



June 26, 2020

Elaine M. Howle
California State Auditor
621 Capital Mall, Suite 1200
Sacramento, CA 95814

Dear Ms. Howle:

The San Diego County Air Pollution Control District (District) has reviewed Draft Report 2019-127 (July 2020), which details the audit conducted by the California State Auditor (CSA) in response to a Joint Legislative Audit Committee request. We appreciate the time and effort your office expended in conducting this audit; District staff strove to be responsive and helpful throughout the eight-month process.

Throughout its 65-year history, the District has worked to improve air quality for San Diego residents and has made considerable progress towards achieving clean air and protecting public health. The region currently meets federal health-based standards for five of the six principal air pollutants. Although total ozone-forming emissions have dropped by 58% since 2000, further reductions are necessary to attain the ozone standards throughout the region.

The District recognizes that it can always improve upon its operations, and thus appreciates the opportunity for this independent audit in furtherance of its commitment to continuous improvement. The District will work with its stakeholders and decision-makers to implement all the CSA's recommendations directed to it.

Our willingness to address the CSA's findings is reflected in our specific response to each recommendation, provided in Attachment 1. In fact, District actions to implement the recommendations are already underway as noted. These proactive steps demonstrate the District's commitment to advancing its mission to improve air quality in a way that promotes transparency and inclusion in its decision-making.

For clarity, the District offers additional perspective on the CSA's findings in Attachment 2. These comments provide additional information that may be helpful to the public in considering the findings detailed in the report.

In closing, the District appreciates the thorough and independent evaluation conducted by your office. We look forward to providing 60-day, 6-month, and 1-year responses in order to document the District's progress in implementing the CSA's recommendations.

Thank you for the opportunity to provide this response. Please contact me with any questions at robert.reider@sdcountry.ca.gov or 858-586-2705.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R C Reider". The signature is stylized with a large "R" and "C" and a more fluid "Reider".

ROBERT C. REIDER
Interim Director/Air Pollution Control Officer

Attachment 1: District Responses to CSA Recommendations
Attachment 2: Additional Perspective and Clarification

Attachment 1 – District Responses to CSA Recommendations

Summary of CSA Recommendations	District Responses
The District should periodically evaluate all available State and federal grants to reduce mobile emissions and notify the board if it decides not to pursue such programs.	The District agrees and will conduct ongoing evaluations of all applicable State and federal grant opportunities and periodically notify the board of any such grants it decides not to pursue.
By December 2020, the District should establish a methodology to calculate the full cost of the permit program, based on actual expenditures and administrative costs, and perform this calculation each year.	The District agrees. The District is in the process of contracting with a consulting firm to help evaluate its cost procedures and provide recommendations on best practices including a methodology for calculating the full cost of the permit program.
The District should monitor the economic impacts of the pandemic on San Diego County’s economy and, when conditions allow, propose to the board that it increase fees annually by the maximum percent allowed until the District’s revenue from permit fees is equal to the full cost of the permitting program.	The District agrees with the CSA’s related findings that State law allows the District broad discretion over its use of vehicle registration fees including offsetting the administrative costs of its permit program and, in doing so, there is less available funding for projects to reduce air pollutant emissions from mobile sources. When conditions allow, the District will work with its stakeholders to develop proposed options for the Board’s consideration to adjust permit fees to align the costs and revenues of the permit program.
By January 2021, the District should create and implement a public participation plan that includes both public outreach and public engagement activities.	The District agrees. By January 2021, it will prepare a public participation plan that includes both public outreach and public engagement activities.
The board should publicly deliberate on key issues related to air quality during its regular meetings.	District staff will ensure the board is made aware of this recommendation.
The board should determine whether an advisory committee is still necessary and, if so, it should immediately publicize committee vacancies on its website and in the monthly and annual County reports on committee vacancies and actively seek nominations to fill such vacancies, and ensure that district legal counsel monitors the committee meetings beginning immediately and advise the committee when it does not comply with State public meeting requirements.	<p>The District agrees with the intent of these recommendations and will ensure the board is made aware of them. District staff will continue to work with the clerk of the board to publicize current vacancies as recommended.</p> <p>District counsel will attend future meetings of the advisory committee and provide trainings to both District staff and advisory committee members regarding State open meeting requirements and applicable rules of procedure.</p>
By June 2021, the District should establish policies and procedures that require staff to validate the information they enter in the District’s database of air pollution complaints, periodically review data accuracy and completeness, establish time frames for staff supervisors to review complaint investigation reports and verify investigators have responded to complaints appropriately and promptly, and establish a process for validating the accuracy of the data entered.	The District agrees. In August 2019, the District began a formal Businesses Process Reengineering (BPR) effort to evaluate and improve upon the complaint program. This process is expected to culminate in June 2021 and will implement the CSA’s recommendations and make additional process improvements.
The District should finalize the District’s agreement with the County to continue providing key administrative services as soon as possible.	The District agrees. The proposed services agreement will be considered by both the Board of Supervisors and the Air Pollution Control Board in the summer of 2020.

