

Southwest Clean Air Agency

Board of Directors Minutes

November 5, 2009

The regular meeting of the Southwest Clean Air Agency Board of Directors was held in the Southwest Clean Air Agency office, Vancouver, Washington on November 5, 2009.

Those present were: George Raiter, Acting Chair, 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
Kelly Sills, Director, Clark County
Milton Cox, Director, Member at Large
David Goodroe, Director, City of Cathlamet

Excused: Don Jensen, Chair, City of Longview
Pat Jollota, Vice Chair, City of Vancouver
Bill Schulte, Director, Lewis County

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

Guests: None.

Call to Order

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

Board of Directors Minutes

Mr. Raiter asked for consideration of the October 1, 2009 minutes. Mr. Brady moved and Mr. Thompson seconded that the minutes for the October 1, 2009 Board meeting be approved. Mr. Sills abstained from the motion. Motion passed.

Changes to Agenda

Mr. Elliott reported he would be adding two more items to the Control Officer's Report.

Public Comment

None.

Consent Agenda

Mr. Raiter asked for approval of the Consent Agenda including the October 2009 timesheets for Executive Director Robert Elliott, voucher numbers 225 through 282, 284, 286 through 288, 290 through 292, 294, 297, 298 and 299, in the amount of \$16,079.88, which have been approved for payment by the Executive Director, voucher numbers 283, 285, 289, 293, 295 and 296, in the amount of \$66,118.79, September Financial Report, September Monthly Activity Report, September 2009 salaries in the amount of \$92,663.48 and September 2009 benefits in the amount of \$32,975.42. Mr. Cox moved, and Mr. Brady seconded approval of the Consent Agenda. Motion passed.

Public Hearing

None.

Unfinished Business/New Business

Mr. Raiter opened discussion on the cancellation of the December 3, 2009 Board of Directors meeting and recognized Mr. Elliott. Mr. Elliott explained that traditionally the December Board meeting has been cancelled because the minimum number of Board meetings for the calendar year has been satisfied by December. He said the Washington Clean Air Act requires that SWCAA's Board of Directors meet at least 10 times per year. Ten meetings will have been held when the November Board meeting is concluded. Mr. Elliott said vouchers needing payment in December will be hand delivered for the necessary Board member signatures. Mr. Raiter asked for a motion to cancel the December 3, 2009 Board of Directors meeting. Mr. Thompson moved and Mr. Brady seconded that the December 3, 2009 Board of Directors meeting be cancelled. Motion passed.

Control Officer Report

1.) Mr. Elliott reported Earthjustice has filed a petition with the US EPA Administrator in Washington D.C. asking EPA to remand TransAlta's Title V permit to SWCAA for incorporation of carbon dioxide (CO₂) and mercury (Hg) emission limits. He said this petition could be the first step by Earthjustice that will later lead to their filing a lawsuit against EPA, TransAlta and SWCAA in the federal court system. Mr. Elliott said he has authorized SWCAA's attorney, Marten Law Group, to represent SWCAA in this petition filing. Mr. Raiter asked if there are any options for assistance with the legal fees. Mr. Elliott responded that SWCAA contacted the Attorney General to file an Amicus Brief in the Washington Pollution Control Hearing Board (PCHB) appeal and the Attorney General responded they have no resources to file the brief or provide any assistance to SWCAA. He said the only other option is for the attorney costs to be recovered from the source (i.e., TransAlta). He said SWCAA does not maintain a legal fees reserve fund for permit appeals. Mr. Brady asked if there were options for SWCAA to take other actions. Mr. Elliott responded that

Earthjustice appears to have the goal to shut down the power plant to eliminate its carbon dioxide (CO₂) and mercury (Hg) emissions so there are few options. Mr. Elliott explained that when SWCAA looked at the cost for TransAlta to install carbon dioxide (CO₂) emission controls in the 1990s the cost figure would have been over \$900 million. He said the power plant only cost about \$300 million to build in 1970. He added that the cost of mercury (Hg) emissions controls might add an additional \$60 million and selective catalytic reduction (SCR) controls for nitrogen oxide emissions might add another \$190 million. Mr. Elliott concluded that with perhaps over \$1 billion in control equipment costs facing the power plant under Earthjustice's goals there are few options for SWCAA or the facility to explore.

2.) Mr. Elliott reported that the EastRidge Business Park has contacted SWCAA and would like to begin early lease negotiations on SWCAA's office space. He said SWCAA's current lease expires in September 2010. Mr. Elliott said he would like the agency to remain in its current location and intends to negotiate for a long term lease.

3.) Mr. Elliott reported the Washington State Auditor's Office has issued a two year Financial Audit Report covering Fiscal Years from July 1, 2007 through June 30, 2009. He said this audit concluded there were no Findings or Management Letters and also no Exit Interview Discussion Items for SWCAA. He said SWCAA has not been issued a finding by the State Auditor's Office in the past 17 years that Mr. Elliott has managed the agency. Mr. Elliott said SWCAA Board of Director Kelly Sills attended the October 14, 2009 Exit Conference with the Washington State Auditor's Office on the behalf of the SWCAA Board of Directors. He summarized that the Audit Summary states that SWCAA complied with state laws and regulations and its own policies and procedures in the areas examined. Mr. Elliott said the areas examined were those representing the highest risk of noncompliance, misappropriation or misuse. He said the Audit Summary also stated that SWCAA's internal controls were adequate to safeguard the public's assets. In addition, SWCAA's Title V program was also audited and found to have no concerns by the auditor.

