

**Action Summary Minutes
for the
San Joaquin Valley Unified Air Pollution Control District
Governing Board Meeting
1990 E. Gettysburg Avenue, Governing Board Room
Fresno, CA.**

**Thursday, February 20, 2003
9:00 a.m.**

<p>Meeting held via video teleconferencing (VTC) in the Central Region Office (Fresno) with the Northern Region Office (Modesto) and the Southern Region Office (Bakersfield) participating via VTC.</p>

1. **CALL TO ORDER** – The Chair, Supervisor Ronn Dominici, called the meeting to order at 9:22 a.m.
2. **ROLL CALL** was taken and a quorum was present.

Mike Maggard, Councilmember (*)	City of Bakersfield
J. Steven Worthley, Supervisor	Tulare County
Tony Barba, Supervisor	Kings County
Judith G. Case, Supervisor	Fresno County
Sam Armentrout, Councilmember	City of Madera
Deidre F. Kelsey, Supervisor (Alternate)	Merced County
Thomas W. Mayfield, Supervisor (**)	Stanislaus County
Jack A. Sieglock, Supervisor (**)	San Joaquin County
Barbara Patrick, Supervisor, Vice Chair (*)	Kern County
Ronn Dominici, Supervisor, Chair	Madera County

(*) Attended meeting in Southern Region Office (Bakersfield)

(**) Attended Meeting in Northern Region Office (Modesto)

3. **OUTGOING CHAIR COMMENTS** – Councilmember Sam Armentrout, stated that 2002 was a difficult year. Councilmember Armentrout stated that he enjoyed serving as Chair this past year and he was looking forward to this year serving under Supervisor Dominici. Councilmember Armentrout commended and thanked District staff for their support this past year.

The Chair, Supervisor Dominici, presented a plaque to the outgoing Chair, Councilmember Armentrout on behalf of the Governing Board and commended him for his leadership and strong commitment to attaining cleaner air while maintaining a healthy economy for this Valley.

The Chair introduced and welcomed three new Governing Board Members:

Thomas W. Mayfield, Supervisor, Stanislaus County, J. Steven Worthley, Supervisor, Tulare County and for today's meeting Deidre F. Kelsey, Supervisor, Merced County, sitting in for Michael G. Nelson, Supervisor, Merced County.

4. **STATE OF DISTRICT** – Supervisor Ronn Dominici, 2003 Chair, Governing Board. The Chair ask the Governing Board Members, District staff, stakeholders, interested citizens, and governmental agencies to each make a firm commitment to become or remain an active partner for 2003 in an effort to attain clean air standards for present and future generations of this great Valley.
5. **APPROVAL OF CONSENT CALENDAR** – Item Numbers **(15-22)**. (These matters are routine in nature and are usually approved by a single vote. Prior to action by the Board, the public will be given the opportunity to comment on any consent item).
 15. Approve Action Summary Minutes for the San Joaquin Valley Unified Air Pollution Control District Governing Board Meeting, Thursday, December 19, 2002.
 16. Receive and file list of scheduled meetings for 2003.
 17. Receive and file Operations Statistics Summaries for December 2002 and January 2003.
 18. Receive and file Budget Status Report as of January 31, 2003.
 19. Accept donation of continuous particulate monitoring equipment by GWF Energy.
 20. Receive and file Proposed Rule 4313 (Lime Kilns) and set March 27, 2003 for the public hearing.
 21. Approve contract with @doc for electronic document management system consulting services for an amount not to exceed \$115,920.
 22. Approve Budget Resolution increasing District Budget by \$42,400 to allow receipt of Environmental Protection Agency (EPA) Mobile Source Outreach Assistance Grant and approve agreement with Local Government Commission to perform work proposed for the grant in the amount of \$41,200.

Councilmember Armentrout stated that he would like to comment on Consent Calendar Item # 22.

Supervisor Maggard stated that he had questions regarding Consent Calendar tem # 21.

Consent Calendar Item # 22 - Councilmember Armentrout congratulated staff for obtaining this grant.

Consent Calendar Item # 21 - Councilmember Maggard asked staff how much the total contract for this item would be including the \$115,920.

Ken Pretzer, Information Services Manager, responded the total estimated cost would be \$1.1 million dollars.

Consent Calendar Item # 21 Pulled from the Agenda – Board Member Maggard made the motion to pull Consent Calendar Item # 21 from the Agenda. Seconded by Board Member Case. Consent Calendar Item #21 was pulled for discussion.

Kevin Hall, member of the Sierra Club stated that he would like to comment on Consent Calendar Item #16 and #18.

