

SOUTHWEST CLEAN AIR AGENCY

Board of Directors Meeting
May 6, 2010
3:00 P.M.
Southwest Clean Air Agency
11815 N.E. 99th Street
Vancouver, Washington

Optional Conference Call Number for use by SWCAA Board of Directors
(360) 407-3780 and PIN No. 746501#

(Note: Please notify Tina Hallock at (360) 574-3058 Ext. 10
if you desire that SWCAA pay the cost of this long distance call because
in this circumstance a state SCAN Operator will need to telephone you.)

AGENDA

- I. Call to Order
 - A. SWCAA Chair Don Jensen.

- II. Roll Call/Determination of Quorum
 - A. SWCAA Chair Don Jensen.

- III. Board of Directors Minutes
 - A. Board of Directors Minutes of April 1, 2010.

- IV. Changes to the Agenda
 - A. SWCAA Chair Don Jensen.

- V. Public Comment
 - A. Public Comment.

- VI. Consent Agenda
 - A. Approval of Vouchers.
 - B. Financial Report.
 - C. Monthly Activity Report.

- VII. Public Hearing
 - A. None.

- VIII. Unfinished Business/New Business
 - A. Adoption of Proposed Fiscal Year 2010/2011 Budget.**
 - 1. Issue – The Southwest Clean Air Agency (SWCAA) is required by the Washington Clean Air Act (RCW 70.94.092) to utilize a budget year of July 1st through June 30th. This statute also specifies that SWCAA must have its budget adopted by the Board of Directors by the fourth Monday in June of each year.

2. Summary – The proposed Fiscal Year 2010/2011 budget of \$1,928,391 is a \$786,785 decrease (29%) from the Fiscal Year 2009/2010 budget amended in February 2010. Most of this net reduction in budget revenues is due to four issues: (1) a decrease of \$333,497 in use of state Diesel School Bus Retrofit Grant funds due to significant progress on work completion; (2) a decrease of \$296,926 from Air Operating Permit fees because legal fees budgeted at \$300,000 by a February 2010 amendment to the FY 2009/2010 budget for defending the TransAlta Centralia Generating Plant Title V Permit Renewal are not budgeted for FY 2010/2011; (3) a decrease of \$72,516 from civil penalties due mostly to the completion of payments for a large civil penalty associated with a consent order entered into with Chinook Ventures of Longview, Washington; and (4) a decrease of \$55,000 because depreciable equipment expenditures necessitated in FY 2009/2010 by a failed copier, reliability problems with the phone system and high vehicle fleet mileage are not expected to reoccur in FY 2010/2011. At the same time, an increase in revenues of \$31,629 occurred with the federal base grant due to the release of funds being held back by EPA.

On the expense side, the net decrease in revenues for FY 2010/2011 of \$786,785 (29%) was met with cost reductions in all expense categories where deemed possible in order to balance the budget without significantly affecting SWCAA's level of service. A net reduction of the staff salaries budget was achieved by reducing staff from 17 FTE to 16.49 FTE. SWCAA's current lease expires on October 31, 2010. A new seven-year lease has been negotiated with terms favorable to SWCAA. The agency's Depreciation Reserve, Liability Reserve, Vacation/Sick/Retirement Reserve, and Special Studies Reserve will remain fully funded. In order to better serve SWCAA's current and future needs some changes are being proposed to the names and use of certain agency reserves beginning with the new FY 2010/2011. The Special Studies Reserve was originally established in FY 2001/2002 with funds provided through an EPA compliance settlement with TransAlta Centralia Mining. Although use of the funds was not restricted, the funds were set aside in anticipation of a special monitoring project to support a permit application. However, this matter was resolved by other means. It is now proposed to use these funds for work on two important information technology (IT) projects that have been neglected for lack of funding: (1) web page improvements and (2) file scanning. Accordingly, this reserve will be renamed the Web/Scan IT Reserve. The other reserve being proposed for renaming is the Facilities Reserve. This reserve was established in 2006 to provide for higher lease costs when the original lease expires in October 2010, to fund improvements/upgrades at the current or new location, or to purchase a new facility. The recent negotiation of a new seven-year lease at the current location with terms favorable to the agency resolves these concerns and provides an opportunity to strengthen the agency. It is now proposed that this reserve be renamed the Non-Title V Reserve and that these funds be used to ensure that all of the non-Title V programs remain adequately funded which will avoid the need for fee increases for

an extended time into the future. In summary, SWCAA is in good financial condition as the new fiscal year approaches. (Attachment No. 1)

