

**Action Summary Minutes
for the
San Joaquin Valley Unified Air Pollution Control District
GOVERNING BOARD MEETING
Robert J. Cabral Governing Board Room
1990 E. Gettysburg Avenue, Fresno, CA.**

**Thursday, August 16, 2001
9:00 a.m.**

Meeting held via video teleconferencing (VTC) in the Central Region Office (Fresno) with the Northern Region Office (Modesto) and the Southern Region Office (Bakersfield) included via VTC.

1. **CALL TO ORDER** – The Chair (Supervisor Judith G. Case) called the meeting to order at 9:45 a.m.
2. **ROLL CALL was taken and a quorum was present.**

Barbara Patrick, Supervisor	Kern County
Mike Maggard, Councilmember (absent)	City of Bakersfield
William Sanders, Supervisor	Tulare County
Tony Barba, Supervisor	Kings County
Ronn Dominici, Supervisor	Madera County
Jerry O'Banion, Supervisor	Merced County
Nick W. Blom, Supervisor	Stanislaus County
Tom Applegate, Councilmember	City of Newman
Jack A. Sieglock, Supervisor	San Joaquin County
Sam Armentrout, Mayor, Vice Chair	City of Madera
Judith G. Case, Supervisor, Chair	Fresno County

3. **DEDICATION OF GOVERNING BOARD ROOM IN MEMORY OF ROBERT J. CABRAL** – The Chair read a Proclamation into the record and presented Mrs. Jean Cabral with said Proclamation. Ms. Vickie Mello, Legislative Assistant to Supervisor Robert J. Cabral was also in attendance.

The San Joaquin Valley Air Pollution Control District Governing Board dedicated the District's Governing Board Room in memory of Robert J. Cabral to commemorate his life that was devoted to public service.

Several Board Members paid special tribute to Supervisor Cabral and thanked Mrs. Cabral for sharing her husband with them.

4. **APPROVAL OF CONSENT CALENDAR** – (Item Numbers **(12-21)**). (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.)

12. Approve Action Summary Minutes for the San Joaquin Valley Unified Air Pollution Control District Governing Board Meeting of Thursday, June 21, 2001.
13. Receive and file List of Scheduled Meetings for 2001.
14. Receive and file Operations Statistics Summaries for June and July 2001.
15. Receive and file Budget Status Report as of July 31, 2001.
16. Amend District Budget to accept additional Agricultural Biomass-To-Energy Incentive Grant 2000 Program funds in the amount of \$578,494.92.
17. Approve contract with R&W Software for programming support for the Permit Administration System for an amount not to exceed \$118,560.
18. Receive and file listing of refunds for the fiscal year 2000/2001.
19. Amend the District's Classification Plan, Compensation Plan, and District Position Control List to include the classification of Personnel Administrator.
20. Approve Amendment No. 1 to Agreement with the Council of Fresno County Governments to extend the period of agreement to June 30, 2002 for the Transportation and Community and System Preservation (TCSP) project.
21. Approve amendments to REMOVE Program grant award contracts as follows:
 - ◆ Approve and authorize the Chair to execute Amendment No. 2 to the REMOVE Program Contract # 98-012 with the City of Lodi to extend the term of the contract to February 28, 2002.
 - ◆ Approve and authorize the Chair to execute Amendment No. 1 to the REMOVE Program Contract # 98-044 with the City of Tulare to extend the term of the contract to April 15, 2002.

The Chair requested that Item # 19 be removed from the Consent Calendar for separate action.

APPROVED AS RECOMMENDED – A motion was made by Board Member Patrick to approve the Consent Calendar minus Item # 19. The motion was seconded by Board Member Blom and carried unanimously with the following **Roll Call Vote**:

Ayes: O'Banion, Blom, Barba, Applegate, Sanders, Dominici, Patrick, Sieglock, Armentrout and Case.

Noes: None.

Absent: Maggard.

The Board approved Consent Calendar Items 12, 13, 14, 15, 16, 17, 18, 20 and 21, as submitted.

19. Amend the District's Classification Plan, Compensation Plan, and District Position Control List to include the classification of Personnel Administrator.

