and State of California, as a global climate leader.

For future international travel, staff will develop a policy on selection of Board members, to ensure equity and transparency, in determining which Board members will represent the Air District at such events.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for Board member travel for this conference, including travel expenses and per diem compensation for meeting attendance, is estimated at \$19,500 and is included in Program 104, Fiscal Year Ending 2023.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Henry Hilken
Reviewed by: Sharon L. Landers

ATTACHMENTS:

None

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John J. Bauters and Members
of the Administration Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: November 2, 2022

Re: Proposed Amendments to Administrative Code – Board Member Compensation for
Meeting Attendance and Board Meeting Start Time

RECOMMENDED ACTION

Recommend the Board of Directors adopt revisions to the Administrative Code to: (i) increase the compensation for Board member attendance at multiple meetings on the same day to \$200; (ii) provide compensation for Board members for active transportation travel to meetings in an amount of \$1.56 per mile for travel by bicycle and \$1.50 per mile for travel by foot or wheelchair; (iii) make various other non-substantive changes to reorganize and clarify the provisions for Board member meeting attendance compensation; and (iv) change the start time for regular Board meetings from 9:30 am to 9:00 am.

BACKGROUND

Governor Newsom signed Assembly Bill 2721 (Lee) on September 23, 2022. This bill revises the amount of compensation that a member of the Board of Directors may receive for attending a meeting of the Board or a Board committee, or attending a meeting while on official business of the Air District, to an amount not to exceed \$100 per meeting and \$200 per day.

The bill also authorizes Board members to receive compensation for active transportation travel to such meetings. Active transportation travel is defined in the bill as bicycling, walking, and other modes of travel that "... reduce traffic, improve health outcomes, and reduce air pollution." Compensation for active transportation travel can be set on a per mile basis or at a fixed daily, weekly, monthly, or annual rate. The bill's definition of active transportation travel as including bicycling and walking aligns well with the active transportation strategies in the 2017 Clean Air Plan, Plan Bay Area 2050, and the State of California's active transportation funding program.

Total compensation for meeting attendance, including active transportation travel compensation, is subject to a limit of \$6,000 per year.

DISCUSSION

To implement AB 2721's revised authority for Board meeting compensation, Staff are proposing amendments to Division I, Section 1.2 of the Administrative Code.

First, the proposed revisions would provide for compensation for Board member attendance at Board meetings, Committee meetings, and various other types of meetings of \$100 per meeting, up to \$200 per day. Section 1.2 currently limits compensation to \$100 per day, even if a Board member attends multiple meetings in a single day.

Second, the proposed revisions would provide compensation for Board members who travel to such meetings by bicycle, foot or wheelchair. Bicycle travel would be compensated at \$1.56 per mile. This rate is based on studies and research that show that (i) bicycle upkeep costs \$0.06 per mile on average; (ii) increases in bicycling provide an air quality benefit of \$0.10 per mile; and (iii) bicycling provides an additional \$1.40 per mile in benefits from reduced congestion, roadway cost savings, noise pollution reduction, parking facilities and traffic safety benefits. Travel by foot or wheelchair would be compensated at \$1.50 per mile. Research into equivalent per-mile rates for walking is less robust than it is for bicycle usage. However, since walking and bicycling both displace automobile trips, resulting in comparable air quality and societal benefits, staff recommend that the compensation rate for walking to meetings be set at \$1.50 per mile. Staff further recommend that this rate be applied for walking the entire distance to a meeting or the distance for connecting to/from public transit.

Total compensation for meeting attendance would continue to be capped at \$6,000 per year, consistent with AB 2721.

Staff are also proposing a number of other non-substantive revisions to Section 1.2 to clarify all of the applicable rules and procedures for compensation for meeting attendance. The current version of Section 1.2 is not well organized and is unclear and difficult to follow in many areas. The proposed revisions would make these provisions clearer, without changing the substance of the rules for when and how Board members are eligible for compensation when they attend meetings on behalf of the District.

