



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS' REGULAR MEETING

April 21, 2004

A meeting of the Bay Area Air Quality Management District Board of Directors will be held at 9:45 a.m. in the 7th floor Board room at the Air District headquarters, 939 Ellis Street, San Francisco, California.

Questions About an Agenda Item

The name, telephone number and e-mail of the appropriate staff person to contact for additional information or to resolve concerns is listed for each agenda item.

Meeting Procedures

The public meeting of the Air District Board of Directors begins at 9:45 a.m. The Board of Directors generally will consider items in the order listed on the agenda. However, any item may be considered in any order.

After action on any agenda item not requiring a public hearing, the Board may reconsider or amend the item at any time during the meeting.

BOARD OF DIRECTORS' REGULAR MEETING A G E N D A

**WEDNESDAY
APRIL 21, 2004
9:45 A.M.**

**BOARD ROOM
7TH FLOOR**

CALL TO ORDER

Opening Comments
Roll Call
Pledge of Allegiance
Commendation/Proclamations

Scott Haggerty, Chairperson
Clerk of the Boards

PUBLIC COMMENT PERIOD

Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3
Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Board's subject matter jurisdiction. Speakers will be limited to three (3) minutes each.

CONSENT CALENDAR (ITEMS 1 – 7)

Staff/Phone (415) 749-

1. Minutes of April 7, 2004
M. Romaidis/4965
mromaidis@baaqmd.gov
2. Communications
Information only
J. Broadbent/5052
jbroadbent@baaqmd.gov
3. Report of the Advisory Council
E. Blake/4962
eblake@igc.org
4. Monthly Activity Report
Activities for the month of March 2004
P. Hess/4971
phess@baaqmd.gov
5. Quarterly Report of Air Resources Board Representative Director Mark DeSaulnier
J. Broadbent/5052
jbroadbent@baaqmd.gov
6. Quarterly Report of the Clerk of the Boards
J. Broadbent/5052
jbroadbent@baaqmd.gov

7. Referral of Proposed District Budget for Fiscal Year 2004/2005 to the Budget and Finance Committee
J. Broadbent/5052
jbroadbent@baaqmd.gov

Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures, and in compliance with Section 29064 of the Government Code, the Board shall refer the proposed budget for Fiscal Year 2004/2005 to the Budget and Finance Committee for review and consideration.

COMMITTEE REPORTS AND RECOMMENDATIONS

8. Report of the **Mobile Source Committee** Meeting of April 8, 2004
CHAIR: S. YOUNG
J. Broadbent/5052
jbroadbent@baaqmd.gov

Action: The Committee recommends Board of Director approval of the Transportation Fund for Clean Air Report on FY 2003/2004 Allocations and Effectiveness.

9. Report of the **Public Outreach Committee** Meeting of April 12, 2004
CHAIR: M. ROSS
J. Broadbent/5052
jbroadbent@baaqmd.gov

10. Report of the **Personnel Committee** Meeting of April 14, 2004
CHAIR: H. BROWN
J. Broadbent/5052
jbroadbent@baaqmd.gov

Action(s): The Committee recommends Board of Director approval of Thomas M. Dailey to fill the Regular Medical Profession Position and Christian Colline to fill the Regular Engineer Position and Jeffrey Raines to fill the Alternate Registered Engineer Position on the Air District's Hearing Board.

PUBLIC HEARING

11. First of Two Public Hearings to Adopt Proposed Amendments to District Regulation 3: Fees
B. Bateman/4653
bbateman@baaqmd.gov

The Board will conduct the first of two public hearings to adopt proposed amendments to District Regulation 3: Fees, the second public hearing on the proposed amendments will be continued to the June 2, 2004 regular meeting of the Board of Directors.

OTHER BUSINESS

12. Report of the Executive Officer/APCO
13. Chairperson's Report

CLOSED SESSION

14. Conference with Legal Counsel

Existing Litigation:

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

1. **Alvin J. Greenberg, Ph.D. v. Bay Area AQMD, et al.**, United States District Court, N.D. Cal., Case No. C 02 1501 VRW
2. **City of Morgan Hill, Santa Teresa Citizen Action Group, Inc., Demand Clean Air, Inc. and Californians for Renewable Energy, Inc. v. Hearing Board of the Bay Area AQMD, et al.**, California Court of Appeals, First Appellate District, Division 4, Case No. A102518 (on Appeal from Judgment following Demurrer in San Francisco County Superior Court, Case No. CPF-02-501624)
3. **New United Motors Manufacturing Inc. v. Bay Area AQMD, et al.**, Alameda County Superior Court, Case No. RGO 04-140445
4. **Communities for a Better Environment v. Bay Area AQMD, Dow Chemical Company, Real Party in Interest**, San Francisco County Superior Court, Case No. CPF-04-503883

OPEN SESSION

15. Board Members' Comments

Any member of the Board, 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)

16. Place of Next Meeting - 9:45 a.m., Wednesday, May 5, 2004 -939 Ellis Street, San Francisco, CA 94109
17. Adjournment

JPB:mag

CONTACT CLERK OF THE BOARD - 939 ELLIS STREET SF, CA 94109

(415) 749-4965

FAX: (415) 928-8560

BAAQMD homepage:

www.baaqmd.gov

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities notification to the Clerk's Office should be given at least 3 working days prior to the date of the meeting, so that arrangements can be made accordingly.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Haggerty and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 14, 2004

Re: Board of Directors' Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Board of Directors meeting of April 7, 2004.

DISCUSSION

Attached for your review and approval are the draft minutes of the April 7, 2004 Board of Directors' meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET – SAN FRANCISCO, CA 94109

Draft Minutes: Board of Directors Regular Meeting – April 7, 2004

Call To Order

Opening Comments: Chairperson Haggerty called the meeting to order at 9:47 a.m.

Pledge of Allegiance: Dan Phelan led the Board in the Pledge of Allegiance.

Roll Call: Present: Scott Haggerty, Chair, Chris Daly, Mark DeSaulnier, Jerry Hill, Liz Kniss (9:52 a.m.), Patrick Kwok, Nate Miley, Julia Miller, John Silva, Tim Smith, Pam Torliatt, Marland Townsend (9:57 a.m.), Gayle Uilkema, Brad Wagenknecht, Shelia Young.

Absent: Harold Brown, Roberta Cooper, Jake McGoldrick, Mark Ross.

Swearing in of New Board Member: Monte Sereno Mayor Erin Garner, representing Santa Clara County, was sworn in as a Board Member.

Public Comment Period: There were no speakers.

Commendations/Proclamations:

The Board of Directors recognized employees who have completed the milestone levels of twenty-five (25) and thirty (30) years of service to the District.

The Board of Directors recognized the following employee who has completed 25 years of service with the District: Janet Simon. The Board of Directors recognized the following employees who have completed 30 years of service with the District: Lina Arcenal, Michael Basso, Naomi Bernardo, Howard Lancer, Clifford Sennello, Nancy Balberan, Kenneth Jensen, Thomas Perardi, and Mike Raccette.

Consent Calendar (Items 1 – 7)

1. Minutes of March 3, 2004
2. Communications. Correspondence addressed to the Board of Directors
3. Report of the Advisory Council – There was no report.
4. Monthly Activity Report – *Activities for the month of February 2004*
5. Report of District Personnel on Out of State Business Travel
6. Approval of Expenditure of \$162,500 from the Contingencies Account to fund Settlement

Considered approval of \$162,500 expenditure from Contingency account to fund the settlement in the lawsuit of Communities for a Better Environment (CBE) and Transportation Defense and Education Fund (TRANSDEF) v. Bay Area AQMD, et al., San Francisco Superior Court, Case No. 323849, First District Court of Appeals Case No. A103991 as approved at the March 3, 2004 Board of Directors meeting.

7. Approval of Budget increase to Reflect Amounts Previously Allocated by Board of Directors to Transportation Fund for Clean Air Budget Program 612 (Vehicle Buy-Back and Scrapping) and Planning and Research Division Budget Program 603 (Central California Ozone Studies)

Considered approval of Increases to the current FY '03/04 approved TFCA Budget for Program 612 and to the FY '03/04 Budget for Planning and Research Division Program 603 to formally and properly reflect increases in the amounts allocated to these programs by prior Board actions.

Board Action: Director Young moved approval of Consent Calendar Items 1 through 7; seconded by Director Wagenknecht; carried unanimously with Director Garner abstaining from Agenda Item 1 (Approval of the Minutes of March 3, 2004). The following Board members voted:

AYES: Daly, DeSaulnier, Garner, Hill, Kniss, Kwok, Miley, Miller, Silva, Smith, Torliatt, Townsend, Uilkema, Wagenknecht, Young, Haggerty.

NOES: None.

ABSENT: Brown, Cooper, McGoldrick, Ross.

Adopted Resolution No. 2004-06: A Resolution to Increase the Approved Transportation Fund for Clean Air Budget Program 612 (Vehicle Buy-Back and Scrapping) and Approved Planning and Research Division Budget Program 603 (Central California Ozone Studies) for Fiscal Year 2003-2004

COMMITTEE REPORTS AND RECOMMENDATIONS

8. Report of the Personnel Committee Meeting of March 4, 2004

Director Kwok presented the report and stated that the Committee met on March 4, 2004 to conduct interviews of candidates to fill the alternate Medical Profession position on the District's Hearing Board. Five candidates were interviewed for the Board-appointed position:

1. Ronit Benabraham-Katz
2. Sabir Kahn
3. Steven Kmucha
4. Becky Bell
5. Edward Swenson

The Committee voted unanimously to recommend the appointment of Steven Kmucha for a three-year term of office effective April 15, 2004.

The Committee also directed staff to forward the applications and resumes of Becky Bell and Edward Swenson to the Advisory Council Applicant Selection Working Group to be included in their pool of applicants for positions on the Advisory Council. The next meeting of the Committee will be at 9:30 a.m., Wednesday, April 14, 2004.

Board Action: Director Kwok moved the Board approve the Committee recommendation to appoint Steven Kmucha as the alternate member in the Medical Profession category on the District's Hearing Board; seconded by Director Miller; carried unanimously without objection.

9. Report of the Legislative Committee Meeting of March 17, 2004

Director Wagenknecht presented the report and stated that the Committee met Wednesday, March 17, 2004 and reviewed eleven bills and, after discussion, is recommending the positions indicated in your packet.

