Action Summary Minutes
San Joaquin Valley Unified Air Pollution Control District

ENVIRONMENTAL JUSTICE ADVISORY GROUP (EJAG)

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

Monday, November 16, 2009
5:30 p.m.

The Environmental Justice Advisory Group Meeting was held via video teleconference (VTC): Central Region Office, Governing Board Room, 1990 E. Gettysburg Avenue, Fresno, the Southern Region Office, VTC Room, 34946 Flyover Court, Bakersfield and the Northern Region Office, VTC Room, 4800 Enterprise Way, Modesto

1. CALL TO ORDER – The meeting was called to order at 5:44 p.m.

2. ROLL CALL – was taken and a quorum was present to hold a meeting:

County	Member Name/Interest Group	Location
Fresno	Lourdes Medina, At-large Rep.	Central
Stanislaus	Rosenda Mataka, At-large Rep.	North
San Joaquin	Fabian Ceballos, Ethnic, SB Owner	North
San Joaquin	Jeremy Terhune, At-large Rep.	Central
Merced	Melissa J. Kelly-Ortega, At-large Rep.	Central
Madera	Catherine Garoupa, At-large Rep.	Central
Fresno	Riley Jones, CAC	Central
Kern	Linda MacKay, At-large Rep.	South

Staff present in Central Region Office (Fresno) – Rick McVaigh, Deputy APCO; Scott Nester, Planning Director; Maricela Velasquez, Senior Public Information Representative; Claudia Encinas, Bilingual Public Information Representative; Jaime Holt, Chief Communications Officer.

Staff present in Southern Region Office (Bakersfield) – Brenda Turner, Air Quality Education Representative.

Staff present in Northern Region Office (Modesto) – Theresa Hayward, Senior Office Assistant; Karen Morris, Administrative Analyst.

Members of the public present – Derek Williams, John Mataka.

3. APPROVE MINUTES OF MONDAY, OCTOBER 19, 2009 – Mr. Jones clarified his comment regarding prisons – page 3, item #7, third paragraph, first sentence.

Ms. Medina asked if he would like to strike this comment, to which Mr. Jones stated he simply wanted to know if the prisons were included, since they were included in the census.

Mr. Jones then referred to page 4, third paragraph – "Ms. Medina recommended that this item be placed on the next agenda, in order to be provided with an update on this matter." He stated her comment was in reference to the progress of the request for fee waiver, for which there is a committee formed. He further stated that it is listed as item #6, an action item, to finalize and submit written recommendation to the CAC concerning EJ public records request fee waiver. He pointed out the agenda item and the minutes are in conflict. Ms. Holt stated she had talked directly to the APCO about this matter. Further, she explained the District desired direction from EJAG of what EJAG would like the written recommendation to look like, which could be accomplished through a verbal discussion. Ms. Medina asked Mr. Jones if he was recommending this item be listed as an ad-hoc committee report, rather than an action item. To which Mr. Jones indicated that he was recommending that it not be an action item. Additionally, Mr. Jones indicated that the suggestion from the last meeting be followed, which was that this be placed on the next agenda, in order for EJAG to be provided with an update. He also stated he thought EJAG would receive some type of form for a fee waiver application at this meeting and the committee would provide feedback and comments.

Ms. Medina asked if there were any other comments regarding the minutes and if not, if there was a motion to accept the minutes as amended. Mr. Jones moved the minutes be approved as correct.

Moved:	Jones
Seconded:	Terhune
Ayes:	Kelly-Ortega, MacKay, Medina,
Nays:	None
Abstain:	Garoupa, Mataka, Ceballos

Motion passes 5-0, with 3 abstention, to approve the Minutes of the October 19, 2009 EJAG meeting with the requested corrections.

4. PUBLIC COMMENTS (FIRST OPPORTUNITY) – None.

5. CHAIR COMMENTS – Ms. Medina welcomed Mr. Ceballos to the Board, and also welcomed back Ms. Mataka.

11. RULES UNDER DEVELOPMENT – (This item was requested to be moved up on the agenda) Mr. Nester, Director of Planning, provided an overview for October 2009 updates. The first 4 items on the list dated November 13, 2009 will go to the Governing Board on December 17, 2009: Rule 2301 (Emission Reduction Credit Banking); Rule 9410 (Employer Based Trip Reduction), which is expected

