

Minutes
 41st Meeting of the
 Joint Advisory Committee for the Improvement of Air Quality in the
 Cd. Juárez, Chihuahua / El Paso, Texas / Doña Ana County, New Mexico Air Basin
 Presidencia Municipal Antigua, Ciudad Juarez Chihuahua
 Thursday May 22, 2008

1. Welcome and Introductions

Bill Luthans (BL), EPA Region 6, welcomed all to the 41st meeting of the JAC. Ana Maria Contreras (AMC), SEMARNAT, also welcomed all to the meeting. A quorum was established. BL reported Rita Bates has been designated the new representative for the State of NM. Ellen Smythe has been designated the new representative for the City of El Paso. John Garza will step in as alternate for today's meeting.

JAC Members Present	
U.S.	México
Bill Luthans – EPA	Ana Maria Contreras V. – SEMARNAT
Carlos Rubinstein – TCEQ	Sergio Zepeda - Delegado PROFEPA
**Rita Bates – NMED	Araceli Salazar – COESPRIS
*Heather McMurray – Sunland Park, NM	Silvia Castro - Edo. de Chih.
*John Garza – City of El Paso	Ing. Bernardo Escudero – Cd. Juárez – DNA
**Paul Perez – Western Refining	Ing. Rene Franco – MEM Adriana Peña for Dr.
Elaine Barron, M.D.	Adriana Peña - SADEC
Mariana Chew – Sierra Club	*Biol. Alma Figueroa - UACJ
Bob Currey	**M.en I Alberto Rodriguez – CCSD
Wen-Whai Li, P.E., PhD	Ing. Ives Figueroa - CANACINTRA
* Alternate	** Not Present

2. Presentation and approval of current agenda and minutes.

The Agenda was accepted with minor modifications to the order of presentations. The minutes were approved.

3. Message from the Co-Chairs

BL stated that the resolution has been under development for the past 2 months. He thanked all those who participated the day before in firming up the wording on the resolution. The USEPA has proposed a significant lowering of the NAAQS for lead. Also this area is facing a tighter standard for ozone and it's something the JAC will want to start looking at as it recommends air quality improvements. AMC thanked all those who participated at the meeting the day before and helped Bill assemble a better document.

4. Public Participation

Roberto Prieto Carrillo, a proprietor in the vehicle verification industry in Juarez, stated he's pleased the JAC is addressing the ASARCO issue. He asked what is going on with Vehicle Verification (VeVe) in Juarez. He mentioned a variety of concerns he has with the current state of the program that have gone on since October, 2007.

Romelia Ruiz representing the P. Educativo & a marginalized community in northwest Juarez discussed health concerns that have developed throughout that community due possibly to local industry. It is difficult to pinpoint if any source is to blame due to the number of sources near this neighborhood.

Santiago Delgado, representing Defensa del Pueblo -a community in northwest Juarez - discussed several medical cases that have developed in his community. Children are living with respiratory and other health issues. Adults are experiencing cardio-vascular problems, but there is no way of determining the source of these health issues. He requested the Health Department to provide resources to at least treat some of the symptoms presenting in this community. He requested that no permits be issued to the facility until an understanding of health problems in his community are better understood, and he believes the smelter was the cause of problems in his community.

Robert Andrade (RA), representing the City of El Paso, indicated the city has transitioned from a City-County Health Department to a City Health Department. The representative on the JAC is Ellen Smythe, Director of Environmental Services. The City of EP is requesting help from the JAC to develop a 'green bridge' to promote 'green' transportation and reduce air pollution. Research conducted by the City indicates the bridges are a concentrated source of air pollution. At the BOTA – Bridge of the Americas – wait times are extensive given the bridge exceeds capacity. The City of EP is coordinating w/ the City of Juarez to develop a better bridge. He requested participation by the JAC to develop and promote this initiative. Regarding the resolution, the City of EP is not ready to sign-on to this document. The City would like to provide more input prior to submitting a vote.

BL asked RA to contact Victor Valenzuela to see if the "Green Bridge" initiative can be place on the JAC agenda.

5. JAC Discussion on Public Comments

AMC provided comments regarding the statement from Mr. Prieto on the Juarez VEVE program. It is important to make an evaluation of the VEVE program when the JAC meets to discuss air quality improvement projects & programs. This is an opportunity to conduct this analysis. We are aware the Jz vehicles emit over 100% more air pollution than vehicles in Mexico City given the stringency of programs in that city. We are also aware that catalytic converters are removed from vehicles in Jz to sell the metals they contain. So we are committed to helping Juarez get its program together and having the VEVE program be an effective air quality improvement tool.

