

Mojave Desert Air Quality Management District
Brad Poiriez, Executive Director
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REGULAR GOVERNING BOARD MEETING
MONDAY, OCTOBER 23, 2023 - 10:00 A.M.
MDAQMD OFFICES, BOARD CHAMBERS
VICTORVILLE, CA

MINUTES

Board Members Present:

Merl Abel, Town of Yucca Valley,
Elizabeth Becerra, City of Victorville
Brigit Bennington, City of Hesperia, *Vice Chair*
Joseph “Joey” DeConinck, City of Blythe – *via teleconference*
Carmen Hernandez, City of Barstow
Kari Leon, Town of Apple Valley, *Chair*
Robert Lovingood, Public Member
Jamie McCorkle, City of Needles – *via teleconference*
Dan Mintz, Sr., City of Twentynine Palms
V. Manuel Perez, Riverside County, 4th District Supervisor - *via teleconference*
Gabriel Reyes, City of Adelanto
Dawn Rowe, San Bernardino County, 3rd District Supervisor – *via teleconference*

Board Members Absent:

Paul Cook, San Bernardino County, 1st District Supervisor

CALL TO ORDER

Chair **KARI LEON** called the meeting to order at 10:01 am and asked Board Member **ELIZABETH BECERRA** to lead the Pledge of Allegiance.

Chair **KARI LEON** called for Roll Call – Deanna Hernandez, Senior Executive Analyst, called roll.

Items with potential Conflict of Interests – If you believe you have a conflict of interest, please recuse yourself at the appropriate time. If you have a question regarding a potential conflict of interest, please contact District Counsel. Chair **KARI LEON** asked if any members wished to

indicate a conflict of interest in regards to any agenda items. No Members did so.

Special Announcements/Presentations:

- A. Brad Poiriez, Executive Director/APCO, recognized Sheri Haggard for her 15 years of service.
- B. Brad Poiriez, Executive Director/APCO, recognized Karen Nowak for her commitment and service to the District upon her retirement.

PUBLIC COMMENT – The public may comment on any item not listed on the agenda. For comments relating to a specific item, please use the public comment card and specify the number of the item on which you wish to speak and submit it to the Clerk.

In compliance with the Brown Act, the Governing Board may not discuss or take action on non-agenda items or engage in question and answer sessions with the public. The Governing Board may ask brief questions for clarification, provide a reference to staff or other reference for factual information and or direct staff to add an item to a subsequent meeting.

Chair **KARI LEON** called for **PUBLIC COMMENT**. No public comment made in person or electronically, so being none, Chair **LEON** moved onto **CLOSED SESSION**.

CLOSED SESSION

Upon motion by Board Member **ROBERT LOVINGOOD**, seconded by Board Member **CARMEN HERNANDEZ**, and carried by the following roll call vote, with eleven **AYES** votes by Board Members, **MERL ABEL, ELIZABETH BECERRA, BRIGIT BENNINGTON, JOSEPH “JOEY” DECONINCK, CARMEN HERNANDEZ, KARI LEON, ROBERT LOVINGOOD, JAMIE MCCORKLE, DANIEL MINTZ, Sr., GABRIEL REYES, and DAWN ROWE** with Board Members **V. MANUEL PEREZ** and **PAUL COOK**, absent, the board entered into **CLOSED SESSION** at 10:11 a.m. Noted for the record, Board Member **V. MANUEL PEREZ** joined Closed Session at 10:18 am.

Agenda Item 1 – CONFRENECE WITH LEGAL COUNSEL – EXISTING LITIGATION (Gov. Code §54956.9(a)) Case: Mojave Desert AQMD v. U.S. Environmental Protection Agency et. al; U.S. Court of Appeals 9th Cir, Case No. 23-1411.

OPEN SESSION - Disclosure of any Reportable Action(s) taken in Closed Session(s); and the Vote and Abstention of Every Member Present in the Closed Session:

The Governing Board entered into **OPEN SESSION** at 10:37 a.m. Karen Nowak, District Counsel, stated for the record that the Governing Board met in Closed Session to discuss Agenda Item #1 with no reportable action.