Consent Calendar Item # 16 – Kevin Hall – commented on Summary of Draft Rules, page 1, that there is a continued emphasis in our discussions about there only being two types of pollution controls available: stationary and mobile. Mr. Hall noted that the last rule on the Summary of Draft Rules, Rule 4901 (Residential Wood Combustion) is neither. It is an area source. Mr. Hall noted that he thinks we really have to start emphasizing to ourselves and to the public that area source is the third major category of pollution.

Consent Calendar Item # 18 – Kevin Hall – made comments in respect to the Budget Status Report of January 31, 2003. Mr. Hall directed the Board to look at the top four lines of Salaries and Benefits. Mr. Hall explained that when he was in business full time he would take those categories and total them up. Mr. Hall stated that on this report it comes to about \$12 million and we would add 50% to that to estimate the cost of employing a person. Mr. Hall pointed out that the District is 75% higher than that it is \$12 million with \$9 million on top of that and in our business we would say \$12 million plus \$6 million.

ITEM 3 – CONSENT CALENDAR

APPROVED CONSENT CALENDAR MINUS ITEM # 21 – Board Member Armentrout made the motion to approve the Consent Calendar minus Item # 21. Seconded by Board Member Worthley and carried unanimously with the following Roll Call Vote:

Ayes: *Maggard, Barba, Kelsey, Mayfield, Worthley, Armentrout, Case, Sieglock, Patrick and Dominici.*

Absent: *None.*

Action: Approved the Consent Calendar (minus Item #21) Items 15, 16, 17, 18, 19, 20 and 22, were approved as submitted.

CONSENT CALENDAR ITEM # 21 – APPROVE CONTRACT WITH @doc FOR ELECTRONIC DOCUMENT MANAGEMENT SYSTEM CONSULTING SERVICES FOR AN AMOUNT NOT TO EXCEED \$115,920 – Staff presentation made by David L. Crow, Executive Director/APCO and Kenneth Pretzer, Information Systems Manager.

David L. Crow suggested that Item # 21 be removed from today's agenda and staff would bring the whole concept of electronic data back to the Board so that the Board could have the opportunity to revisit it from the top down and clarify or refute the Board's conclusions that was reached a year ago February.

AMENDED MOTION TO TABLE ITEM # 21 TO APRIL 17, 2003 GOVERNING BOARD MEETING – Board Member Armentrout made the amended motion to table Item # 21 to April 17, 2003. Seconded by Board Member Maggard and carried unanimously with the following **Roll Call Vote:**

Ayes: Mayfield, Sieglock, Barba, Worthley, Kelsey, Armentrout, Maggard, Case, Patrick and Dominici.

Absent: None.

Action: The Board tabled Item #21 to April 17, 2003 Governing Board Meeting.

6. **PUBLIC COMMENT – Banks Moore, Banks & Company**, stated that he is a resident in the Oakhurst area. Mr. Moore stated that there is a constant pollution problem in the Oakhurst basin from the burning of trash, leaves, garbage and mattresses. Mr. Moore asked the Board to see what they can do to stop open burning in Oakhurst.

Mr. Moore stated that he is a contractor in this area that tests and installs gasoline equipment. Mr. Moore explained that he has asked District staff to implement some type of a licensing contracting so that a person that does testing has to have a contractor license in order to do testing. Mr. Moore stated that he thinks that it is important that the Board have somebody look at this issue.

Gary Warner, Guardian Industries, reported that during the December 19, 2002 Governing Board Meeting a Public Hearing for Rule 4610 (Glass Coating Operations) was held. Mr. Warner explained that at that meeting he requested an extension to the deadline for proposed testing requirements for Rule 4610 from January 1, 2004 to January 1, 2006. Mr. Warner noted that the Board adopted the amendments as proposed and requested Guardian Industries to

report back to the Governing Board as to the prospects for innovative process alternatives. Mr. Warner stated that since his meeting with Valspar he has conducted a test run at Guardian Industries with District staff participating on January 29, 2003. Mr. Warner noted that the results of the test run look very encouraging and as a result of that test run he has obtained permission from his corporate headquarters to move forward with the new process. Mr. Warner requested the Board grant Guardian Industries a six month extension to Rule 4610.

David L. Crow, Executive Director/APCO, explained that District staff concurs at this point and we propose to bring back a Receive and File at the March 27, 2003 Governing Board Meeting for the potential of amending Rule 4610 to accomplish what Mr. Warner's addressing.

The Chair, directed staff to prepare a formal agenda item for Rule 4610 for the March 27, 2003 Governing Board Meeting.

