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SPOKANE REGIONAL CLEAN AIR AGENCY BOARD MEETING MINUTES

August 4, 2011 **9:30 a.m.**
Spokane Clean Air's Conference Room
at 3104 E. Augusta Ave.

BOARD MEMBERS:

Board Member Tom Brattebo (Chair)
Mayor Edward Crockett
Board Member Rose Dempsey
Board Member Jeff Corkill
Commissioner Al French (not in attendance)

STAFF MEMBERS PRESENT:

William Dameworth, Director
Barbara Nelson, Finance & Personnel Admin.
Ron Edgar, Chief of Technical Services
Matt Holmquist, Compliance Administrator
Lisa Woodard, Public Information Officer
April Westby, Engineer
Joe Southwell, Engineer
Margee Chambers, PI Specialist
Michelle Wolkey, Legal Council
Mary McDermott, Secretary

WORK SESSION: The work session began at 9:31 a.m.

Margee Chambers presented awards to some of Spokane's local businesses. Spokane Clean Air has the opportunity to do our "Doing Our Share for Clean Air", it is an every other year business recognition program and the purpose of the program is to recognize those businesses that are meeting air quality requirements and going beyond compliance. Today we are recognizing six out of the 23 businesses who qualify for the gold level in the business recognition program. The gold level means that the businesses are going above and beyond the call of duty to reduce their impact on the environment. The businesses are as follows: Inland Empire Distribution Systems, Matt Ewers; Inland Empire Paper, Doug Krapas; Plese Printing; Ross Printing, Ben Ross; Spokane Teachers Credit Union, Jack Cady; and Washington Auto Collision, Shelly Hickenbotham and her supervisor told us that Shelly had been the one person responsible for implementing green surface coating efforts within her facility. Also, for everyone to know, we recognize all of the businesses who qualify for either the silver level or gold level meeting requirements in Spokane Clean Air's newsletter that went out this summer. The gold level participants also received recognition via a Journal of Business ad and then they all receive a window decal that they can put on their business window letting their customers know that they are doing their share for clean air.

1. Revisions to the Notice of Intent/Notice of Construction Fee Schedule – Joe Southwell

Joe gave a brief background and summary of the proposed revisions to the NOI/NOC fee schedule. General air contaminant sources that will be permanently sited and operated at a given location are required to get a NOC permit from the agency. There is also a source category for temporary portable air contaminant sources; those are typically portable rock crushing plants, concrete batch plants and asphalt plants. These sources are also required to obtain a NOC permit from our agency for the first time that a permit to operate is issued in Spokane County and after the initial NOC permit is issued, these sources are required to obtain a NOI to operate a temporary source permit for each time they operate thereafter at a given site in Spokane County. The current base fee schedule for NOC permits does not differentiate from the first time operation of a temporary portable air contaminant source and the construction and installation of a permanently sited source. However, the base fees for an NOC permit are significantly higher than the base fee for a NOI permit. Staff has determined that the additional staff time and cost for reviewing NOC permit applications for first time operation of such temporary portable sources are not significantly higher than the time and cost for reviewing NOI permit applications for such sources. Accordingly, staff is proposing to lower the NOC permit base fees for first time operation of temporary portable air contaminant sources. These changes involve adding a category which identifies first time operation of temporary sources with a reduced permit fee relative to the typical NOC fees. If the Board concurs, staff will accept public comments on the proposed fee reductions and will then bring the proposed fee schedule back to the Board for a public hearing at the September 1, 2011 meeting. If the Board adopts the proposed changes, the amended fee schedule will be effective immediately. There was some discussion between the Board and Joe. The Board Members present concurred for Joe to move forward with the proposed revisions to the NOI/NOC fee schedule.

BOARD MEETING: The board meeting was called to order at 9:42 a.m.