Finally, Staff are also proposing an amendment to Division I, Section 1.1 to change the start time for regular meetings of the Board of Directors from 9:30 am to 9:00 am, in order to reflect the Board's recent preference for starting meetings at 9:00 am.

All of the proposed revisions to Sections 1.1 and 1.2 are indicated in the attached proposed revised versions, including a redline markup of the current text and a clean version of the proposed revised text.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Compensation rates will be reflected in the Air District budget.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: Michael Murphy
Reviewed by: Henry Hilken

ATTACHMENTS:

1. Proposed Amendments to Admin Code Division I Sections 1.1 and 1.2 - Redline Version
2. Proposed Amendments to Admin Code Division I Sections 1.1 and 1.2 - Clean Version

SECTION 1 BOARD OF DIRECTORS, MEETINGS

1.1 MEETING DATES. (Revised __/__/2022)

Regular meetings of the Bay Area Air Quality Management District Board of Directors shall be held on the first and third Wednesday of each month, beginning at the hour of ~~9:00~~ 9:30 a.m., with either meeting being subject to cancellation by the APCO with the concurrence of the Chairperson if there is insufficient District business to warrant such meeting. When the day, or the day preceding the day, fixed for a regular meeting of the District Board falls upon a legal holiday, that meeting shall be held at the same hour seven (7) days later not on a holiday.

1.2 ~~A.~~ COMPENSATION FOR- MEETING ATTENDANCE. (Revised __/__/2022) (Revised 3/7/2018)

~~Board members shall receive compensation of one hundred dollars (\$100) for each day attending~~

(a) MEETINGS ELIGIBLE FOR COMPENSATION.

~~Board members shall receive compensation for attendance at:~~

~~(1) Meetings of the Air District Board and of Board Committees; and~~

~~(1) or upon authorization of the Board Other meetings while on official business of the District, including but not limited to but such compensation shall not exceed six thousand dollars (\$6,000) in any one fiscal year. Board members may receive compensation for attendance at the following types of meetings other than Board and Committee meetings:~~

~~(2) educational seminars designed to improve officials' skill and information levels;~~

~~(3) meetings of regional, state and national organizations whose activities affect the Air District's interest with a District staff member in attendance;~~

~~(4) Air District events; and~~

~~(5)(2) and meetings to discuss community and/or business concerns with regard to air quality in the region.~~

(b) BOARD MEETING ATTENDANCE REQUIRMENTS.

~~Unless excused by the Chairperson, a Board member shall receive compensation for attending meetings of the Board only if:~~

~~(1) the Board member arrives for the meeting no later than 30 minutes after the scheduled beginning of the meeting; and~~

~~(2) the Board member misses no more than 30 minutes of the meeting plus, in the event a meeting continues beyond noon, the time between noon and adjournment.~~

(c) PRE-APPROVAL AND REPORTING REQUIREMENTS.

~~Board members shall not receive compensation for attending meetings of any the type specified in subparagraph (a)(2) above unless the compensation for attendance at such meeting(s) is approved by the Chairperson in an open session prior to attendance at the meeting, or, for meetings held outside the State of California, unless the compensation is approved by the Board in an open session prior to attendance at the meeting. Board members who receive compensation for attending a meeting of the type specified in subparagraph (a)(2) above must provide a~~

~~Report(s) on any the meetings that members have attended at the Air District's expense will be given at the next regular board meeting.~~

(d) AMOUNT OF COMPENSATION.

Board members shall receive compensation of one hundred dollars (\$100) per meeting for attendance at meetings under this Section 1.2, up to a maximum of two hundred dollars (\$200) per day; plus compensation for active transportation travel calculated as specified in Paragraph (e) below. No Board member may receive compensation of more than six thousand dollars (\$6,000) in any fiscal year for meeting attendance pursuant to this Section 1.2.

~~(a)~~

(e) ACTIVE TRANSPORTATION TRAVEL CALCULATION.