CONSENT CALENDAR – Chair **KARI LEON** polled the Board to determine if any member wished pull an item on the consent calendar for discussion. No member did so. The following consent items were acted upon by the Board at one time without discussion. Upon motion by Board Member **MERL ABEL**, seconded by Board Member **ELIZABETH BECERRA**, and carried by the following roll call vote, with twelve **AYES** votes by Board Members, **MERL ABEL, ELIZABETH BECERRA, BRIGIT BENNINGTON, JOSEPH “JOEY”**

DECONINCK, CARMEN HERNANDEZ, KARI LEON, ROBERT LOVINGOOD, JAMIE MCCORKLE, DANIEL MINTZ, Sr., V. MANUEL PEREZ, GABRIEL REYES, and DAWN ROWE, with Board Member PAUL COOK, absent, and with Board Member DAWN ROWE abstaining on Agenda Item #6 on the Consent Calendar, as follows:

Agenda Item 2 – Approve Minutes from Regular Governing Board Meeting of September 25, 2023.

Approved Minutes from Regular Governing Board Meeting of September 25, 2023.

Agenda Item 3 – Receive and file the District Activity Report.

Presenter: Brad Poiriez, Executive Director/APCO.

Received and filed the District Activity Report.

Agenda Item 4 – Receive and file Financial Reports for August 2023, which reflects the District’s financial and budgetary performance to date.

Presenter: Laquita Cole, Finance Manager.

Received and filed Financial Reports for August 2023, which reflects the District’s financial and budgetary performance to date.

Agenda Item 5 – Receive and file minutes of the Technical Advisory Committee (TAC) meeting September 13, 2023.

Presenter: Alan De Salvio, Deputy APCO.

Received and filed minutes of the Technical Advisory Committee (TAC) meeting September 13, 2023.

Agenda Item 6 – Ratify the Air Pollution Control Officer’s new appointments of Mr. David Riddle as the Cement Industry Member and Mr. Joseph B. Gains as the Military Member to the Technical Advisory Committee (TAC).

Presenter: Brad Poiriez, Executive Director/APCO.

Ratified the Air Pollution Control Officer’s new appointments of Mr. David Riddle as the Cement Industry Member and Mr. Joseph B. Gains as the Military Member to the Technical Advisory Committee (TAC).

Agenda Item 7 – Approve an agreement with Best, Best & Krieger, LLP (BB&K) for legal services including serving as District Counsel and additional services on an as needed basis for a period of approximately 2 years with an option of 2-year extensions; authorize Chair to sign the agreement.

Presenter: Brad Poiriez, Executive Director/APCO.

Approved an agreement with Best, Best & Krieger, LLP (BB&K) for legal services including serving as District Counsel and additional services on an as needed basis for a period of approximately 2 years with an option of 2-year extensions; **authorized** Chair to sign the agreement.

Agenda Item #8 – Appoint Best, Best & Krieger, LLP (BB&K), primarily by and through the Person of Piero C. Dallarda, partner, to serve as District Counsel of the Mojave Desert Air Quality District effective November 3, 2023.

Presenter: Brad Poiriez, Executive Director/APCO.

Appointed Best, Best & Krieger, LLP (BB&K), primarily by and through the Person of Piero C. Dallarda, partner, to serve as District Counsel of the Mojave Desert Air Quality District effective November 3, 2023.

Agenda Item 9 – Approve a consultant agreement with Karen K. Nowak to provide specialized historical knowledge regarding the development, implementation and administration of a variety of MDAQMD programs specifically, but not limited to, the MDAQMD’s New Source Review (NSR) program and authorize APCO to sign such agreement.

Presenter: Brad Poiriez, Executive Director/APCO.

Approved a consultant agreement with Karen K. Nowak to provide specialized historical knowledge regarding the development, implementation and administration of a variety of MDAQMD programs specifically, but not limited to, the MDAQMD’s New Source Review (NSR) program and **authorized** APCO to sign such agreement.

Agenda Item 10 – Authorize the annual encumbrance of AB2766 grant funds for disbursement in Fiscal Year 25 as described in the Mobile Source Emission Reductions Program (MSERP) Workplan in Exhibit A; and authorize the Executive Director/APCO to revise the budget accordingly.

