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, January 11, 2010
4:30 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 4:35 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
Kings	Riley Jones, CAC	Central
Fresno	*Kevin Hamilton, CAC	Central
Stanislaus	Rosenda Mataka, At-large Rep.	North
San Joaquin	**Fabian Ceballos, Business Owner	North
San Joaquin	Jeremy Terhune, At-large Rep.	North
Merced	Melissa Kelly-Ortega, At-large Rep.	North
Kings	***Andre Booker, At-large Rep.	Central
Kern	Linda MacKay, At-large Rep.	South

*Arrived at 5:00 p.m.
**Arrived at 4:40 p.m.
***Arrived at 5:10 p.m.

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, Public Information Representative

Staff present in Northern Region Office (Modesto) – Anthony Presto, Public Information Representative

Members of the public present – Derek Williams

3. <u>APPROVE MINUTES OF MONDAY, December 21, 2009</u> – Ms. Kelly-Ortega requested the minutes be amended to reflect her concerns regarding the RAAN project (item #10, page 5 and 6 of the December 21, 2009 EJAG Action Summary Minutes). She stated she had expressed concerns about the extensive outreach and the fact that Dr. Lee Anderson, Superintendant of the Merced County Office of Education, had not been contacted.

The following paragraph was removed from the top of page 6 of the December 21, 2009 Action Summary Minutes – "Ms. Kelly-Ortega stated that "real-time air quality monitoring" provides information that is actually an hour delayed. Dr. Lighthall interjected that the hour delay problem has been solved and it is actually only going to be about a 10-minute delay." The paragraph was replaced with the following:

> Ms. Kelly-Ortega stated that her comments may be seen as a personal issue with the Air Quality Flag program or a personal investment due to her working with the Asthma Coalition. However, she will no longer be working with the Asthma Coalition after December 31, 2009 and her statements are from the perspective of a mother and former school teacher at a small school.
>
> Ms. Kelly-Ortega said she understood the reasoning behind the RAAN program, but "real-time air quality monitoring" is actually an hour delayed. The idea that schools and teachers, who have an amazing amount of responsibility, have access throughout the day to monitor information that is an hour behind is unrealistic. At this time, Dr. Lighthall interjected, stating that the hour delay problem has been resolved and it is now actually only going to be about a 10-minute delay.
>
> Ms. Kelly-Ortega continued, stating that there is a more protective standard coming down the pipe, resulting in more days that children will be inside, and she referred to the high rate of obesity that exists in the San Joaquin Valley. Regarding "complementing" the current flag program, she expressed concern and stated that Dr. Lee Anderson, with the Merced County Office of Education, has a lot of concerns. Ms. Kelly-Ortega recommended making the forecast stronger and more protective, stating if the forecast is more protective from the very beginning, resulting in families skipping sporting events and children not being able to go out and play, the healthy air living campaign is "going to kick into high gear" and people will start changing their habits. She stated she understands the flexibility that schools and school teams want to have; however, she feels there may be a better, more compatible way to provide that for schools, teachers, and families.

Mr. Terhune moved for the minutes to be accepted with the amendments.
Ms. MacKay seconded.

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

Motion passes 6-0, with 0 abstention, to approve the Minutes of the December 21, 2009 EJAG meeting with the requested amendments.

4. <u>PUBLIC COMMENTS (FIRST OPPORTUNITY)</u> – None.

5. <u>CHAIR COMMENTS</u> – Ms. Medina stated she was unable to attend the CAC meeting on January 5, 2010. She advised this would be her last meeting, as she was resigning as Chair. Ms. Medina stated she has learned a lot and hopes to continue to be an asset for EJAG and the District in future endeavors.

   Mr. Ceballos arrived at 4:40 p.m.

6. <u>APCO/DEPUTY APCO COMMENTS</u> – Mr. McVaigh thanked Ms. Medina for her contribution and expressed the District's desire for her to participate in the future any way she is able to.

   Mr. McVaigh provided an overview of items presented to the Governing Board during the December meeting (on December 17, 2009). He advised Rule 9410 (Employer Trip Reduction) was adopted and as a result, employers with over 100 employees would be required to register with the District by June 30, 2010. The District's small business assistance staff will assist businesses in the process of setting up employee trip-reduction programs.