3. RECOMMENDATION – Approve Resolution 2010-2 authorizing a proposed Fiscal Year 2010/2011 Budget of \$1,928,391.

IX. Presentation

A. Update - Voluntary Group Source Testing Proposal for Dry Kilns versus Individual Testing as has been Performed in Previous Years (Paul Mairose, SWCAA Chief Engineer) (Attachment Nos. 2 and 3).

X. Control Officer Report

A. Circuit Court Concludes States May Sue Power Companies to Limit Their CO₂ Emissions.

1. Issue – The U.S. Court of Appeals for the 2nd Circuit reversed a lower court decision, holding that power companies can be sued for their power plant’s carbon dioxide (CO₂) emissions.

2. Summary – Eight states, the City of New York and three environmental groups filed suit against American Electric Power, Cinergy, Southern Company, Xcel Energy and the Tennessee Valley Authority in 2004 claiming that carbon dioxide emissions from power plants owned by these companies contributed to a public nuisance because the plants were emitting 650 million tons per year of carbon dioxide, which was causing and would continue to cause serious harm affecting human health and natural resources. The lower court dismissed the lawsuit, holding that the claims presented a nonjusticiable political question meaning that the claims would be better resolved by the legislature than the courts. However, the 2nd Circuit said that the U.S. Supreme Court set a high bar for nonjusticiability and since that decision was issued in 1962, a majority of the Court has found only two issues that presented political questions that the judicial system should not resolve. The court went on to rule that the claims presented and remedy requested by the plaintiffs were not nonjusticiable political questions but rather of the kind that courts could address: whether the carbon dioxide emissions from these power plants cause a nuisance and thus a court should order the plants to abate the nuisance by reducing the emissions. The Court also held that the plaintiffs had standing, that they stated a valid claim under federal common law of nuisance and that their claims were not displaced by the Clean Air Act or other legislation. The court did not decide on the merits of the claims; the case was remanded for proceedings consistent with the upper court’s decision. The plaintiffs include the states of California, Connecticut, Iowa, New Jersey, New York, Rhode Island, Vermont and Wisconsin and the City of New York.

B. Environmental Groups Petition EPA to Set National Ambient Air Quality Health Standard (NAAQS) for Greenhouse Gas Emissions.

1. Issue – Environmental groups have petitioned EPA to list seven greenhouse gases as “criteria air pollutants” under the Clean Air Act.

2. Summary – The desired outcome of the environmental groups is for EPA to set a national ambient air quality standard (NAAQS) for carbon dioxide (CO₂) at no

greater than 350 parts per million (ppm). The groups list the following seven long-lived greenhouse gases as criteria air pollutants: (1) carbon dioxide, (2) methane, (3) nitrous oxide, (4) hydrofluorocarbons, (5) perfluorocarbons, (6) sulfur hexafluoride, and (7) nitrogen trifluoride. The environmental groups claim that since EPA has now issued the greenhouse gas endangerment finding, the necessary test for listing greenhouse gases as criteria air pollutants has been met and that EPA must now promulgate air quality health standards for them. The carbon dioxide standard proposed by the environmental groups is 350 ppm. Current concentrations stand at about 385 ppm. For the other six greenhouse gases, the environmental groups do not recommend specific national ambient air quality health standards. The groups state that “the Clean Air Act already contains the comprehensive, science-based flexible, and immediately available tools necessary to address the climate crisis. They further state that the State Implementation Plan (SIP) process used by EPA and state agencies is well-suited for greenhouse gases because, in part, state and local air authorities can address greenhouse gas emissions that cannot be regulated under a federal program such as through building codes and land use planning.