to achieve 1/3 ton a day of NOX and 1/3 ton a day of VOC emission reductions; Rule 4308 (Boilers, Steam Generators and Process Heaters), applies to the smallest of commercial and industrial types of boilers and water heaters, and it is expected to result in the reduction of 2.8 tons of NOX per day; and Rule 4601 (Architectural Coatings), which the District is recommending lower VOC content limits of several coatings (house paint and industrial maintenance type paint), resulting in approximately 2.1 tons per day of VOC emission reductions. Rule 4103 (Open Burning) is an implementation of a state law that requires a phase down of open burning in agricultural operations. The District is expecting it to achieve about 2 tons per day of NOX and about 2 ½ tons of PM10 and about ½ ton of Sulfur Dioxide. Currently, the District is looking at alternatives for the burning of surface harvested orchard crops, surface harvested prunings and vineyard removal type operations. Rule 4653 (Adhesives) will be scheduled for a scoping meeting in December. This rule is updated occasionally to keep up with technology. The District is estimating about 1/10 of a ton per day of VOC emission reductions. Rule 4905 (Natural Gas-Fired, Fan-Type Residential Central Furnace) will be a point of sale rule – requiring replacement units to be the lowest NOX units that are currently and technologically available. The District is still in the process of calculating the NOX emission reductions. The first workshop for this Rule is planned for December 2009, and it will be taken to the Governing Board in the second quarter of 2010. Rule 4566 (Organic Waste Operations) field study is looking at emission reductions from organic waste operations, also called Green Waste Composting. The District will resume with the Rule development process in the first quarter of 2010 and may take this Rule before the Governing Board in the 4^{th} quarter of 2010. Rule 4570 (Confined Animal Facilities) is basically some amendments that are intended to tighten the emission controls for confined animal facilities. The District is looking at a significant amount of emission reductions from these facilities in addition to what has already been achieved. The first workshop will be in the December/January timeframe will be taken to the Governing Board in the second quarter of 2010. Mr. Nester advised that a couple of things that will show up on the list next month is: 1) another Rule amendment for Rule 4702 (Internal Combustion Engines); and 2) an update for the Ozone Plan, called the “Mid-Course Review for Ozone.” Those two items will be taken to the Governing Board sometime next year.

Referencing Rule 9410 (Employer Based Trip Reduction) survey, Ms. Kelly-Ortega inquired if the District still wanted a 90 percent compliance rate. Mr. Nester explained the word “survey” caused a misperception; therefore, the term has been changed to “Commute Verification Form,” which requires the employer to distribute these forms and collect them among all of their eligible employees. He further explained if an employer has trouble with that process, the employer may propose a representative sampling method for the same purpose, thereby still providing the District with the information as to how their employees are commuting to and from work.

Ms. Kelly-Ortega asked if EJAG would be informed of the real-time air advisory network project and asked if there would be a public hearing addressing the project. Mr. McVaigh stated it would be possible to have Dr. Lighthall come to the next meeting or the one after and provide an update regarding what is being done now and what is being proposed. Ms. Kelly-Ortega suggested this item be placed on the next agenda.

Regarding Rule 9410, Ms. Medina asked if the District has received any feedback from the bilingual community. Mr. Nester explained the materials are available in different languages, including Spanish, Hmong, and Punjabi. He also explained the District is working with industry groups in order to provide clarification on certain aspects of the Rule, as well as adjusting the Rule in order for the industry groups to tailor the strategies to fit their needs.

Ms. Medina stated the radio station where she is employed held a talk show, "Check Before You Burn," where listeners called in and commented on the annual residential fireplace program. One caller expressed concern regarding the restrictions of the program, due to the Rule not applying to industry.
Mr. McVaigh explained the requirements for agricultural burning are more stringent than fireplace burning; however, there were some days when fireplace burning was prohibited in specific areas where agricultural burns were not prohibited. Due to feedback received from a variety of sources, the District has changed this policy, so when fireplace burning is prohibited agricultural burning is also prohibited.

Ms. Garoupa requested clarification on Rule 4570 (Confined Animal Facilities), asking if the reductions are coming from the amendments to the Rule, the whole Rule or the Ozone Plan. Mr. Nester advised the reductions were from the amendments to the Rule, to which Ms. Garoupa confirmed that would result in 23 tons in addition to the tons that the original Rule already produced.