   The Governing Board also adopted the District's CEQA Strategy to address greenhouse gas emissions from new projects in the San Joaquin Valley. Mr. McVaigh explained that under the strategy, businesses will implement best practices to reduce greenhouse gas emissions. He also expressed that this will result in a 29 percent reduction in greenhouse gas emissions from business as usual, which is consistent with AB32 requirements, California's major initiative aimed at reducing greenhouse gas emissions, created to prevent an increase in global warming through 2020.

   Mr. McVaigh said the Governing Board also adopted two other rules: Rule 4308 (Boilers, Steam Generators, and Process Heaters – 0.075 to less than 2.0 MMBtu/hr) and 4601 (Architectural Coatings). Each of these rules resulted in over two tons per day of emission reductions.

   Mr. McVaigh advised the District Regional Efficiency Strategy will be presented during the January Governing Board meeting. He stated the District has developed a variety of specific measures to help organizations in the San Joaquin Valley, as well as residents, with energy-efficiencies programs and energy-efficiency grant funding. Mr. McVaigh explained better energy efficiency results in lower emissions from power plants and other sources of emissions.

Ms. Kelly-Ortega asked if the District was going to facilitate programs or work with different cities and organizations on finding grant funding. Mr. McVaigh stated the District would be doing both. He explained that the District is helping some of the Valley's cities and counties apply for grants funded under the American Resource and Recovery Act, which totals approximately $10 million. Mr. McVaigh explained the District is hoping to get involved in such projects as replacing some of the older street lights with new, more energy-efficient, LED street lighting.

11. <u>RULES UNDER DEVELOPMENT</u> (It was requested by the presenter that this item be moved up on the agenda) Mr. Nester provided a summary of rule updates for January and February, per the information sheet provided with the EJAG agenda.

Rule 4653 (Adhesives) – workshop will probably occur in early February; Rule 4566 (Green Waste Composting) – workshop probably will be held in February or March; Rule 4570 (Confined Animal Facilities) and Rule 4103 (Open Burning) – these Rules will be taken to the Governing Board in the second quarter of 2010, most likely in June, and the next workshop is scheduled for February; Rule 4702 (Internal Combustion Engine) – first scoping meeting for any amendments will probably be scheduled in March.

Mr. Nester stated another project that will also probably have workshops scheduled in March is the Ozone Mid-Course Review. The District is reviewing measures that have been adopted since the adoption of the 2007 Ozone Plan.

Ms. Medina asked who is invited to attend public workshops. Specifically, regarding Rule 4570 (Confined Animal Facilities), she inquired if only the owners receive invitations or if the employees who work the feed lots and loaders also are notified. Mr. Nester explained the District does send notices to people, including owners and operators who are directly impacted by a specific rule and others who request to receive notice. He also said the District publishes notices in newspapers of upcoming workshops and the public is welcome to attend.

Mr. Hamilton arrived at 5:00 p.m.

7. <u>REVIEW AND PROVIDE COMMENTS ON DRAFT REVISED EJAG BYLAWS</u> – Ms. Medina said EJAG members received a copy of the revised EJAG bylaws. Mr. McVaigh provided an overview of the draft by-laws.

Mr. Booker arrived at 5:10 p.m.

Mr. Jones asked if EJAG members could be re-appointed and if the term was for two years. It was confirmed by Mr. McVaigh that EJAG membership is for two years, and Mr. McVaigh stated at the end of an EJAG member's term, the District would open the position in order for new people to apply, but current members could be re-appointed.

In response to a public comment where it was pointed out that CAC member Chris Savage had requested a change to the language where it is stated "as directed by the Governing Board, communication should go through the CAC," and that Mr. Savage requested the CAC be notified if the Governing Board did give such an instruction, Ms. Medina recommended that section be revised. Mr. McVaigh stated EJAG could consider this change, along with any other suggestions EJAG may have.