Mariana Chew stated there is plenty of discussion on sources of lead in the air. ASARCO has also stated there are a variety of sources, but others believe the smelter is the source of the lead in the area near the facility.

Hector Sandoval Q. reported the City of Jz is pursuing the activation of the VEVE program. There are several technical issues that need to be worked out, but the JAC and Mr. Prieto can be assured the program will be re-activated.

6. Air Quality Report

Victor Valenzuela presented the air quality report. There were no exceedances or violations of the CO standard in either El Paso or Juarez since January 2008. CAMS 662 (20-30 Club) is the only station that exceeded the Mexican 8-hr CO standard of 11ppm. The area surrounding the 20-30 Club presents a high level of motor vehicle activity. There were no exceedances of the 1-hr O₃ standard in Mexico which is 0.110 ppm. The US 1-hr standard is not in effective for El Paso. CAMS 72 and 414 are exhibiting elevated O₃ levels, & there is concern that accelerated growth in El Paso may contribute to elevated O₃ levels. It is possible that within the next 2 years El Paso may be designated in non-attainment of the revised 8-hr standard what has been set at 75ppb / 8-hr averaging period.

BL interjected communities that may exceed the new 8-hr O₃ standard may enter into an agreement called an "Early Action Compact" which puts in motion voluntary efforts to help reduce 8-hr O₃ concentrations. If such voluntary efforts help lead to reductions in 8-hr O₃ concentrations, the EPA may be able to put-off making a non-attainment designation. This is something the JAC may be interested in looking at during the upcoming years. Among activities that can be undertaken by the JAC are promoting Stage I vapor recovery in Cd. Juarez gas stations. The infrastructure is currently in place. A formal program needs to be developed, and a US entity can undertake the investment to obtain the emissions reduction credit. A similar program was undertaken by EP Electric several years ago when it constructed over 60 environmental brick kilns in Juarez in exchange for NOx emissions reductions at a power plant in NE El Paso.

PM data from local Wedding samplers indicate an upward trend in ambient concentrations yet the standard has not been violated. There was only 1 day in the past 5 years in which PM₁₀ exceeded the standard in Cd. Juarez. This is a very good indicator of air quality improvement. Data from several PM₁₀ monitoring sites was presented. CAMS- 661, a site which up to 10 years ago had the worse PM₁₀ air quality in the region has not had any exceedances in the past 5 years. Evidence of road paving in the Mexico 68 Colonia indicates paving does help reduce PM₁₀. The PM_{2.5} standard is continuously exceeded at CAMS 40 in El Paso; this site is a special monitoring site. PM_{2.5} data in SLP indicates a downward trend. No violations of the PM_{2.5} standard have been observed in SLP, but a wintertime PM study is being prepared to track elevated PM levels during the early evening hours.

7. Presentations

A) JAC discussion on ASARCO

BL initiated by identifying 2 areas of work: 1) process, & 2) where we are with the resolution, what the resolution does and does not do.

1) Process: a document has been prepared and shared with all members based on comments received during the past 2 months and the day before today's meeting when members hammered out a document which, he considers, makes the resolution at least 95% complete. BL reminded that the purpose of the JAC is to provide comments & recommendations to the Air Policy Forum which then forwards those recommendations to agency heads who in turn return those recommendations back to the field offices. Those boundaries can be extended to those whom the JAC wishes to convey a message. Per the bylaws the JAC reaches consensus by either a unanimous vote of all members or if some members abstain and no one vetoes. BL also identified the legal framework under which the TCEQ & EPA must work. The law & rules are written such

that agencies must follow certain procedures when issuing permits. Agencies can not initiate this process by just saying “yes or no” to a permit request.

The JAC bylaws allow an entity to maintain their legal integrity to abstain and still develop a consensus decision on important issues such as the one to be discussed today.

The resolution has 2 parts. 1) It initiates with several “whereas” statements which establish the background in as simple a manner possible without interjecting value judgments. 2) Then it presents recommendations in 3 parts: A) Part 1 discusses the permit itself issued by the TCEQ and the upcoming Federal Operating permitting process. B) Part 2 discusses environmental and legacy issues that are important to air quality and not necessarily associated with the permit. For example, EP has historically had a waiver for ambient NOx emissions so a question is raised as to whether emissions from the ASARCO facility may impact air quality and regional ozone conditions. 3) Part 3 discusses building more public participation, transparency & trust in future operations at the smelter. One issue put forward on the resolution is that ASARCO work with the community to establish a citizens’ advisory panel. Other items are related to the State-issued operating permit and recommendations made by the TCEQ in an Order dated March 27, 2008. Other items covered in this part include requesting onsite and offsite air monitoring activities to obtain a better picture of ambient air quality conditions both before and after the facility initiates operation.