Staff provided an update on the Smog Check legislative proposal (AB 2683- Lieber) and noted that there is considerable opposition to this bill by the Specialty Equipment Manufacturers Association (SEMA). The next Committee meeting will be at the Call of the Chair.

Board Action: Director Wagenknecht moved the Board approve the recommendations of the Legislative Committee; seconded by Director Torliatt; carried unanimously without objection.

10. Report of the Regional Agency Coordinating Committee Meeting of March 19, 2004

Director DeSaulnier presented the report and stated that the Regional Agency Coordinating Committee met on Friday, March 19, 2004 at MetroCenter in Oakland.

Air District staff presented an update regarding development of the Bay Area 2004 Ozone Strategy. The Ozone Strategy will include a redesignation request and maintenance plan for the national 1-hour ozone standard and a revision to the attainment strategy for the California 1-hour ozone standard. Air District staff is currently preparing draft control measure descriptions for 17 stationary and area source measures. MTC and Air District staff are updating and enhancing 19 transportation control measures.

MTC staff presented updates regarding Regional Measure 2 and legislative efforts at the state and federal levels focused on transportation funding.

ABAG and MTC staff presented information regarding Smart Growth implementation programs and activities currently underway.

The RACC members discussed the MTC-ABAG Task Force recommendation for a joint policy committee and concluded that the Regional Agency Coordinating Committee has a continuing interest in promoting and tracking Smart Growth implementation strategies. The next meeting will be at the call of the Chair.

Board Action: None. This report provided for information only.

11. Report of the Stationary Source Committee Meeting of March 22, 2004

Director DeSaulnier presented the report and stated that the Committee met on Monday, March 22, 2004. The Committee received staff reports on the renewal of Title V Permits to Pacific Gas & Electric Company (PG&E) and considered a recommendation to support PG&E's proposed shut down of the Hunters Point Power Plant. Staff presented information on the Title V Permit Program and the Mirant Potrero and PG&E Hunters Point Power Plants, and discussed the following:

- Background information on the Mirant Potrero and PG&E Hunters Point Power Plants.
- Proposed permit renewals to be issued by the end of March 2004.
- Information meetings scheduled for April 6 and April 8, 2004; and Public Hearings scheduled for May 4 and May 6, 2004, respectively.
- BAAQMD Regulation 9, Rule 11 – NOx Emission Limits for Utility Boilers.
- NOx Emissions from Hunters Point S-7 and Potrero S-1 Utility Boilers.

The consensus of the Committee was to support PG&E's proposed shut down of the Hunters Point Power Plant.

Staff provided a report on the proposed amendments to District Regulation 3: Fees and discussed the following:

- Various fee categories and the proposed amendments to the various fee structures.
- Projected revenue for fiscal year 2003/2004.
- Fee increases over the last five years.
- Fiscal Year 2004/2005 Fee Proposal.
- Title V Permit Fees
- Fiscal Year 2004/2005 Projected Fee Revenue and Program Costs
- Rule Development Schedule

Several Committee members expressed concerns regarding the large gap in Revenue vs. Costs for the Title V Fees and the Operating/New & Modified Permit Fees and were of the opinion that the revenues should be increased to cover the operational costs of mandated programs such as the Title V program.

The consensus of the Committee was that staff should review the Committee members' recommendations and concerns and consider adjusting the Title V Permit fees for fiscal year 2004/2005 for purposes of recovering the costs of the program. Staff reported that it would consider the Committee's input and incorporate its suggestions into the final recommendation that would be made to the full Board of Directors for its approval. The next meeting of the Committee is scheduled for Monday, May 24, 2004.

Board Action: Director DeSaulnier moved the Board approve the report of the Stationary Source Committee; seconded by Director Townsend.

In response to questions from Director Daly, Brian Bunger, Counsel, stated that the District has looked at the Title V permits for the PG&E plant and noted that in the abstract the District does have the legal authority to deny a Title V Permit. The District can deny or grant permits based on the criteria that are applicable. Mr. Bunger stated that in the case of Hunters Point and Potrero, the facilities currently comply with all applicable standards. Mr. Bunger noted that a third party could bring legal action on the Title V Permit. If PG&E wishes not to have a Title V Permit for Hunters Point, the proper process would be for PG&E to request that their application for the permit be cancelled and the District would then act on that request. The motion then carried unanimously without objection.

12. Report of the Executive Committee Meeting of March 29, 2004

Chairperson Haggerty presented the report and stated that the Committee met on Monday, March 29, 2004, and received and filed the Reports of the Hearing Board and Advisory Council. Stan Hayes, Chairperson of the Advisory Council Applicant Selection Working Group, recommended the Committee recommend Board approval of the appointment of Sanjiv Bhandari to the "Architect" category on the Advisory Council effective immediately and ending December 31, 2004. The Committee approved the recommendation.

The Committee discussed the Air District's role in the creation of a joint policy committee as proposed by the Metropolitan Transportation Committee (MTC) and the Association of Bay Area Governments (ABAG). There was discussion on the overlap of responsibility between the three agencies on public transportation and land use issues; and that the Air District should be a part of any joint policy committee because it has a statutory role in these areas. There was also discussion on the role of the Regional Agency Coordinating Committee (RACC). The consensus of the Committee was that Chairperson Haggerty would send a letter to Senator Torlakson indicating the Air District should be a member of the proposed Joint Policy Committee based on statutory requirements.

The Committee held a Closed Session to consider a salary survey and potential adjustments for management employees for fiscal year 2004-2005. General direction was given to the Executive Officer on the matter. The next meeting of the Executive Committee is scheduled for 9:30 a.m., Friday, April 30, 2004.

Board Action: Chairperson Haggerty moved that the Board accept the report and recommendations of the Executive Committee; seconded by Director Townsend; carried unanimously without objection.

PRESENTATION

13. Clean Air Plan for the Tri-Valley Area

Ellen Garvey presented the Clean Air Plan for the Tri-Valley Area, the Plan includes voluntary measures to help achieve clean air in the Tri-Valley area.

Chairperson Haggerty stated that the Clean Air Plan for the Tri-Valley Area was commissioned out of his office. The Plan has been presented to Dublin and Pleasanton, and Pleasanton intends to incorporate the Plan into their General Plan. The Plan will be presented to Livermore at a later date. The Plan outlines some voluntary measures developed

for the Tri-Valley Area that can reduce harmful levels of air pollution. Chairperson Haggerty stated that he would like the Board to consider using this Clean Air Plan as a model for their communities. Chairperson Haggerty introduced Ellen Garvey.

Ms. Garvey presented the Plan and reviewed the following:

- The Clean Air Plan goals and that it can serve as a model for the region.
- Comparison of population growth in the Tri-Valley area and the vehicle miles traveled (VMT) per day from 2000 through 2010.
- The Tri-Valley is unique and most violations of the ozone standards in the Bay Area occur at the Livermore monitoring station.
- The regional consequences.
- The breakdown of ozone and particulate matter for Alameda County.
- The four areas of voluntary measures:
 - Transportation
 - Technology
 - Land Use
 - Public Outreach

Ms. Garvey noted the Plan could serve as a model for the rest of the nine Bay Area counties. There was discussion on taxing vehicles traveling through the area and Peter Hess, Deputy APCO, stated that there has been a legislative proposal to have a tax based on the emission rate from vehicles and the VMT's, but it did not make it through Committee. Brian Bunger, Counsel, added that there are incentives now for lower emitting vehicles and lower VMT's.

Board Action: None. This item presented for information only.

Other Business

14. Report of the Executive Officer/APCO – Jack Broadbent, Executive Officer/APCO reported on the following items:
 1. The Environmental Protection Agency (EPA) has made a finding of Attainment for the one-hour ozone standard in the Bay Area and it is expected the finding will be published in the *Federal Register* within the next few weeks. As part of this action, EPA is approving several elements of the District's 2001 Air Quality Maintenance Plan.
 2. A recent decision by the Ninth Circuit Court of Appeals in the TCM II case held that MTC does not have to increase the transit ridership over the 1982 levels. This is important for the District as it puts together its Maintenance Plan and it is brought before EPA. The District needs to make a demonstration that it has implemented all the Measures in past Plans, one of which was TCM II.
 3. A list of Community Events/Meets for April through June 2004 at each Board member's place.
 4. The photograph on the wall that was put together by a District staff member, Victor Morales.

15. Chairperson's Report - Chairperson Haggerty requested any Board member who would like to attend the Air & Waste Management Annual Conference in Indianapolis, Indiana to contact Mr. Broadbent, the Clerk, or himself.

CLOSED SESSION (THE BOARD ADJOURNED TO CLOSED SESSION AT 10:30 A.M.)

16. Conference with Legal Counsel

Existing Litigation:

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

1. **Paul Mauriello v. Bay Area AQMD** (Public Employment Relations Board, Unfair Practice Charge No. SF-CE-175-M)
2. **Stonelight Title, Inc. and David Anson v. Bay Area AQMD**, United States Court of Appeals for the Ninth Circuit, Case No. 03-15402 and 03-15530 (Appeal from Judgment following Jury Trial in United States District Court, N.D. Cal., San Jose Division, Case No. CV 98-21060-JW/HRL)

Open Session (The Board reconvened to Open Session at 10:39 a.m.)

Mr. Bunger reported that the Board met in Closed Session to discuss the two cases under Item 16 on the agenda. The Board received a status report on each item and provided general direction to Counsel.

17. Board Members' Comments – Director Young commended Chairperson Haggerty for producing the Clean Air Plan for the Tri-Valley area. Director Young stated that this is an opportunity to improve upon this in all of the Bay Area counties, and that it might be best done over the county lines and the cities within those counties/districts could apply it to their General Plans.
18. Time and Place of Next Meeting - 9:45 a.m., Wednesday, April 21, 2004, 939 Ellis Street, San Francisco, California.
19. Adjournment: The meeting was adjourned at 10:41 a.m.

Mary Romaidis
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and
Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 13, 2004

Re: Report of the Advisory Council

RECOMMENDED ACTION:

Receive and file.