1. Advisory Council Report – Ray Kelleher

At our last meeting we were given a background on how things have changed in air quality from the time Spokane Clean Air first started. At the time we started putting in monitoring stations, we were in non-attainment and then the vehicle emission testing stations came into being and monitoring total suspended particulates went from that to PM₁₀ and PM_{2.5} and now it is a combination of most of them. We're lower on NO_x and ozone but not by a whole lot at the present time. We were also notified that possibly the State may be changing from the simple getting your car tested on Hamilton and in the Valley to implementing tests in service stations like they do in California. We don't know yet, that is supposed to be up for review in 2012. The original intent was that it was going to stop at 2012, but I don't think the testing is going to stop. We have a DNR member on the Advisory Council and he mentioned that there are going to be some changes to the permitting of burning on DNR property and his concern is now that people can go online and get a permit, bring it back to him just so DNR can collect the money and he will have no input on overseeing the size of the burn or what's being burned. Also there was the concern that they're not really going to see whether or not the agency has an air advisory that they shouldn't be burning. His thought was that maybe the agency may want to contact the state to see whether or not they can have some input on the size, what's thrown into the burning pile, etc. They are also cutting back on staff.

2. Director's Reports for June & July – Bill Dameworth

The EPA is requesting that we update our new source review rules so they can approve the Washington State Implementation Plan (SIP) regarding review of new sources of air pollution. EPA put out a schedule to coincide with their approval of all agency rules in Washington sometime in 2012. Unfortunately, it doesn't seem like they have allowed enough time for Ecology to act on their comments before the deadline in the schedule for EPA adoption. We are suggesting that EPA meet with all of us and let us know what they want, rather than it being a mystery for all the agencies to try and solve. We submitted our proposed changes to EPA and informed them that we will take no further action until we hear back from them.

If the board adopts our proposed indirect source rule, we may want to wait until the new source review rules are adopted before submitting the rule to Ecology for inclusion in the SIP. I think it would be easier to get the rule approved if it is part of a package EPA wants us to submit and which they will be working on to meet a deadline.

I attended a seminar on regulatory takings and many of our rules and regulations could be considered as regulatory takings. It seems lately that most of the cases revolve around planning and zoning type regulations; not regulations that talk about health, air quality and improving public health. It seems that if the benefits of the rules to society are greater than the costs to the person who is being adversely affected by the rule, then generally the rules are upheld.

The Spokane County Commissioners requested that we present some information to them on yard and garden waste burning. This is in response to Les Stone's efforts to get Spokane Clean Air to reintroduce our yard and garden waste burning program. Matt gave a history of the program and we answered questions from the Commissioners. People still call even with less burn days available and complain about the smoke. I explained that the County could take over the program and the Fire Marshall could do that; we could send them over a copy of the delegation agreement to review. The Commissioners will take the issue under advisement. They don't seem to have a lot of interest in taking this program over.

3. Public Information/Education Update for May & June – Lisa Woodard

Lisa gave a brief overview of the May and June activities. Events consisted of environmental education presentations at the Mead School District to approximately 700 fifth graders; the Eco Expo at SCC; a summer ozone promotion presented to ETCs at their quarterly networking events; an EnviroKids event at Discovery Park; and Ron Edgar presented an air quality overview/update to members of the City of Spokane Planning Commission. Print materials consisted of both newsletters being printed and distributed; updated and reprinted the asbestos information sheet; drafted an information sheet on dust to assist our inspectors when they are out in the field; and submitted an ad and editorial copy for the 2012 Chamber's Relocation Guide. Compliance assistance consisted of the business recognition program and the Journal ad; assisted the PPRC with a surface coating workshop; and translated some of the information sheets into Russian language. Special projects include the promotion with KHQ on the summer ozone "Mow Down Air Pollution"; more outreach to other associations to help get the word out on asbestos; and the statewide wood smoke pilot project final report was completed by contractor and hard copy binders sent to all of the partners in June. Our plan is to implement some aspects of the pilot project in a community in Spokane in the winter 2011.

**4. Compliance Activity for May & June – Matt Holmquist
Permitting and Air Monitoring Activity for May & June – Ron Edgar**