Elaine Barron (EB) initiated the conversation by suggesting modifications to paragraph 4 addressing health risks associated with exposure to air pollutants. Bob Currey (BC) indicated there is insufficient information as reported by the NIEHS on health risks associated with air pollution and whether the problem comes from the size, mass, concentration, etc.

Mariana Chew (MC) countered that while it is difficult to determine how many tons of pollution a community needs to be exposed to cause health problems, there is information indicating exposure to lead has impacts to human health. Heather McMurray (HMc) stated it is important to specify in this resolution that there are many unknowns with what happened with ASARCO’s ‘toxic waste’ they burned for nearly a decade. EB added this resolution needs to state the JAC is addressing the health aspect associated impacts to the community due to operation of the smelter. Araceli Salazar (AS) stated that these comments indicate each speaker is interpreting the resolution differently. What she thinks is that the resolution states what needs to be stated: there are health risks associated w/ exposure to air pollutants and yet uncertainties remain regarding how different air pollutants impact health.

BL commented that the front part of the resolution is background. He’d like the committee to focus on what is requested & less on the nuances leading to what is resolved. The original intent is to request actions like modeling, research, soils and air sampling, coordination between the parties.

Adriana Peña (AP) commented on the need to consider issues such as health impacts due to exposure to pollution emitted by the smelter & request smelter operations consider researching this. AMC stated Mexico still does not have sufficient data to assess these impacts, but COFEPRIS / COESPRIS can undertake these studies to develop a better knowledgebase of health effects associated w/ exposure to air pollution.

MC indicated there are several blood lead studies that have been undertaken in Cd. Juarez and that information has not become available to anyone. Perhaps if we can have that data we can start developing this knowledgebase.

Rene Franco (RF) commented we have a mix of air pollutants currently in the air, but how will we

know the source of future emissions when we don't have an idea of where current air pollution is generated. Independent of where the pollution is generated without knowing the source, it's almost impossible to know if a new source is causing problems without adequate monitoring and further research. We must acknowledge there is air pollution, act, clean the air, and then we can get into discussions on whom to send the bill for all this effort. Unfortunately we want to point the finger to ASARCO for all the air pollution in the air. 2nd this document has been circulating for 2 months. Yesterday we spent ½ day modifying it. Today he urges the JAC to quit modifying this document to death and focus on the actions that need to be undertaken. He requests the public to provide comments to see what they think of what has been drafted and the actions recommended.

MC requested the resolution reflect the role of elected officials who have stated concern on operation of the smelter. This request was approved. The statement will contain a more affirmative statement to that effect.

BL called for a vote on the resolution adding that he wants an "aye" or "nay" vote. Those voting with a "nay" need to come up with their own comments on what is being discussed given we would not have consensus. VV stated the bylaws allow for consensus with abstentions. As long as there is a "nay" the resolution is vetoed, but consensus can come thru abstentions. Bill was conserving anyone's right to say "nay" so we do not have a lot of rewrites to this document. Those voting "nay" can come back in 2 weeks with their rewrite.

A role-call was taken:

3-abstain; 15-aye, 0-nay, 2-absent. The document was approved by consensus. It was agreed to make 2 modifications on paragraphs 2 & 4.

Everyone was asked to submit their changes ASAP. The modified version of the resolution will be circulated by June 6.

Adriana Peña reiterated that this document still doesn't address issues of possible health impacts that could be associated with emissions from the smelter due to vehicular traffic over industrial roadways once activity initiates.

BL replied that 1 thing we can agree on is that conditions placed on operation of the smelter need to be enforceable. He will ask the JAC to place the burden on itself to be involved in the possible re-opening of the facility. He will contact ASARCO to see if they will form a Citizens' Advisory Panel to include addressing things like trucks & traffic on the facility's roadways. HMc suggested not going into this area. Just make the changes recommended by the committee because what is suggested is assuring the facility opens and starts polluting which would be counter to her interests.

The meeting ended with agreement to make the recommended modifications.

8. JAC Subcommittee Reports and Discussion - No committee reports were submitted.
9. Observations and Comments from the Public - No comments provided.
10. Highlights and consensus items of the meeting. - No comments provided.
11. Next meeting August 21, 2008 in Sunland Park, NM
12. Adjourn