Presenter: Jorge Camacho, Support Services Supervisor.

Authorized the annual encumbrance of AB2766 grant funds for disbursement in Fiscal Year 25 as described in the Mobile Source Emission Reductions Program (MSERP) Workplan in Exhibit A; and **authorized** the Executive Director/APCO to revise the budget accordingly.

Agenda Item 11 – Amend the MDAQMD Exempt Compensation Plan (ECP) to change various terms and conditions for Exempt Employees in the ECP and directs staff actions.

Presenter: Brad Poiriez, Executive Director/APCO.

Amended the MDAQMD Exempt Compensation Plan (ECP) to change various terms and conditions for Exempt Employees in the ECP and directs staff actions.

Agenda Item 12 – Set Date of January 22, 2024 to conduct a public hearing to consider the amendment of Rule 900 – *Standards of Performance for New Stationary Sources (NSPS)* and Rule 1000 – *National Emission Standards for Hazardous Air Pollutants (NESHAP)*, as well as to receive and file updates to the Airborne Toxic Measures (ATCMs) and Maximum Achievable Control Technology (MACT) standards Notifications.

Presenter: Alan De Salvio, Deputy APCO.

Date set of January 22, 2024 to conduct a public hearing to consider the amendment of Rule 900 – *Standards of Performance for New Stationary Sources (NSPS)* and Rule 1000 – *National Emission Standards for Hazardous Air Pollutants (NESHAP)*, as well as to receive and file updates to the Airborne Toxic Measures (ATCMs) and Maximum Achievable Control Technology (MACT) standards Notifications.

Agenda Item 13 – Set Date of January 22, 2024 to conduct a public hearing to consider a State Implementation Plan (SIP) Cleanup: Specifically the Rescission of South Coast Air Quality Management District SCAQMD Rules 1108 – *Cutback Asphalt*; 1108.1 – *Emulsified Asphalt*; and 1120 – *Asphalt Pavement Heaters* as they appear in the SIP for the Blythe/Palo Verde Valley portion of the Mojave Desert Air Quality Management District and to acknowledge that the

currently SIP approved MDAQMD Rule 1103 - *Cutback and Emulsified Asphalt* adequately regulates the source category and is applicable through the jurisdiction of the MDAQMD.
Presenter: Alan De Salvio, Deputy APCO.

Date set of January 22, 2024 to conduct a public hearing to consider a State Implementation Plan (SIP) Cleanup: Specifically the Rescission of South Coast Air Quality Management District SCAQMD Rules 1108 – *Cutback Asphalt*; 1108.1 – *Emulsified Asphalt*; and 1120 – *Asphalt Pavement Heaters* as they appear in the SIP for the Blythe/Palo Verde Valley portion of the Mojave Desert Air Quality Management District and to acknowledge that the currently SIP approved MDAQMD Rule 1103 - *Cutback and Emulsified Asphalt* adequately regulates the source category and is applicable through the jurisdiction of the MDAQMD.

Agenda Item 14 – DEFERRED ITEMS.

None.

Agenda Item 15 – Conduct a public hearing to consider the amendment of MDAQMD Rule 114 – *Registration Program for Compression Ignition Engines Used in Small Agricultural Facilities*: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rule, and directing staff action.

Presenter: Chris Anderson, Planning/Air Monitoring Supervisor.

Chair **KARI LEON** opened the public hearing. Chris Anderson, Planning/Air Monitoring Supervisor, provided the staff report and answered questions from the Board. After discussion Chair **KARI LEON** called for public comment, no public comment was made in person or electronically, being none, Chair **KARI LEON** closed the public hearing, made the determination that the CEQA Categorical Exemption applies, and waved reading of the resolution. Upon motion by Board Member **BRIGIT BENNINGTON**, seconded by Board Member **ELIZABETH BECERRA**, and carried by the following roll call vote, with twelve **AYES** votes by Board Members, **MERL ABEL, ELIZABETH BECERRA, BRIGIT BENNINGTON, JOSEPH “JOEY” DECONINCK, CARMEN HERNANDEZ, KARI LEON, ROBERT LOVINGOOD, JAMIE MCCORKLE, DANIEL MINTZ, Sr., V. MANUEL PEREZ, GABRIEL REYES, and DAWN ROWE**, with Board Member **PAUL COOK**, absent, the board, adopted Resolution 23-20, “**A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 114 – REGISTRATION PROGRAM FOR COMPRESSION IGNITION ENGINES USED IN SMALL AGRICULTURAL FACILITIES, AND DIRECTING STAFF ACTIONS.**”

