

## Action Summary Minutes

San Joaquin Valley Unified Air Pollution Control District

### **GOVERNING BOARD MEETING**

Central Region Office, Governing Board Room  
1990 E. Gettysburg Avenue, Fresno, CA

**Thursday, April 16, 2020  
9:00 a.m.**

***Meeting held via video teleconferencing with the Central Region Office (Fresno), the Northern Region Office (Modesto) and the Southern Region Office (Bakersfield). This meeting was also webcast. Given the international COVID-19 pandemic, and consistent with the California Department of Public Health's recommendations and Governor Newsom's Executive Order N-29-20, no physical location was provided for public attendance.***

1. CALL MEETING TO ORDER – The Chair, Supervisor Pedersen, called the meeting to order at 9:02 a.m.
2. ROLL CALL – was taken and a quorum was present.

*Present:*

Drew M. Bessinger, Mayor	City of Clovis
David Couch, Supervisor	Kern County
Kuyler Crocker, Supervisor	Tulare County
Bob Elliott, Supervisor	San Joaquin County
Buddy Mendes, Supervisor	Fresno County
Kristin Olsen, Supervisor	Stanislaus County
Lloyd Pareira, Supervisor, <b>Vice Chair</b>	Merced County
Craig Pedersen, Supervisor, <b>Chair</b>	Kings County
Alvaro Preciado, Councilmember	City of Avenal
Dr. Alexander Sherriffs	Appointed by Governor
Tom Wheeler, Supervisor	Madera County

*Absent:*

Christina Fugazi, Councilmember	City of Stockton
Monte Reyes, Councilmember	City of Porterville
Chris Vierra, Mayor	City of Ceres

3. PLEDGE OF ALLEGIANCE

Chairman Pedersen announced the District was responding to the COVID-19 pandemic by holding this meeting in a manner consistent with Governor

Newsom's Executive Order N-33-20 and California Department of Public Health's recommendations for social distancing. He quickly summarized that the meeting was being held via video teleconference and webcast with no physical location for public attendance. However, he said members of the public who wished to address the Governing Board would be provided the opportunity to do so during the appropriate commenting periods. He thanked the Board members and the public for their patience as we implement this new meeting format in response to the COVID-19 pandemic.

4. APPROVAL OF CONSENT CALENDAR – Item Numbers (16 – 22): *These matters are routine in nature and are usually approved by a single vote. Prior to any action by the board, the public was given the opportunity to comment on any consent item.*
16. APPROVE ACTION SUMMARY MINUTES FOR THE SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT GOVERNING BOARD MEETING OF THURSDAY, MARCH 19, 2020
17. RECEIVE AND FILE LIST OF SCHEDULED MEETINGS FOR 2020
18. RECEIVE AND FILE OPERATIONS STATISTICS SUMMARY FOR MARCH 2020
19. RECEIVE AND FILE BUDGET STATUS REPORTS AS MARCH 31, 2020
20. APPROVE CONTRACT WITH ATMOSPHERIC ANALYSIS & CONSULTING, INC. TO PROVIDE LABORATORY ANALYSIS OF NON-METHANE ORGANIC COMPOUNDS FOR A TOTAL OF \$101,430
21. APPROVE CONTRACT WITH ATMOSPHERIC ANALYSIS & CONSULTING, INC. TO PROVIDE LABORATORY ANALYSIS OF CARBONYL COMPOUNDS FOR A TOTAL OF \$37,730
22. REAPPOINTMENT TO THE DISTRICT'S ENVIRONMENTAL JUSTICE ADVISORY GROUP

Public Comment: None

Moved: Pareira  
Seconded: Wheeler  
Ayes: Bessinger, Couch, Crocker, Elliott, Mendes, Olsen, Pareira, Preciado, Sherriffs, Wheeler, Pedersen  
Nays: None

**Motion unanimously carried to approve Consent Calendar Item Numbers 16 - 22**

5. PUBLIC COMMENT – *The following persons provided comment during this item:*

- Connie Young, Citizens Climate Lobby

6. ADOPT PROPOSED AMENDMENTS TO RULE 3160 (PRESCRIBED BURNING FEE) – Samir Sheikh, Executive Director/APCO, introduced Ryan Hayashi in his new role as Deputy APCO. He said this was an item that has come out of your board's longstanding efforts to facilitate better forest management and fuel reduction efforts to reduce the risk of catastrophic wildfires.