ITEM # 19 TABLED – After discussion Board Member Barba moved that Item # 19 be tabled to September 20, 2001. (Subsequent to the August 16, 2001 Governing Board Meeting the September 20, 2001 Governing Board meeting was canceled and rescheduled to September 27, 2001). The motion was seconded by Board Member Dominici and carried with the following **Roll Call Vote**:

Ayes: Dominici, Barba, O'Banion, Patrick, Sieglock, Armentrout and Case.

Noes: Applegate, Sanders and Blom.

Absent: Maggard.

Therefore, the Board took the following action: tabled Item # 19 to September 27, 2001.

The Chair directed staff to prepare comparisons that include some private businesses.

5. **PUBLIC COMMENT** – **Kevin Hall, resident of the San Joaquin Valley (commenting from the Central Region Office (Fresno))**, stated that the public comments made during the Public Comment section of the San Joaquin Valleywide Air Pollution Study Agency Governing Board Meeting should have been made during this meeting. Therefore, Mr. Hall requested that the comments previously made during the San Joaquin Valleywide Air Pollution Study Agency Governing Board Meeting be a part of the record for the San Joaquin Valley Unified Air Pollution Control District Governing Board Meeting.

The Chair agreed to Mr. Hall's request.

PUBLIC COMMENTS FROM THE SAN JOAQUIN VALLEYWIDE AIR POLLUTION STUDY AGENCY GOVERNING BOARD MEETING PUBLIC COMMENT ITEM:

Kevin Hall, resident of the San Joaquin Valley (commenting from the Central Region Office (Fresno)), spoke about the issue of a broad coalition of groups that recently announced it's notice of intent to sue the San Joaquin Valley Air Pollution Control District Governing Board, the State of California and the U.S. Environmental Protection Agency.

Mr. Hall stated that the lawsuit came about because the Valley Air District has failed to adequately adhere to the Clean Air Act. Mr. Hall stated that he appeared before the Board today to let them know that the coalition is very concerned with air quality in the San Joaquin Valley. The coalition regards it as a human health crisis bordering on epidemic proportions. The coalition is focused on returning this process to what they regard as legal, moral and at the very least back on track. The coalition maintains that the process of achieving the Clean Air Act standards of both ozone and particulate matter has been derailed.

Chukon Thao, representing the Hmong American Community in Fresno (commenting from the Central Region Office (Fresno)), stated that they would like to see the air cleaned.

Ben Benavidez, Mexican American Political Association (MAPA) (commenting from the Central Region Office (Fresno)), spoke in support of the lawsuit against the San Joaquin Valley Air Pollution Control District Governing Board, the State of California and the USEPA.

William Fjellbo, resident of Madera County and Chair of the Tehipite Chapter of the Sierra Club which covers Fresno, Madera, Mariposa and Merced (commenting from the Central Region Office (Fresno)), stated that he was in attendance to talk about the lawsuit that was recently filed against the San Joaquin Valley Air Pollution Control District Governing Board, the State of California and USEPA. Mr. Fjellbo stated that specifically they would like the Board to take the following actions and Mr. Fjellbo noted that if they are taken it might alleviate or do away with the need for the lawsuit to start with: **(1)** For the District to rescind it's request to the EPA that the deadline for achieving clean air be extended for an additional two years **(2)** We would like the Board and the District to adopt all pollution control measures for the District, that the District promised to enact in the 1994 Ozone Attainment Plan **(3)** We would like the Board to order District staff to promptly issue a new draft plan to attain the national smog ozone standards. And, this plan should include all measures that have been successfully implemented in other places such as Los Angeles, the Bay Area and Houston, etc. And, the plan should achieve an attainment of legal deadline in 2005 **(5)** We would like the District staff to develop a plan to attain the

national soot or particulate matter standards by 2006 **(6)** In addition we would like the Board and the District to work with the local community and medical and environmental groups as well as the effected industries to refine the public involvement process. The recent coverage of air pollution issues in papers throughout the Central Valley indicates a really strong public interest in this issue **(7)** Meaningful public involvement in the process would include developing both publicly distributed materials and clear and enforceable air pollution control measures that are sensitive to the diversity of languages in the Valley **(8)** And, holding meetings at times that are convenient for working parents, medical professionals and families to attend **(9)** We would like to eliminate the special exemption for the oil industry that blocks federal and citizens enforcement for the oil industry that's located West of Interstate 5 **(10)** And, we would like the Board to adopt the air district rule Regulation VIII which begins to address the sources of soot and particulate matter that are causing the Valley to exceed federal health standards.