Matt gave a brief overview of the compliance activity (complaints, inspections, NOVs, etc.). May and June activity was good and June was a bit higher. Still pretty high on outdoor burning complaints and asbestos is where it should be. Wood stove activity is down. On asbestos, at the June board meeting we talked about how the peak uses of asbestos, as reported by the USDS, has gone from over 800,000 tons a year to 1,000 tons in the U.S. There was discussion about trying to ban asbestos in new construction. It has been banned in 27 countries – Europe, Australia, Japan and others. Looking into the issues, I came across the asbestos labeling seems to have a big void; there are some limited provisions for labeling. EPA states on their web site that they do not track the manufacturer processing or distribution of asbestos. We regulate asbestos a lot on the renovation and demolition side of it but based on my research, there is not much going on in terms of labeling. EPA has told me that MSDS or other product sheets are not necessarily reliable. They may say no asbestos when in fact they have been tested on some products and find asbestos. There are loopholes in some of the labeling; they may say miscellaneous mineral fibers or chrysotile, but they don't use the term asbestos. A lot of people who call think that asbestos was banned; yes there was a partial ban and an attempt to ban it in the late 80s, but most of that ban was overturned and so what we are left with is people thinking asbestos is banned. I contacted Department of Ecology to see what could be done at a statewide level if we wanted to pursue some sort of statewide label requirement for asbestos and the approach that would probably be used is some sort of legislation. So if the Board is interested, Spokane Clean Air could look into some sort of labeling legislation. There was discussion between the Board Members, Matt and Bill. The Board would like Matt to pursue this and do more research and ask questions then report back to the board on his findings. Bill stated that Ecology is used to writing rules like this and Spokane Clean Air can ask them and if we'll do the sponsorship they could help do the drafting; and we would run it by the other local air agencies. There was more discussion between the Board Members, Matt and Bill.

Ron gave a brief overview of the permitting and air monitoring activity. The number of permits coming in through May and June stayed up and is keeping the engineers busy with permitting. The air quality index for May has been very good due to lots of ventilation, cool, cold and wet. In May, we began monitoring ozone and it stayed in the good range, but there were a couple of peaks of PM_{2.5}. June ozone was up slightly and a little peak of PM_{2.5} at the end of the month. July was similar to June. Jeff would like to have the ozone on top of the NO_x and VOCs graph. At this point there have been no unhealthy days for air quality.

5. Treasurer's Report for June 2011 & July 2012 – Barbara Nelson

Barbara gave a brief overview of the treasurer's report. The month of June is the end of fiscal year 2011 and the expected balance at the end of FY-11 is on track for what was budgeted through the FY-12 budgeting process. There is nothing unusual or out of the ordinary. The additional information that has not been seen before is being generated from a questionnaire that the Auditor's Office has put out. It is their goal to ensure best practices are being done by all small municipalities in an effort to make sure that their boards are being informed of certain things that often times they never learn about. Included in this is the summary sheet of annual leave, sick leave and comp time that staff has, starting with the beginning balances, hours accrued and used and their ending balances through the year (this is for the six month period of January through June). The Auditor's Office suggests a periodic report to

the board which can be done once every six months or once a year. More calculations will have to be done with this information to come up with a cost; the new requirement on the annual report is that the value of that leave that's on your books be reported in your annual report. Also included is a voucher report for June with a subtotal and a voucher report that is from the County Treasurer's Office. The Auditor's Office is concerned that the Board sees a balance between the voucher report that's presented to them for approval that it matches with the voucher report that comes from our Treasurer's Office.

6. CONSENT AGENDA – ACTION ITEM –

- a. Approval of the June 2, 2011 Board Minutes;
- b. Approval of Vouchers for June 2011 – Numbered 5779 thru 5919 totaling \$54,506.83 claims and Payroll of \$135,756.63 for a Grand Total of \$190,263.446; and
- c. Approval of Vouchers for July 2012 – Numbered 5881 thru 5962 totaling \$69,658.35 claims and Payroll of \$78,198.82 for a Grand Total of \$147,857.17.

Board Member Corkill moved to approve the Consent Agenda and Board Member Dempsey seconded it. Motion passed unanimously.

7. Resolution 11-23 Appointing Members to the SRCAA Advisory Council – Bill Dameworth

Bill stated that there are a couple of Advisory Council Members, Chet Jahns and Jana McDonald, whose terms have expired, and we need to renew them and these people are willing to serve another four year term. They both have very good attendance records.

Board Member Corkill moved to approve Resolution 11-23 and Board Member Dempsey seconded it. Motion passed unanimously.

PUBLIC HEARING ITEMS 8, 9, 10 & 11: 10:20 a.m.