One specific provision of the draft by-laws was discussed extensively. The draft states the EJAG chair writes the agenda, and then based on any needs or concerns of the APCO, or to ensure consistency with the EJ strategy, the APCO may revise the agenda. If there was a dispute about what is on the agenda, then it would go to the CAC, and the CAC's decision of what goes on the agenda would be binding.

Ms. Kelly-Ortega asked if there was an issue not being addressed or if there was a situation in which the Chair was not able to bring a matter to the attention of the CAC, could an individual EJAG member bring the matter before the CAC. Mr. McVaigh replied that in most committees, the agenda is proposed by the Chair; therefore, having the Chair take the matter to the CAC seems appropriate.

Mr. Booker asked if this had formerly been in the bylaws, to which Mr. McVaigh stated it had not, and that there was previously no clarification of how this would work. Mr. Booker then stated that theoretically this one statement could limit what EJAG addresses, how it addresses issues/concerns, and what comes out of the committee.

Mr. Hamilton stated he would like to strike the whole section, and if not stricken, it needs to be amended significantly. He stated the agenda could be controlled by the bylaws and the Brown Act. All that needs to be addressed is the seven-day rule and the Brown Act.

Ms. Mackay agreed with Mr. Booker and Mr. Hamilton regarding striking this part of the bylaws.

Ms. Mataka said that during the last meeting, there was a recommendation for a change in the bylaws regarding the structure of the membership of the EJAG board – one was to eliminate the two vacant ethnic-business owner seats and the other was to reduce the number of at-large members from eight to six. She requested verification that these two changes are not being posed in the bylaws. Mr. McVaigh stated that since the actual membership was included in the EJ Strategy, it was not included in the bylaws. The strategy currently says that there are 13 total members and that would still be the number of members, even if these bylaws were adopted. However, when the Board considers the APCO's recommendations, replacing the vacant small business position with a CAC member would still be considered.

Mr. Hamilton stated it was his impression regarding item 7, the APCO was looking for some proposed language or changes, something constructive, that EJAG could provide. Mr. Hamilton suggested language replacing that section to indicate the EJAG Chair be given primary responsibility to prepare a proposed agenda for each EJAG meeting with input from EJAG members, CAC members, District staff, and members of the public. He also suggested simply stating the agenda shall conform to the Brown Act, EJ strategies and other applicable requirements.

At the request of the Chair, Mr. Hamilton restated his recommendation, "The agenda shall conform to the Brown Act, EJAG strategies and other applicable requirements," and strike the language starting with "APCO officer may revise," and ending with "action with the CAC shall be binding on the APCO," and replace it with the language suggested. Mr. Hamilton motioned to tentatively approve the rest of bylaws with this proviso.

Mr. Hamilton then motioned to tentatively approve the draft revised EJAG bylaws with the condition that item #3 and item #7 be amended as stated.

Public comment: The following persons provided testimony on this item:

- Derek Williams

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

Motion passes 9-0, with 0 abstention, to approve the EJAG bylaws with the requested amendments.

Break 5:40; return at 5:45

8. DEVELOP DRAFT GOALS AND OBJECTIVES FOR 2010 AND THE RELATED ACTION PLAN – IN ANTICIPATION OF THE CHANGES BEING PROPOSED BY THE APCO TO THE EJAG BYLAWS AND THE DISTRICT'S ENVIRONMENTAL JUSTICE STRATEGY, THE EJAG MAY BEGIN THE DEVELOPMENT OF GOALS AND OBJECTIVES AND THE RELATED ACTION PLAN FOR CALENDAR YEAR 2010 – Ms. Kelly-Ortega suggested an ad-hoc committee could be formed with the purpose of developing goals and objectives for 2010, and meet prior to the next scheduled EJAG meeting, in order to present a completed draft.

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

Motion passes 9-0, with 0 abstentions, to form an ad-hoc committee to develop goals and objectives for 2010. Ad-hoc committee members are: Booker, Terhune, MacKay, Hamilton, and Kelly-Ortega (Chair). Members will be advised of time and date via email.

9. REVIEW AND APPROVE DRAFT POLICY FOR WAIVING COPYING CHARGES FOR PUBLIC RECORDS REQUESTS (EJAG members were provided a copy of the draft policy) – Ms. Kelly-Ortega suggested keeping the required actions, listed on page 2, congruent – a completed copy of the district's public records request form, a written description stating the purpose of the request, identifying any active or pending litigation related to the requested public records, and then a written description of the economic hardship that may result if the request for fee waiver is not granted.