Mr. Hayashi gave an overview of Rule 3160 (Prescribed Burning Fee), which was initially adopted by the District on February 15, 2001. He said the purpose for the rule is to recover the costs associated with implementation of the District's prescribed burn program, which is conducted pursuant to the requirements of Title 17 of the California Code of Regulations (Title 17) and District Rule 4106 (*Prescribed Burning and Hazard Reduction Burning*). Historically, Rule 3160 was the only source of dedicated funding for this program. However, in July 2019 the District entered into a Memorandum of Understanding (MOU) to participate in the new Statewide Prescribed Burn Reporting and Monitoring Support Program. Under the terms of the MOU, the District will be reimbursed for prescribed burn program implementation costs up to \$122,500 over the next two years.

Mr. Hayashi said in light of this new funding source and in the interest of facilitating increased prescribed burning in the Valley as necessary to ensure healthy forests and reduce the risk of catastrophic wildfires, the District's Governing Board directed staff to amend Rule 3160 (Prescribed Burning Fee) to allow the provisional suspension of the collection of prescribed burning fees contingent upon adequate funding being provided by the state to cover the costs of administering and implementing the District's prescribed burn program. Funding under this MOU will significantly or completely offset the fees traditionally collected through Rule 3160. Amendments to Rule 3160 would take into consideration money received through the MOU and would establish a mechanism to prorate any program costs not covered, thereby reducing or eliminating the fees required to be paid by land managers.

Supervisor Wheeler said this program was extremely important to the Valley and thanked staff for their work on this issue.

Public Comment: None

*Moved:* Wheeler

*Seconded:* Crocker

*Ayes:* Bessinger, Couch, Crocker, Elliott, Mendes, Olsen,  
Pareira, Preciado, Sherriffs, Wheeler, Pedersen

*Nays:* None

***Motion unanimously carried to adopt proposed amendments to Rule 3160  
(Prescribed Burning Fee)***

7. UPDATE ON DISTRICT'S RESPONSE TO COVID-19 – Mr. Sheikh gave Board members an update on the District's proactive approach in responding to the COVID-19 pandemic based on directives, guidelines, and recommendations from local, state, and federal officials. He thanked the Board for their leadership, and their willingness to be always be ahead of the curve on all of the challenges facing this agency. He said clearly the District has always had challenges given its large geography, for example, holding Board meetings with members across the Valley. He said the District's video teleconferencing system has been a great help with that, and now with zoom and social distancing guidelines the Board continues to elevate the bar in terms on continuing to conduct business in a way where the public is involved and the District is able to continue with all of our essential air quality efforts. He expressed appreciation to the Board for their continued support.

Mr. Sheikh outlined two staff recommendations related to the COVID-19 pandemic. The first, was a recommendation to approve a resolution for an emergency proclamation. He said when looking at the various resources available to agencies during this pandemic, one of the first prerequisites that they lay out is a board resolution that actually documents that emergency proclamation. Second, he asked the Board to authorize the APCO, with Board Chair approval, to apply for pandemic response funds and to enter into agreements as necessary to streamline that process and make it easier for us to take advantage of those funds.

Mayor Bessinger asked if the emergency proclamation could be backdated to match the state of emergency declared by the Governor, to ensure the District would be eligible for any funding available. District Counsel, Annette Ballatore, said the District's proclamation was out of an abundance of caution and the way it was currently drafted would have the same effect.