8. Resolution 11-24 Establishing Budget for VERP Program – FY 2012 and Appropriating the July 1, 2011 Beginning Fund Balance for Expenditure – Barbara Nelson

Barbara stated that this would appropriate the end balance for the VERP Program. We have a Memorandum of Agreement in place with SNAP who runs this program. There was a fund balance left of \$7,031.37 that we need to re-appropriate for expenditure in this new fiscal year. Board Member Dempsey stated that she thinks this is a good program and benefits the people who otherwise could not afford to get their vehicles fixed.

There were no public comments. Board Member Corkill moved to approve Resolution 11-24 and Board Member Dempsey seconded it. Motion passed unanimously.

9. Resolution 11-25 Authorizing the Transfer of Funds from the General Fund into the Project Reserve Fund – Barbara Nelson

This resolution is the official transfer of the funds; the project reserve account was setup in 2000 and that resolution that established the project reserve account dictated that penalty money received above that which was budgeted in the general budget would be transferred to the project reserve account and used according to special appropriation actions from the Board. The balance to transfer is from the

year just ended 2011 at \$110,350.00; this resolution will transfer that from the general fund to the project reserve account. Jeff asked what projects does this fund. This reserve over the years has funded a number of education efforts, improvements and upgrades and additions to our monitoring program, a good portion was used for the purchase of Spokane Clean Air's building and it has funded the VERP for the last several years. Staff is now looking at areas and uses for this money as directed by the Board.

There were no public comments. Board Member Dempsey moved to approve Resolution 11-25 and Mayor Crockett seconded it. Motion passed unanimously.

10. Resolution 11-26 Establishing the Budget for the FY 2012 & 2013 State Wood Stove Enforcement and Education Grant – Barbara Nelson

We have received a grant application and agreement from DOE with these dollar figures. The total grant for the two year period of FY-12 and FY-13 would be \$24,167.00. That money would be used for wood stove education and enforcement efforts. It's been our practice and in our budget for the past several years that it is used for salaries and benefits. We are asking for approval for the expenditure as defined in the agreement with DOE for \$12,084.00 in FY-12 and \$12,083 in FY-13.

There were no public comments. Board Member Dempsey moved to approve Resolution 11-26 and Mayor Crockett seconded it. Motion passed unanimously.

11. Resolution 11-27 Adoption of the Indirect Source Rule – April Westby

April gave a brief summary of the rule and outlined the outreach efforts done to date on the rule. The proposed Indirect Source Rule that we are talking about this morning is a new rule that we are looking to adopt and it would apply to certain facilities that attract mobile source activity. It would include things like warehouses, rail yards, industrial parks, transportation centers, etc. This is a category of sources that we have not regulated in the past and one thing to point out is that we are not looking to include construction sites that operate for less than a year and we are also not looking at public roadways. So this is for facilities that attract large amounts mobile source activity.

One of the main reasons that we have looked at developing this rule is diesel particulate matter; it is a very hot topic right now and it's been identified as a toxic air pollutant in Washington based on its potential to cause cancer, premature death and other adverse human health effects. Other states have also identified diesel particulate matter as a priority. A number of diesel programs that have come up across the country. Diesel particulate matter is also a subset of PM_{2.5} which is a criteria air pollutant that we regulate here that we monitor for. We don't have a way right now to currently measure just the diesel particulate matter, but the diesel component is part of the PM_{2.5}. As Ron mentioned, EPA's also in the process of proposing a more stringent ozone standard. We don't yet know what that's going to look like and although our ozone levels so far this year have been pretty low; we have had past years when our ozone levels had been quite high to the standard that EPA's looking at adopting. EPA also recently adopted a one hour NO₂ ambient standard and we measure NO₂ at a couple of locations across the county but our monitors are really a measure of just the overall general air quality and they don't at all capture localized impacts that could occur from a facility that might be a large source of NO₂ emissions. So we don't really have a good way to know if every spot in the county is going to be achieving the one hour NO₂ standards. As I mentioned, indirect sources are category sources mentioned in the Clean Air Act that have been previously unregulated by Spokane Clean Air. There are other

places in the country that have adopted indirect source rules and there's also quite a few places in California that are currently researching or working on indirect source rules. The way the rule has been drafted, it applies to large indirect sources and so we've established an emission threshold and we're attempting to capture facilities that have a significant amount of diesel activity on site. So we've done some kind of generalized modeling to figure out what levels of emissions would be the threshold where we might start to see some potential air quality problems. So those thresholds are the PM_{2.5} emissions above a half ton per year or the NO_x emissions above 25 tons per year; and then if we find the emissions are above those levels then those sources would need to cause or contribute to either a violation of a federal, state or local ambient air quality standard or an adverse human health effect. Since this is a new category of sources that we have not worked with in the past, we don't exactly know which facilities would have their emissions over these thresholds. Mainly it's because we don't have a lot of information on our files that would be necessary to know what their emissions are.

