



MAUREEN KIRK, CHAIR
Supervisor, District 3

JAMES JOHANSSON, VICE CHAIR
Vice Mayor, Oroville

BILL CONNELLY
Supervisor, District #1

JANE DOLAN
Supervisor, District #2

STEVE LAMBERT
Supervisor, District #4

KIM YAMAGUCHI
Supervisor, District #5

ANGELA THOMPSON
Councilmember, Biggs

SCOTT GRUENDL
Councilmember, Chico

JERRY ANN FICHTER
Mayor, Gridley

ALAN WHITE
Councilmember, Paradise

W. James Wagoner
Air Pollution Control Officer

(530) 891-2882
(530) 891-2878 Fax

REGULAR MEETING NOTICE OF THE GOVERNING BOARD

City of Oroville Council Chamber
1735 Montgomery Street
Oroville, CA 95965

June 24, 2010 at 10:15 a.m.

The Governing Board is committed to making its proceedings accessible to all citizens. Individuals with special needs should call the Clerk of the Board at (530) 891-2882, Monday through Friday, 7:30 a.m. to 4:30 p.m. to request disability-related modifications/accommodations or to request materials in alternate formats. All requests for special accommodations and/or alternative format documents must be made 48 hours prior to the meeting. Every reasonable attempt will be made to provide such accommodations.

SUPPLEMENTAL AGENDA

Supplemental Agenda Item

10. Consider Supporting CAPCOA letter to the California Air Resources Board regarding Approval of Local Air District Verifiers of Greenhouse Gas Inventories under AB 32.

Jim Wagoner

ACTION REQUESTED: Authorize Chair to sign the Proposed CAPCOA Letter

Released and posted June 21, 2010



W. James Wagoner
Air Pollution Control Officer

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Date of Release: June 21, 2010
Board Consideration: June 24, 2010

To: Butte County Air Quality Management District Board of Directors

From: W. James Wagoner, Air Pollution Control Officer

Staff Contact: W. James Wagoner, Air Pollution Control Officer

Re: **Supplemental Information:** Revised Implementing Resolutions; Adoption of the 2010-2011 FY Budget (Proposed Resolution 2010-07) and Agreement for outside legal services (Proposed Resolution 2010-09).

ISSUE:

Supplemental information for consideration.

Discussion:

Since the release of June 2010 Board packets, there has been two typographical errors found. One is found on page 24 of the FY 10-11 Proposed Budget. The list of current staff should be corrected to show that there is one (1) Air Quality Compliance Specialist and two (2) Senior Air Quality Compliance Specialist. A revised copy of page 24 of the Proposed FY 2010-2011 Budget is attached and contains the corrected list of current staff positions.

The second typographical error is found on Proposed Implementing Resolution 2010-09 in the fifth paragraph "AND WHEREAS, the FY 2009-2010 Budget included \$19,000 for outside legal counsel services;" should read "AND WHEREAS, the FY 2010-2011 Budget included \$19,000 for outside legal counsel services;"

Attached: Corrected Proposed FY 2010-2011 page 24, current staff position list.

Revised Implementing Resolution 2010-07, Adoption of the 2010-2011 FY Budget

Revised Implementing Resolution 2010-09, Agreement for outside legal services

Agenda Item 7

Expenditure Summary, Itemized by Account

Salaries & Employee Benefits

Account Number **511** **Salaries & Wages**

<i>Revised Budget FY 2009-2010</i>	\$759,000.00
<i>Projected Budget FY 2009-2010</i>	\$754,000.00
<i>Proposed Budget FY 2010-2011</i>	\$762,000.00

The Salaries account covers Accounts 511000 through Account 511006 and reflects the base wage costs for all permanent full-time and part-time employees. This account does not include payments to independent contractors. The FY 2010-11 account includes eleven (11) permanent full-time positions as listed below.

- 1- Administrative Technician
- 1- Administrative Assistant
- 1- Accounting Technician
- 1- Administrative Services Officer
- 1 - Air Quality Compliance Specialist I/II
- 2- Senior Air Quality Compliance Specialist
- 1- Senior Air Quality Engineer
- 1- Senior Air Quality Planner
- 1- Assistant Air Pollution Control Officer
- 1- Director/Air Pollution Control Officer

This category contains the employee performance pay for a total of \$7,500.00.

DRAFT RESOLUTION 2010-07
BEFORE THE BOARD OF DIRECTORS OF
BUTTE COUNTY AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA
ADOPTION OF THE 2010-2011 FY BUDGET

Resolution 2010-07.....)
Adopting the Base 2010-2011 Budget.....)
In the amount of \$2,081,250 and.....)
\$10,000.00 in Contingency funds, with a total)
Operating budget of \$2,071,250.....)