Dr. Sherriffs commended Mr. Sheikh for his ongoing leadership of the agency. He also thanked staff for continuing to provide excellent customer service to District stakeholders and residents during this pandemic. In regards to AB 617 and community engagement, he said he had many electronic resources available to him which allowed him to continue to participate in the public meeting process, and noted those resources were not available to everyone in the community. He added it was great to see the District looking to the community for their capabilities and preferences as we continue moving forward with the AB 617 process.

Public Comment – *The following persons commented on this item:*

- Les Clark, Independent Oil Producers Alliance

Moved: Bessinger  
Seconded: Mendes  
Ayes: Bessinger, Couch, Crocker, Elliott, Mendes, Olsen,  
Pareira, Preciado, Sherriffs, Wheeler, Pedersen  
Nays: None

***Motion unanimously carried to approve District measures in response to Covid-19***

8. APPROVE THE DISTRICT'S EMERGENCY ECONOMIC ASSISTANCE RELIEF MEASURES IN RESPONSE TO THE COVID-19 PANDEMIC – Morgan Lambert, Deputy APCO, reviewed the District's proposed emergency economic assistance relief measures in response to the COVID-19 Pandemic. He asked the Board to approve the measures, which would remain in effect until December 31, 2020, unless reauthorized by the District Governing Board. These measures include:

- Extend voluntary incentive program contract terms for the purchase of new equipment
- Extend voluntary incentive program reporting periods for equipment underutilization
- Waive voluntary incentive program payback provisions for equipment or vehicles sold as a direct result of current economic crisis
- Priority processing of grants for businesses severely impacted by current economic crisis
- Implement streamlined electronic processes for grant applications and payments
- Conduct remote inspections of voluntary incentive program projects
- Conduct enhanced and targeted incentive grant program outreach
- Expediting air quality permits related to COVID-19 response efforts
- Provide regulated stakeholders with additional time to pay
- Waive late fees
- Offer installment payment plans
- Evaluate the timing of fee invoices
- Explore the ability to take payments over the phone
- Provide enhanced remote participation in public workshops and meetings

*Chairman Pedersen left the meeting briefly at 9:50 a.m. Vice Chairman Pareira chaired the meeting in his absence.*

Supervisor Elliott commended staff for coming up with these common sense approaches, as they address many different things that are the result of the current crisis. He voiced strong support for staff recommendations.

Dr. Sherriffs said this was a great suite of responses to assist stakeholders. He

clarified that these measures would end on December 31, 2020. He also suggested staff could report back to the Board in terms of what the response has been and what the impact has been with these changes. He added there are some things that make a lot of sense, such as the payback provisions for equipment that may need to be sold. He said we need to understand what impact that has on the work that we do in terms of air quality and health because clearly that's money that we've spent to benefit our air quality issues. He said it is important to understand whether that equipment stays in the Valley or is moving out of the Valley.

Supervisor Crocker thanked staff for putting this together and echoed Dr. Sherriff's comments as far as checking in and seeing how things are going. He said that was very prudent. He added some of the recommendations may be very beneficial beyond this pandemic, even though they may add a bit of staff time and effort.

Public Comment – None

*Moved:* Wheeler

*Seconded:* Sherriffs

*Ayes:* Bessinger, Couch, Crocker, Elliott, Mendes, Olsen,  
Pareira, Preciado, Sherriffs, Wheeler

*Nays:* None

***Motion unanimously carried to approve the District's emergency economic assistance relief measures in response to the Covid-19 pandemic***

*Chairman Pedersen returned to the meeting at 10:13 a.m.*

9. RECEIVE AND FILE INLAND PORT FEASIBILITY ANALYSIS, PRELIMINARY BUSINESS MODEL - Tom Jordan, Senior Policy Advisor, introduced Pete Weber, California Forward, Lois Yates and Adam Wasserman, GLD Partners, who presented the Inland Port Feasibility Analysis, Preliminary Business Model, which evaluated the potential development of an inland port system to shift shipping containers from trucks to rail. In addition, Glenn Zahran, Operations Director for the Port of Long Beach, provided comments on this item.