Leo Avila, resident of Oakdale, California, and the current President of the Latino Issues Forum (commenting from the Northern Region Office (Modesto)), stated that he was in attendance to talk about the lawsuit that was recently filed against the San Joaquin Valley Air Pollution Control District Governing Board, the State of California and USEPA.. Mr. Avila comments echoed the comments of the previous speakers.

Paul Gipe, representing the Kern/Kaweah Chapter of the Sierra Club (commenting from the Southern Region Office (Bakersfield)), briefly explained why they participated in the notice of intent to sue. Mr. Gipe stated that they feel the problem is a local problem requiring local solutions. Mr. Gipe stated that it is time to stop blaming the Bay Area for air pollution in the San Joaquin Valley.

Caroline Farrell, Attorney (Delano) for the Center of Race, Poverty & the Environment (CRPE) (commenting from the Southern Region Office (Bakersfield)), stated that CRPE joined a broad coalition of organizations with the objective of cleaning up the air. Ms. Farrell read into the record correspondence from the Center on Race, Poverty & the Environment, regarding their participation in the lawsuit, to: Supervisor Judith E. Case, Chair, Governing Board of the San Joaquin Valley Unified Air Pollution Control District, dated: August 14, 2001, RE: Agricultural Air Pollution. (that correspondence is on file with the Valley Air District Clerk to the Boards)

Manuel Cunha, Nisei Farmers League, (commenting from the Central Region Office (Fresno)), reported on the request last month of the agricultural commissioners and the agricultural industry regarding the fumigation issue. Mr. Cunha stated that supervisors and commissioners met yesterday with some of the agricultural folks. Mr. Cunha stated that they are hoping to have something

to present to the Board at next months Board Meeting on a proposal that they believe a Memorandum of Understanding (MOU) would be very fitting.

6. **VERBAL REPORT FROM CITIZENS ADVISORY COMMITTEE (CAC)** - Wade Broughton, City, Primary member, San Joaquin County and Vice Chairman of the CAC, reported on the CAC Meeting held on Tuesday, August 7, 2001. Report made from the Northern Region Office (Modesto).

Mr. Broughton reported that the CAC voted to recommend that Mr. Crow request that the District's Governing Board solicit additional support from private parties and public sectors of both industry and agricultural groups requesting the Bay Area include a enhanced Smog Check program in their 2001 Ozone Attainment Plan.

7. **VERBAL REPORT ON CALIFORNIA AIR RESOURCES BOARD (ARB) ACTIONS CONCERNING TRANSPORT MITIGATION MEASURES AND THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT (BAAQMD) PLAN** – Presentation made by Supervisor Barbara Patrick, Supervisor Jerry O'Banion and David L. Crow, Executive Director/APCO.

Supervisor Patrick and Supervisor O'Banion noted that a group of about thirty people traveled to San Francisco from the Northern portion of the San Joaquin Valley. Supervisor O'Banion mentioned that Assemblyman Dennis Cardoza coordinated the trip and they traveled up as a group on the "Clean Air Express". Supervisor O'Banion thanked Assemblyman Cardoza for coordinating the trip. Supervisor Patrick thanked the group from the Northern portion of the San Joaquin Valley for attending and participating in the hearing. Supervisor Patrick noted that it looks like the next hearing on the BAAQMD Plan will be held at the October 2001 ARB Board Meeting. The meeting date, place and time will be announced soon.

8. **VERBAL REPORT: CALIFORNIA AIR RESOURCES BOARD (ARB) BOARD MEETING** – Report regarding ARB Board Meeting. Report made by Ravi Ramalingam, ARB representative and ARB Liaison for the Valley Air District. Report made from the Northern Region Office (Modesto).