Compensation for active transportation travel pursuant to Paragraph (d) above shall be calculated as follows:

- (1) \$1.56 per mile for travel by personal/private non-motorized bicycle or similar non-motorized pedal-operated vehicle;
- (2) \$1.50 per mile for travel by foot or wheelchair.

For multi-modal travel, compensation shall be provided only for miles actually traveled using the alternative transportation travel modes specified in this Paragraph (e). Board members must provide details on the date of travel, starting and ending points, and purpose of travel when claiming compensation, and must document the distance traveled with a printout from a map website such as Google Maps.

(f) REIMBURSEMENT FOR EXPENSES.

In addition to compensation for meeting attendance as specified in this Section 1.2, Board members shall also be entitled to reimbursement for actual and necessary expenditures in connection with meeting attendance as provided for in Division II, Section 5. Board members do not need prior approval to be eligible for reimbursement for expenditures in connection with meetings of the Air District Board and Board Committees. To the extent a meeting for which compensation is available includes a meal, ~~a Board members may~~ ~~be~~ ~~shall~~ ~~be~~ ~~entitled~~ ~~to~~ ~~reimbursed~~ ~~reimbursement~~ ~~for~~ ~~their~~ ~~meal~~ ~~expenditures~~ ~~as~~ ~~long~~ ~~as~~ ~~specified~~ ~~in~~ ~~Division~~ ~~II,~~ ~~Section~~ ~~5.1(g),~~ ~~notwithstanding~~ ~~that~~ ~~provision's~~ ~~limitation~~ ~~on~~ ~~meal~~ ~~reimbursement~~ ~~for~~ ~~One~~ ~~Day~~ ~~Travel.~~ ~~A~~ ~~the~~ ~~Board~~ ~~member~~ ~~receiving~~ ~~reimbursement~~ ~~for~~ ~~expenditures~~ ~~under~~ ~~this~~ ~~Paragraph~~ ~~(f)~~ ~~must~~ ~~complies~~ ~~comply~~ ~~with~~ ~~the~~ ~~limits~~ ~~and~~ ~~reporting~~ ~~requirements~~ ~~of~~ ~~local,~~ ~~state~~ ~~and~~ ~~federal~~ ~~law~~ ~~and~~ ~~the~~ ~~meal~~ ~~expenditure~~ ~~is~~ ~~reasonable~~ ~~and~~ ~~necessary.~~

1.2 — B. LIMITS ON COMPENSATION FOR MEETING ATTENDANCE.
(Revised 4/5/2006)

~~Board members shall not receive compensation for attendance at meetings of any type held outside the State of California unless compensation for attendance at such meeting(s) is approved by the Board in an open session prior to attendance at the meeting.~~

~~Unless excused by the Chairperson, a Board member shall receive such compensation for attending meetings of the Board only if:~~

~~the Board member arrives for the meeting within 30 minutes of the scheduled beginning of the meeting; and~~

~~the Board member misses no more than 30 minutes of the meeting plus, in the event a meeting continues beyond noon, the time between noon and adjournment.~~

SECTION 1 BOARD OF DIRECTORS, MEETINGS

1.1 MEETING DATES. (Revised __/__/2022)

Regular meetings of the Bay Area Air Quality Management District Board of Directors shall be held on the first and third Wednesday of each month, beginning at the hour of 9:00 a.m., with either meeting being subject to cancellation by the APCO with the concurrence of the Chairperson if there is insufficient District business to warrant such meeting. When the day, or the day preceding the day, fixed for a regular meeting of the District Board falls upon a legal holiday, that meeting shall be held at the same hour seven (7) days later not on a holiday.

1.2 COMPENSATION FOR MEETING ATTENDANCE. (Revised __/__/2022)

(a) MEETINGS ELIGIBLE FOR COMPENSATION.