DISCUSSION

Attached for your review are draft minutes of the Advisory Council Executive Committee meeting of March 10, 2004, and the draft minutes of the Advisory Council Public Health Committee meeting of March 10, 2004 for your review.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: James Corazza

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109

DRAFT MINUTES

Advisory Council Executive Committee Meeting
9:00 a.m., Wednesday, March 10, 2004

- 1. Call to Order – Roll Call.** 9:12 a.m. Quorum Present: Elinor Blake, Chairperson, Louise Bedsworth, Ph.D., Harold Brazil, William Hanna, Linda Weiner, Brian Zamora. Absent: Kraig Kurucz.
- 2. Public Comment Period.** None.
- 3. Approval of Minutes of November 12, 2003.** Mr. Hanna moved approval of the minutes; seconded by Ms. Weiner; carried unanimously.
- 4. Standing Committee Chair Reports on Committee Work Plans.** Ms. Weiner stated that the Public Health Committee met on February 23 and received presentations on cumulative risk assessment and the precautionary principle from Amy Cohen and Ken Kloc of the Golden Gate School of Law Environmental Justice Clinic (ELJC), and Cindy Tuck of the California Council on Environmental and Economic Balance (CCEEB). The issues discussed included proposals that the District conduct cumulative rather than incremental risk assessment, lower the threshold of acceptance of risk, shift the burden of proof regarding health protection from the public to the facility requesting the permit, and the resulting impacts on business and the economy.

District staff also recently met with the community members regarding conducting a pilot study to gather air quality data within a neighborhood in the Bay Area that is considered to have a high cumulative risk. The Committee will provide comments on these issues to the staff and Board within the next few months. Other issues on the Committee's work plan this year include a response to the update of the Ozone Attainment Plan (OAP), the completion of recommendations on optical fence line monitoring at Bay Area refineries, and a review of indoor air quality issues.

Mr. Hess noted that the District's proposed Toxics New Source Review (TNSR) rule has been workshopped and is now in the public comment phase. The rule will be presented to the Board in the late summer after the California Environmental Quality Act (CEQA) review process has been completed. Comments from the Council on the TNSR program would be timely received by July. At a future meeting, staff would like to present to the Committee for its review a comprehensive air toxics plan, which staff is presently reviewing for both scope and cost considerations.

Dr. Bedsworth stated that the Technical Committee is presently reviewing the update to the OAP and received a presentation from staff in February regarding its review of control measures in the attainment plans of South Coast and San Joaquin Valley air districts for possible inclusion in the District's strategies. If the Environmental Protection Agency Region IX finds the last three years' of monitoring data to constitute an attainment record, a maintenance plan will instead be required.

AGENDA : 3

The Committee will meet jointly with the Air Quality Planning Committee on April 6 to review the pending OAP update in light of further staff review of control measures proposed for inclusion in it. The Committee will review current mobile source emission modeling at its June meeting. The Committee's review of NOx emission reduction strategies in the District will take place in August when the modeling for the ozone attainment plan has been completed. Mr. Hess noted that the mobile source emission inventory may be underestimated by a factor of three, and the Committee's choice to review this subject is timely. Dr. Bedsworth added that estimates in the model of the total number of T1 and T2 passenger vehicles in the state may also be underestimated. Mr. Hess requested Dr. Bedsworth to attend meetings of the Modeling Advisory Committee. The District is encouraging the California Air Resources Board to review and correct the mobile source inventory.

Mr. Hess noted that in July and September the Council can deliberate on its recommendations on the District's ozone strategies, which will be presented to the Board for adoption in October. The ozone strategies will collectively address the one-hour federal and one-hour state standards, and provide the basis for the first step of filing for attainment of the federal eight-hour standard.

Mr. Brazil stated the Air Quality Planning Committee met on February 24 to receive and discuss a staff presentation on pending control measure review. The Committee members offered a number of suggestions concerning transportation control measures, funding criteria for pedestrian and bicycle facilities and projects, the identification of passenger vehicle emissions, the impact of vehicular speed on vehicle emission generation and the impacts of strategies to reduce volatile organic compound emissions from architectural coating operations. The Committee will meet jointly with the Technical Committee in April to discuss the staff's review of control measures for inclusion in the District's ozone strategies. The Committee will devote the first half of the year to reviewing the ozone strategies for the state and federal plans, and proceed thereafter to other topics on its work plan. Mr. Hess noted that after mid-year the staff can give a presentation to the Committee on the status of the state's vehicle Inspection & Maintenance (I&M) program and other mobile source emission reduction programs with which the District is associated.

Ms. Weiner requested that the list of Council work plan topics be amended by adding a topic discussed at the January 14 Retreat regarding the identification of communities that are disproportionately impacted by air pollution. Public Health Committee member Diane Bailey has recently published a paper on construction sites and air pollution at marine port facilities.

- 5. Discussion of Follow-up on Council Recommendations.** Chairperson Blake noted that members of the Council have inquired about what happens over time to recommendations that the Council has adopted and forwarded. The Deputy Clerk reviewed his proposal for tracking Council recommendations from Committee to the Council, and then to the Board and/or staff. Mr. Hanna suggested using folders identified by a numbering system for recommendations with the year in which the topic began to be studied, i.e., 04-1. The file could include a timeline identifying when the topic was reviewed in Committee, when it emerged out of a Committee to the Council, and then from the Council to the Board, staff and/or elsewhere. All the relevant information would be included in the folder, such as minutes, and dates of when it was adopted, subsequently forwarded, etc. Chairperson

AGENDA : 3

Blake noted the Council also has a template for issuing its reports from Council Committee to the Council, and then to the Board. It includes a citation of background information considered, but this does not include whether the recommendations that go to the Board or staff are accepted and then further transmitted. Ms. Weiner observed that tracking Council recommendations would further assist the Council in evaluating how the advisory process works.

Chairperson Blake opined that the record-keeping now in place might be sufficient but may need an additional component in which items recommended to staff and the Board could be flagged. Mr. Hanna observed that the Council's records end with a presentation to the Board, and it would be worthwhile to find out how the recommendation was received, if it was acted on, and why or why not. Mr. Hess noted that some of the Council's recommendations from last year on vehicle I&M required legislation, while others were referred to the I&M Review Committee, which has not recently been convened. Chairperson Blake indicated that such information is precisely the kind of feedback the Council is seeking. She noted that there is a consensus on the Committee as to the need for a tracking process and that she would work further with the Deputy Clerk on it.

- 6. Discussion of Scheduling a Tour of the District Facility for New Council Members.** Chairperson Blake noted that on March 29, 2004 the Board Executive Committee would consider the recommendation from the Advisory Council's Applicant Selection Working Group regarding an appointment to the Architect category on the Council. If approved, this recommendation will be presented to the Board for approval on April 7. She requested the Deputy Clerk to contact the four newest members of the Advisory Council, and the new appointee, to arrange for a tour of the District facility. Mr. Hanna stated this most recent round of application screening and subsequent interviews was one of the best he had experienced as a member of the Applicant Selection Working Group given the consistently high caliber of the candidates. The targeted transmittal of the advertisement soliciting applications to Bay Area architectural networks by the Clerk's Office produced an outstanding group of candidates.
- 7. Committee Member Comments/Other Business.** There was none.
- 8. Time and Place of Next Meeting.** 9:00 a.m., Wednesday, May 12, 2004, 939 Ellis Street, San Francisco, California 9419.
- 9. Adjournment.** 9:58 a.m.

James N. Corazza
Deputy Clerk of the Boards

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109

DRAFT MINUTES

Advisory Council Public Health Committee Meeting
12:30 p.m., Wednesday, March 10, 2004

- 1. Call to Order – Roll Call.** 12:21 p.m. Quorum Present: Linda Weiner, Chairperson; Diane Bailey, Elinor Blake, Jeffrey Bramlett, Victor Torreano, Brian Zamora.
- 2. Public Comment Period.** Dennis Bolt, Governmental Coordinator, Western States Petroleum Association, stated that last year the Committee had inquired if Bay Area refineries had data on refinery employee health. The Chevron refinery has three decades of cancer research data which could be provided in a presentation or mailed. Chairperson Weiner replied that these data can be reviewed when the Committee resumes its review of optical fence line monitoring.
- 3. Approval of Minutes of February 23, 2003.** Mr. Torreano moved approval of the minutes; seconded by Mr. Zamora; carried unanimously.
- 4. Committee Discussion of Presentations Given at its February 23, 2004 Meeting Regarding Cumulative Risk Assessment and the Precautionary Principle.** Chairperson Weiner stated that the Committee will be providing comments on the District's Toxics New Source Review (TNSR) rule. At the last meeting, Amy Cohen of the Golden Gate School of Law Environmental Justice Clinic (ELJC) provided recommendations on the TNSR program. The ELJC more recently discussed these with District executive management, and on March 24 the District will respond to the ELJC on the feasibility of their implementation. The District also plans to conduct a pilot study in a Bay Area high-risk community to obtain data on cumulative risk.

Mr. Bramlett noted that while the concept to not do more harm than good when implementing a new program is of long standing in the occupational, public health and medical professions, it is incorrect to suppose that this notion is not of interest to the business community. The National American Industrial Hygiene Association has a "Sustainability and Stewardship Work Group" with which such Bay Area companies as Gennentech and Kaiser Permanente are associated.

Chairperson Weiner called for public comment, and Mr. Bolt stated that recent newspaper articles have expressed concerns about how jobs are shifting to other states from California and overseas from the United States. California sends influential economic and investment signals in the United States and abroad, and the precautionary principle sends a negative message. Lack of education and poverty pose the greatest public health risks, and these are at issue in the current business climate in California. Advisory Committees must broadly address issues beyond a single policy and evaluate societal costs. Cal/EPA will address how precaution might be exercised in regulation, and the business community can be a part of this process. Cumulative risk assessment is a different issue and the business community supports the research to ensure that this type of analysis is correctly conducted.

Lowering the District's stationary risk threshold levels and stationary source emission standards—which are the most stringent in the world—conflicts with Smart Growth

strategies to site affordable housing near transit hubs and attract the investment and development of business in the community. The California Air Resources Board (CARB) estimates that 85% of the cancer risk from particulate matter (PM) derives from mobile rather than stationary sources. Socio-economic improvements and health improvements are also linked.

Chairperson Weiner responded that Smart Growth is not incompatible with the precautionary principle, and data have not been presented confirming that the exodus of businesses from the Bay Area is occurring. Health studies of low-income areas with multiple stationary and mobile sources show disproportionately high incidences of respiratory disease. The Committee's charge was not to look at root causes but direct causes, and that poverty and poor education drive people to low-income neighborhoods saturated with multiple sources of air pollution, and that is what directly causes respiratory diseases. The precautionary principle suggests that since people continue to become ill, the burden should be shifted from the public to prove there is a problem to the permittee to prove there will not be a problem. Bay Area communities have recently become better organized, but the District also has limited resources. The Committee should develop recommendations that both arenas find workable.