Attachment 2 - Additional Perspective and Clarification

Permit Fees

The draft report states that the District's board may adopt permit fees by County regulation (page 15, lines 2-3). To clarify, the District's board adopts permit fees by amendments to District Rule 40 (Permit and Other Fees).

The District appreciates the CSA's finding that the District's use of vehicle registration fees to support its permitting process is allowable under State law. The District also concurs with the report's findings that mobile source emissions are by far the largest source of emissions which have caused the San Diego region to fail to meet federal ozone standards, and that even if all stationary source emissions were eliminated, the region still would not achieve federal ozone standards. Despite the overwhelming contribution of mobile sources, federal law requires more stringent regulation of stationary source emissions in relation to the District's nonattainment status. The District has thus sought to offset some costs of those regulatory programs with motor vehicle fees as allowed by State law, due to the fact that the District's non-attainment status is driven by motor vehicle emissions.

Public Engagement

The District appreciates the CSA's acknowledgment that the District employs public workshops for public engagement. District public workshops are noticed to interested parties via email, the District's website, and direct mailing to every permit holder in the region. These workshops are conducted prior to fee adjustments, rule and plan adoptions and amendments. They provide an important opportunity for public input to proposed actions, and for associated District revisions to its proposed actions, prior to consideration by the board. Workshop reports which document all written and verbal comments made on an item are thus an important component of board consideration of an action, and as such these reports are consistently attached to board letters to reflect public comment on an issue. This is in addition to any public comment that may be provided to the board before or during the public hearing. As such, even for items that are adopted by the board on consent, the board and District staff have provided meaningful opportunities for public engagement at all stages of the process, including early in the process so that changes based on public input can be made before any final hearing on the item.

District Advisory Committee

The District disagrees with the report's finding that the advisory committee has consistently failed to comply with State open meeting laws. As a preliminary matter, the District considers a quorum of that committee to be a majority of members currently appointed to the committee. This interpretation of a quorum is a reasonable interpretation of the resolution establishing the committee, which states that "A majority of the members shall constitute a quorum." Had the governing board intended for this majority to be a fixed number based upon the specified nine seats on the board, it could have specified that five members would constitute a quorum. Instead, by stating it as a "majority of members," the implication is that the intent was for a quorum to be a majority of members appointed. As such, it is not accurate to say that the committee met without a quorum on all 13 occasions reviewed by CSA.

Attachment 2 - Additional Perspective and Clarification, continued

However, the District also notes that on a few occasions, the committee met without a quorum even according to this definition, and that the minutes for these meetings reflected action taken despite not having a quorum. This is not a violation of State open meeting laws, since the meetings met the procedural requirements of State open meeting laws despite not having a majority of members present, and the meetings were not prohibited serial meetings conducted outside of public view. Additionally, the resolution establishing the advisory committee does allow for reflection of minority reports to the board. For board items for which a majority of the appointed members was not present at the advisory committee meeting, this was reflected in the District's report to the board. And as noted in the draft report, the District board subsequently complied with legal public meeting requirements in taking the actions reviewed by CSA.

Regardless, the District acknowledges that meeting without a quorum is contrary to the rules of procedure established for this committee, and will ensure that future meeting minutes and associated board letters will reflect whether a quorum was present and whether action was able to be taken as a result. As noted in Attachment 1, the District commits to having its attorney attend future meetings of the advisory committee, and will provide additional trainings for District staff and advisory committee members to ensure compliance with applicable rules of procedure and State open meeting laws. The District also appreciates that a full membership of the committee would increase its ability to reflect a variety of viewpoints. The District will work with its governing board to ensure vacancies are filled, should the new governing board decide to continue the committee in existence.

District Complaint Program

The District appreciates the CSA's acknowledgment that, based upon its review of complaint data from fiscal years 2016-17 through 2018-19, the District began investigating 90% of complaints within one business day. The District acknowledges there are opportunities to improve the quality and accessibility of the complaint program data. While the database stores labor data and inspection reports which extensively document when and how inspectors investigate complaints, limited information is stored in a searchable format. For this reason, in fall of 2019, a team of District staff including inspectors, aides, supervisors, and management, working with an information technology consultant, critically evaluated the District's air quality complaint process using a formal Business Process Reengineering (BPR) framework. Through this effort, the District will implement the CSA's recommendations, institute systematic and procedural controls to ensure data consistency and prevent errors, accelerate processing cycles, promote community engagement, and meet the upcoming requirements set forth by AB 423. This process is expected to culminate in June 2021.