WHEREAS, on June 24, 2010, the Governing Board met in regular session;

AND WHEREAS, the Governing Board reviewed and considered information provided as set out and identified as the FY 2010-2011 Budget; and,

AND WHEREAS, pursuant to Health and Safety Code Sections 40130 and 40131 the Board held a Public Hearing on May 27, 2010 for the exclusive purpose of reviewing its budget and providing the public with the opportunity to comment on the proposed District budget;

AND WHEREAS, the Board held a Public Hearing pursuant to the Health and Safety Code Sections 40130 and 40131 on June 24, 2010 to consider adopting the FY 2010-2011 Budget;

THEREFORE, BE IT RESOLVED, that the Board has reviewed and adopts the FY 2010-2011 Budget consisting of a base-budget of \$2,081,250 for the 2010-2011 District Fiscal Year, as proposed in the budget released April 20, 2010, with the correction to the current staff positions attached;

BE IT FURTHER RESOLVED, that this adoption obligates up to \$20,000 from the DMV Surcharge account number 4510907 (DMV Surcharge) to implement motor vehicle emission reduction grants through expense account 552-014 (DMV Grants);

BE IT FURTHER RESOLVED, that a \$10,000 contingency fund is approved for the District, providing for a total FY 2010-2011 operating budget of \$2,081,250; and,

AND BE IT FURTHER RESOLVED, the Air Pollution Control Officer is authorized and hereby directed to negotiate and sign the initial and final applications for potential State subvention funds for the Fiscal Year 2010-2011.

On motion of _____, Seconded by _____, the foregoing resolution are hereby PASSED and ADOPTED by the Air Quality Management District Board of Directors on this 24th day of June, 2010 by the following:

AYES:
NOES:
ABSTAIN:
ABSENT:

DRAFT RESOLUTION 2010-09
BEFORE THE BOARD OF DIRECTORS OF
BUTTE COUNTY AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA
AGREEMENT FOR OUTSIDE LEGAL SERVICES

Resolution 2010-09)
Approval and direction to the.....)
Air Pollution Control Officer to contract..)
for outside legal services.....)

WHEREAS the District is a body corporate and politic and a public agency of the state;

AND WHEREAS the District, pursuant to the Health and Safety Code Section 40700 et seq. has the power; to have a perpetual successor and to enter into contractual services;

AND WHEREAS, the District is an environmental, regulatory, public agency established pursuant to State statute and is charged with the enforcement of federal, state, regional and local air pollution regulations;

AND WHEREAS in the course of performing its day-to-day implementation of active and effective air pollution control programs the District has need of legal counsel;

AND WHEREAS, the FY 2010-2011 Budget includes \$19,000 for contract outside legal services;

BE IT FURTHER RESOLVED, the Board hereby authorizes and directs the Air Pollution Control Officer to execute a legal services agreement for legal counsel with current District Counsel Greg Einhorn for FY 2010-2011.

On motion of _____, Seconded by _____, the foregoing resolution is hereby PASSED and ADOPTED by the Air Quality Management District Board of Directors on this 24th day of June 2010 by the following:

AYES:
NOES:
ABSTAIN:
ABSENT:



W. James Wagoner
Air Pollution Control Officer

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Date of Release: June 21, 2010
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To: Butte County Air Quality Management District Board of Directors

From: W. James Wagoner, Air Pollution Control Officer

Staff Contact: W. James Wagoner, Air Pollution Control Officer

Re: Supplemental Agenda Item

Consider Supporting CAPCOA Letter to the California Air Resources Board Regarding Approval of Local Air District Verifiers of Greenhouse Gas Inventories under AB 32.

ISSUE:

A California Air Pollution Control Officers' Association (CAPCOA) request to the California Air Resources Board (CARB) to approve local air district applications for verification bodies and listing individual district staff as verifiers of greenhouse gas emissions inventories under AB 32.

RECOMMENDATION:

Authorize the Chair to sign the proposed CAPCOA letter.

DISCUSSION:

Under AB 32, CARB has adopted a mandatory reporting regulation, requiring certain sources to report their greenhouse gas inventories. The regulation requires that the inventories be reviewed by a 3rd party verifier, who would audit the information. The 3rd party verifiers must be certified by CARB. Staff from many of the California air districts have gone through the training and passed the examination to become 3rd party verifiers. Butte has one staff member who successfully completed the training.

However, CARB staff have determined that local air districts have a conflict of interest that would preclude them from acting as 3rd party verifiers. CAPCOA disagrees with this determination and for several months has been working with CARB staff to resolve the issue. To date CAPCOA has not been successful. Consequently, CAPCOA is recommending that Board chairs participate as signatories to the attached letter, which seeks to elevate the issue to the CARB Board Level. Districts with staff who have successfully completed the verification training are included on the letter.