Ms. Bailey expressed concern that current hazard indexes and cancer risk levels are too low, and repeated references to “sound science” can become a ploy to delay the implementation of cumulative risk assessment, for which analytical tools do exist. Chairperson Weiner added that there are multiple stationary sources in the high risk communities identified by the ELJC. Peter Hess, Deputy APCO noted that in these communities there are also numerous mobile sources such as ships, trains, and diesel truck traffic, for which emissions data must also be collected.

In reply to questions, Mr. Hess explained that staff responds to citizen complaints via inspector visits, conducting a source test, reviewing the emission inventory, conducting monitoring where necessary and contacting public health department staff. Mr. Zamora noted that while this approach addresses acute issues, the connection between the District and the medical community on chronic issues is unclear. It is difficult to make decisions in the absence of information. Support for the precautionary principle must derive from the medical, scientific, community and regulatory arenas, or it will find difficulty making progress toward adoption.

Ms. Bailey replied that there is sufficient data on the link between air pollution and health. The siting of new sources, and not moving existing ones, is at issue; and the District has control over the siting of new sources. The tools that now exist are sufficient to conduct cumulative risk assessment at the screening level. The Committee should consider recommending that benchmark levels be set at the level that triggers Best Available Control Technology (BACT).

Mr. Hess noted that major resources would be needed to subject the 2,500 annual permits issued by the District to cumulative risk assessment. Brian Bateman, Director of Engineering, added that policy questions are raised by re-setting benchmark concentrations for the permit process. While there are guidelines at the state level on assessing the significance of incremental risks for facilities, there are no guidelines on cumulative risks from new projects in a neighborhood. These would have to be set before the District could conduct cumulative risk assessment. Policy questions are raised by any redefinition of acceptable/unacceptable levels of risk. Unless and until the broad and significant policy issues have been addressed by all the stakeholders, it would be premature to incorporate cumulative risk assessment into the District's permit program. The Committee may wish to explore the policy implications and offer its advice.

Mr. Bateman added that the threshold for a new or modified source to install BACT is one in a million or greater for cancer risk. There is no specific limit for non-cancer effects although there is a project risk cap that must be kept under a hazard index of 1. In practice, emission levels for criteria pollutants to trigger BACT is 10 pounds per day, and for toxic chemicals the guidelines from the Office of Environmental Health Hazard Assessment (OEHHA) are tailored to each specific chemical. The level for requiring stringent controls is itself already based on a low level of risk because, once the controls are in place, the risk is greatly reduced. Permit conditions ensure compliance with emission control requirements. The ELJC is requesting a lowering of the facility incremental risk threshold by an order of magnitude, from 10 to 1 in a million. Lowering of the threshold from 10 to 1 in a million for gasoline dispensing facilities would prohibit the installation of any new gas station in the Bay Area.

Scott Lutz, Manager, Toxics Evaluation Section, stated that the cancer risk threshold for dry cleaners is 100 in a million and work is in process to reduce this risk to 10 in a million through the use of non-toxic chemicals and a prohibition of the use of perchloroethylene (perc). A state law recently passed will impose a tax on perc and fund the use of alternative chemicals.

Ms. Blake urged that the Committee keep apprised of the dialogue between District executive management and the communities, and to review the tools now available in field database work. Ms. Bailey suggested the Committee also make recommendations on new sources near severely impacted neighborhoods. While the process between the District and environmental groups is encouraging, the District should become a leader pursuing cumulative risk assessment with the assistance of other agencies that are also reviewing this issue. Chairperson Weiner noted that the need to develop data on cumulative risk provides the basis for supporting the pilot program.

Mr. Bramlett observed that the discussion has developed along the lines of substantive extremes and that certain process matters are more at issue and require further discussion. Ms. Blake stated that the Committee's charge is to evaluate and make recommendations on the TNSR rule, which raises issues regarding cumulative risk assessment and the precautionary principle, along with the Cal/EPA EJ recommendations. She suggested the Committee craft a statement on cumulative risk assessment and the precautionary principle based on statements from the regulatory, business and environmental communities. Chairperson Weiner and Ms. Bailey offered to write the first draft. Mr. Hess added that staff would like to present the pilot program to the Committee for review and comment. It will be also presented on April 28, 2004 to the Board Budget & Finance Committee.

Chairperson Weiner stated at the next meeting the Committee will review (a) a draft statement on cumulative risk assessment and the precautionary principle, (b) the District's response to the ELJC recommendations on the TNSR rule-making, (c) the cumulative risk pilot program. In May and June the Committee can conduct further review of these items.

- 5. Report on the February 24, 2004 California Air Resources Board (CARB) Environmental Justice Stakeholders Meeting.** Ms. Bailey stated that CARB sponsors an EJ Stakeholders Group that has developed statewide complaint resolution protocols and a bi-lingual public participation guidebook. It most recently revised the air

quality/land-use handbook that will make local planners more aware of the air quality impacts of land-use decisions. It will be submitted for adoption to CARB in May. The text is available at <http://www.arb.ca.gov/ch/aqhandbook.htm>.

Ms. Bailey added that Hotspots Analysis and Reporting Program (HARP) would provide on-line software for cumulative risk assessment. It is available to the public and was released at the end of last year. The other model is the Community Health Air Pollution Information System (CHAPIS). Mr. Hess noted that CHAPIS is being beta-tested and although its one kilometer grid resolution is detailed, it still lacks data on ships, trains and certain area sources.

Mr. Bateman noted that as a modeling tool used for cumulative risk assessment in a TNSR program, HARP lacks input data and must be populated with data on source description, emissions, facility boundary lines and proximate buildings. It also requires a text-based input as it lacks graphical interface and requires continual updating. HARP is also tied to a specific, and soon to be obsolete, Industrial Source Complex (ISC) air dispersion model.

Ms. Bailey replied that input files are available for current air dispersion models. HARP and CHAPIS render possible the switch from the ISC to a newer EPA air dispersion model. Mr. Bateman noted that source inputs for terrain and meteorology are not available and would have to be collected and developed. Mr. Hess added that resources must be balanced: inspectors that collect and follow-up on initial survey data cannot conduct inspections simultaneously. Perhaps this Committee can recommend a community to be studied. Mr. Bateman noted staff has estimated the cost for a cumulative risk study for the entire Bay Area. Chairperson Weiner replied that the ELJC has recommended that a single community be studied and could give a presentation on its community selection recommendation at a future Committee meeting.

Mr. Hayes offered to have the Technical Committee review the available tools for conducting cumulative risk. Ms. Blake suggested that he instead participate as a member of the public in meetings of the Public Health Committee. Ms. Bailey added that she routinely conducts air dispersion modeling and risk analysis and could contribute that expertise to the Committee.

6. **Discussion of Priorities for Committee Work Plan for 2004.** Chairperson Weiner noted that Mr. Bolt has offered to provide data on a Chevron study of the health of refinery workers and can provide a speaker. The Committee will also review indoor air quality this year. For guest speakers, Ms. Blake offered to invite Jim Waldman at the State Health Department, and Mr. Torreano offered to invite a National Energy Management Institute staff member. Chairperson Weiner added that the Committee will also identify communities affected by construction sites.
7. **Committee Member Comments/Other Business.** Mr. Bramlett stated that a Center for Disease Control study on asthma is available at www.cdc.gov/mmwrpreview/mmwr.html.
8. **Time and Place of Next Meeting.** 1:30 p.m., Monday, April 19, 2004, 939 Ellis Street, San Francisco, California 94109.
9. **Adjournment.** 2:02 p.m.

James N. Corazza
Deputy Clerk of the Boards

Memorandum

To: Chairperson Haggerty and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 21, 2004

Re: Report of Division Activities for the month of March 2004

RECOMMENDED ACTION:

Receive and file.

Reviewed by: Peter Hess

ADMINISTRATIVE SERVICES DIVISION – W. TANAKA, DIRECTOR

Administrative Services staff and program managers were busy finalizing the proposed Fiscal Year 2004-05 budget for presentation to the Board of Director's at the April 21, 2004 meeting. The first public hearing on the budget is scheduled for the June 2, 2004 Board meeting. The second public hearing and adoption of the budget is scheduled for the June 16, 2004 meeting.

The Director of Administrative Services attended the bi-annual CAPCOA Fiscal Officers meeting at the Monterey Bay Air Pollution Control District on March 11-12, 2004. Topics ranged from budgets to DMV (AB 2766) revenue to the State fiscal crisis.

Staff continued with training for the conversion to JD Edwards Financial and Human Resource software.

Status of various capital projects in process:

	<u>Started</u>	<u>% Completed</u>	<u>Completion Date</u>
➤ Phase II HVAC upgrade	3/2003	95%	6/2004
➤ Life Safety – Fire Alarm	3/2004	10%	6/2004

COMPLIANCE & ENFORCEMENT DIVISION – K. WEE, DIRECTOR

The Air District received over 30 odor complaints from Concord, Bay Point, and Pittsburg areas on March 1, 2 & 4. The odors were traced to the Tesoro Refinery but could not be isolated to a particular process or unit, despite extensive investigation by both Refinery staff and District Inspectors. The North and South Steam Flares became strong possibilities for the source of odors. Tesoro decided to bypass these flares and use others in the flare array and the odors seemed to subside. Tesoro was issued public nuisance for three days.

On March 23, 2004 a Notice of Violation (NOV) was issued to Stevedoring Services of America Marine Terminal (SSA). The NOV was issued for a violation of Health & Safety Code, 40720, Section A, for 3 trucks exceeding the 30-minute queue. The trucks were idling between 37 and 38 minutes. District inspectors received 16 complaints from truckers regarding excessive idling trucks at the SSA Terminal that day.

The City of Milpitas recently distributed flyers and doorknob hangers that instruct the public on the District's complaint process. The District continues to receive approximately 6 to 8 complaints per week on sources in the Milpitas area. Although most complaints are unconfirmed due to sporadic odors and unstable meteorological conditions, staff believes that recent food waste grinding and processing at BFI Recyclery may be the source of some of the odor complaints. At the request of the California District Attorneys Association, staff gave a presentation on dry cleaning regulation enforcement at the Air Violations Seminar portion of the conference. Staff attended the Golden Gate Pollution Prevention Committee (G2P2C) meeting at the Merritt College in Oakland. Planning for the annual Western Regional Pollution Prevention Network conference was discussed, including increased cross-training of public agency inspectors. Staff also attended the ABAG Green Business Coordinators meeting in Oakland. Discussion continued on the Garment Cleaning Checklist, uniform metrics with a regional database and an updated policy guidance document. Training was started for four new inspectors, including Hazwoper safety training. The Hazwoper refresher course was also conducted for selected inspectors. ARB conducted a one-day training on metal parts and products rule enforcement. Staff attended the Napa County Farm Bureau workshop for pesticides and conducted outreach regarding the District's Open Burning Regulation 5 for agricultural burning. Staff reviewed and commented on the air pollution component of the EPA Construction Industry Compliance Assistance Center web site.