Agenda Item 16 – Conduct a public hearing to consider the amendment of MDAQMD Rule 401 – *Visible Emissions*: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, adopting the amendment of MDAQMD Rule 401 – *Visible Emissions*, and directing staff actions.

Presenter: Alan De Salvio, Deputy APCO.

Chair **KARI LEON** opened the public hearing. Alan De Salvio, Deputy APCO, provided the staff report and answered questions from the Board. After discussion Chair **KARI LEON** called for public comment, no public comment was made in person or electronically, being none, Chair **KARI LEON** closed the public hearing, made the determination that the CEQA Categorical Exemption applies, and waved reading of the resolution. Upon motion by Board Member **ROBERT LOVINGOOD**, seconded by Board Member **DANIEL MINTZ, Sr.**, and carried by the following roll call vote, with twelve **AYES** votes by Board Members, **MERL ABEL, ELIZABETH BECERRA, BRIGIT BENNINGTON, JOSEPH “JOEY” DECONINCK, CARMEN HERNANDEZ, KARI LEON, ROBERT LOVINGOOD, JAMIE MCCORKLE, DANIEL MINTZ, Sr., V. MANUEL PEREZ, GABRIEL REYES, and DAWN ROWE,** with Board Member **PAUL COOK**, absent, the board, adopted Resolution 23-21, “**A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, THE AMENDMENT OF MDAQMD RULE 401 – VISIBLE EMISSIONS AND DIRECTING STAFF ACTIONS.**”

Agenda Item 17 – Conduct a public hearing to consider the adoption of MDAQMD Rule 1121 – Natural Gas-Fired Water Heaters: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, adopting the Rule 1121 – Natural Gas-Fired Water Heaters and directing staff actions.

Presenter: Alan De Salvio, Deputy APCO.

Chair **KARI LEON** opened the public hearing. Alan De Salvio, Deputy APCO, provided the staff report and answered questions from the Board. After discussion Chair **KARI LEON** called for public comment, no public comment was made in person or electronically, being none, Chair **KARI LEON** closed the public hearing, made the determination that the CEQA Categorical Exemption applies, and waved reading of the resolution. Upon motion by Board Member **CARMEN HERNANDEZ**, seconded by Board Member **BRIGIT BENNINGTON**, and carried by the following roll call vote, with twelve **AYES** votes by Board Members, **MERL ABEL, ELIZABETH BECERRA, BRIGIT BENNINGTON, JOSEPH “JOEY” DECONINCK, CARMEN HERNANDEZ, KARI LEON, ROBERT LOVINGOOD, JAMIE MCCORKLE, DANIEL MINTZ, Sr., V. MANUEL PEREZ, GABRIEL REYES, and DAWN ROWE,** with Board Member **PAUL COOK**, absent, the board, adopted Resolution 23-22, “**A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, THE ADOPTION OF MDAQMD RULE 1121 – NATURAL GAS-FIRED WATER HEATERS AND DIRECTING STAFF ACTIONS.**”

Agenda Item 18 – Executive Director Reports:

Miscellaneous:

- Want to thank Karen one more time for her many years of dedicated service. She is the second longest tenured District Counsel in the State.
- Received SDRMA President’s Special Acknowledgement Award – Workers Compensation Program – the award recognizes members with NO “paid” claims during the prior 5 consecutive program years.