So the way the rule is setup, the first step would be for us to calculate the onsite emissions from the mobile source activity of the indirect source. To do this we'd need to work with the facility to gather information on things like the size and age of their engines, we've discussed before that there's a tier system of engines and those are manufacturing standards but we don't really know what engines are in use at our facilities here, because even though they might be required to manufacture tier 4, we still could have some engines from the 1970s (the tier 0 engines) really in use here. We would also need information on hours spent idling; the types and amounts of fuel used; the length of on-site trips, etc. We really don't have this kind of information accurate enough to be able to determine emissions, so we need to work with the sources to get that; and then we would use EPA or other published emission factors to calculate the emissions from these facilities and then determine if their emissions are above those thresholds. If the emissions were above the thresholds, then we would determine if there was a violation of either one or more ambient air quality standards or an adverse human health effect. The way the rule has defined the adverse human health effect is higher than average or expected occurrences of cancer or the modeled levels of toxic air pollutants which exceed 1 in 100,000 cancer risk based on a 70 year exposure. Basically this is going to be Spokane Clean Air using published health data that's established by government agencies such as the Department of Health or we would actually do computer dispersion modeling to calculate what the impact might be at or beyond the property line on a neighbor. The applicability determination procedure that is established in the rule is that Spokane Clean Air would give written notice to the indirect source of our intent to make an applicability determination. Then we would work with the source to do the emission calculations and assess the ambient impact and utilize any health information that is available and then provide the source with a written applicability determination. The rule does have the ability for the source to challenge our applicability determination, provide additional information; there are several places along the line where the source has the ability to provide additional information that we would consider; if they have a consultant, if they had some work that they had done, there are provisions for them to supply that information as part of the review.

For the sources that would ultimately have the emissions above the thresholds and have either the adverse human health effect or the national ambient air quality standard problem, then these sources would be required to submit an emission reduction plan. One thing to point out is that the rule does not prescribe to the facility at all actions or controls that they would need to take to reduce emissions. Also, the rule does not have any type of tailpipe emission limits for mobile sources. The way it is written is the source helps to develop the emission reduction plan and it's flexible; so they are going to help to determine which things that they could implement to reduce their emissions. The goal of the plan would be to reduce the emissions to the greatest degree practicable in the shortest time practicable, which

there's some different reasonableness in this test that you could use in terms of time and cost and those kinds of things. The examples of the things that Spokane Clean Air is looking at are idle control technology, engine replacement to cleaner technology, possibly installing shore power to eliminate idling, some limits on idling (so changes to operating procedures), fuel changes, improved O&M, that kind of thing. We are not prescribing exactly what these facilities would have to necessarily do, these are just some examples of things that we would want them to consider.

The rule does have a public participation piece, so after Spokane Clean Air would work with the facility and deem the emission reduction plan acceptable, we would then hold a 30-day public comment period for the public to be able to see what the plan looks like and then we would consider any public comments received before we issued a final order or final decision. Once this happens, then the indirect source would need to implement the emission reduction plan that had been developed. I would also like to mention that we really don't anticipate that this rule is going to apply to a whole lot of facilities. We think that there may be a few but with those thresholds, a lot of facilities unless they do a lot of idling, have a lot of mobile source activity, we don't really anticipate that this is going to apply to a large number of facilities in the county.

