

Minutes  
Environmental Justice (EJ) Stakeholders Meeting

Tuesday, June 4, 2002  
4:00 to 8:30 p.m.

Richmond Auditorium – Emerald Room  
2533 Nevin Avenue\*  
Richmond, California 94804

Attended by:

1	Aguirre, Ena (BV/HP)	23	Martin, Jerry (ARB)
2	Aue, Mariana (GGU)	24	McKinnon, Matt (ARB)
3	Bailey, Diane (NRDC)	25	Mitgang, Alix (G Miller)
4	Blaisdell, Bob (OEHHA)	26	Murchison, Linda (ARB)
5	Blake, Elinor (DHS)	27	Pascual, Romel (Cal/EPA)
6	Clark, Henry (WCTC)	28	Prasad, Shankar (ARB)
7	Dotson, Whitney (NHNR)	29	Saschin, Alex (NSCAPCD)
8	Edson, Allen	30	Schaufelberger, Christine (BAAQMD)
9	Fazeli, Bahram (CBE)	31	Shimp, Dale (ARB)
10	Fletcher, Bob (ARB)	32	Smith, Richard (SDCAPCD)
11	Forbis, Paula (EHC)	33	Stewart, Bruce (NSC)
12	Garcia, Cynthia (ARB)	34	Suer, Carolyn (ARB)
13	Grow, Richard (USEPA)	35	Takemoto, Brent (ARB)
14	Guroff, Nick (NET)	36	Terry, Lynn (ARB)
15	Harvey, Dana (CCHS)	37	Tuck, Cindy (CCEEB)
16	Hess, Peter (BAAQMD)	38	Valche, N (M DeSaulnier)
17	Hui, Steve (ARB)	39	Wallerstein, Barry (SCAQMD)
18	Kent, Michael (CCHS)	40	Walsh, Kathleen (ARB)
19	Kloc, Ken (GGU)	41	Wang, Mike (WSPA)
20	Krebs, Patti (IEA)	42	Waugh, Mike (ARB)
21	Krinsk, Leslie (ARB)	43	Wyman, Sue (ARB)
22	Lyou, Joe (CLCV EF)	44	

\* The meeting location was incorrectly listed as “3230 Macdonald Avenue” on the notice and flyer.

To allow for an error in the meeting notice relative to the address of the meeting place, the meeting convened at 4:10 p.m.

### EJ Work Plan

After introductions, a handout of the revisions made to the 2002-03 EJ work plan was distributed. Linda Murchison gave an overview of the changes made to the work plan, noting several key changes:

- For each action item, the policy number that it is listed under in the policy document, is provided for clarification;

- The language in the policy document was used with respect to suggested changes concerned with the Cal/EPA EJ Advisory Committee (#9) and CAPCOA (#27); and
- Two new action items were added (#30 and #32) calling for the development of ATCMs for chrome plating operations and dry cleaners.

Questions were asked about the status of the modeling subcommittee and what had been done to improve public access to information. ARB staff noted that the modeling subcommittee still exists, and its current focus is tool development. Little progress has been made to this point, as there is a lot to be done relative to testing the new model that USEPA has selected as a replacement for ASPEN. With respect to the latter, progress has been made in terms of identifying contacts in communities and improving the web site.

The discussion then turned to the language used to describe action item #28 – ARB/CAPCOA Clearinghouse for Mitigation Measures. The item had not yet been revised to track the language in the policy document (3<sup>rd</sup> complete bullet on p. 11), as had been discussed at the prior meeting. After discussion, Mr. McKinnon suggested that the language in the policy document be used. It was mentioned that pollution prevention is noted several times under Policies III and VI. Moreover, pollution prevention would be emphasized in the handbook for local land-use agencies.

In closing the discussion on the work plan, it was suggested that staff develop a calendar of the agenda items to be discussed at future stakeholder meetings. This would be a companion document to the work plan that would give the stakeholders advance notice of what would be discussed at upcoming meetings. Mr. McKinnon agreed that that would be a good addition to the work plan, and asked if the group should move on to the next agenda item – the complaint resolution protocol (CRP).