Attachment

Agenda Item 10



1107 Ninth Street, Suite 210
Sacramento, CA 95814
(916) 441-5700 (916) 441-5708 FAX
www.capcoa.org

June 21, 2010

Mary Nichols, Chairman
California Air Resources Board
1001 "I" Street
P.O. Box 2815
Sacramento, CA 95812

PRESIDENT

Mat Ehrhardt
Yolo-Solano AQMD

VICE PRESIDENT

Thomas Christofk
Placer County APCD

PAST PRESIDENT

Terry Dressler
Santa Barbara County APCD

**SECRETARY/CHIEF
FINANCIAL OFFICER**

Rick Martin
North Coast AQMD

DIRECTORS

Alan Abbs
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Jack Broadbent
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Larry F. Greene
Sacramento Metro AQMD

Robert Kard
San Diego County APCD

Barbara Lee
N. Sonoma County APCD

Brad Poiriez
Imperial County APCD

Seyed Sadredin
San Joaquin Valley APCD

Mike Villegas
Ventura County APCD

Barry Wallerstein
South Coast AQMD

EXEC. DIRECTOR

Melvin D. Zeldin
melz@capcoa.org

Re: Approval of Air District Verification Body and Verifiers

Dear Ms. Nichols:

We are writing to obtain CARB approval of local air district applications for verification bodies and listing individual district staff as verifiers. Staff from our agencies have successfully passed the requisite exams, and applications for verifier body were submitted during 2009. Any supplemental information requests by CARB staff have been submitted relative to individual district applications. No response has been received, despite the requirement in the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (§ 95132 (c)(3)) for action on verification body applications and verifiers within 45 days.

Your Board has publicly given CARB staff direction to use local air district expertise and resources for implementing AB 32 rules related to stationary sources. The December 2008 Resolution for the Scoping Plan included statements on providing training to districts at no cost, which was implemented, and other portions that are not being followed. Specifically, the Resolution calls for "*The Executive Officer to design greenhouse gas regulations that affect stationary sources so that they utilize, to the extent practicable and appropriate, local air district permitting programs and compliance determination mechanisms.*" It appears that CARB staff is interpreting the Mandatory Reporting regulation more rigorously for local districts than for consultants and is adding unnecessary restrictions that would preclude air district participation as third party verifiers.

We appreciate that CARB staff provided training classes to district staff without charging the fee that private parties pay. However, the staff time invested for the one week training class and associated travel expenses was substantial. Local air districts have 44 individuals that passed the training 24 leads and 20 general verifiers, including 24 sector verifiers). It is not a good use of public money to withhold approval of these individuals as verifiers and also to delay approval of air districts as accredited verification bodies.

There seems to be a perception by your staff that local air district staff have more potential conflict of interest than consultants. There is a fundamental difference – air districts do not have a profit motivation. We are a sister regulatory partner with CARB, and our motivation is not to get repeat business, but to do what is right. Local air districts enforce other rules while performing permitting, fee collection, source testing, and other functions for the same facility. How can this be considered a conflict of interest when evaluating reported greenhouse gas emissions?

CARB staff has attempted to develop a compromise, but their proposals to date will not work within the context of district operations. Examples of potential high conflict of interest situations from a CARB draft document given to CAPCOA included the following interpretations that go beyond the rule language in the Mandatory Reporting regulation and would restrict air districts from providing verification services.

- Designing, developing, implementing, or maintaining an inventory or data management system for a facility.
- Developing GHG emission factors, GHG engineering analysis, source testing.
- Designing energy efficiency, renewable energy or other projects which explicitly identify GHG reduction benefits.
- Appraisal services or setting fees on GHG emissions.
- Brokering in or assisting in any way in GHG markets.

The last two points are not part of the rule language, but are restrictive policy interpretations by CARB staff. Air districts collect fees for criteria pollutants from facilities and will similarly collect fees for any required federal GHG related Title V and PSD work. Payment of emission fees has no affect on other district actions, such as audits of reported criteria emissions, analysis of CEQA documents, or ERC transactions. Your staff has indicated that tracking would be needed to make sure that facilities that use district staff for verification do not use any of the other district services listed. This is an unacceptable interpretation of your regulation.

We request that you quickly resolve this matter or place the item on the next CARB Board meeting agenda, with an opportunity for public testimony. We regret that this matter must be raised to the Board level. Thank you for your consideration.

Sincerely,

(Signatures attached)

Mayor Ron Smith

Chairman, Antelope Valley AQMD Governing Board

Supervisor Maureen Kirk

Chairwoman, Butte County AQMD Governing Board

Councilmember Miguel Ucovich

Chairman, Placer County APCD Governing Board

Supervisor Pam Slater-Price

Chairwoman, San Diego County APCD Governing Board

Supervisor Tony Barba

Chairman, San Joaquin Valley Unified APCD
Governing Board

Dr. William A. Burke

Chairman, South Coast AQMD Governing Board

Supervisor Brad Wagenknecht

Chairman, Bay Area AQMD Governing Board

Councilmember Ken Mierzwa

Chairman, North Coast Unified AQMD Governing Board

Councilmember Sandy Sheedy

Chairwoman, Sacramento Metropolitan AQMD
Governing Board

Councilmember Karen Bright

Chairwoman, San Luis Obispo APCD Governing Board

Supervisor Doreen Farr

Chairwoman, Santa Barbara APCD Governing Board

Supervisor John Zaragoza

Chairman, Ventura APCD Governing Board

cc: James Goldstene
CAPCOA Board Members

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Chairman, Antelope Valley AQMD Governing Board

Supervisor Brad Wagenknecht
Chairman, Bay Area AQMD Governing Board

Supervisor Maureen Kirk
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