Kevin Hall, member of the Sierra Club, stated that the Sierra Club Tehipite Chapter covers four counties of the Central San Joaquin Valley with more than 2,000 members. Mr. Hall noted that he was attending today on their behalf regarding air quality transportation and global warming.

Mr. Hall commented on the Oakhurst area and the Board's ability to regular mobile sources. Mr. Hall urged the Board to consider expanding Smog Check II. So that the people commuting from Oakhurst to Fresno to run their businesses are subject to the same requirements as people living and working in Fresno.

Mr. Hall welcomed the new Governing Board Members to the Board and pointed out respectfully that they are now members of what he considers to be the most important body of government in the San Joaquin Valley. Mr. Hall noted that this is regional government dreaded by some but needed by all. Mr. Hall stated that the Board has volunteered for the thankless most political job in the region and they have critically important work to do.

Valley residents rank air pollution as their number two concern second only to crime but lets not be to quick to separate those two concerns. Air pollution is a crime. Millions of innocent people are being assaulted every day. Mr. Hall noted that the Board is needed and they have their work cut out for them. In April this Board will enter it's thirteen full year of existence and with each passing year the crisis continues to grow.

Mr. Hall pointed out that media attention in the Valley is growing by leaps and bounds. Political interests is at last becoming widespread. Mr. Hall stated that the State Select Committee has been formed and will be holding hearings throughout the Valley for the next six months. Mr. Hall stated that the real work

gets done right here in the attainment plans and the rule making and the timely implementation and enforcement of those rules. Those commitments are the solid steps to clean air they are required by law and they will deliver justice long over due for people of the San Joaquin Valley.

7. **VERBAL REPORT FROM CITIZENS ADVISORY COMMITTEE (CAC)** – No report.

8. **PROPOSED DRAFT SCHEDULE FOR DEVELOPMENT OF OZONE ATTAINMENT DEMONSTRATION PLAN (1-HR STANDARD) FOR THE SAN JOAQUIN VALLEY AIR BASIN UNDER A DESIGNATION OF EXTREME NONATTAINMENT** - Staff presentation made by David L. Crow, Executive Director/APCO, Dave Jones, Planning Manager and Don Hunsaker, Supervising Air Quality Planner.

Supervisor Case requested a Board Briefing Report quantifying the differences within each of the eight county regions with an explanation for why some areas are doing better than others.

David L. Crow, stated that is an excellent idea because this is very significant news in terms of the overall of the effectiveness of the past decade of the stationary source control rules the Board has put in place.

The following persons provided comments during the public comment portion of this item:

Kevin Hall, member of the Sierra Club, stated that on page 3 of the Staff Report, second bullet, 3rd line notes that the September 18, 2003 regularly scheduled Board meeting was not triggered by the date in the *Federal Register* notice. Mr. Hall was wondering why that was significant enough to note.

Don Hunsaker, stated that it was mainly the fact that a Board date happened to line up with date in the *Federal Register* notice and he didn't want people to think the Board meeting date was triggered by the *Federal Register* notice. They were just two things that happened to land on the same date.

Kevin Hall, member of the Sierra Club, stated that on page 3 of the Staff Report, fourth bullet, 4th line it mentions contingency measures. Mr. Hall stated that in the presentation given earlier it was said that the contingency measures were included in the Rate of Progress (ROP) Plan that was submitted and approved by the Board. Mr. Hall supposed that these contingency measures would be new ones under a extreme designation was that what he was reading that they were not submitted or would need to be.

Don Hunsaker, stated that staff would certainly take another look at contingency measures under extreme status but what the District included in the ROP Plan we feel meets the requirements that were in the *Federal Register* notice for the severe requirement.

Dave Jones, clarified Mr. Hunsaker's comments by stating that this report refers to the additional things that we would need in a extreme plan. Basically, we will have another ROP that goes past 2005 out to 2010. We'd also have the Attainment Demonstration Plan and that will include additional control measures and re-identify contingency measures for that period of time of 2005 to 2010. It basically reporting the additional things that go with an Attainment Plan to cover that additional five year period.

Roger Isom, California Cotton Growers Associations – noted that the agricultural community is involved in a couple of efforts that are underway one of which is with the District through the state Carl Moyer Program and the other effort is with the federal government Farm Bill in a program called Environmental Quality Incentive Program (EQIP). Mr. Isom stated that these two programs are being utilized by the agricultural community in California to develop a program to retrofit agriculture pumps.