#### Complaint Resolution Process (CRP)

Mike Waugh gave a presentation outlining the contents of the discussion document that was previously distributed for comment. The discussion document outlines the roles and responsibilities of ARB and the districts, the key elements of existing CRPs in large, urban air districts and ARB (i.e., receipt of complaints, investigation, and feedback to the public), and aspects of enforcement and complaint resolution. A wide variety of questions and comments were raised in the ensuing discussion:

- Language Considerations

To date, the major portion of resources has been directed toward providing Spanish translation services (e.g., bilingual brochures, messages for

complaint lines, simultaneous translations at meetings). It was noted that in Contra Costa County, similar services for Asian languages (e.g., Laotian, Hmong) would also be needed, in addition to Spanish. For example, ARB has provided funding for translating warning messages into Laotian in the County.

- Yeast Manufacturing Facility in the Bay Area

A participant from the Bay Area noted that filing complaints with the local air district has not been a fruitful effort relative to addressing a persistent odor problem caused by a yeast manufacturer. Complainants were informed that a Notice of Violation could not be issued until the air district received at least five complaints and determined that a problem exists. Nearby residents have complained that documenting transient, nuisance problems are difficult because the facility does a lot of work after normal business hours when air district inspectors are off work. An air district stakeholder noted that in this case, inspectors have been assigned to work evenings and weekends, and an effort is being made to work with the community to devise a plan to confirm the existence of a public nuisance. An attendee confirmed that air district inspectors have visited the area in the evening, but that they need to be present in the early morning (10:30 p.m. to 2:30 a.m.) to observe the after hours emissions.

For this complaint, where there may be compliance and nuisance issues to address, and additional controls may be needed to reduce odor levels (probably due to acetaldehyde). With regard to needing five complaints before taking action, it was mentioned that the local hearing board suggested that five complaints might be too rigid a criterion after reviewing a similar situation that occurred at a metal melting facility (i.e., after-hours work producing nuisance problems). It was noted that nuisance violations under state law are based in part on complaints from a “considerable number of persons,” which can vary from district-to-district.

In consideration of the complaint requirement for investigating a potential problem, an attendee asked what criteria are used to determine if the response provided was adequate? Would anything short of solving the problem be considered as an adequate response? Could a longstanding record of nuisance problems be a consideration when a decision needs to be made as to whether to renew the permit for this yeast manufacturing facility? In closing this discussion, Mr. McKinnon acknowledged the challenge facing the community as well as the need to preserve local control over permitting. In this regard, efforts would be made to fashion policies that incorporate community input throughout the decision-making process, and to limit state intervention to situations when local efforts fail in a “major way.” Other communities have posed similar concerns, pointing to the need to educate communities about what information is out there and what the law requires. Communities must take it upon themselves to get organized so that they can participate meaningfully in the public process.

- Air District Responses to Complaints

A stakeholder asked the question “if there’s only one complainant, will the complaint be responded to?” In response, an air district stakeholder indicated that when a complaint is received, an inspector is dispatched to check out the problem. If it is a chronic problem (i.e., one that has occurred repeatedly), then district staff will wait for several complaints to be filed, before taking action (e.g., conducting a drive-by or a 24-hour surveillance). This describes the general response of districts to local complaints, but issues with respect to identifying the process and the outcomes of the complaint resolution process remain unanswered. How should complaints get resolved? Should permit-related issues also be subject to the same resolution process? Is this situation the same for both large and small districts? As these and other questions would need to be discussed further by the group, Mr. McKinnon deferred any discussion of what role ARB should have in the CRP until a consensus was reached on the major procedural elements and the suite of potential resolution outcomes. Before moving on, it was suggested that there should be a separate category for “chronic complaints.”