C. EPA Articulates Thinking on 15 Percent Ethanol (E15) Gasoline Approval.

1. Issue – Under current law, ethanol in gasoline is limited to 10 percent.
2. Summary – EPA has responded to the Growth Energy organization on their petition for a waiver to allow the use of gasoline containing up to 15 percent. On the agency’s evaluation, EPA stated that although all of the studies have not been completed, EPA’s assessment to date indicates that the fuel, engine and emission control systems on new vehicles (i.e., 2001 and newer model years) will likely be able to accommodate higher ethanol blends, such as E15. If tests continue to remain supportive, EPA may be in a position to approve E15 for 2001 and newer vehicles by mid-2010. EPA said a working group is being pulled together to examine and address labeling issues to allow final labeling requirements to be put in place soon after a waiver decision is made. Growth Energy members believe America needs a new ethanol approach. Growth Energy promotes reducing greenhouse gases, expanding the use of ethanol in gasoline, decreasing America’s dependence on foreign oil, and creating American jobs at home.

D. Synthetic Fuel Concept to Remove CO₂ from Atmosphere.

1. Issue – Los Alamos National Laboratory has developed a low-risk, transformational concept called “Green Freedom” for large scale production of carbon neutral, sulfur free fuels and organic chemicals from air and water.
2. Summary – Currently, the principal market for the “Green Freedom” production concept is fuel for motor vehicles and aircraft. At the heart of the technology is a new process for extracting carbon dioxide from the atmosphere and making it available for fuel production using a new form of electrochemical separation. By integrating this electrochemical process with existing technology, researchers have developed a new, practical approach to producing fuels and organic chemicals that permits continued use of existing industrial and transportation infrastructure. Fuel production is driven by carbon neutral power.

Unlike large scale biofuels concepts, the Green Freedom concept does not add pressure to agricultural capacity or use large tracts of land or farming resources for production. The next phase of the research will be to demonstrate the new electrochemical process to prove the ability of the system to both capture carbon dioxide and pull it back out of solution. An industrial partnership consortium will be formed to commercialize the “Green Freedom” concept.

XI. Board Policy Discussion Issues

A. As Necessary.

XII. Issues for Next Meeting

A. Public Hearing.

1. None.

B. New Business/Unfinished Business.

1. As Necessary.

C. Control Officer Report.

1. As Necessary.

D. Board Policy Discussion Issues.

1. As Necessary.

E. Meeting Date and Location

1. June 3, 2010 at 3:00 p.m., Southwest Clean Air Agency, 11815 NE 99th Street, Vancouver, Washington.

XII. Adjournment

Mission Statement

“To Preserve and Enhance Air Quality in Southwest Washington”

Board of Director Values

1. It is important for the region to first achieve healthy air before focusing on other air quality issues.
2. Local control of southwest Washington air pollution issues should be apparent to our constituency.
3. It is important that compliance with federal and state air pollution regulations be achieved.
4. A partnership that is fully reciprocal is desired with the Washington Department of Ecology and U.S. Environmental Protection Agency.
5. All decisions made by the Board should be guided by a principle of doing what is best for the region as a whole.
6. It is important to strive for a good working relationship with the residents and industries of southwest Washington.
7. The effort to obtain stakeholder input on agency actions is a key component of the agency’s public involvement process.
8. The pursuit of reductions in air pollution should be based on achieving the largest air quality benefits first.
9. The basis for air pollution reduction measures should be rooted in sound science.
10. Education should be utilized as an important tool for achieving sustained voluntary compliance.
11. The priority of enforcement decisions should first be on ensuring education is achieved and then issuance of civil penalties.
12. Effective enforcement means that recalcitrant sources are brought into clear compliance.
13. The Board prefers to be involved at the policy setting level for the agency rather than the day-to-day management issues.
14. Fiscal expenditures by the agency should be consistent with the Board approved budget.
15. The fair treatment of the agency’s employees is an important goal of the Board.

Note: (1) Served by C-TRAN Routes: 7, 72 and 76.

(2) Accommodation of the needs for disabled persons can be made upon request.
For more information, please call (360) 574-3058 extension 10.