Linda Urata, Project Clean Air – explained to the Board that the reason the South Valley's air quality has improved is because efforts to clean the air actually started before the unification of the San Joaquin Valley Unified Air Pollution Control District. Ms. Urata stated that the Kern County Air Pollution Control District drafted an air quality element to it's General Plan, made a commitment to use alternative fuels and made plans for an attainment plan.

Suzanne Noble, representing the Western States Petroleum Association (WSPA) as well as the Independent Oil Producers Agency (IOPA) –stated that she is pleased that the District staff has provided this mapping out of the timeline on developing a new Ozone Plan. Ms. Noble stated that this is one of the most important issues before the Board.

Item # 9 and # 10 were discussed simultaneously

9. **APPROVE CHANGE TO THE DISTRICT'S POSITION CONTROL LIST EFFECTIVE APRIL 1, 2003** - Staff presentation made by David L. Crow, Executive Director/APCO and Mark Boese, Deputy Air Pollution Control Officer.
10. **APPROVE CHANGES TO THE DISTRICT'S CLASSIFICATION PLAN, COMPENSATION PLAN, AND POSITION CONTROL LIST** - Staff presentation made by David L. Crow, Executive Director/APCO, Mark Boese, Deputy Air Pollution Control Officer and Carolyn Rose, Director of Personnel.

The following person provided comments during the public comment portion of this item:

Manuel Cunha, Nisei Farmers League, stated that he supports both Items # 9 and # 10 because of the need for the proposed Smoke Management System.

ITEM # 9

MOTION TO REMOVE ITEM # 9 FROM AGENDA AND APPROVE ITEM #10 AS RECOMMENDED – Board Member Armentrout made the motion to remove Item # 9 and approve Item #10. Seconded by Board Member Case.
MOTION WITHDRAWN

MOTION TO DISAPPROVE ITEM # 9 WITH STAFF DIRECTION TO RETURN ITEM DURING JUNE BUDGET SESSIONS - Board Member Barba made the motion to disapprove Item # 9 and directed staff to return the item during June Budget Sessions. Seconded by Board Member Kelsey.

MOTION AMENDED TO READ: DISAPPROVE ITEM # 9 WITH REQUEST THAT THIS ITEM WILL BE REVIEWED BY BUDGET AD HOC SUBCOMMITTEE AT THEIR EARLIEST CONVENIENCE WITH THE POTENTIAL OF THE ITEM BEING RETURNED TO THE FULL BOARD FOR CONSIDERATION OF APPROVAL DURING THE CURRENT YEAR BUDGET

Board Member Barba made the motion to disapprove Item # 9 with a request that the item will be reviewed by the Budget Ad Hoc Subcommittee at their earliest convenience. The Budget Ad Hoc Subcommittee will consider this item as it relates to the current year budget and the prospects for the future year budget with the potential of being returned to the full Board for consideration of approval during the current year budget. Seconded by Board Member Kelsey and carried with the following Roll Call Vote:

Ayes: Armentrout, Maggard, Kelsey, Worthley, Barba, Case, Patrick and Dominici.

Noes: Sieglock and Mayfield.

Absent: None.

Action: Disapproved Item # 9 with a request that the item will be reviewed by the Budget Ad Hoc Subcommittee at their earliest convenience. The Budget Ad Hoc Subcommittee will consider this item as it relates to the current year budget and the prospects for the future year budget with the potential of the item being returned to the full Board for consideration of approval during the current year budget.

ITEM # 10

APPROVED AS RECOMMENDED – Board Member Armentrout made the motion to approve Item # 10 as recommended. Seconded by Board Member Barba and carried unanimously with the following Roll Call Vote:

Ayes: Worthley, Armentrout, Sieglock, Kelsey, Barba, Maggard, Case, Mayfield, Patrick and Dominici.

Absent: None.

Action: 1.) Amended the District's Classification and Compensation Plan to include the position of Air Quality Field Assistant, Range 32, \$2,383 to \$2,898 per month.

2.) Amended the District's Position Control List by reclassifying five (5) Air Quality Assistant positions to Air Quality Field Assistant positions effective January 25, 2003.

The Chair noted the following through District Counsel: The Chair requested an item be added to Closed Session under negotiations. The Chair clarified that the item would not be for this particular situation but for situations like this that could arise.

11. **VERBAL REPORT: CALIFORNIA AIR RESOURCES BOARD (ARB) BOARD MEETING** – Ravi Ramalingam, ARB Representative, and District Liaison made the ARB Board Meeting Report. Mr. Ramalingam made the following announcement. The California Air Resources Board (ARB) on January 31, 2003 appointed Catherine Witherspoon as its new Executive Officer.