In wrapping up this discussion, an attendee requested that more effort be put into public education to clarify the differences between district rules, to explain the permit process, to learn what industries are allowed to do, and what the code section numbers are for common air quality complaints. There was a brief discussion about the different numbers of complaints needed for responding to chronic problems – as it is up to each APCO to set guidelines that identify whether a problem should be investigated or not. Some attendees mentioned that videotapes of emission plumes have been made and it would be helpful to know what communities need to look for when filming such events. It was also noted that the Blue Book of California Air Pollution Laws is very thick, and it contains a lot of information that communities may not want or need. If you also consider adding in the rules developed by air districts, the problem is compounded. It was suggested that a subset of the most common code violations could be made into a list for the handbook (as it is important for communities to know what the specific code violation is when communicating information to the air district).

- Indoor Air Pollution

When asked if mold and mildew levels in old homes could be studied as a research project (work plan item #10), Mr. McKinnon noted that ARB’s authority is not well defined, and was reluctant to allocate resources in consideration of projected budget decreases. While there is a need to regulate indoor air quality, particularly in light of studies that show associations to health problems, ARB could not act on the research findings if something important was discovered. At present, state authority lies with the Department of Health Services – there is legislation pending that would give ARB authority over indoor air pollution, but

indications are that the bill will not pass. As for studies conducted in schools, there was legislation requiring ARB to conduct the study and measurements are made whenever situations allow (e.g., mold levels in 50-homes in Fresno are being monitored in conjunction with the FACES).

- Comments on the CRP Discussion Document

Mr. McKinnon and other stakeholders indicated that the present CRP document needed to be fleshed out so that specific comments could be raised. The document should describe what is being done right now, and serve as a foundation for assessing where problems lie, what items to work on first, and the time frames for responding and resolving complaints. In his view, two types of documents need to be created – a one-pager that is user-friendly for the general public, and a handbook that lists everything that’s out there (e.g., who to contact at the air districts and ARB, and guidance on what to do in selected situations).

Stakeholders from environmental groups noted that there are a number of weaknesses in the CRP discussion document that were identified in an email sent to ARB and the stakeholder group. They indicated that there are two items that are critical – it should include a protocol for resolving substantive issues and make provisions for community monitoring. Business representatives asked about what was meant by “community monitoring.” Beyond this, it was difficult to provide more detailed comments as the discussion document was in outline form, and there was no way of knowing where specific suggestions could be incorporated. Other points were raised such as what could be done about repeat violators, and would “ARB outcomes” include responses such as legal action or rulemakings.

The issue of chronic problems was revisited, beginning with questions about what a chronic problem is and if they are given the highest priority in terms of being investigated and resolved. An air district stakeholder indicated that there is no consensus definition of “chronic,” and it typically refers to air quality problems that come up repeatedly. In response to chronic problems, air districts have put out monitors, and have provided communities with canisters (for gases), dust samplers or settling plates (Note: It was asked if ARB could provide monitoring kits to small districts that don’t have resources for community-based sampling). Other technologies (e.g., personal exposure monitors, artificial noses, and remotely controlled samplers) are also being examined for use in neighborhood-scale monitoring efforts. To issue a Notice of Violation, the air district must collect quality assured data. All too often, air districts receive chronic complaints that aren’t related to air pollution (e.g., truck traffic issues and related problems with dust), and need flexibility to prioritize complaints so that they address air quality-related problems first. The discussion then turned to another aspect of priority setting – when air quality complaints are filed as a means to bring government attention to a non-air quality issue that is of greater concern. On the one hand, state and local agencies need to be careful insofar as

questioning a complainant's motivation for filing a complaint, and if a violation is occurring, it needs to be addressed. On the other hand, if the true motive for filing a complaint is discovered during the investigation of the complaint, shouldn't air districts have the flexibility to redirect the complaint to the proper authority? In such situations, what role does ARB have?

The need to give callers an indication of how long it takes for a complaint to get investigated was briefly discussed. In the case of ARB, it is important to have staff that answer the hotline notify callers that the complaint will be referred immediately (to ARB or air district staff), and that it takes about 15-days to prepare a response to the complaint. Callers need to be provided assurance that their complaint will be taken seriously, that it will be assigned to the appropriate authority, and that a response will be provided in about 15-days. Some work is needed to improve the message given at the time of initial contact (about how long it will take to get a response) and to let people know that they can call their local air district about facility-specific air quality problems.