(See Attachment for Activities by County)

ENGINEERING DIVISION – B. BATEMAN, DIRECTOR

Permit Evaluation Activity

The Title V permit renewals for Acme Fiberglass (Hayward), Mirant Potrero (San Francisco) and PG&E Hunters Point (San Francisco) were published for public comment. Informational meetings for the two San Francisco power plant Title V renewals are scheduled to occur in April. A preliminary evaluation was completed of banking credits from the shutdown of the Owens Brockway Hayward glass manufacturing plant. Final action on this application will be taken following a public comment period.

Toxics Program

Health risk screening assessments were conducted for 39 permit applications, primarily diesel emergency generators. Rule development activities continued on Regulation 2, Rule 5, New Source Review of Toxic Air Contaminants, which is not expected to be presented for adoption to the District's Board of Directors until the latter part of 2004. Staff met with representatives of several community groups and the Advisory Council concerning the Rule 2-5. Staff is completing work on the annual toxic report, which is expected to be completed soon and available on the District's website.

INFORMATION SYSTEMS DIVISION – J. McKAY, DIRECTOR

Enterprise Resource Planning (ERP) Project for Air District Financial Systems

Integration Testing is in progress for both the Financial Systems and the Human Resources systems. This is the final phase of testing prior to go-live.

The first phase of implementation will not only replace the old Mitchell Humphrey's financial system, but will also absorb a small portion of the function currently in the IRIS/Databank system. The interfaces between JDE and the Districts' Engineering/Production systems (IRIS/Databank) have shown initial successful trials. Determination of appropriate tool sets and functional design for the Districts' future Engineering/Production Systems (used by Permits, Enforcement and Legal) continues as a separate, but linked, process.

Toolsets for Permits/Enforcement/Legal

The design methodology for replacement of IRIS and Databank will begin with identification of the large scale functional components of the Air District Production Processes. This will enable a tool selection process focused on high level tool sets. While this may not allow the District to accomplish all of its objectives with a single vendor offering, it will allow the opportunity to substitute purchased modules for custom code. The process of determining high-level system architecture will continue concurrent with the ERP implementation. This process will further mature in the first half of the calendar year, and will then receive full staffing as the ERP implementation completes. Peter Hess directed inquiries to Air Districts around the United States and received substantial input on their current systems and future plans.

Web Site Development

The roadmap for the next phase of the new site is under development. Development for web based Complaint query capability is near completion.

LEGAL DIVISION – B. BUNGER, DISTRICT COUNSEL

The District Counsel's Office received 142 Violations reflected in Notices of Violation ("NOVs") for processing.

Mutual Settlement Program staff initiated settlement discussions regarding civil penalties for 87 Violations reflected in NOVs. In addition, Mutual Settlement Program staff sent 38 Final 30 Day Letters regarding civil penalties for 61 Violations reflected in NOVs. Finally, settlement negotiations by Mutual Settlement Program staff resulted in collection of \$61,310 in civil penalties for 135 Violations reflected in NOVs.

Counsel in the District Counsel's Office initiated settlement discussions regarding civil penalties for 103 Violations reflected in NOVs. In addition, the District Counsel's Office referred 7 Violations reflected in NOVs to District Attorneys for possible filing of criminal actions.

PLANNING DIVISION – J. ROGGENKAMP, DIRECTOR

The U. S. Environmental Protection Agency (EPA) announced a final finding that the Bay Area attains the national 1-hour ozone standard based on monitoring data for 2001, 2002, and 2003. The finding of attainment is not formal redesignation to attainment status. We must submit a maintenance plan and request redesignation through the Air Resources Board. Development of the maintenance plan is underway.

EPA also approved the required elements of the Bay Area 2001 Ozone Attainment Plan. EPA's actions result in continued deferral of Clean Air Act sanctions as long as the region continues to attain the national 1-hour ozone standard. The sanctions stem from EPA's disapproval of parts of the Bay Area 1999 Ozone Attainment Plan.

Regarding development of the Bay Area 2004 Ozone Strategy, the Ozone Working Group reviewed and discussed revised control measure evaluations and preliminary draft control measure descriptions, including drafts of 11 stationary source measures, 1 mobile source measure and 12 transportation control measures (TCMs). Work is proceeding on development of additional control measure descriptions, including 3 stationary source measures, 2 mobile source measures, and 7 TCMs, as well as a number of further study measures. Staff presented a status report on the development of the control measures to the Regional Agency Coordinating Committee. A notice of preparation of an Environmental Impact Report for the Bay Area 2004 Ozone Strategy was distributed to interested parties, and a CEQA scoping meeting was announced for April 20, 2004.

Staff wrote four comment letters regarding air quality impacts of development projects and plans in the Bay Area: 2004 Update to the Contra Costa Countywide Transportation Plan, Marin Countywide Plan Update 2004, Walnut Creek General Plan Update, and Campus Bay Project (City of Richmond). The District's vehicle buy-back contractors purchased 217 vehicles in March 2004.

Staff participated in CAPCOA Rule Development and Planning Manager conference calls to discuss ARB's development of a list of particulate matter regulations and programs being implemented by districts in California. In accordance with the requirements of SB 656, air districts must consider the list prepared by ARB and adopt an implementation schedule for particulate matter measures by July 2005.

PUBLIC INFORMATION & OUTREACH – T. GALVIN LEE, DIRECTOR

During March, staff continued work on the overall 2004 Spare the Air media and advertising plan. This year's plan will include a more aggressive TV presence, more community events, an emphasis on getting e-alert sign-ups, and other media opportunities. The advertising budgets for the Smoking vehicle and Spare the Air media buy will be bundled to increase cost effectiveness

During March, the employer outreach program finalized planning for eight employer workshops that will take place in April and May. In addition, staff finalized the design and content of the pre-season employer packet that goes out to current Spare the Air employers. The Packet provides information on the upcoming season, the workshops, a materials order form, and a contact update sheet.

Planning continued on the Lawnmower Buyback program. For the last six years, these programs have been run as a partnership between the Air District and Bay Area County Waste Management agencies. The programs offer the public the opportunity to turn in an old gasoline mower and purchase an electric, mulching mower for a substantial discount. This year upwards of 2500 mowers will be available.

The City of Clayton and the City of Hayward both adopted the woodburning ordinance. On March 25, the District received \$198,818 in CMAQ reimbursement funds. 2084 smoking vehicles were reported during March.

TECHNICAL DIVISION – G. KENDALL, DIRECTOR

Air Monitoring

Particulate monitors for PM_{2.5}, including six continuous PM_{2.5} monitors, continued their enhanced wintertime sampling schedules at all designated stations. The wintertime PM_{2.5} monitoring schedule ended on March 31. Ozone monitors at eight stations remain shut down during the low ozone winter period as authorized under by a waiver granted by the EPA.

Meteorology and Data Analysis

December 2003 air quality data were reviewed and entered into the EPA Air Quality System (AQS) database. All of the air quality data for the year 2003 are in the EPA AQS database. The District's new meteorological station at Napa Valley Community College began operating on March 8th. Meteorological data from the new Napa station and all other District met stations are viewable on the District's meteorological web page. The District received \$100,000 in supplemental grant funding from EPA to support a contract to design and implement a new Data Management System for air quality and meteorological data. Task I under that contract, the design specifications document, was completed.

Quality Assurance

Surveillance monitoring for SO₂ and H₂S was conducted downwind of the Tesoro Refinery on March 2nd, 4th, and 5th, during the Tesoro flaring incident. Surveillance monitoring for H₂S was also conducted downwind of the Pinole Waste Water Treatment Plant during an odor incident on March 18th. Audits of the H₂S and SO₂ ground level monitors at Chevron and Shell Refineries were conducted. The Quality Assurance staff attended a 2-day operation and repair training class on continuous PM_{2.5} monitors, given by Met One. System audits were completed at five District air monitoring stations (Pittsburg, Fremont, Martinez, Redwood City, and Bethel Island).

Air Quality

There were no days in March when the air quality reached the Unhealthful for Sensitive Groups level (AQI >100) for PM_{2.5}. The first week of the month had wet, windy conditions with good air quality (AQI < 51). However, air quality deteriorated during the next two weeks under a strong ridge of high pressure. Temperatures warmed to above normal levels across the District, reaching into the high 70s and low 80s at inland sites for 12 consecutive days. During that period, light winds and offshore flow permitted a buildup of PM_{2.5} resulting in Moderate levels (51-100 AQI) of air quality. The last 10 days of the month had occasional frontal passages with a return of onshore flow giving good air quality levels throughout the District. Four days of rain were recorded at our Santa Rosa meteorological site.

Laboratory

In addition to the ongoing, routine analyses performed by the lab, eight ambient samples collected in the vicinity of Tesoro Refinery in Martinez during the week of March 1st to the 5th were analyzed for total non-methane organic compounds, toxic and reduced sulfur compounds. One of the samples was analyzed for non-methane organic compounds. Two gaseous samples from the natural gas line and flare inlet of Chevron in Richmond were analyzed for hydrocarbon compounds. One ambient air sample collected near the Pinole Water Treatment Plant during an odor incident was analyzed for total non-methane organic compounds and reduced sulfur compounds. Six quartz filter samples taken from the filter/scrubber outlet of Brush Wellman in Fremont and the filter outlet of the abatement equipment of San Jose Delta Associates in San Jose were analyzed for beryllium.

Source Test

Ongoing Source Test activities included Continuous Emissions Monitoring (CEM) Field Accuracy Tests, source tests, gasoline cargo tank testing, and evaluations of tests conducted by outside contractors. The ConocoPhillips Refinery's open path monitor monthly report for the month of February was reviewed. The Source Test Section provided ongoing participation in the District's Further Studies Measures for refineries.

