

Southwest Clean Air Agency

Board of Directors Minutes

February 4, 2010

The regular meeting of the Southwest Clean Air Agency Board of Directors was held in the Southwest Clean Air Agency office, Vancouver, Washington on February 4, 2010.

Those present were: Don Jensen, Chair, City of Longview  
Bill Schulte, Director, Lewis County  
George Raiter, Director, Cowlitz County  
Mary Ann Duncan-Cole, Director, City of Stevenson  
Jamie Tolfree, Director, Skamania County  
Blair Brady, Director, Wahkiakum County  
Harlan Thompson, Director, City of Centralia  
Milton Cox, Director, Member at Large  
David Goodroe, Director, City of Cathlamet

Excused: Kelly Sills, Director, Clark County  
City of Vancouver

Also Present: Staff: Robert D. Elliott, Executive Director  
Paul Mairose, Chief Engineer  
Traci Arnold, Office Administrator

Guests: Stan Rauh, Department of Ecology

Call to Order

Mr. Jensen called the meeting to order. A quorum was confirmed to exist.

Board of Directors Minutes

Mr. Jensen asked for consideration of the January 7, 2010 minutes. Mr. Brady moved and Mr. Thompson seconded that the minutes for the January 7, 2010 Board meeting be approved. Motion passed.

Changes to Agenda

None.

### Public Comment

None.

### Consent Agenda

Mr. Jensen asked for approval of the Consent Agenda including the January 2010 timesheets for Executive Director Robert Elliott, voucher numbers 421 through 472 and 474 through 477, in the amount of \$13,963.55, which have been approved for payment by the Executive Director, voucher numbers 473 and 478 through 482, in the amount of \$67,333.64 and December Monthly Activity Report. Mr. Brady moved, and Mrs. Duncan-Cole seconded approval of the Consent Agenda. Motion passed.

### Public Hearing

None.

### Unfinished Business/New Business

Mr. Jensen opened discussion on Amendment of the Fiscal Year 2009/2010 Budget and recognized Mr. Elliott. Mr. Elliott explained an amendment of the Fiscal Year 2009/2010 Budget needs to occur because of three issues that have occurred in recent months. He said the issues are: (1) School bus diesel emission retrofit installations have occurred in greater numbers than forecast by the 2009/2010 budget approved in May 2009; (2) Capital equipment replacements have been needed that were not forecast in the budget; and (3) Attorney fees for the TransAlta Coal-Fired Power Plant Title V renewal Air Operating Permit litigation were not known about when the May 2009 budget was approved. Mr. Elliott said the school bus diesel emission reduction retrofit project was estimated to have an expenditure of \$201,360 during the current fiscal year with the balance of funds spent in the following fiscal year. He said instead, installations have been so successful that all of the remaining reserve funds for this project will be spent during the current fiscal year. This success results in the need to transfer from reserves \$197,606 and produces an amended budget for this project of \$398,966. This funding transfer signals the end of the diesel emission retrofit project for school buses and local government fleets that first begin in 2003 and leaves the agency with a reserve fund balance of zero dollars for this specific work. Over the 6 years that SWCAA has been working to reduce diesel emissions from school buses and local government fleets approximately \$1.7 million has been contributed to the southwest Washington economy by SWCAA. Mr. Elliott said capital expenditures that needed to be made in recent months and not included in the approved budget involved the purchase of new copier because the old copier had failed, purchase of an agency vehicle for high fleet mileage reasons and acquiring a new telephone system in spring 2010 because the current telephone system has developed some reliability concerns. He said in order to address these capital equipment expenditures, an amount of \$55,000 needs to be transferred from the Depreciation Reserve Fund which leaves a balance of approximately \$35,000 in this reserve fund. These depreciation funds will be replenished when the next fiscal year's budget (i.e., Fiscal Year 2010/2011) is approved by the Board of Directors in May 2010, if adequate revenues are determined to exist at that time. And finally he said, the lawsuit filed in September 2009 by Earthjustice and Sierra Club against the TransAlta Title V renewal of its Air Operating Permit

issued by SWCAA is causing expenditures for legal counsel (i.e., Marten Law Group) that were not included in the May 2009 approved budget. Mr. Elliott said TransAlta has agreed to reimburse SWCAA for the defense of its Title V Permit Renewal which makes this issue a pass-through cost and revenue for SWCAA. He said this litigation is estimated to require a budget through June 30, 2010 of \$300,000 in attorney fees. Mr. Elliott said this budget figure assumes that the litigation actually goes to trial in June 2010. He said SWCAA may incur a lesser amount of attorney fees if it successfully wins the legal issues and obtains a Motion for Summary Judgment issued in its favor. Mr. Elliott said the Pollution Control Hearings Board (PCHB) will issue its ruling on SWCAA's Motion for Summary Judgment in early March 2010. He said the current Fiscal Year 2009/2010 budget is being proposed to be increased by Resolution 2010-01 by amending the budget from \$2,162,570 to \$2,715,176.