Ms. Mataka asked if there was an estimated amount of reductions expected by Rule 2301 (Emission Banking). Mr. McVaigh stated he does not believe so, because it is unknown how many people will take advantage of the voluntary basis of the Rule. He stated when somebody wants to voluntarily do a project that would reduce green house gases, the District will come up with a mechanism to bank those reductions, so those can be used to offset potential increases in greenhouse gases. It is believed if people receive carbon credits locally then they also will be reducing criteria pollutants at the same time.

Ms. Mataka also asked if Rule 4103 (open burning) will phase out all agricultural burning. Mr. McVaigh explained some things will still be burned, such as diseased crops, but it is anticipated that about 90 percent of the orchard burning would be eliminated in the Valley. He also stated most of agricultural waste is now chipped and goes to biomass plants.

6. ACTION ITEM: FINALIZE AND SUBMIT WRITTEN RECOMMENDATION TO CAC CONCERNING ENVIRONMENTAL JUSTICE PUBLIC RECORDS REQUEST FEE WAIVER – Ms. Medina stated this will be moved to a committee report instead of an action report, in order to clarify the language and have a discussion on the issue. She stressed there existed the need for a fee waiver, specifically for EJ groups and communities. She also stated that per her notes, a fee waiver application was to be signed by staff and members of the EJ subcommittee, and the appeal process would be a written request to the EJAG committee or EJAG sub-committee.

Ms. Holt expressed that the thought process was to minimize the amount of time the ad-hoc committee would have to spend on this issue. She also stated that the current Public Records Request allows no room for additional items; therefore, if EJAG wanted a new form developed, which would explain the steps involved for a fee waiver, the District could do that.

Mr. Jones agreed with Ms. Holt that the form should not be cumbersome. He also read an email he wrote concerning the fee waiver process. Mr. Jones then explained if somebody applied for a fee waiver and was denied, that person would have the opportunity to present his or her side to EJAG, then EJAG could hear Staff’s side regarding the reason for denial. If, at that time, EJAG agreed with the Staff’s assessment, the appeal would end; if EJAG disagreed with the Staff’s assessment, it was Mr. Jones’ assumption that EJAG could then make a recommendation to the CAC to allow the fee waiver. Mr. Jones also expressed doubt whether a response time limit should be placed on the APCO.

Mr. McVaigh stated if somebody does want the right of appeal, they can appeal to EJAG and then EJAG could make their recommendation to the APCO, which is how some appeals have been informally approved in the past. He stated the appeal would not necessarily need to involve the CAC; however, the CAC could review the fee waiver process.

Mr. McVaigh explained that the District records are all public records. The fee applies to individuals who want copies of requested records, and it is a waiver for this process that would be considered; but it should be noted that the public can review information currently.

Ms. Holt asked for feedback regarding what information EJAG would like to see on the form, information such as - name, organization (if applicable), contact info, maybe some type of reasoning or justification for the request, etc. Ms. Mataka suggested keeping the form simple. Mr. Jones stated the form can be simplified and handled on a case by case basis and include the person’s name, the organization, if they are a member of an organization, whether the organization is non-profit, and the reason for the request.

Ms. Medina suggested that this should be moved to an action item for the next meeting. Ms. Holt stated that due to the feedback from the group, Mr. Jones' breakdown of the appeal process and the comments that were made in regards to the format and content of the fee waiver, unless the committee needs to change something, it was not necessary for staff to get additional direction from the committee.

7. AD-HOC COMMITTEE REPORTS

A. REVIEW OF DISTRICT'S EJ MAP – Ms. Kelly-Ortega provided an overview of a memo that was handed out, detailing the formal recommendation of the ad-hoc committee, as well a summary of the mapping project. Ms. MacKay indicated it is the desire of the committee for the District to use the new criteria to identify EJ communities.

Mr. McVaigh relayed the APCO felt for those items he specifically requested EJAG to work on, it was alright for EJAG to send the completed project to him rather than to the CAC. In this case, if EJAG wanted to finalize their recommendation concerning the review of the District's EJ Map, it could be forwarded directly to the APCO.

EJAG members discussed population criteria. After discussion, Ms. Kelly-Ortega asked if the EJAG Board would like to review the memorandum prior to submittal to the APCO or if the mapping ad-hoc committee should just review the final version. Ms. Garoupa requested to receive a copy of the final product, in order to review what was submitted, and then motion was made by Mr. Terhune to approve the recommendations by the ad-hoc mapping committee, per the amendments discussed.

Moved:	Terhune
Seconded:	MacKay
Ayes:	Medina, Garoupa, Kelly-Ortega, Mataka, Jones, Ceballos,
Nays:	None
Abstain:	None

Motion passes 8-0, with 0 abstentions, to submit ad-hoc mapping committee formal recommendation, with the discussed amendments included, to the APCO.