Mr. Sheikh thanked the presenters and said the District's role was to help to facilitate the study that was supported by a number of stakeholders. He thanked Fresno, Madera, and Merced counties for being funders and the Board members for being supportive. He said Merced County in particular has been very active and thanked Supervisor Pareira for his leadership and putting this project on the radar for the Valley. He said the purpose of this item was for the Board to receive and file this study. He added clearly, it is a massive project that would require all kinds of regional and state support and other pieces to come together.

Supervisor Wheeler said this study is very important and a big step forward for

the Valley. Supervisor Crocker asked if it could be assumed that Castle Air Force Base would be the hub for this system, since he did not see it specifically noted. Mr. Sheikh responded his understanding of this study was more of a proof of concept on a regional basis, by modeling a couple of different nodes and it was not in any way, shape, or form indicating the specific locations that would be best.

Supervisor Pareira said when this project first began, it was a way to re-use the old Castle Air Force Base, as there is rail spur right into the facility. He added now that they have been working on this for a few years, the Port of Los Angeles and now the Port of Long Beach have an interest in this project as well. He added they got to a spot where they needed to make the case to the railroad that there was enough goods movement in our region to make a project like this work. He added they tried to stay somewhat neutral with picking a location because the feasibility is the important part. Then, he said they would work on the locations and the railroad would be the main driver in that decision.

Supervisor Mendes said he was glad Mr. Weber emphasized that the railroads are key to this project. He said this was an economic deal, because if this was a profitable deal someone would already be doing it. He said this was currently being done on a small scale but nothing like this project proposed. He added this study was well worth the money that the District and counties paid for it because we need to know these answers, and some of the basic questions were answered.

Supervisor Crocker said he brought up those questions because he knew Merced County has been working on this and put a tremendous amount of resources and efforts into it. He said he did not want to lose sight of where this came from, as it seems like some of the information was shifting. He added he recognized the economics and ultimately the other players are going to have a decisions and primarily be the drivers, but did not want to lose sight from where this study originated from.

Dr. Sherriffs commented that certainly the economic impact for a given community is going to depend a great deal on where this is placed. But, he added, the entire Valley will be benefitting in terms of the air quality and greenhouse gas emission reductions that result from this. So it is a great potential benefit to all of us. He reiterated there were clearly going to be economic engine benefits to the entire Valley, regardless of where an intermodal hub might be placed. Lastly, he said he really appreciated the Board having supported this project and hoped that it would move forward.

Councilmember Preciado said it has been a long time since anyone has talked about bringing the rail system back into place. He noted that some cities lost their rail systems and are trying to bring them back in. He thanked the consultants and staff for providing this study. He said while he knows this project would benefit air pollution control efforts in the Valley, at the same time he was

concerned about the potential loss of jobs for truck drivers if this project were to move forward, especially those in small, rural communities who did not have a way to go to college, nor any other job opportunities. He said he hoped this would give us additional time to study the potential economic side effects of this project.

Public Comment: None

10. AUTHORIZE EXECUTIVE DIRECTOR/APCO TO ENTER INTO AGREEMENTS WITH SAN JOAQUIN VALLEY CHAMBERS OF COMMERCE TO IMPLEMENT ENERGY EFFICIENCY PROGRAMS FOR A TOTAL AMOUNT NOT TO EXCEED \$50,000 – Mr. Jordan gave an overview of this item, to authorize the Executive Director/Air Pollution Control Officer (APCO), with the Board Chair's signature, to execute agreements with San Joaquin Valley Chambers of Commerce to implement "Green Team" programs designed to reduce operating costs by promoting recycling, energy efficiency, and air-quality education for Valley businesses and public agencies. If approved, the authorization would be for a total amount not to exceed \$50,000 for fiscal year 2019-20, subject to the following conditions:

1. The annual award for each chamber shall not exceed \$10,000.
2. The chamber shall submit a work plan outlining tasks and activities and must execute a legally binding agreement. District payment shall be made at which time equivalent services have been satisfactorily rendered.