Mr. Jensen asked for a motion to approve Resolution No. 2010-01 which establishes an Amended Fiscal Year 2009/2010 Budget in the amount of \$2,715,176. Mrs. Duncan-Cole moved and Mr. Brady seconded to approve Resolution 2010-01 which amends the current Fiscal Year 2009/2010 budget from \$2,162,570 to \$2,715,176. Motion passed.

Mr. Jensen opened discussion on the election of Chair and Vice Chair for calendar year 2010. Mr. Elliott explained that the Chair position assumes only a small amount of additional work in communicating with the agency and coming to meetings regularly. Mr. Jensen asked for volunteers or nominations for the Chair. Mr. Brady nominated Mr. Jensen for Chair of the SWCAA Board of Directors. Mr. Jensen accepted the nomination and asked if there were any further nominations for the Chair position. There was none. Mr. Raiter moved, and Mr. Thompson seconded approval of the nomination of Mr. Jensen for Chair of the SWCAA Board of Directors. Motion passed.

Mr. Jensen opened nomination for the Vice Chair position. Mr. Brady nominated Mr. Raiter. Mr. Goodroe moved, and Mr. Cox seconded approval of the nomination of Mr. Raiter for Vice Chair of the SWCAA Board of Directors. Motion passed.

Mr. Jensen and Mr. Raiter expressed their gratitude for the approval of their nomination and thanked the Board members.

#### Control Officer Report

1.) Mr. Elliott reported EPA has settled Clean Air Act violations at BP Refinery. He said BP Products North America will spend more than \$161 million to upgrade control equipment and improve processes to reduce benzene emissions at its Texas City refinery. He said in 2005, an explosion and fire killed 15 people at the plant, leading to criminal charges and imposition of a \$50 million fine; the largest criminal fine ever assessed under the Clean Air Act. Mr. Elliott said a series of inspections were initiated after the explosion, leading to the current settlement. He said in addition to benzene controls, the proposed Consent Decree requires emissions limitations on hydrochlorofluorocarbons from leaking equipment and oversight and management of asbestos containing wastes generated during routine renovation and demolition activities. Mr. Elliott said BP will also pay a \$12 million civil penalty and, as a supplemental environmental project, has

agreed to convert approximately 100 diesel municipal vehicles to operate on compressed natural gas or liquefied natural gas.

2.) Mr. Elliott reported EPA has applied for an Emission Control Area (ECA) to reduce emissions from global shipping vessels. He said the U.S. and Canada have requested that the International Maritime Organization (IMO) designate portions of U.S. and Canada coastal waters as an Emissions Control Area (ECA). Mr. Elliott said if approved by the International Maritime Organization, such a designation would result in the control of nitrogen oxides (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), and particulate matter (PM) from large oceangoing vessels when they travel in U.S. and Canadian waters. He said ninety percent of large oceangoing vessels (i.e., Category 3), which include container ships, cruise ships, tankers, and bulk carriers, are foreign flagged. Mr. Elliott said according to EPA, a U.S./Canadian emissions control area would reduce annual NO<sub>x</sub> emissions by 320,000 tons (23 percent), annual SO<sub>x</sub> emissions by 920,000 tons (86 percent) and annual fine particulate matter emissions by 90,000 tons (74 percent). He said about 87 million people reside in port areas of the U.S. where health-based air quality standards are exceeded.

3.) Mr. Elliott reported New York City has adopted two laws that limit engine idling near public and private school facilities to no more than one minute and authorize additional city agencies to enforce these new, stricter anti-idling restrictions. He said under current law, cars and truck can idle up to three minutes. Mr. Elliott said neither the current law nor the new law applies to emergency service vehicles. He said according to Asthma Free School Zone, one in every four children in New York City has asthma, which is well over the national average. Mr. Elliott said the authority to issue tickets has been expanded to include the Department of Parks and Recreation and Department of Sanitation.

4.) Mr. Elliott reported cities with the most buildings meeting energy efficiency standards under EPA's Energy Star program in order are Los Angeles, San Francisco, Houston, Washington, D.C., Dallas-Fort Worth, Chicago, Denver, Minneapolis-St. Paul, Atlanta and Seattle. He said according to EPA, Energy Star buildings use 35 percent less energy and emit 35 percent fewer greenhouse gas emissions compared to an average building. In 2008, more than 3,300 commercial buildings and manufacturing plants earned the Energy Star label.