"Community capacity building" was brought up as an issue that is interconnected with developing a CRP with respect to EJ concerns. In this regard, government agencies can help communities by giving them guidance on how to raise awareness of local issues, where to get the information and who has the authority to address their issue of concern. For example, the SCAQMD is holding a town hall meeting next month in Wilmington. This serves as an opportunity for the community to voice their concerns to staff, and ARB should promote the need for districts to conduct more extensive outreach efforts to communities. Besides holding meetings in communities, a greater effort needs to be made insofar as incorporating community complaints into policies, and providing technical support or funding to hire experts to interpret information about actions or policies that have local impacts.

An effort was then made to develop a list of suggested changes to the discussion document that included:

- Adding a section at the front of the document on community capacity building and outreach;
- Creating a separate section for chronic complaints under item 2c for both large, urban air districts and ARB with its own set of "outcomes;"
- Adding three sections titled remedies, community monitoring, and code sections (which would be a listing of the code violations that occur most often and information about assessing penalties);
- Developing sections on "outcomes" (item 3 for large, urban air districts and ARB, thus moving "feedback to the public" to item 4), community monitoring (which includes examples of existing or completed efforts), solutions to chronic problems, and public education; and
- Defining what a chronic problem/complaint is.

Attendees from CBOs stressed the need for community groups to provide input on the content of the handbook, and that providing access to the discussion via the Internet has, in some cases, been an isolating factor. At the end of this discussion, a break was taken from 6:35 to 7:00 p.m.

## Open Forum

Following the break, Mr. McKinnon opened the meeting for discussion of local issues. He noted that at the meeting in San Diego, the focus of the open forum was on children's concerns, and that community-specific concerns are likely to vary from region-to-region. As such, it is important to receive input from local residents concerning the issues that are of greatest concern to them.

Relative to the level of local participation, it was noted that City Council meetings are held on Tuesday nights from 5:00 to 9:00 p.m., and that many CBO and community members were attending that meeting to provide testimony on a fuel storage issue at Chevron. In an effort to phase out MTBE use, Chevron is planning to reformulate their gasoline using other alkanes (e.g., pentanes). They propose to store the excess alkanes in rail cars on their facility, and were seeking to use the same EIR that they prepared for plant modifications needed to make fuel with MTBE. The community requested, among other things, that Chevron install a vapor recovery system to contain hydrocarbon emissions to the greatest extent possible during fuel processing, which was fundamental to addressing their concerns over public safety. While representatives from Chevron were not present at the meeting to share their perspectives, issues of this kind need to be discussed with the local community. Chevron's Title V hearing was scheduled for June 29, 2002. Before closing this discussion, it was suggested that two transportation projects pose a substantive impediment to travel logistics for people in North Richmond. As such, this may also have been a factor contributing to the modest level of community participation from that area of the County. These factors should be noted with respect to the upcoming Cal/EPA EJ Advisory Committee meeting in Richmond on June 17<sup>th</sup>.

A participant from Bay View/Hunter's Point, mentioned that the CEC is siting five power plants around Tracy, and had questions about the extent of public outreach, transport analyses, and the use of emission credits. Extended "closed-door" discussions between the proponent and the state, prior to holding workshops in Livermore to solicit public comment, were looked upon as giving the proponent an unfair advantage over the community. Absent technical support, communities lack the time and/or expertise to comment effectively on the potential impacts of the siting decision. Concerning this discussion point, it was noted that the process takes about one year, and that the CEC is the primary authority for siting power plants in California. Using guidelines for BACT, air districts decide whether the proposed plant meets the appropriate air quality regulations for siting. In recent times, the energy crisis forced some changes in

the siting process, in which a number of expedited procedures were developed by executive order. To their credit, the CEC did as much as it could do to hold meetings with outside interests, and to balance energy supply issues with environmental concerns. Because of the very shortened public processes, the state needs to do a better job of getting the word out, and making sure that everyone has a chance to voice their concerns. It was noted that poll data suggest that unless communities are given a seat at the table early in the process, they believe that they will bear the greater share of resulting environmental risks/hazards.