Board members shall receive compensation for attendance at:

- (1) Meetings of the Air District Board and of Board Committees; and
- (2) Other meetings while on official business of the District, including but not limited to educational seminars designed to improve officials' skill and information levels, meetings of regional, state and national organizations whose activities affect the Air District's interest with a District staff member in attendance, Air District events, and meetings to discuss community and/or business concerns with regard to air quality in the region.

(b) BOARD MEETING ATTENDANCE REQUIREMENTS.

Unless excused by the Chairperson, a Board member shall receive compensation for attending meetings of the Board only if:

- (1) the Board member arrives for the meeting no later than 30 minutes after the scheduled beginning of the meeting; and
- (2) the Board member misses no more than 30 minutes of the meeting plus, in the event a meeting continues beyond noon, the time between noon and adjournment.

(c) PRE-APPROVAL AND REPORTING REQUIREMENTS.

Board members shall not receive compensation for attending meetings of the type specified in subparagraph (a)(2) above unless the compensation is approved by the Chairperson in an open session prior to attendance at the meeting, or, for meetings held outside the State of California, unless the compensation is approved by the Board in an open session prior to attendance at the meeting. Board members who receive compensation for attending a meeting of the type specified in subparagraph (a)(2) above must provide a report on the meeting at the next regular board meeting.

(d) AMOUNT OF COMPENSATION.

Board members shall receive compensation of one hundred dollars (\$100) per meeting for attendance at meetings under this Section 1.2, up to a maximum of two hundred dollars (\$200) per day; plus compensation for active transportation travel calculated as specified in Paragraph (e) below. No Board member may receive compensation of more than six thousand dollars (\$6,000) in any fiscal year for meeting attendance pursuant to this Section 1.2.

(e) ACTIVE TRANSPORTATION TRAVEL CALCULATION.

Compensation for active transportation travel pursuant to Paragraph (d) above shall be calculated as follows:

- (1) \$1.56 per mile for travel by personal/private non-motorized bicycle or similar non-motorized pedal-operated vehicle;
- (2) \$1.50 per mile for travel by foot or wheelchair.

For multi-modal travel, compensation shall be provided only for miles actually traveled using the alternative transportation travel modes specified in this Paragraph (e). Board members must provide details on the date of travel, starting and ending points, and purpose of travel when claiming compensation, and must document the distance traveled with a printout from a map website such as Google Maps.

(f) REIMBURSEMENT FOR EXPENSES.

In addition to compensation for meeting attendance as specified in this Section 1.2, Board members shall also be entitled to reimbursement for actual and necessary expenditures in connection with meeting attendance as provided for in Division II, Section 5. Board members do not need prior approval to be eligible for reimbursement for expenditures in connection with meetings of the Air District Board and Board Committees. To the extent a meeting for which compensation is available includes a meal, Board members shall be entitled to reimbursement for their meal expenditures as specified in Division II, Section 5.1(g), notwithstanding that provision's limitation on meal reimbursement for One Day Travel. A Board member receiving reimbursement for expenditures under this Paragraph (f) must comply with the limits and reporting requirements of local, state and federal law.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Administration Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: November 2, 2022

Re: Management Audit Recommendations on Air District Organizational Structure

RECOMMENDED ACTION

Recommend the Administration Committee:

- Receive and file the Management Auditor's Organizational Structure Assessment.
- In accordance with the auditor's Organizational Structure Assessment, direct the Interim Executive Officer to prepare and present to the Board of Directors for approval, within sixty (60) days, recommendations for position classifications and assignments of the twenty (20) vacant and unassigned positions listed in Table 1 of Appendix H in the Fiscal Year Ending (FYE) 2023 Budget.
- Direct the Interim Executive Officer to prepare an Action Plan to address the Organizational Structure Assessment's restructuring recommendations and present the Plan to the Administration Committee as soon as practicable.

BACKGROUND

On December 15, 2021, the Air District Board reviewed the scores for bids for management audit services and authorized the execution of a contract with the highest scoring vendor, Sjoberg Evashenk, for independent management audit services in an amount not to exceed \$250,000.