5.) Mr. Elliott reported the U.S. Court of Appeals for the District of Columbia Circuit Court remanded the National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>) to EPA for further evaluation. He said the court had concerns that EPA had left the annual standard unchanged at 15 micrograms per cubic meter and the court also had concerns over EPA's decision on the secondary standard that protects visibility and vegetation. Mr. Elliott said with respect to the annual fine particulate matter (PM<sub>2.5</sub>) standard, the court held that EPA failed to adequately explain why, in view of the risks posed by short-term exposures and the evidence of morbidity resulting from long-term exposures, its annual standard is sufficient to protect the public health with an adequate margin of safety. He said for the secondary standard, which EPA set identical to the primary standard, the court held that EPA unreasonably concluded that public health standards are adequate to protect the public welfare from adverse effects on visibility.

6.) Mr. Elliott reported that a District Court has ordered Tennessee Valley Authority (TVA) to install emission controls on power plants that are causing a public nuisance in North Carolina. He said North Carolina prevailed in part on its lawsuit against the Tennessee Valley Authority (TVA) based on common law public nuisance. Mr. Elliott said the District Court pointed out that a nuisance action was an unusual vehicle for relief and that EPA has traditionally been the chief arbiter of interstate air pollution, but that the Clean Air Act's comprehensive scheme for the adjudication of interstate pollution disputes does not impair the equitable powers of the District Court to address North Carolina's concern. He said the Court concluded that untreated air pollution from three TVA power plants located in Tennessee and one located in Alabama had actually harmed North Carolina citizens. Mr. Elliott said these power plants were termed "the 100-mile plants" by the District Court and the District Court concluded they contributed significantly to the levels of pollution in North Carolina.

Mr. Jensen asked if SWCAA's Prius vehicles are part of the national Toyota recall. Mr. Elliott responded that Toyota presently has two recalls in effect; one for "Potential Floor Mat Interference with the Accelerator", and one for "Potential Accelerator Sticking". He said none of the SWCAA Toyotas are named in the "Potential Accelerator Sticking" recall, however the Camry, and the two 2009 Prius vehicles (the Monday and Tuesday duty cars) are named in the "Potential Floor Mat Interference with Accelerator" recall. Mr. Elliott said for this recall Toyota has not yet notified SWCAA that a "fix" is ready for our cars, but they have recommended removing the driver side floor mats in the interim. He said the driver side floor mats have been removed from these three effected SWCAA vehicles, and will not be reinstalled until after SWCAA is notified of the "fix", and the dealer declares them appropriate.

Mrs. Tolfree asked for an update on the PGE Boardman Coal-Fired Power Plant. Mr. Elliott responded that PGE has again indicated just as they did in January 2009 that they would like to continue operating the plant 'as is' with the understanding that PGE will shut down the PGE Boardman Coal-Fired Power Plant in 2020. He said this was one of the original options provided by PGE in PGE's response to the Oregon Department of Environmental Quality's BART order in January 2009. Mr. Elliott said a decision by DEQ and EPA on how PGE is going to achieve compliance with the BART order will be made in the next six to nine months. He said in the meantime meetings between Oregon DEQ, SWCAA, Gorge Commission staff and Gorge Commissioners are expected to occur soon relating to the Gorge Air Quality Strategy Report.

#### Board Policy Discussion Issues

None.

#### 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. March 4, 2010 at 3:00 p.m., Southwest Clean Air Agency, 11815 NE 99<sup>th</sup> Street, Vancouver, Washington.

The next Board of Directors meeting will be held on March 4, 2010 at 3:00 p.m., Southwest Clean Air Agency, Vancouver, Washington.

Board Meeting Attendance:

JURISDICTION	J 2010	F 2010	M 2009	A 2009	M 2009	J 2009	J 2009	A 2009	S 2009	O 2009	N 2009	D 2009
Clark County	0	0	+	+	+	+	C	+	+	0	+	C
Cowlitz County	+	+	0	0	+	+	C	+	+	+	+	C
Lewis County	+	+	+	+	0	+	C	+	+	+	0	C
Skamania County	+	+	+	+	0	+	C	+	+	+	+	C
Wahkiakum County	+	+	+	+	0	+	C	+	+	+	+	C
Cathlamet	+	+	+	+	+	0	C	+	+	0	+	C
Centralia	+	+	+	+	+	+	C	+	0	+	+	C
Longview	+	+	+	+	+	+	C	+	+	+	0	C
Stevenson	+	+	+	0	+	+	C	+	+	+	+	C
Vancouver	0	0	+	+	+	+	C	0	+	+	0	C
Member-At-Large	+	+	+	+	+	+	C	+	+	+	+	C

+ = regular member present; 0 = unrepresented; A = alternate present; C = cancelled meeting

Mr. Jensen adjourned the meeting without objection 3:48 p.m.

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Chair

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Executive Director