Board Member Case requested a briefing on ARB's Zero Emission Vehicle Program.

Mr. Ramalingam responded that ARB staff on January 10, 2003 put out a new proposal to amend the Zero Emission regulation. Mr. Ramalingam briefed the Board on the background of that regulation. Mr. Ramalingam stated that the Executive Officer of ARB postponed the hearing on this item from February 27, 2003 to March 27, 2003. Mr. Ramalingam stated that ARB staff plans to come forward with a revised regulation on February 28, 2003 based on the public's input ARB has received and extending the public comment period to the Board date of March 27, 2003.

12. **EXECUTIVE DIRECTOR/APCO COMMENTS – David L. Crow, Executive Director/APCO** - announced that District staff will be releasing a draft of the PM10 Plan in the first week of March with workshops scheduled for the third week of March. Mr. Crow also announced that District staff will also be releasing the next draft version of Rule 4901 (Residential Wood Combustion) in about two

weeks time for the second round of workshops scheduled for the month of March.

13. **GOVERNING BOARD MEMBER COMMENTS - Board Member Patrick** stated that when the Board met in December there was some discussion about Emission Reduction Credits (ERCs) and potentially some disagreement between the Environmental Protection Agency (EPA) and the District about how these ERCs. How much they should be worth and so forth over a period of time. Board Member Patrick stated that she thinks it might be helpful if we could have at a future Board Meeting a discussion about ERCs. In regards to what exactly they are, how EPA and the District look at them differently, the impact that they have on industry and our ability to grow and the effect on businesses here in the Valley. Board Member Patrick stated that to her it seems like a rather complex issue but one that we should all know more about.

The Chair directed staff to make a presentation to the Board regarding the EPA ERCs issue during the April 17, 2003 Governing Board Meeting.

Board Member Maggard stated that he would like for the Board to come back and have a discussion at some point about the possibility of having a joint session with members of our Board and the ARB Board. Board Member Maggard requested that staff come back at a later date as well and discuss that at the April 17, 2003 Board Meeting.

The Chair directed staff to make a presentation at the April 17, 2003 Board Meeting regarding the quality of air in the Valley.

The Chair appointed the following Board Members to the Budget Ad Hoc Subcommittee:

Councilmember Sam Armentrout, City of Madera,
Supervisor Barbara Patrick, Kern County
Supervisor Judith G. Case, Fresno County
the Chair (Supervisor Ronn Dominici, Madera County) stated that he would also serve on the Budget Ad Hoc Subcommittee

OTHER BUSINESS – No Other Business.

Philip M. Jay, District Counsel, announced the following:

14. **CLOSED SESSION** – The Governing Board will held a Closed Session pursuant to Section **54956.9** of the Government Code (Ralph M. Brown Act) as follows:
- Conference with Legal Counsel – Existing Litigation (Government Code 54956.9) Name of Case: Valley Advocates v. City of Porterville, et. al.

(U.S. District Court Fresno 03-5101 oww DLB.)

Medical Advocates v. Christine Todd Whitman, et. al. (U.S. District Court San Francisco C-025102 CRB)

- Conference with Legal Counsel – Anticipated Litigation: Initiation of litigation pursuant to (Government Code 54956.9): two potential cases.

Mr. Jay noted that after Closed Session any announcements that would be made would take place in the Governing Board Room.

The following person provided comment during the public comment portion of this item:

Kevin Hall, member of the Sierra Club, stated that in one area of the Closed Session the Board might be hearing a discussion of an area source rule acted on by this body in late 2001 on fugitive dust. Mr. Hall stated that, that's an area source. Mr. Hall stated that he just wanted to bring that up again to note that this Board has the authority to regulate area sources.

Mr. Hall stated that he did not mean to suggest that legal counsel for this air district was intentionally misleading federal court. But, in a document filed with federal court last month the Board's legal counsel wrote that under state law ARB is charged with the authority to regulate mobile sources of air pollution and air districts are required to regulate stationary sources. Mr. Hall stated that, that's true, but again we are leaving out that third component of area sources in that discussion.

The Chair announced that the March 20, 2003 meeting has been cancelled and rescheduled to March 27, 2003.

The Board adjourned to Closed Session at 12:17 p.m.

Mr. Jay returned to the Governing Board Room and made the following announcement under the Brown Act: The Board authorized the District to appear and defend in the Valley Advocates v. City of Porterville matter and also directed the District to intervene in two lawsuits that the particulars of which will be disclosed to anyone of who inquires once the actions have been filed.

ADJOURN - Mr. Jay stated that Closed Session adjourned at 1:00 p.m.