These facilities have received one or more Notices of Violations Report period: March 1, 2004 – March 31, 2004

Alameda County

Status				Regulation Title
Date	Site #	Site Name	City	
3/2/2004	A3152	Lam Research Corporation	Fremont	Solvent Cleaning Operations
3/19/2004	A2246	Tri-Cities Recycling	Fremont	Gasoline Dispensing Facilities
3/17/2004	B2191	FormFactor Inc	Livermore	Failure to Meet Permit Conditions
3/17/2004	C8260	GrafcO Station	Livermore	Gasoline Dispensing Facilities
3/18/2004	C8876	Livermore Beacon	Livermore	Permit to Operate
3/17/2004	P8305	Retzlaff Vineyard	Livermore	Asbestos Demolition, Renovation & Manuf.
3/2/2004	D0692	Hertz QTA Facility	Oakland	Authority to Construct
3/23/2004	C9906	MDN Enterprises, Inc	Oakland	Gasoline Dispensing Facilities
3/17/2004	P8310	Performance Abatement	Oakland	Motor Vehicle&Mobile Equip. Coating Operations
3/18/2004	C0933	A "1" Gas & Food Market	San Leandro	Gasoline Dispensing Facilities
3/3/2004	B3264	Absolute Auto And Truck Repair	San Leandro	Motor Vehicle&Mobile Equip. Coating Operations
3/5/2004	N4386	LVI Environmental	San Leandro	Asbestos Demolition, Renovation & Manuf.
3/3/2004	B1340	MAACO Auto Painting & Bodyworks	San Leandro	Motor Vehicle&Mobile Equip. Coating Operations

Contra Costa County

Received Date	Site #	Site Name	City	Regulation Title
3/24/2004	A3475	Keep-U-Neat Cleaners	Antioch	Petroleum Dry Cleaning Operations
3/2/2004	A0917	Lamothe Cleaners	Antioch	Petroleum Dry Cleaning Operations
3/10/2004	A4022	SFPP, L P	Concord	Gasoline Dispensing Facilities; Failure to meet Permit Conditions; Storage of Organic Liquids
3/4/2004	A0011	Shell Martinez Refinery	Martinez	Storage of Organic Liquids
3/2/2004	B2758	Tesoro Refining and Marketing Company	Martinez	Asbestos Demolition, Renovation&Mfg; Standards of Performance for New ; Stationary Sources; Failure to meet

Permit Conditions & Equipment Leaks

3/24/2004	B1287	Vogue Cleaners Nova Abatement & Construction	Pleasant Hill	
3/4/2004	J1403	Services	Richmond	Asbestos Demolition, Renovation&Manufactu
3/17/2004	P8307	NR Land Development LLC ConocoPhillips - San Francisco	Richmond	Asbestos Demolition, Renovation&Manufactu
3/1/2004	A0016	Refinery	Rodeo	Storage of Organic Liquids
3/17/2004	D1074	Central Contra Costa Sanitary	Walnut Creek	Permit to Operate Perchloroethylene&Synthetic Solvent Dry
3/24/2004	A9219	Major Town Cleaners	Walnut Creek	Cleaning Operations

Marin County

Received Date	Site #	Site Name	City	Regulation Title
3/23/2004	C9547	Exxon	Larkspur	Failure to Meet Permit Conditions
3/24/2004	A1780	Shoreline Cleaners	Mill Valley	Gasoline Dispensing Facilities Perchloroethylene and Synthetic Solvent Dry Cleaning Operations
3/18/2004	C9692	Strawberry Chevron Tadgh Mc Sweeney dba Mc	Mill Valley Mill Valley	Gasoline Dispensing Facilities; Asbestos Demolition, Renovation & Mfg.
3/10/2004	P8089	Sweeney Const. Inc		
3/9/2004	C8435	A & A Gas	Novato	Gasoline Dispensing Facilities
3/3/2004	P7928	Rick Gudgel	Novato	Open Burning
3/3/2004	A4176	Orlandi's Body & Fender Inc	San Rafael	Permit to Operate
3/18/2004	C0420	Super Stop	San Rafael	Gasoline Dispensing Facilities

Napa County

Received Date	Site #	Site Name	City	Regulation Title
3/4/2004	P7963	Chris Rogers	Calistoga	Open Burning
3/4/2004	P7967	Blankiet Estate Vineyard	Napa	Open Burning
3/4/2004	P7972	William Hill Winery	Napa	Asbestos Demolition, Renovation and Manufacturing
3/4/2004	P7971	Rudd Winery Daiv Abreu Vineyard	Oakville	Open Burning
3/4/2004	N3806	Management	Rutherford	Open Burning
3/4/2004	P7962	David Garden	Saint Helena	Open Burning
3/17/2004	P6580	Jack Neal & Son	Saint Helena	Open Burning
3/4/2004	P7960	Korte Ranch	Saint Helena	Open Burning

San Francisco County

Received Date	Site #	Site Name	City	Regulation Title
3/3/2004	A8007	Earl Scheib Inc of California	San Francisco	Motor Vehicle/Mobile Equipment Coating Open Permit to Operate; Asbestos Demolition,
3/10/2004	P8093	Prana Investments	San Francisco	Renovation & Mfg.
3/8/2004	C5591	Shell Oil Company	San Francisco	Gasoline Dispensing Facility
3/23/2004	C9949	Tosco Facility #11188	San Francisco	Gasoline Dispensing Facility

San Mateo County

Received Date	Site #	Site Name	City	Regulation Title
3/2/2004	B1843	Collision Specialist	Daly City	Motor Vehicle and Mobile Equipment Coating

3/3/2004	A2266	Browning-Ferris Ind. of CA, Inc	Half Moon Bay	Failure to Meet Permit Conditions
3/10/2004	P4897	ACE Hauling	Pacifica	Asbestos Demolition, Renovation and Manufacturing
3/5/2004	A8037	Benz Collision Center	Redwood City	Permit to Operate; Motor Vehicle & Mobile Equipment Coating Operations

Santa Clara County

Received Date	Site #	Site Name	City	Regulation Title
3/16/2004	C5316	Americana Shell #3-Shell Oil Products	Mountain View	Gasoline Dispensing Facilities
3/2/2004	C9808	McKee Shell	San Jose	Gasoline Dispensing Facilities
3/8/2004	C9841	Strawberry Park Shell	San Jose	Gasoline Dispensing Facilities
3/2/2004	B0866	JIP Products Finishing Inc	Santa Clara	Surface Coating of Miscellaneous Metal Parts and P

Solano County

Received Date	Site #	Site Name	City	Regulation Title
3/23/2004	A0901	Valero Benicia Asphalt Plant Valero Refining Company - California	Benicia	Failure to Meet Permit Conditions
3/4/2004	B2626	Goose Haven Energy Center	Benicia	Storage of Organic Liquids
3/17/2004	B4416	Goose Haven Energy Center	Suisun City	Failure to Meet Permit Conditions

Sonoma County

Received Date	Site #	Site Name	City	Regulation Title
3/3/2004	B5967	JP Finishing	Cotati	Authority to Construct; Permit to Operate; Wood Products Coatings
3/3/2004	P7942	Manfred Gruener	Cotati	Open Burning
3/23/2004	C9484	Sam's Market #5	Glen Ellen	Open Burning
3/3/2004	P7926	Harold Goetz	Kenwood	Open Burning
3/3/2004	B1689	Interior Finishing	Rohnert Park	Wood Products Coatings
3/29/2004	P8547	A.E. Patrick A'Roma Roasters & Coffee House, Inc	Santa Rosa	Open Burning
3/3/2004	B5951	House, Inc	Santa Rosa	Authority to Construct; Permit to Operate
3/3/2004	P7935	Cresco Equipment Rentals	Santa Rosa	Solvent Cleaning Operations
3/11/2004	P8101	Custom Design Countertops	Santa Rosa	Authority to Construct; Permit to Operate; Adhesive and Sealant Products
3/3/2004	B5950	Ecco Caffè	Santa Rosa	Authority to Construct
3/3/2004	B5946	Empire Castings Inc	Santa Rosa	Authority to Construct; Permit to Operate; Surface Coating of Miscellaneous Metal Parts and Products
3/23/2004	P8436	Jeff Robertson	Santa Rosa	Open Burning
3/4/2004	P7941	Malm Fireplaces	Santa Rosa	Authority to Construct; Permit to Operate; Surface coating of miscellaneous metal Parts and Products
3/4/2004	P7975	Modern Woodworks	Santa Rosa	Authority to Construct; Permit to Operate
3/3/2004	P7934	Nigel Wilson	Santa Rosa	Open Burning
3/3/2004	A5880	Peterson Tractor	Santa Rosa	Asbestos Demolition, Renovation and Mftg; Authority
3/29/2004	P8549	Arnie Bustamante	Sebastopol	Open Burning
3/3/2004	B5945	Coffee Catz	Sebastopol	Authority to Construct; Permit to Operate
3/29/2004	F5994	Dutton Ranch	Sebastopol	Open Burning
3/18/2004	P8340	Jerry Morita	Sebastopol	Open Burning
3/18/2004	P8341	John Rittler	Sebastopol	Open Burning
3/18/2004	C8795	California Food And Fuel #2	Sonoma	Gasoline Dispensing Facilities
3/4/2004	P7969	Jon Early	Sonoma	Open Burning
3/4/2004	P7965	Salvador Chavez	Sonoma	Open Burning

Outside Bay Area

Received Date	Site #	Site Name	City	Regulation Title
3/8/2004	N1032	Beneto Tank Lines	Sacramento	Gasoline Bulk Terminals and Gasoline Delivery Vehicles
3/8/2004	F4406	Williams Tank Lines/Mike Stewart	Stockton	Open Burning
3/2/2004	P7875	ABC Farms	Walnut	Open Burning

March 2004 Closed NOVs with Penalties by County**Alameda**

Site Name	Site Occurrence	City	Penalty	# of Violations Closed
A & S Enterprise	C6275	Newark	\$1,000	2
Albany Hill Mini Mart	C0081	Albany	\$1,500	1
ARCO Facility #02169 - KULWINDER KAUR	C0690	Oakland	\$750	1
Metropolitan Furniture Corp	B3355	Oakland	\$1,000	1
Printegra	A8885	Livermore	\$300	1
Quality Auto Craft Inc	B2981	Pleasanton	\$2,000	2
U S Veterans Administration Medical Center	A0281	Livermore	\$250	1
Unique Auto Body & Paint	N5653	Fremont	\$750	26
Valleycare Medical Center	A8890	Pleasanton	\$500	1
Zomax Incorporated	A9609	Fremont	\$600	1