4.) Mr. Elliott reported Earthjustice appealed TransAlta's Coal-Fired Power Plant Title V Permit to the Washington Pollution Control Hearing Board (PCHB) requesting the implementation of Carbon Dioxide (CO₂) and Mercury (Hg) emission reductions. He said Earthjustice has filed this lawsuit on the behalf of several environmental groups (i.e., Sierra Club, National Parks Conservation Association and Northwest Environmental Defense Center) requesting that the TransAlta Title V permit be amended to include carbon dioxide emission limits, mercury emission limits and more stringent nitrogen oxide (NO_x) emission limits. Mr. Elliott said the Pollution Control Hearings Board (PCHB) set a pre-hearing conference call date for Friday October 23, 2009 to obtain input on the legal issues that should be contested during this case and establish other procedural filing dates for this case. He said the PCHB has set aside 5 days to hear this appeal in early June 2010. Mr. Elliott said SWCAA and TransAlta have been named as joint Respondents in this appeal. He said SWCAA has hired the Seattle law firm of Marten Law Group to represent the agency during this appeal.

5.) Mr. Elliott reported New Jersey released a draft Climate Change Action Plan. He said New Jersey's draft report outlines how the state can meet its greenhouse gas emission reduction goal of returning to the 1990 level of greenhouse gas emissions by 2020. He said the draft plan

indicates that the 2020 goal can be met and may be exceeded by successfully implementing the state's: (1) Energy Master Plan; (2) Low Emission Vehicle Program which includes the California greenhouse gas emissions standard for automobiles; and (3) participation in the Regional Greenhouse Gas Initiative which includes a cap-and-trade program for electric utilities in the Northeastern United States.

6.) Mr. Elliott reported California has adopted rules to reduce emissions from existing heavy-duty highway diesel trucks. He said an estimated 1 million heavy duty trucks are operating in California and the California Air Resources Board (CARB) has adopted two new rules to reduce emissions from existing heavy-duty diesel trucks. Mr. Elliott said the first rule requires that all truck owners are to install diesel exhaust filters on their trucks by no later than January 1, 2014. He said in addition, truck owners must replace engines older than model year 2010 on a staggered schedule between 2012 and 2022. Mr. Elliott said under the second rule, long-haul truckers are required to install fuel efficient tires and aerodynamic devices on their trailers in order to reduce greenhouse gas emissions and increase fuel economy. He said to assist truck owners with these compliance costs, the state is making available over \$1 billion in funding opportunities.

7.) Mr. Elliott reported the EPA has announced emission reductions from its 2008 enforcement activities are the highest ever. EPA issued this information in its 2008 "Accomplishments Report: Protecting Health and the Environment". He said the EPA reports that the emission reductions that will be achieved at the completion of all the projects committed to by its enforcement actions in 2008 will be nearly 3.9 billion pounds. Mr. Elliott said this is approximately equivalent to the amount of emission reductions achieved over the previous four years combined. He said air pollution emission reductions for sulfur oxides, nitrogen oxides and particulate matter will be 1.7 billion pounds annually when all of the projects are completed. Mr. Elliott said EPA reported that its civil and criminal enforcement actions required companies to invest an estimated \$11.8 billion to reduce pollution, clean up contaminated land and water, achieve compliance and implement environmentally beneficial projects representing the largest compliance investment ever achieved by EPA.

8.) Mr. Elliott reported EPA announced an adjustment of its civil penalty amounts for inflation. He said EPA is adjusting most civil penalty amounts in accordance with the provisions of the Debt Collection Improvement Act of 1996 (DCIA). Mr. Elliott said the maximum amount that EPA can recover under section 113(b) of the Federal Clean Air Act has increased from \$25,000 per day set in the 1990 Amendments to \$37,500 per day in 2009. He said EPA is required to review the civil penalty amounts under the statutes it administers every four years and to adjust the penalties as necessary for inflation according to the formula in the Debt Collection Improvement Act of 1996. Mr. Elliott said EPA states that the "purpose of these adjustments is to maintain the deterrent effect of civil penalties and to further the goals of the underlying statutes."

9.) Mr. Elliott reported the Environmental Integrity Project has released a study showing that chicken farms are large sources of ammonia emissions, dwarfing the combined total of ammonia emissions reported by industrial sources. He said broiler producers in the top 10 states released an estimated 481 million pounds of ammonia in 2007 which is more than eight times the

combined total reported by industrial sources to EPA's Toxic Release Inventory. Mr. Elliott said egg laying operations are reported to represent 221 million pounds of the total of 481 million pound of ammonia emissions. He said this study was released by the Environmental Integrity Project because of its opposition to a proposed rule from EPA that would exempt animal feeding operations from reporting emissions of ammonia or hydrogen sulfide as required by the Superfund Act (CERCLA) and Emergency Planning and Community Right-to-Know Act.

10.) Mr. Elliott reported from time-to-time SWCAA needs to surplus equipment that is either old, obsolete or has failed. He said the agency's primary copier has failed and will be replaced with a copier purchased from the state contract. Mr. Elliott said this equipment failure replacement was not forecast to occur in this fiscal year's budget and will be handled by a withdrawal from the Depreciation Reserve Fund. He said in addition, approximately four computers will be surplusd this fiscal year (i.e., two from last year and two from this year) due to being obsolete. The replacement computers were identified in the budget.

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. January 7, 2010 at 3:00 p.m., Southwest Clean Air Agency, 11815 NE 99th Street, Vancouver, Washington.

The next Board of Directors meeting will be held on January 7, 2010 at 3:00 p.m., Southwest Clean Air Agency, Vancouver, Washington.

Board Meeting Attendance:

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

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

Mr. Raiter adjourned the meeting without objection 3:28 p.m.

Chair

Executive Director