

**RESPONSE TO THE PLACER COUNTY GRAND JURY 2000-2001 FINAL REPORT
PLACER COUNTY AIR POLLUTION CONTROL DISTRICT**

PLACER COUNTY AIR POLLUTION CONTROL DISTRICT

(Pages 58-61)

Background/Summary

Placer County Air Pollution Control District (APCD) is one of 35 local air pollution control agencies within the State, established pursuant to Section 40002 of the California Health & Safety Code. The District has primary responsibility for the regulation and control of air pollution created by stationary industrial sources and businesses, including open burning. Within the statute the district must also respond to odor and dust complaints from citizens.

The District has 12 approved positions allocated, but only seven permanent positions were funded in 2000-2001. Furthermore, the District does not have sufficient technically skilled staff, resulting in an agency incapable of carrying out its mandated duties to protect the citizens from exposure to toxic materials in the air.

Discussion

The California Health and Safety Code (Section 40701.5), among other things, authorizes the District Board to adopt

- (1) A schedule of fees for the evaluation and issuance of permits to cover the costs of District programs not otherwise funded.
- (2) A schedule of fees applicable to emission sources not included with a permit system to cover the estimated reasonable costs of evaluating plans required by law or by District rule or regulation.
- (3) A fee schedule for the permitting of sources of air toxic contaminants, area wide and indirect sources of emission, and fees to cover the reasonable costs of the District Hearing Board.

Other actual or potential sources of District funding, in addition to penalty assessments and fees, are grants, state subvention, per capita assessments, and DMV surcharges on motor vehicles registered in the District. The District receives no County General Fund monies for its operations.

**RESPONSE TO THE PLACER COUNTY GRAND JURY 2000-2001 FINAL REPORT
PLACER COUNTY AIR POLLUTION CONTROL DISTRICT**

Placer County APCD reports that 48% of the 2000-2001 anticipated revenue of \$1,196,000 is obtained from permit fees or reimbursement for services. Another 48% of revenue is reportedly derived from state subvention and a DMV surcharge on vehicles registration fees of \$2 per vehicle. The balance comes from interest and fines. The District currently does not receive any grant funds and does not receive any funds through a per capita assessment upon the county and cities represented on the District's board. Raising the vehicle fees by \$2 would allow programs to be put in place that could reduce mobile source pollutants by an estimated 165,000 tons annually, according to testimony.

The Grand Jury interviewed the County Executive Officer, several County employees, County appointees, and a member of the APCD Board. The consistent message was that the County does not have an adequate Air Pollution Control Program in place to assure the health and safety of its residents.

The Placer County Air Pollution Control District is not fully funded to carry out mandated programs and monitor toxic emissions and air pollutants aggressively to ensure the health and safety of its citizens. In 1998 a Task Force found that an annual per capita fee of 45 cents would ensure APCD some financial stability.

The 2000-2001 Placer County Grand Jury is pleased to note that the County Executive Officer recognized the need to find adequate and stable funding for the APCD and loaned County staff to the District to restructure the district and get it on track financially. Staff has successfully gotten the District out of the "red" and is developing strategy to implement programs to monitor stationary sources more aggressively.

The legislature has authorized (California Health and Safety Codes, § 442700 (b) and 41511) Districts to require stationary sources of potential pollution to install monitoring devices and to reimburse Districts for costs related to collecting and evaluating data from such devices.

There are sites within Placer County which have had repeated releases of organic compounds. As it is now, the District must rely on self-reporting by the polluter, or a report of suspicious odors by nearby residents. By the time a report is investigated, the pollution may have dissipated.

Finding 1

The Grand Jury noted that the District is studying the feasibility of joining with an APCD similar in size and demographics.

**RESPONSE TO THE PLACER COUNTY GRAND JURY 2000-2001 FINAL REPORT
PLACER COUNTY AIR POLLUTION CONTROL DISTRICT**

– *The Board of Directors agrees with the finding.*

Recommendation 1

The Grand Jury recommends that Placer County continue efforts to join neighboring counties to form a regional district in order to enforce California air pollution control laws.