B. OUTREACH MATERIALS – Nothing to report at this time. Committee will be requesting (via email) input regarding the sketch that has been created thus far.

C. PASS OUTREACH – Due to employee illness and lack of timing, Ms Medina stated she has not yet met with the Air District; however, she has received direct input from friends, family and radio listeners regarding the PASS program, and thus far the feedback has been positive.

8. ACTION ITEM: CONSIDER PROGRESS BY AD-HOC COMMITTEES AND NEED FOR FURTHER WORK BY AD-HOC COMMITTEE AND PROVIDE DIRECTION – This action item was to review the current ad-hoc committees that had been formed, to determine if they should continue or if the Chair needed to provide direction. Ms. Kelly-Ortega stated she was very interested in the "provide direction" part of this item and also the part regarding asking for direction from District Staff. She questioned if there was a project that EJAG needed to do. Ms. Garoupa asked if EJAG goals should be discussed at this time or placed on the agenda for the next meeting. Ms. Holt suggested waiting until after the evaluation process. She also expressed the APCO is positive about the evaluation process and its direction. Mr. Terhune stated he thought goal setting should take place after an evaluation opposed to a month before one, in order to prioritize and reflect upon the District's report; he, therefore, proposed to place this item on the January agenda. Ms. MacKay and Ms. Mataka agreed.

   Ms. Velasquez suggested the Chair request EJAG members assist with the outreach materials subcommittee, in order to move forward on this item. Ms. Medina agreed it would be helpful to have assistance from other members.

9. ACTION ITEM: RESCHEDULE JANUARY & FEBRUARY 2010 MEETING DATES DUE TO HOLIDAYS – Ms. Medina indicated the January and February 2010 meeting dates would need to be changed, due to holidays. It was suggested EJAG meet on the second Monday of the month for both months – January 11 at 5:30 p.m. and February 8 at 11:00 a.m. It was then discussed whether to continue with the alternate schedule or if it would be more convenient for the public to hold the meetings only during the evenings. After the discussion, the Chair recommended that for the next 6 months the meetings start at 4:30 p.m. and requested the District check on the room availability. Ms. Holt confirmed, if available (at 4:30 p.m.), EJAG would like to meet on January 11 and February 8.

10. DISCUSSION ITEM: RECEIVE COMMENTS FROM EJAG MEMBERS COMPILED BY MELISSA KELLY-ORTEGA ON EVALUATION REPORT – Ms. Kelly-Ortega explained it is still a work in progress and she requested input from the board members.

12. PUBLIC COMMENTS (SECOND OPPORTUNITY) – *The following persons provided testimony during the Public Comments portion of the meeting:*
    - Derek Williams

13. EJAG MEMBER COMMENTS – Ms. Kelly-Ortega requested that Dr. David Lighthall attend the next meeting and provide an educational piece on the real-time air advisory network project. Ms. Garoupa requested an update about some of the different monitors, for instance there is one that is suppose to go in at Madera, and she was curious as to what the status of those are. Mr. McVaigh

stated there has been some issues surrounding power problems in Madera; while, on the other hand, the one in Merced is up and running. He agreed it would be a good time for an update and the item could be placed on the agenda. Ms. Medina stated it was noted by Ms. Garoupa that EJAG's bylaws still say Draft on them and requested this be addressed and placed on the agenda, in order to receive and update regarding the bylaws.

14. EJAG MEMBER SUGGESTIONS TO BE INCLUDED IN THE PRESENTATION OF THE EJAG REPORT DURING THE CAC MEETING ON TUESDAY, DECEMBER 1, 2009 – Ms. Medina requested Ms. MacKay include a thank you for those CAC members who reached out to EJAG members, since she did stress in the past meeting the need for better communication between EJAG and the CAC.

15. VOLUNTEER TO PRESENT EJAG REPORT DURING CAC MEETING, TUESDAY, DECEMBER 1, 2009 AT 10:00 A.M. – Linda MacKay volunteered.

ADJOURN

Meeting adjourned at 7:38 p.m.

NEXT MEETING – The next EJAG meeting is scheduled on Monday, December 21, 2009 at 11:00 a.m. Meeting held via video teleconference (VTC), with the Central Region Office (Fresno), the Northern Region Office (Modesto) and the Southern Region Office (Bakersfield) participating.