With regard to pollutant transport, the issue of “where was the pollution going to end up” did not appear to be a fundamental consideration. For example, given that the plants were proposed for siting in western San Joaquin County and eastern Alameda County, why were the public workshops held in Livermore where very little of the pollution would be deposited? It was noted that the CEC is aware of pollutant transport issues, and that upwind districts have a responsibility to reduce transport impacts to downwind receptor areas. Relative to the use of emission credits, a stakeholder mentioned that a number of lawsuits have forced changes in the emissions trading policy established under the Federal Clean Air Act. In this case, it was postulated that the offsets for the proposed new power plants might have come from the early closure of a Phillips 66 plant about 10-years ago, which meet all federal and state criteria for emissions trading and banking. The comment was made that emissions trading has been used to the advantage of some more than others have, and that the EJ implications of trading need to be evaluated. Other alternatives should be explored more thoroughly, such as the use of renewable energies to meet California’s energy needs. Mr. McKinnon noted that ARB has taken a strong position in favor of sustainable energy technologies.

A brief discussion occurred relative to the challenges faced at Bay View/Hunters Point. There are ongoing concerns over the emissions from the sewage treatment facility (Note: BAAQMD staff have measured hydrogen sulfide (H<sub>2</sub>S) levels at the facility) as well as those from a fat rendering plant. It was also noted that about half of the diesel buses that service the area have been replaced with alternate fueled buses, but outside funding may be needed to complete the transition to cleaner buses. Lastly, discussions are being held with a local company to run cleaner-burning refuse trucks in Bay View/Hunters Point.

Questions concerning the EJ implications of the proposed PM standard, to be presented to the Board on June 20<sup>th</sup> in El Monte, were raised. Of primary concern were the technical bases of the proposed standard and that most ambient PM-related deaths will occur in low-income and minority communities (where exposures tend to be higher). Why did ARB staff choose a mid-range value instead of the lowest value in proposing the standard? Does this allow for establishing an appropriate “margin of safety” for health protection? It was noted that the proposed PM standard is health based and was chosen because it was

the lowest level supportable by existing data. Absent data to demonstrate that low income and/or minority communities are more sensitive to PM than other communities, there is no basis for concluding that they are a sensitive subgroup of the general population. Relative to EJ, staff acknowledged that EJ is a real concern, as evidenced by the EJ section in the staff report. The linkage between setting a more stringent standard and a correspondingly tougher control program is the key. Assuming that additional control measures will need to be adopted to meet the new standard, steps can then be taken to target emissions reductions where they are needed most (e.g., in low-income and minority communities). Some stakeholders supported ARB's position on the PM standard (because it set a positive precedent for the rest of the country), and others felt that it would do little in terms of public health protection (so an even tougher standard was needed).

### Wrap-up and Adjournment

To wrap-up the meeting, the group decided the permit review process would be discussed at the next meeting, along with the contents of the public participation handbook. To focus the discussion on the handbook, ARB staff provided a handout to the attendees with questions about various aspects of the handbook, and requested feedback on what needs to be included in the handbook. The next meeting would be scheduled for late-July or August, and due to budget constraints, would be held in Sacramento.

A stakeholder noted that communities need face-to-face contact with government representatives to get their points across, and that travel to Sacramento would limit their participation. Video conferencing was suggested as a way to provide access to the meeting (i.e., community members could view the meeting at the office of a stakeholder in San Francisco). Requests were also made to have the meeting at a site in the Bay Area or to provide travel assistance to CBOs. Mr. McKinnon then tentatively scheduled the next meeting for August 6<sup>th</sup> in Oakland, if a suitable meeting place could be found. Moreover, the meeting time would be moved up, starting at 3:00 instead of 4:00 p.m., in consideration of travel logistics for the members of the stakeholder group. This would still allow for community participation in the open forum, which would be held from 6:00 to 7:30 p.m.

The meeting adjourned at 8:25 p.m.