The initial task order under the contract called for a first deliverable in March 2022 to inform new Fiscal Year Ending (FYE) 2022 staffing authorization, and a second deliverable in May 2022 which will provide information regarding Air District-wide risk and rank the Air District's divisions for further audit priority.

Sjoberg Evashenk presented the FYE 2022 staffing authorization review to the Air District Board on April 6, 2022. The Auditor presented the conclusion that (a) the allocation of additional positions in the FYE 2022 budget is reasonable and consistent with their independent analysis; (b) internal control weaknesses led to the filling of 10 of 26 of the positions as of the end of February 2022; and (c) despite these weaknesses, it is evident that the need for the

remaining 16 positions is supported by current workload demands and Air District priorities.

During the April 6, 2022 Board meeting, the Board directed staff to execute a second Task Order under the management audit services contract with Sjoberg Evashenk that would require the immediate commencement of a performance audit of human resources management functions at the Air District. The human resources audit was concluded on October 28, 2022.

During the June 15, 2022 Administrative Committee meeting, the Committee directed staff to execute a third Task Order to provide specific recommendations on which unfilled positions should be filled as a priority, and to provide recommendations regarding the agency's organizational structure, the alignment of resources to meet organizational needs, and the allocation of unfilled positions.

DISCUSSION

During today's Committee meeting, the management auditor will present the final deliverable under Task Order 3 Recommendations on Staffing and Air District Organizational Structure. The attached deliverable specifies the recommended position classifications and program allocation for the 20 vacant positions authorized in the fiscal year ending (FYE) 2023 budget.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The recommended staffing actions are currently budgeted in the FYE 2023 budget.

Respectfully submitted,

Sharon L. Landers
Interim Executive Officer/APCO

Prepared by: John Chiladakis
Reviewed by: Sharon Landers, George Skiles

ATTACHMENTS:

None

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Administration Committee

From: Sharon L. Landers
Interim Executive Officer/APCO

Date: November 2, 2022

Re: Management Audit Report on Air District Human Resources Functions

RECOMMENDED ACTION

Recommend the Administration Committee:

- Receive and file the Human Resources Audit Report.
- Consider directing the Interim Executive Officer to prepare an action plan to address the Human Resources Audit Report's recommendations and to present the action plan to the Administration Committee for approval within 60 days.

BACKGROUND

On December 15, 2021, the Air District Board reviewed the scores for bids for management audit services and authorized the execution of a contract with the highest scoring vendor, Sjoberg Evashenk, for independent management audit services in an amount not to exceed \$250,000.

The initial task order under the contract called for a first deliverable in March 2022 to inform new Fiscal Year Ending (FYE) 2022 staffing authorization, and a second deliverable in May 2022 which will provide information regarding Air District-wide risk and rank the Air District's divisions for further audit priority.

Sjoberg Evashenk presented the FYE 2022 staffing authorization review to the Air District Board on April 6, 2022. The Auditor presented the conclusion that (a) the allocation of additional positions in the FYE 2022 budget is reasonable and consistent with their independent analysis; (b) internal control weaknesses led to the filling of 10 of 26 of the positions as of the end of February 2022; and (c) despite these weaknesses, it is evident that the need for the remaining 16 positions is supported by current workload demands and Air District priorities.

During the April 6, 2022 Board meeting, the Board directed staff to execute a second Task Order under the management audit services contract with Sjoberg Evashenk that would require the immediate commencement of a performance audit of human resources management functions at the Air District. The human resources audit was concluded on October 28, 2022.

During the June 15, 2022 Administrative Committee meeting, the Committee directed staff to execute a third Task Order to provide specific recommendations on which unfilled positions should be filled as a priority, and to provide recommendations regarding the agency's organizational structure, the alignment of resources to meet organizational needs, and the allocation of unfilled positions.

DISCUSSION

During today's Committee meeting, the Management Auditor will present the final deliverable under Task Order 2: The Audit of Air District Human Resources Functions.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

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ATTACHMENTS:

None