- NSR Litigation Opening Briefs – schedule was extended slightly – MDAQMD filed our brief on Oct. 16th, EPA reply brief is due December 18th.
- CIP Updates – Completed additional security updates that include additional security cameras and key card entry ways from Stone Security. East end bathrooms done, completed water damage repair on west end of operations, and completed exterior patio demo and reconfiguration.
- Solar project replacement bids came in and we are proceeding to review. Also, expect to get a new roof replacement bid, that would take place sometime in future after the existing solar is removed from the roof.
- As part of sprucing up the Board chambers, replaced old wall décor and put new photos up in frames, painted the wood trim on dais, and as you can see put our mission statement on the wall and representative seats on the Board. Thanks to Robyn, Michelle, Deanna and Martial.
- Other Legislation updates:
 - State session ended and the governor had until Oct. 14th to sign or veto bills. Many of the 2-year bills will be brought back up at the beginning of the session as well as a few bills that died will most likely get reintroduced in some form.
 - Federal govt. avoided a shutdown with a CR on Sept. 30th, to temporarily keep government operating through Nov. 14th, there will be much more to come.

Mr. Poiriez updated the Board of past events:

- Sept. 26-27– attended via zoom the CAPCOA Legislative Retreat and Board meeting. Topics included: 2-year bills, any new District initiatives, 2024 Advocacy Priorities and DC advocacy planning efforts. Board meeting with CARB Executive staff included discussions on IRA/CPRG grants and coordination, Incentives, SIP and Contingency Measure by CARB, EPA review process of District Rules, Proposed FIP requirements, Proposed Air Emission Reporting Requirements (AERR), FIP issues, new NAAQS considerations, VEE program.
- Oct. 3 – joined Westar/WRAP fall meeting local committee call
- Oct. 3 – call with EPA re: NSR FIP planning
- Oct. 4 – Clean Air Day – did social media posts
- Oct. 4 - Attended the Chamber VMI and also met with Assemblyman Tom Lackey at our office.
- Oct. 16 – Had a meeting here in our office with Assemblyman Juan Carrillo.
- October 17 – Quarterly Call with EPA Region 9 on rule updates
- October 18 – MEEC Board Meeting
- October 19 – AAPCA monthly Air Director call
- October 20 – VVTA 30th Anniversary event

Mr. Poiriez updated the Board of coming events:

- October 23-26 – will attend the CAPCOA Fall Conference - I have been nominated to serve in the rotation for the Presidency, if elected, it is essentially a 4-year term through the rotation.
- Reminder CDAWG is Nov. 1 -2 in Temecula; totals are roughly 75 attendees.
- At Jan. 2024 meeting – there will be an item to appoint the Chair and Vice Chair and to make Committee assignments. Historically, the Chair and Vice Chair are reappointed for a second year which is the max they can serve consecutively, but anyone can nominate to be either. Both Chair Kari Leon and Vice – Chair Brigit Bennington have shared their desire to continue in their current roles if it is the desire of the Board. I will be reaching out in Nov. and Dec. with an update and will remind you all.

Next Board meeting, will be next calendar year on January 22, 2024. I hope you all have Happy and Safe Holidays and enjoy the break.

Agenda Item 19 - Board Member Comments and Suggestions for Future Agenda Items.

- Vice Chair **BENNINGTON** thanked staff for all their work and thanked Sheri Haggard & Karen Nowak for their service to the District.
- Board Member **HERNANDEZ** congratulated Karen Nowak on her retirement. Commented that she appreciates her knowledge, she's been an asset to the District and wished her all the best in retirement.
- Chair **LEON** thanked staff for all their work and thanked Sheri Haggard & Karen Nowak for their service to the District.
- Board Member **LOVINGOOD** congratulated David Riddle on his appointment to the District's TAC Board.

Being no further business, Chair **KARI LEON** adjourned the meeting at **11:20 a.m.** to the next Regular Meeting of **January 22, 2024.**

ACTION OF THE GOVERNING BOARD

APPROVED

Upon Motion by **BRIGIT BENNINGTON**, seconded by **MERL ABEL**, as approved by the following roll call vote:

**Ayes: 12 ABEL, BENNINGTON, COOK, DECONINCK,
HERNANDEZ, LEON, LOVINGOOD, MCCORKLE, MINTZ,
PEREZ, REYES, ROWE**

Noes:

Absent: 1 BECERRA

Abstain:

DEANNA HERNANDEZ, SENIOR EXECUTIVE ANALYST

BY Deanna Hernandez

Dated: January 22, 2024