Dr. Sherriffs said this was a terrific program and he especially appreciates its outreach to small businesses. He added the Green Team is something the Board would love to see replicated throughout the Valley, as it certainly helps with the District's work.

Public Comment – None

*Moved:* Sherriffs  
*Seconded:* Wheeler  
*Ayes:* Bessinger, Couch, Crocker, Elliott, Mendes, Olsen, Pareira, Preciado, Sherriffs, Wheeler, Pedersen  
*Nays:* None

***Motion unanimously carried to authorize Executive Director/APCO to enter into agreements with San Joaquin Valley Chambers of Commerce to implement energy efficiency programs for a total amount not to exceed \$50,000***

11. ADOPT PROPOSED AMENDMENTS TO RULE (4601) ARCHITECTURAL COATINGS – Jon Klassen, Director of Air Quality Science and Planning, provided Board members an overview of ozone planning in the Valley and said



the Board adopted the 2016 Plan for the 2008 8-hour Ozone Standard (2016 Ozone Plan) on June 16, 2016, with an attainment deadline for the standard of 2031. Shortly after this adoption, the September 2016 decision by the U.S. Court of Appeals for the Ninth Circuit in *Bahr v. U.S. Environmental Protection Agency* (Bahr decision) determined that EPA had erred in approving an already-implemented contingency measure for the Maricopa County, Arizona nonattainment area. In response, EPA directed that contingency measures must include a future action to be triggered only if and when EPA makes a finding that an area fails to satisfy a regulatory requirement necessitating implementation of a contingency measure. Prior to this decision, EPA guidance had allowed areas to fulfill contingency measure requirements by demonstrating that implementation of the ongoing control programs provided extra emission reductions in the future. Since the Bahr decision only affects states in the Ninth Circuit, the rest of the country still follows EPA's original policy.

Mr. Klassen said to address this new interpretation, EPA requested that the California Air Resources Board (CARB) and the District provide additional contingency measures with trigger mechanisms for the *2016 Ozone Plan* in order to make the plan approvable, including consideration of a new contingency measure to address small container exemptions in District Rule 4601 (Architectural Coatings). With CARB and EPA support, in October 2018, the Board directed staff to initiate a rule amendment process to pursue a contingency measure that, if triggered, would remove the exemption in District Rule 4601 (Architectural Coatings) for coatings sold in small containers (volume of one liter or less) for specific categories of coatings. The removal of the exemption would only be triggered should EPA issue a final rulemaking that the Valley failed to meet a regulatory requirement necessitating implementation of a contingency measure.

In addition, in 2019 CARB revised their Suggested Control Measure (SCM) for architectural coatings and lowered the VOC emissions limits for a number of coating categories. Mr. Klassen said in order to be consistent with the statewide requirements, the District is proposing to include these SCM measures as part of the Rule 4601 amendments.

Mayor Bessinger asked if this would require a special label to be placed on a product just for the District boundaries. Mr. Sheikh responded that the labeling requirements in Rule 4601 are consistent with existing practices and the state's SCM. He added manufacturers have worked with CARB in developing the SCM, and labeling is a key component to be able to implement these types of consumer rules.