Total Violations Closed: 37

Contra Costa

Site Name	Site Occurrence	City	Penalty	# of Violations Closed
Asbury Graphite Inc of Calif	B0593	Rodeo	\$2,000	1
Contra Costa Auto Body & Paint Inc	B3606	Concord	\$500	1

Elite Autobody & Collision Center	B4851	Concord	\$750	1
James Kang	P7483	San Pablo	\$300	1
Lafayette Auto Body, INC	B1563	Lafayette	\$1,500	4

Total Violations Closed: 8

Marin

Site Name	Site Occurrence	City	Penalty	# of Violations Closed
Clayland Brothers' Precision Auto Body	B5601	San Rafael	\$50	1
Marin Home Repair	P2527	San Rafael	\$1,000	3
Northgate Auto Body/Appliance Painting	A4887	San Rafael	\$500	2

Total Violations Closed: 6

Napa

Site Name	Site Occurrence	City	Penalty	# of Violations Closed
Clos Duval Vineyard	K4820	Napa	\$500	1
Dow Cleaners	A8741	Napa	\$50	1
John Saunders	N5648	Deer Park	\$100	1
Lee E Titus & Sons Vineyard	P1089	Saint Helena	\$350	1
Lito Auto Body Inc	A6013	Napa	\$1,500	3
O'Connell, Gabrielle & Wayne	K5292	Napa	\$250	1
Rudd Winery	P7971	Oakville	\$400	1
Van Der Heyden Vineyards	N4863	Napa	\$250	1

Total Violations Closed: 10

Santa Clara

Site Name	Site Occurrence	City	Penalty	# of Violations Closed
Almaden Unocal #4831	C4080	San Jose	\$500	1
Benjamin Cleaners	B0060	Saratoga	\$1,500	3
Blossom Valley Chevron	C3879	San Jose	\$500	1
Coast Oil Company	C9217	San Jose	\$1,000	2
FMG Enterprises Inc	A4400	Santa Clara	\$1,000	2
HSR, Inc.	P6922	San Jose	\$500	1
Lardie & Company	B2444	San Jose	\$1,000	1
Milpitas Shell	C8742	Milpitas	\$1,000	2
Morgan Hill Solid Oak Furnishing Product	B1447	Morgan Hill	\$1,000	2
Service Station Systems, Inc	C7466	San Jose	\$500	1
Simmons Island Land Co.	P6494	Sunnyvale	\$400	1
Sunnyvale Car Wash/US Gas	D0284	Sunnyvale	\$250	1
USA Petroleum	C8383	San Jose	\$750	1
USA Petroleum	C8382	San Jose	\$650	1
Works Auto Body	A5825	Santa Clara	\$2,000	1
Z-Con Specialty Services	P6801	San Jose	\$500	1

Total Violations Closed: 22

San Francisco

Site Name	Site Occurrence	City	Penalty	# of Violations Closed
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Louis Roesch Company	A0779	San Francisco	\$500	1
Rich's Auto Body Shop	A7396	San Francisco	\$1,560	6
San Francisco General Hospital	A3974	San Francisco	\$250	1
Tam's Auto Body Shop	B0930	San Francisco	\$750	1

Total Violations Closed: 9

San Mateo

Site Name	Site Occurrence	City	Penalty	# of Violations Closed
Crocker Cleaners	B2285	Daly City	\$5,000	4
Harry W Tracy	A3426	San Bruno	\$250	1
Michael Yurovitsky	P5662	Redwood City	\$1,500	3
Quong Lee Laundry	B1486	Redwood City	\$1,000	2
Serramonte Auto Plaza Body Shop	A3201	Colma	\$1,500	2
Seven Eleven #19235	C2818	Daly City	\$500	1

Total Violations Closed: 13

Solano

Site Name	Site Occurrence	City	Penalty	# of Violations Closed
Benicia Shell (cardlock site)	C9647	Benicia	\$1,000	2
Bonfare Market #36	C9976	Vallejo	\$500	1
Bonfare Markets	C9978	Vallejo	\$1,000	2
Lake Herman/Benicia Shell	C9588	Benicia	\$1,000	2
Vallejo Gas	C8352	Vallejo	\$400	1

Total Violations Closed: 8

Sonoma

Site Name	Site Occurrence	City	Penalty	# of Violations Closed
Bevil Vineyard Management	N5271	Healdsburg	\$500	2
California Food And Fuel #2	C8795	Sonoma	\$1,500	3
Gas Club	C6998	Petaluma	\$1,000	1
Hansel Prestige Imports	A6470	Santa Rosa	\$1,000	2
Malm Fireplaces	P7941	Santa Rosa	\$2,000	5
Miller Oil Company	C8087	Sebastopol	\$1,000	1
Ramano Avila	N3312	Petaluma	\$500	1
Sonoma State University	A1810	Rohnert Park	\$500	2

Total Violations Closed: 17

District Wide

Site Name	Site Occurrence	City	Penalty	# of Violations Closed
ABC Farms	P7876	Walnut	\$650	1
Beneto Tank Lines	B1956	Sacramento	\$3,000	1
Beneto Tank Lines	D0122	Sacramento	\$1,000	1
Stanley Wilson	N6709	Sacramento	\$250	2

Total Violations Closed: 5

ACRONYMS AND TERMINOLOGY

ABAG	Association of Bay Area Governments
AC	Authority to Construct issued to build a facility (permit)
AMBIENT AIR	The surrounding local air
AQI	Air Quality Index
ARB	[California] Air Resources Board
ATCM	Airborne Toxic Control Measure
BAAQMD	Bay Area Air Quality Management District
BACT	Best Available Control Technology
BANKING	Applications to deposit or withdraw emission reduction credits
BAR	[California] Bureau of Automotive Repair
BARCT	Best Available Retrofit Control Technology
BIODIESEL	A fuel or additive for diesel engines that is made from soybean oil or recycled vegetable oils and tallow. B100=100% biodiesel; B20=20% biodiesel blended with 80% conventional diesel
BTU	British Thermal Units (measure of heat output)
CAA	[Federal] Clean Air Act
CAL EPA	California Air Resources Board
CCAA	California Clean Air Act [of 1988]
CCCTA	Contra Costa County Transportation Authority
CEQA	California Environmental Quality Act
CFCs	Chlorofluorocarbons
CMA	Congestion Management Agency
CMAQ	Congestion Management Air Quality [Improvement Program]
CMP	Congestion Management Program
CNG	Compressed Natural Gas
CO	Carbon monoxide
EBTR	Employer-based trip reduction
EJ	Environmental Justice
EIR	Environmental Impact Report
EPA	[United States] Environmental Protection Agency
EV	Electric Vehicle
HC	Hydrocarbons
HOV	High-occupancy vehicle lanes (carpool lanes)
hp	Horsepower
I&M	[Motor Vehicle] Inspection & Maintenance ("Smog Check" program)
ILEV	Inherently Low Emission Vehicle
JPB	[Peninsula Corridor] Joint Powers Board
LAVTA	Livermore-Amador Valley Transit Authority ("Wheels")
LEV	Low Emission Vehicle
LNG	Liquefied Natural Gas
MPG	Miles per gallon
MTC	Metropolitan Transportation Commission

NAAQS	National Ambient Air Quality Standards (federal standards)
NO _x	Nitrogen oxides, or oxides of nitrogen
NPOC	Non-Precursor Organic Compounds
NSR	New Source Review
O ₃	Ozone
PM _{2.5}	Particulate matter less than 2.5 microns
PM ₁₀	Particulate matter (dust) less than 10 microns
PM _{>10}	Particulate matter (dust) over 10 microns
POC	Precursor Organic Compounds
pphm	Parts per hundred million
ppm	Parts per million
PUC	Public Utilities Commission
RFG	Reformulated gasoline
ROG	Reactive organic gases (photochemically reactive organic compounds)
RIDES	RIDES for Bay Area Commuters
RTP	Regional Transportation Plan
RVP	Reid vapor pressure (measure of gasoline volatility)
SCAQMD	South Coast [Los Angeles area] Air Quality Management District
SIP	State Implementation Plan (prepared for <i>national</i> air quality standards)
SO ₂	Sulfur Dioxide
TAC	Toxic Air Contaminant
TCM	Transportation Control Measure
TFCA	Transportation Fund for Clean Air [BAAQMD]
TIP	Transportation Improvement Program
TMA	Transportation Management Association
TOS	Traffic Operations System
tpd	tons per day
Ug/m ³	micrograms per cubic meter
ULEV	Ultra low emission vehicle
ULSD	Ultra low sulfur diesel
USC	United States Code
UV	Ultraviolet
VMT	Vehicle miles traveled (usually per <i>day</i> , in a defined area)
VTA	Santa Clara Valley Transportation Authority
ZEV	Zero Emission Vehicle

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

TO: Chairperson Haggerty and Members of the Board of Directors
 FROM: Mary Romaidis, Clerk of the Boards
 DATE: April 14, 2004
 RE: Quarterly Report of the Clerk of the Boards: January 1 – March 31, 2004

RECOMMENDED ACTION

This report is provided for information only.

DISCUSSION

Listed below is the status of minutes for the Board of Directors and Advisory Council and activities of the Hearing Board for the first quarter of 2004:

Board of Directors

<u>Meeting Type</u>	<u>Meeting Date</u>	<u>Status of Minutes</u>
Regular Meeting	January 7	Approved
Regular Meeting	January 21	Approved
Regular Meeting	February 18	Approved
Regular Meeting	March 3	Approved
Budget & Finance Committee	February 25	Minutes Completed/Pending Approval
Personnel Committee	March 4	Minutes Completed/Pending Approval
Executive Committee	March 29	Minutes Completed/Pending Approval
Public Outreach Committee	February 9	Approved
Mobile Source Committee	January 8	Approved
Mobile Source Committee	February 26	Approved
Stationary Source Committee	January 26	Approved
Stationary Source Committee	March 22	Minutes Completed/Pending Approval
Legislative Committee	January 14	Approved
Legislative Committee	March 17	Minutes Completed/Pending Approval

Advisory Council

<u>Meeting Type</u>	<u>Meeting Date</u>	<u>Status of Minutes</u>
Regular Meeting/Retreat	January 14	Approved
Regular Meeting	March 10	Minutes Completed/Pending Approval
Air Quality Planning Committee	February 3	Approved
Executive Committee	March 10	Minutes Completed/Pending Approval
Technical Committee	February 24	Approved
Public Health Committee	February 23	Approved
Public Health Committee	March 10	Minutes Completed/Pending Approval

The Advisory Council Applicant Selection Working Group met on February 23 to conduct interviews for a vacancy in the Architect Category.