We have worked with our stakeholders to get input on the draft rule as described to the Board several times in the past. Earlier this year we notified about 35 potential affected sources of three stakeholder workshops held at SRCAA back in February; we had 13 attendees and we posted the draft rule and workshop presentation on the web site and requested public comments until March 15th. This is prior to Spokane Clean Air holding the public comment period; so this is initial stakeholder input and we did receive several comments of which we incorporated into the rule. We have also worked with EPA and Ecology to have them review our draft rule and they provided initial comments to Spokane Clean Air which we've incorporated into the rule. It is likely that the indirect source rule would need to go into the SIP in order for it to be federally enforceable. There is the possibility that the only portions related to criteria pollutants would be federally enforceable; that is something we would need to work out with EPA. One local air agency in California, San Joaquin Valley Air Pollution Control District, has worked on an indirect source rule and it was recently approved into the California SIP by EPA Region 9. EPA Region 10 was watching this to see what happened and it just recently went through a class challenge and was adopted into the SIP. In the May board meeting, the board authorized staff to commence formal rule making on the rule; so we filed the Notice of Proposed Rule Making form with the Washington Code Reviser on May 17th and then started the formal 30-day public comment period which was held from May 18th through June 24th and as part of our efforts to announce the public comment period, we gave written notice and sent a copy of the draft rule to all of our identified stakeholders, published a public notice in the newspaper, had the public notice announcement/draft rule/fax sheet posted on Spokane Clean Air's web site and also sent an e-mail out to a contact list for people who have requested regulation updates from Spokane Clean Air. After the July board meeting was cancelled, we extended the public comment period until July 21st, so we sent another written notice of the extension out to all of the identified stakeholders, had the announcement/draft rule/fax sheet on our web site and sent the e-mail out to the contact list notifying them of the extension. We received three written comment letters on the draft rule; copies of those are in the board packet; and two of the comment letters were received on the last day of the comment period, July 21st. We are in the process of reviewing the written comments that we've received and we will be accepting additional public comments during today's public hearing, but we are recommending that the board continue the decision on the adoption of the rule until all the public comments have been considered. We have not had time to properly review the comments that came in late July and consider them.

Board Member Corkill asked what is meant by federally enforceable and how does that apply to Spokane Clean Air's rules being enforceable. April stated that we have our set of rules and some of them are contained in the SIP and some of them are not; so the one's that are in the SIP are required in the SIP like the new source review; for us to have federal delegation they have to be in the SIP and it makes them so that they are federally enforceable not just state and local. EPA has recommended that we adopt this into the SIP to have it be federally enforceable. Board Member Corkill asked if that imposes a restriction imposition on Spokane Clean Air. April replied it is an extra step; we adopt the rule and then we submit it to EPA and they review it and send comments back. There are certain criteria for something to be in the SIP. You have to submit a package with explanation of the rules and they are supposed to be rules that are to help you attain the National Ambient Air Quality Standard (NAAQS); so any of your rules that are part of your control strategy for that are supposed to be in the SIP. Board Member Corkill asked if any rules Spokane Clean Air passes have to be in the SIP. April replied not all of them; our odor nuisance rule is not in the SIP because that is not a federal provision. We have some that are state and local only. Board Member Corkill asked if EPA could stop Spokane Clean Air from enforcing it. Bill replied no, the idea of putting it in the SIP is that if we weren't enforcing the rule and EPA thought it was necessary to enforce it, they could step in and enforce it themselves. This means it is enforceable by the federal government; but absent that, as long as what we adopt is not less stringent than anything they have adopted, then we are free to go ahead. You can have things over and above minimum federal requirements, but you can't adopt anything that is less, and this wouldn't be in that category. Board Member Brattebo stated that this would be more than what is currently in the federal requirement, but if it goes into the SIP then it's approved by the EPA. Bill replied that then it is federally enforceable, it becomes a federal regulation for Spokane County. Board Member Corkill asked about the comments from the Department of Defense and from the Railroad Companies; did they attend any of the workshops. April replied no but she believes they are both in attendance today.

Lt. Col. Justin Trumbo: Good morning members of the board. I'm Lt. Col. Justin Trumbo. I'm from the Department of Defense Regional Environmental Office for Region 10 which includes the states in the northwest (Alaska, Washington, Idaho and Oregon) and I'm also joined by members of the environmental staff at Fairchild Air Force Base and also from the Public Affairs Department. What I wanted to discuss with you in addition to our written comments, which I hope the board will consider is just to highlight some of the technical and program and legal concerns that the proposed rule by SRCAA raises. On the technical side, we think unfortunately the rule doesn't recognize some of the uniqueness with military tactical equipment, tactical vehicles and aircraft and associated equipment that could be considered a mobile source affected by this rule. Frankly, what makes Department of Defense operations unique is that we don't operate our vehicles in response to a profit making motive; we're an emergency operation. Our aircraft and other equipment runs in response to defense emergencies. So any rule that impacts those operations is something we take very seriously which is why we appear before you today. We also note that in our comment letter we did ask for an exemption for military tactical vehicles and equipment. I'd like to point out that this exemption is something that we've used in Washington State before, also in other air and other environmental regimes enforced by the EPA and also in other state and local rule making. So what we're asking for is not something different, we just hope you would consider incorporating an exception for military operations. On programmatic side, you'll notice in our comment letter (I noticed some of the Board Members are former military members, they may be familiar with the quote from Italian Air Marshall Giulio Douhet who said "flexibility is the key to air power"). I think it might be a little corny but it's true to say flexibility can also be the key to air quality and the flexibility that we've been able to