9. **EXECUTIVE DIRECTOR/APCO COMMENTS** – David L. Crow, Executive Director/APCO, commented that the District will be conducting workshops on revisions to Regulation VIII in early September. Staff commented that the scheduled workshops dates are: September 17, 18 and 19, 2001. **(Subsequent to the August 16, 2001 Governing Board Meeting the workshops dates were revised to: September 4, 5, and 6, 2001.)**

10. **GOVERNING BOARD MEMBER COMMENTS** – Supervisor Sanders stated that he would like to make a comment regarding the Public Comments that were

made at the start of the meeting from organizations that are threatening litigation against this District. Especially to the comment that described this Board as a Board that doesn't have the will to implement policy to clean up the air. Supervisor Sanders stated that he thinks that we as a Board are doing everything that we can. But, he thinks that we should not let the comments go by without a public response. Supervisor Sanders stated that the comment about not extending the deadline to 2007 is obvious to him. If we don't have that deadline extended and we can't meet our goals by 2005 the effect would be catastrophic to our constituents in California.

Philip M. Jay, District Counsel, noted that this issue will be discussed during the Board's Closed Session item today. Mr. Jay cautioned staff and the Board in respect to this issue.

Mr. Crow stated that he agreed with Counsel in discussing particulars. Mr. Crow stated that he would like to respond by making the following general comments: "... It is important to understand that this Board is a part of a troika, if you will, in terms of addressing air pollution in this Valley. The federal government has a great deal of responsibilities as it relates to interstate measures. The State of California has tremendous responsibilities as it relates to automobile tail pipe emissions, fuel formulation and consumer products. This Board has responsibilities as it relates to specific sources. Mr. Crow stated that he thinks that it is important to bear in mind that the air pollution solutions in the Valley are not singularly shouldered by the Board of this air district. It is a shared task"

Supervisor Sanders stated that, that type of response is all that he required. So, that the impression is not left that nothing is being done by this Board. Supervisor O'Banion echoed the comments of Supervisor Sanders regarding the lawsuit.

Supervisor O'Banion stated that in regards to Agenda Item # 19 and Supervisor Sanders comments on that issue "... As far as my comments earlier on the position. I think the important issue is to get the position reclassified. If someone is working out of class they should be reclassified. Whether there are dollars or not. I think that the most important part of this issue is to get the position where they are working in class"

Supervisor Blom stated that he appreciated the fact that Mrs. Cabral showed up for the dedication of the Governing Board Room. Supervisor Blom stated that Mrs. Cabral was a very classy lady and expressed his appreciation to Mrs. Cabral for sharing her husband with us.

The Chair stated that Supervisor Cabral worked very quietly and effectively. The Chair noted that she really appreciated the opportunity to work with him.

OTHER BUSINESS – No Other Business.

11. **CLOSED SESSION** – The Governing Board will hold a Closed Session pursuant to Sections 54956.9 and 54957 of the Government Code (Ralph M. Brown Act) as follows:
- ◆ Conference with Legal Counsel – Anticipated Litigation: Significant exposure to litigation pursuant to Government Code Section 54956.9 (b) (1): one potential case.
 - ◆ Public Employee Performance Evaluation: Executive Director/APCO.

Philip M. Jay, District Counsel announced the following: the Board is going to hold a Closed Session now under Government Code 54956.9 (b) (1) based on existing facts and circumstances that there is a significant exposure to litigation. The facts and circumstances are based on the receipt of a 60-day notice of intent to sue the District and the EPA under the citizens suit provisions of the Federal Clean Air Act, 42 United States Code Section 7604. Mr. Jay stated that, that notice was sent by Earth Justice, Inc. on July 17, 2001. Mr. Jay stated that if any announcements are made after the Closed Session they will be made in the Governing Board Room and then the meeting will adjourn.

Meeting adjourned to Closed Session at 10:50 a.m.

Reconvened from Closed Session at 11:20 a.m.

Philip M. Jay, District Counsel, made the following announcement: the Governing Board of the San Joaquin Valley Unified Air Pollution Control District voted 10-0, a unanimous vote with Governing Board Member Maggard absent. To authorize District Counsel to appear and defend in the Earth Justice versus the District matter and also to file a motion to intervene in the Earth Justice versus the Environmental Protection Agency matter.

Philip M. Jay, District Counsel, stated that the Governing Board Meeting adjourned at 11:25 a.m.