Public Comment – *The following persons commented on this item:*

- David Darling, American Coatings Association

Moved: Wheeler  
Seconded: Couch  
Ayes: Bessinger, Couch, Crocker, Elliott, Mendes, Olsen, Pareira,  
Preciado, Sherriffs, Wheeler, Pedersen  
Nays: None

***Motion unanimously carried to adopt proposed amendments to Rule 4601  
(Architectural Coatings)***

12. VERBAL REPORT ON CALIFORNIA AIR RESOURCES BOARD ACTIVITIES – Dr. Sherriffs reported CARB cancelled their scheduled meetings for February 27-18, 2020, and March 16, 2020, and referred Board members to the agenda item for a list of upcoming topics to be heard by CARB.

Dr. Sherriffs highlighted that in thinking about the evaluation of our air quality and climate regulations in the context of public health, both background pollution that somebody has had during their lifetime as well as air quality at the time of something like the COVID-19 pandemic clearly affects health outcomes for people. He added it was just a reminder again of the importance of the work we do. He thanked everyone for all of their good work.

13. EXECUTIVE DIRECTOR/APCO COMMENTS – Mr. Sheikh congratulated Dr. Sherriffs on his reappointment to the important roles that he serves on the District's Governing Board and the California Air Resources Board. He echoed the comments raised, in terms of the questions surrounding air quality benefits and emissions reductions that are occurring during the shelter in place and related orders that are in place. He said the Valley is actually coming out of the cleanest winter on record due to the emissions reductions from measures put into place by the Board. He said at this point it was hard to pinpoint the exact emissions reductions and benefits that are coming out of the very significant reduction in vehicle trips and activity that is associated with all the shelter in place orders. If you're on the freeway or look at all the data regarding vehicle miles traveled and other metrics that are now coming out, there's no doubt that that reduction, particularly in mobile source emissions, is very significant. This pandemic is having a major impact on the economy and on quality of life, but he said we will be seeing some major emissions reductions during this period. It will be interesting to pay attention and see if there is anything we can learn from that as we move forward with all of our air quality strategies. It certainly highlights the importance of continuing to reduce mobile source emissions in particular, which is where we are seeing the reductions right now being focused.
14. GOVERNING BOARD MEMBER COMMENTS – Supervisor Crocker requested an update on state and federal advocacy in light of what is going on, especially with the state budget uncertainties. Supervisor Mendes agreed and said the state is likely to raid Cap and Trade funds as the state will be in a financial mess.

Mr. Sheikh responded that he would provide an update at the next meeting to provide the Board with more information on what is going on. He said the next few weeks would reveal a lot more information about where the budget is heading. In addition, he said the Board would hear more at the District's May Budget Hearing, where staff is working to take a very conservative approach in forecasting District revenues. He added there is a lot going on right now on the legislative side in the state budget process and the District is paying close attention.

15. **CLOSED SESSION** – Annette Ballatore, District Counsel, announced the District would now adjourn to Closed Session, pursuant to the Ralph M. Brown Act as follows:

- **CONFERENCE WITH LEGAL COUNSEL** – Existing litigation pursuant to Government Code Section 54956.9(d)(1) in Comite Progreso de Lamont, et. al. v. SJVUAPCD, Fresno Co. Superior Court Case No. 20CECG01008.

Public Comment: None

Ms. Ballatore returned from Closed Session to announce the Board met in Closed Session to consider the District's representation in defense of the existing litigation, Comite Progreso de Lamont, et. al. v. SJVUAPCD, Fresno Co. Superior Court Case No. 20CECG01008. She said there was a motion by Supervisor Mendes, and a second by Supervisor Wheeler, to authorize the defense of this action, and the motion passed unanimously, followed by adjournment.

## **ADJOURN**

*Chairman Pedersen adjourned the meeting to Closed Session at 11:37 a.m.*

*The next scheduled meeting of the Governing Board is: Thursday, May 21, 2020, at 9:00 a.m. The meeting starts at 9:00 a.m., in the Central Region Office, Governing Board Room, 1990 E. Gettysburg Avenue, Fresno. The meeting will be held via videoteleconference (VTC) with the Northern Region Office (Modesto) and the Southern Region Office (Bakersfield) participating via VTC.*