achieve with this military exemption in other areas; some of the best examples of that are right here at Fairchild Air Force Base. In fact, Fairchild's environmental excellence has been recognized by SRCAA; they were, in 2004, an inaugural award winner for their reductions in NO_x and they received an honorable mention for fuel conservation and this might be something that's not known widely, but the Department of Defense is America's number one consumer of energy. So nobody is more motivated to reduce fuel consumption and make our air emissions as compliant as possible in support of our national defense. So we are highly motivated to achieve reductions in particulate matter and NO_x which are the issue of this rule; but also across the board in all air quality issues and the flexibility that we've been given by the states and regional bodies to implement our programs have allowed us to really pursue these aggressive federal military programs to reduce our air emissions and increase our air quality program. Finally, I did want to point out to the Board and I certainly hope it doesn't come to litigation, but we do think there might significant legal challenges to the rule as drafted; in particular, Section 233 and Section 209 of the Federal Clean Air Act; might pre-empt portions of the rule and I think that might have been discussed in the power point presentation about whether there'd be federal enforceability of some of the programs. In particular 233 regulates aircraft engines and 209 regulates non-road and other engines. The rule could impact the design or operation of those engines; obviously some of the aircraft operating at Fairchild have older engines that might be impacted by this rule. So that is of particular concern to the DOD. I would also note that the particulate matter emissions and the NO_x emissions, some of the biggest sources we think in Spokane are actually not affected by this rule so it could have a disparate impact on DOD versus other sources. You look at the exclusion of construction sites, wood burning stoves which are sources of particulate matter; since those aren't included but potentially military operations would be included, you might have what we call a federal discrimination argument where it impacts federal operations disproportionately to state and local non governmental institutes. So in conclusion I strongly urge the Board to please consider our comments and adopt, if the rule is adopted as drafted, a military exemption to the rule. We certainly, our staff here, is available to answer any questions you might have and we certainly appreciate your time.

Board Member Corkill: Do you actually operate many diesel vehicles on the base.

Kristin Nester: Probably our snow removal equipment that's critical to our flag line operation; is probably the single biggest user of diesel on the base. Now we use JP8 powered aircraft obviously. We use JP8 in some of our support equipment to the aircraft; so JP8's actually used obviously not just in our aircraft but in our other support vehicles.

Board Member Corkill: But the fuel that goes into the planes is a lighter fraction than diesel isn't it?

Kristin Nester: It is similar.

Scott Dickinson: For sulfur content JP8 can have a maximum of 2,000 ppm where as your diesel, if you're getting ultra low sulfur diesel out, that's only 15 ppm. So there is actually a significant difference now between JP8 and what we would call diesel fuel. Now the diesel number two fuel was 500 ppm, but JP8 fuel has milspec maximum 2,000 ppm sulfur.

Board Member Corkill: But it's about the same size hydrocarbon as diesel?

Scott Dickinson: I would say the molecule is slightly different. I am Scott Dickinson with the Air Forces Regional Environmental Office in San Francisco. I work along side with Col. Trumbo. On the technical issue, one of the points I also have, that we didn't write in the letter for the indirect source rule, one of the issues would be attracting mobile sources. We did not write this in our formal comment letter but it would be very difficult for our Wing Commander to try to control indirect sources that come in and off the base that he really doesn't control, he or she. That is a concern with the rule also. Col. Trumbo mentioned some of the stuff Fairchild's already done as far as emissions reductions. The question I would have would be would the rule consider giving emission reduction credits for people who have already done that, that way you wouldn't start the base line at 2011 and not get credit for something you might have done five years ago. Lastly, I think that I would encourage a cost benefit analysis for this rule. We do consider aircraft emissions though; we're not totally exempt because general conformity does require us to look at our air emissions from our aircraft if we're going to bed down more at Fairchild or anywhere else in the country, they have to stay non-attainment or maintenance area and then we would go through the general conformitive process to make sure that our emissions wouldn't be impacting any kind of plant or your SIP or anything like that, if you have equipment in there or whether it's going to be measurably impacting your attainment status or not, if that's going to be the new limit. Thank you for your time.