Discussion then ensued regarding the appeal process and defining economic hardship. Mr. Jones brought attention to the absence of an appeal process and stated he was on the committee for this item, and an appeal process was one of the things that came out of that committee. Mr. McVaigh responded that under the current proposal, the APCO would agree to follow the policy. He also indicated that if needed, in the future, this item could be re-addressed by EJAG. Ms. Medina agreed this matter could be reviewed for clarification by EJAG in the future for possible amendments if a situation were to arise. Mr. Hamilton expressed concern about vagueness regarding determining economic hardship, stating the indicators are subjective in nature; as a result, as time goes by, various APCOs may have a different means test for economic hardship. It was intended that EJAG be a "back stop" against that. Additionally, he pointed out some people applying for a waiver may not be able to effectively describe their economic hardship, especially if a language barrier exists.

After further discussion, Mr. Jones indicated one thing to consider is that the APCO is not looking to deny anyone, provided litigation is not involved and the request is not of a ridiculous nature. He suggested the wording concerning economic hardship be changed from "that may result if the request for fee waiver is not granted" to "that would be imposed if the request for fee waiver is not granted."

A motion was then made to accept the draft as presented with the stated language change to item #3.

Moved:	Jones
Seconded:	Booker
Ayes:	Ceballos, Hamilton, Terhune, Kelly-Ortega, Medina
Nays:	Mataka
Abstain:	MacKay

Motion passes 8-1, with 1 abstention, to approve the Draft Policy for Waiving Copying Charges for Public Records Requests with the requested amendment to item #3.

10. ASSIST URS CORP IN IDENTIFYING EJ AREAS ALONG THE HIGH SPEED TRAIN PROJECT AREA FROM FRESNO TO BAKERSFIELD – Ms. Medina requested the minutes reflect the Board had received the letter that was given to the District, and a copy of the letter had been provided to the EJAG members.

    URS Corp requested to be placed on next month's agenda in order to share an informational presentation to EJAG. Ms. MacKay stated she felt this was an important topic and was glad to see it on EJAG's agenda.

12. PUBLIC COMMENTS (SECOND OPPORTUNITY) – None.

13. EJAG MEMBER COMMENTS – Ms. Kelly-Ortega informed everyone that on Saturday, January 30, from 11:00 – 3:30, there will be an AB 32 workshop, a CVAC coalition training opportunity, held at the youth center at the Church of the Presentation, 1515 W. Benjamin Holt Dr., Stockton, CA. She advised the workshop was free and open to the public.

    Ms. Kelly-Ortega asked if EJAG members would be notified of workshop dates regarding the Ozone Plan, as Mr. Nester had indicated during last month's meeting that EJAG members would be placed on a notification list. Mr. McVaigh stated he would make a note of that and that EJAG members would be placed on the notification list.

    Ms. Kelly-Ortega then inquired on the progress concerning EJAG business cards. Ms. Medina stated the committee has only completed the first flier.

Ms. Kelly-Ortega suggested perhaps that is something that EJAG could have by the next meeting or the meeting after that. She also suggested adding drafting the goals and objectives for 2010 to the next month's agenda.

Ms. Holt advised EJAG that the District's bilingual kids 2010 calendars are available.

14. EJAG MEMBERS SUGGESTIONS TO BE INCLUDED IN THE PRESENTATION OF THE EJAG REPORT DURING THE CAC MEETING ON TUESDAY, FEBRUARY 2, 2010 - No suggestions were made.

15. VOLUNTEER TO PRESENT EJAG REPORT DURING CAC MEETING, TUESDAY, FEBRUARY 2, 2010 AT 10:00 A.M. – Ms. Kelly-Ortega was appointed by Ms. Medina to attend the next CAC meeting.

ADJOURN

Meeting adjourned at 6:20 p.m.

NEXT MEETING – The next EJAG meeting is scheduled on Monday, February 8, 2010 at 4:30 p.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.