– *The recommendation is being undertaken, with feasibility discussions on-going with neighboring districts regarding unification or other ways to better share resources and control air pollution. At the February 8, 2001 District Board meeting the Directors provided guidance to staff regarding exploring a potential merger with the El Dorado County Air Pollution Control District (EDAPCD). The Board directed staff to work with EDAPCD staff “and conduct an analysis of merging the two districts and creating a unified district. Such an analysis will include at a minimum the identification of issues, advantages and disadvantages, and limitations and costs resulting from a merger of the two districts. It may also include the development of a conceptual plan for accomplishing the merger”.*

Finding 2

The California Health and Safety Code § 40701.5 provides that expenses of a district not met by grants, subventions, permit fees, penalties, or a surcharge of registered motor vehicles, shall be provided by an annual per capita assessment of those cities which have agreed to have a member on the District board and of the County included in the District.

– *The Board of Directors agrees with the finding.*

Recommendation 2

The County and participating cities should share a per capita fee equally among each of the jurisdictions.

– *The recommendation will be evaluated for possible implementation in FY 2002-03 after the Districts’ FY2001-02 final budget is adopted. The Board has taken several steps to assist in restoring fiscal solvency to the District (as will be noted in Findings 3 & 4) in 2001, and these steps, coupled with internal district operating/process improvements implemented via an Operational Initiatives Plan developed by staff and endorsed by the Board on February 10, 2000, have aided*

**RESPONSE TO THE PLACER COUNTY GRAND JURY 2000-2001 FINAL REPORT
PLACER COUNTY AIR POLLUTION CONTROL DISTRICT**

the current (end of year FY 2000-01) fiscal profile. The long-term fiscal trend indicates the need for an additional stable source of revenue to sustain and improve operations, and a per capita assessment will accomplish that requirement. The FY 2001-02 budget will present the Board with the opportunity to clearly identify the amount of revenue shortfall, and then allow discussion on the preferred method to correct it.

- In the Discussion section of the Grand Jury report it states “in 1998 a Task Force found that an annual per capita fee of 45 cents would ensure APCD some financial stability”. That analysis actually occurred in May of 2000, and former Board member Peter Hill (City of Rocklin) corresponded to the mayors (with copies to all local governmental managers) requesting discussion on the per capita subject. The ensuing discussion did not indicate broad support for a per capita assessment. A copy of that correspondence is attached with this response.*

Finding 3

The California Health and Safety Code authorizes the District to adopt fees in conjunction with the Consumer Price Index (CPI) to stay current with the cost of administering programs.

- The Board of Directors agrees with the finding.*

Recommendation 3

Structure fees to reflect changes in the Consumer Price Index.

- The recommendation has been implemented. The Board, in a Public Hearing on June 14, 2001, approved Resolution #01-17, -18, and -19, adopting respectively amendments to Rule 601, Permit Fees, Rule 602, Hearing Board Fees, and Rule 607, Burn Permit Fees. These amendments implemented the annual adjustment of the majority of the District’s fees to reflect increases in CPI. Additionally, the Board approved Resolution #01-20, establishing a District Fee Schedule that is to be updated annually to reflect positive changes in the CPI.*

Finding 4

The APCD by law can charge a \$4 per vehicle registration fee. Placer County is one of three counties charging \$2. All the other counties charge \$4.

**RESPONSE TO THE PLACER COUNTY GRAND JURY 2000-2001 FINAL REPORT
PLACER COUNTY AIR POLLUTION CONTROL DISTRICT**

- _ The Board of Directors agrees with the finding.*

Recommendation 4

Take the necessary steps to raise the per vehicle fee to \$4.

- _ The recommendation has been implemented. The Board, in a Public Hearing on June 14, 2001, approved Resolution #01-21, thereby approving both an increase to \$4 of the existing \$2 Department of Motor Vehicles fee on motor vehicles registered in the District and a corresponding program for the expenditure of the fees for the reduction of motor vehicle emissions and implementation of California Clean Air Act programs.*
- _ In the discussion section of the Grand Jury Report it states, "Raising the vehicle fees by \$2 would allow programs to be put in place that could reduce mobile source pollutants by an estimated 165,000 tons annually, according to testimony." It is unclear to the District where the Grand Jury received this information. The District has estimated that if the entire amount of the fee increase were allocated to the external grant program, an additional 93 tons of emissions annually could be removed from the air basin by 2005 when compared to existing funding(based on \$20,000 per ton cost effectiveness).*

Finding 5

The APCD does not have the resources to respond, in a timely fashion, to citizen complaints related to monitoring pollution releases from stationary industrial sources, nor does it have an adequate system in place for daily monitoring of potential or actual pollution releases. There are sites within Placer County which have had repeated releases of organic compounds. As it is now, the District must rely on self-reporting by the polluter, or a report of suspicion by nearby residents. By the time a report is investigated, the pollution may have dissipated.