Hearing Board

1. During the Period January – March 2004, the Clerk’s Office processed and filed five Applications for Variance and two Appeals.
2. The Clerk of the Boards staff attended and took minutes at a total of 13 hearings and other discussions at the District facility.
3. On March 23, 2004, the Deputy Clerk of the Boards provided training to six new inspectors from the Compliance and Enforcement Division on the Variance Procedure and other Hearing Board matters.
4. On March 29, 2004, the Hearing Board presented its Quarterly Report (October –December 2003) to the Board Executive Committee.
5. A total of \$1,765.50 was collected in excess emission fees.
6. The Administrative Record for one of the Hearing Board’s cases was prepared.

Respectfully submitted,

Mary Romaidis
Clerk of the Boards

FORWARDED _____

MR:hl
4/12/04
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BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and Members
of the Board of Directors

From: Jack Broadbent,
Executive Officer/APCO

Date: April 13, 2004

Re: Referral of Proposed Fiscal Year 2004/2005 Budget to the Budget &
and Finance Committee

RECOMMENDED ACTION

Refer proposed District Budget for Fiscal Year 2004/2005 to the Budget and Finance Committee for review and consideration.

DISCUSSION

Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures and in compliance with Health and Safety Code Section 40276, the Executive Officer/APCO requests that the Board of Directors refer the proposed budget for Fiscal Year 2004/2005 to the Budget and Finance Committee for review and consideration.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The proposed consolidated budget for Fiscal Year 2004/2005 is \$52,654,722.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Wayne Tanaka

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 14, 2004

Re: Report of the Mobile Source Committee Meeting of April 8, 2004

RECOMMENDED ACTIONS

The Committee recommends approval of the Transportation Fund for Clean Air Report on FY 2003/2004 Allocation and Effectiveness.

DISCUSSION

The Mobile Source Committee met Thursday, April 14, 2004. Chairperson Shelia Young will give a summary of the meeting. The attached staff reports were to the Committee.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 14, 2004

Re: Report of the Personnel Committee Meeting of April 14, 2004

RECOMMENDED ACTION:

The Committee recommends the reappointment of Thomas Dailey as the regular member for the Medical Profession category, the reappointment of Christian Colline as the regular member for the Registered Professional Engineer category, and the appointment of Jeffery Raines as the alternate member for the Registered Professional Engineer category to the District Hearing Board. Each appointment is for a 3-year term of office.

BACKGROUND:

Pursuant to Section 40800 of the California Health and Safety Code the District is required to maintain a Hearing Board consisting of five members. Further, section 40801 requires that one of the Hearing Board members is from the medical profession whose specialized skills, training, or interests are in the fields of environmental medicine, community medicine, or occupational/toxicologic medicine and that one is a professional engineer registered as such pursuant to the Professional Engineers Act. Section 40800 allows the District to appoint one alternate for each member of the Hearing Board with the same qualifications specified in Section 40801.

DISCUSSION:

The Personnel Committee met April 14, 2004 to conduct interviews of candidates to fill the regular Medical Profession position, the regular Professional Engineer position, and the alternate Professional Engineer position on the District's Hearing Board for recommendations to the full Board of Directors. Based on the Committee's review of each candidate's background and responses to interview questions, the Personnel Committee is recommending to the full Board of Directors that Thomas Dailey, Christian Colline, and Jeffery Raines, respectively, be selected for these positions. The recommended selections are from a pool of 3 candidates for the Medical Profession position and 5 candidates for the Professional Engineer regular and alternate positions.

BUDGET CONSIDERATION/FINANCIAL IMPACTS:

None.

Respectfully submitted,

Jack Broadbent

Executive Officer/APCO

Prepared by: Michael K. Rich

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Haggerty and
Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 14, 2004

Re: First of two Public Hearings to Adopt Proposed Amendments to Regulation 3: Fees

RECOMMENDED ACTION

Staff recommend that the Board hold the first of two Public Hearings to adopt proposed amendments to District Regulation 3: Fees, and continue the public hearing on the proposed amendments as required by California law until June 2, 2004. At the June 2 hearing, staff will recommend that the Board adopt the amendments and authorize the filing of a CEQA Notice of Exemption.

SUMMARY OF PROPOSAL

The District is continuing an annual process of realigning fees more closely with the District's costs of the related program activities as recommended in the Cost Recovery Study prepared by KPMG for the District in 1999. The proposed amendments for FY 2004-2005 would increase the District's overall fee revenue by an estimated 8.5 percent, or \$1.55 million, as compared to the current fiscal year.

District staff propose that all fees, with the exception of Title V fees, be increased by 1.9 percent, which corresponds to the increase in the Consumer Price Index (CPI) that occurred in the Bay Area from 2002 to 2003. The CPI adjustment would generate an additional estimated \$327,500 in fee revenue.

A new processing fee for the annual renewal of permits to operate is also proposed. The processing fee would range from \$50 to \$500 depending on the number of permitted sources at the facility. For about three-quarters of the District-permitted facilities in the Bay Area, which have only one permitted source, the processing fee would be \$50. The new processing fee would generate an additional estimated \$673,000 in fee revenue.

Proposed changes in annual Title V fees, which apply to about 100 facilities with Major Facility Review (MFR) or Synthetic Minor permits, would increase Title V fee revenue by about 50 percent. This relatively large increase in Title V fees is being proposed because the estimated

costs of this program significantly exceed the revenue currently generated. The proposed increases in Title V fees would generate an additional estimated \$550,000 in fee revenue.

The District is also proposing several additional miscellaneous amendments to the District's fee regulation that are believed to be appropriate. The proposed effective date of the amendments to the District's fee regulation is July 1, 2004.

BACKGROUND

The 1999 KPMG Cost Recovery Study indicated that District fee revenue was well below actual program costs. The costs of regulatory activities that are not recovered by fees are paid for by county property taxes and, where these county revenues are not adequate, by the District's fund balance. For the past five years, the District has followed the recommendations of the KPMG Study by making regular annual increases to fees at the start of each fiscal year. In the first of those years, FY 1999-2000, fees were increased by 15 percent (12 percent general fee increase plus a 3 percent CPI adjustment) in order to bring fee revenue closer to actual program costs. In each of the following four years, fees were increased using a CPI adjustment to keep pace with inflation.

On February 26, 2004, the District issued a notice for a public workshop to discuss with interested parties an initial proposal to increase District fees for the upcoming FY 2004-2005. The workshop was held on March 19, 2004. The District staff's initial proposal was to increase all fees, with the exception of Title V fees, using the 1.9 percent CPI adjustment. For Title V fees, the initial proposal was for a 20 percent increase in annual Title V fees.

District staff provided a summary of the proposed fee amendments to the Board's Stationary Source Committee on March 22, 2004. The Committee expressed concern that the increase in permit fee revenue that would result from the District staff's initial proposal would leave a large gap between revenue collected and the District's costs of regulatory activities related to permitted sources, and recommended that staff consider adjusting permit fees to further narrow this gap. Based on this input, District staff revised the proposed amendments to include a larger increase in Title V fees and the new processing fee for renewal of permits to operate. Notice of the revised proposal was provided to all current permit holders and all persons on the District's Interested Parties list in a Workshop Notice dated April 2, 2004. The workshop to discuss the District's revised fee proposal is scheduled for April 23, 2004.

Under California Health and Safety Code section 41512.5, amendments to fees for non-permitted sources require two public hearings that are held at least 30 days apart from one another. This provision applies to Schedule L: Asbestos Operations, and Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks. Also, if any changes are made to a proposed regulation after public notice, "so substantial as to significantly affect the meaning of the proposed rule or regulation," California Health and Safety Code section 40726, requires the Board continue the public hearing and allow further testimony until at least the next regular meeting. In order to satisfy both these requirements, and to have the proposed amendments be effective at the beginning of the upcoming FY 2004-2005, the Board must continue the public hearing until June 2, 2004, and may adopt the amendments and all fee schedules at that time.

Any further revisions to the District staff proposal deemed necessary based on public comments received would be made well in advance of the second public hearing.

DISCUSSION

Two categories of permit fees currently account for 90 percent of the District's overall fee revenue. Operating and New and Modified Permit Fees, which apply to a wide variety of facilities including gas stations, dry cleaners, petroleum refineries, and power plants, account for 84 percent of overall fee revenue. Title V fees, which are additional permit fees that apply to approximately 100 of the largest emitting facilities in the Bay Area, account for six percent of overall revenue.

The revenue from permit fees does not, however, fully cover the District's costs of regulatory activities related to permitted sources. On a percentage basis, the greatest gap between permit fee revenue and program costs exists for Title V fees. For example, the District's costs of Title V program activities for FY 2002-2003, including program overhead costs, were about \$2.3 million, while Title V revenue for that period was \$1.0 million, representing about 43 percent of full cost recovery for this fee category. The District's proposed fee amendments would increase Title V revenue to about 65 percent of full cost recovery for the category.

Based on the current fee schedules, it is estimated that overall permit fee revenue for FY 2004-2005 would cover 79 percent of the estimated District costs of regulatory activities associated with permitted sources, representing a shortfall of about \$4.4 million. The proposed permit fee increases would reduce this shortfall to about \$2.9 million, which represents 86 percent of full cost recovery. If the District should experience a significant unexpected financial occurrence during FY 2004-2005, the entire remaining shortfall could be recovered in FY 2005-2006 through a subsequent increase in permit fees. The District plans on having an updated cost recovery study completed during the next fiscal year and have included funding in the proposed budget for this purpose.

The California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., and the CEQA Guidelines, 14 CCR 15000 et seq., require a government agency that undertakes or approves a discretionary project to prepare documentation addressing the potential impacts of that project on all environmental media. The District's proposed fee increase is statutorily exempt from the requirements of the California Environmental Quality Act as stated in CEQA Guidelines Section 15273: "CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies....." *See also* Public Resources Code Section 21080(b)(8).

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian Bateman

Reviewed by: Peter Hess

Attachments:

1. Proposed Amendments to Regulation 3: Fees.
2. Staff Report for Amendments to Regulation 3: Fees