- _ The District Board agrees generally with this finding. The determination of whether the District's monitoring of potential releases from industrial sources is "adequate" or not is problematical. The District's compliance program meets the evaluation criteria established by the State.*

Recommendation 5

**RESPONSE TO THE PLACER COUNTY GRAND JURY 2000-2001 FINAL REPORT
PLACER COUNTY AIR POLLUTION CONTROL DISTRICT**

Develop plans to follow up aggressively on complaints from citizens related to discharges from industrial sites on a 24-hr basis. In addition, monitor, on a full time basis, repeat violations as well as sites which may release toxic substances known to cause long term or acute health problems. The legislature has authorized Districts to require stationary sources of potential air pollution to install monitoring devices and to reimburse Districts for costs related to collecting and evaluating data from such devices (See Health and Safety Codes § 42700(b) and 41511).

— *The District agrees that complaints that are on-going need to be aggressively investigated in order to resolve the complaint as well as to gather evidence for enforcement actions. The District has increased its focus on deterring violations through vigorous enforcement action, which is demonstrated by \$28,455 in fines for FY 2000-2001, a doubling of the fines in FY 1999-2000, and quadruple the fines collected in FY 1989-1999. In addition, the District is entering into agreements with local first response (fire) agencies for all hour response to fire related complaints. Historically two-thirds of all complaints received are related to open residential burning with the remaining third attributed to releases from stationary industrial sources, businesses, and farmers.*

— *The development of plans for responding to citizen complaints on a 24 hour basis will be largely contingent upon a demonstrated need for such coverage to warrant the application of the human and fiscal resources required, and the garnering of the resources. The District has had 24 coverage in the past which proved to be not cost-effective for the low number of after-hours complaints received that require an immediate response. Currently the District employs a call-out list that is available to public safety dispatchers. The District is exploring the feasibility of contracting for an all hours “grab air sampling” capability with private environmental firms. Such a capability might provide a mobile quick response analytical tool for characterizing the air pollution in given situation.*

— *The recommended monitoring of emissions on a full-time basis needs to be evaluated on a case-by-case basis. Such monitoring is not feasible in all cases and can be extremely costly. The District’s current compliance program of inspections, emissions testing, and record audits, is in-line with the program evaluation criteria of the State. Health and Safety Code Section 41511 states “For the purpose of carrying out the duties imposed upon the state board or any district, the state board or the district, as the case may be, may adopt rules and regulations to require the owner or the operator of any air pollution emission source to take such action as the state board or the district may determine to be reasonable for the determination of the amount of such emission from such source.” The District agrees to require and implement monitoring when such steps are reasonable in consideration of the specific circumstances. Such monitoring requires that additional District resources be applied to data review*

**RESPONSE TO THE PLACER COUNTY GRAND JURY 2000-2001 FINAL REPORT
PLACER COUNTY AIR POLLUTION CONTROL DISTRICT**

and evaluation. The District has sought and received guidance from the California Air Resources Board on improving compliance with regard to emissions violations by industrial sources. The District has already taken steps to improve compliance by increasing inspections and records audits, as was recommended, and is closely following the development of promised analytical tools that will aide in the assessment of toxic emissions.

Finding 6

Due to the rapid growth in Placer County, the Grand Jury recognizes the challenges faced by the Air Pollution Control District.

- *The Board of Directors agrees and appreciates that the Grand Jury is cognizant of the impact that the county's growth has had on District operations.*

Recommendation 6

The 2001-2002 Grand Jury should continue to monitor the Air Pollution Control District issues.

- *The Board of Directors welcomes continued review of District issues by the Grand Jury.*