Brock Nelson: Morning, my name's Brock Nelson, I'm director of public affairs for Union Pacific Railroad; I have responsibility for Oregon and Washington and I'm headquartered in Portland. I'm here today on behalf of both the Union Pacific (UP) and Burlington Northern/Santa Fe (BNSF) railway. We request that SRCAA defer adoption of the indirect source rule (ISR) to allow interested parties the necessary time to investigate the ISR and its potential effects on operations. We also request that the Agency exempt rail yards and rail related facilities from the ISR. UP and BNSF are leading U.S. railroads; they both have rail operations and facilities in Spokane County that are critical to the national freight rail system. Both UP and BNSF are taking significant steps to reduce emissions in Washington and nationwide by employing increasingly clean and efficient locomotives and cargo handling equipment. We believe that the ISR will significantly interfere with rail operations and facilities and the free flow of rail transportation, creating a direct conflict with federal statutes. Interstate rail operations and facilities are regulated under federal interstate commerce laws that prevent a local patchwork of requirements that would interfere with the flow of commerce among states and across the nation. This broad federal preemption has been affirmed twice by federal courts. US EPA has issued extensive locomotive regulations under the Federal Clean Air Act that control emissions from locomotives across the county. These rules have already substantially reduced emissions and over the next 10 years will continue to do so without substantially interfering with railroad operations and facilities. If the Agency decides to move forward with the ISR, we respectfully request that the Agency exempt the rail yards and related rail facilities from the rule to avoid direct conflict with federal statutes. We also have significant concerns with the validity of the "health risk study" conducted by the Agency in June 2010 to support its decision to include interstate rail facilities and operations in the ISR. I've got a letter from a consultant called Environ that I will submit for the record on behalf of BNSF. Furthermore, the Board should delay adoption of the ISR for further study. There are multiple issues that need to be addressed in the proposed ISR that were outlined in our letter of July 21, 2011. Additionally, as proposed, there are also procedural inadequacies in the rule, including the need for a cost benefit analysis, and a review of reasonable alternatives, as required by the Washington Administrative Procedures Act. We also ask you to consider whether the ISR is necessary. The purpose of the rule is to meet the new EPA one-hour NO_x standards and an anticipated lower federal ozone standard. However, it is not clear that further

reductions in the Spokane area will be necessary to meet these standards. I appreciate the opportunity to speak before you today and I'll leave a hard copy here of my testimony and a copy of that letter from BNSF. I'll answer questions as best I can.

Board Member Dempsey: I'm curious if you know if we've got the Kim Hotstart equipment on the locomotives in the switching yards.

Brock Nelson: The road locomotives that come through town, I believe at our submittal of the 21st were stating that between the two railroads 75 percent of our power was coming through the region has got auto engine start/stops; which is called by many other names. I haven't got the exact number of what's on the captive fleet or the local switchers who remain in the area, but I can certainly going forward, try and get that information for you after the fact and get it to staff. But the road locomotives that move through here, about 75 percent of them are equipped with that.

Bill Dameworth: You're talking about delaying the rules so you can provide some more information; so what kind of information are you talking about providing and what kind of time frame do you think you would need?

Brock Nelson: Also I think you're legal counsel probably needs some time to absorb the July 21st letter which was very detailed with information. So that needs to occur, but I think we'd be willing to sit down and talk with Staff and the Board about some of the positive things we are doing, independent of this process. I know that UP and BNSF were both included on, I just say a list with the distribution for the stakeholders meeting and I don't know why our person did or did not get it, but we did get notice of the public comment period. Again we would be more than happy, I'd be more than happy, to set the meeting up, sit down and talk about the things we're doing.

Board Member Corkill: Could you explain something, why nobody from the UP or BN came to any of the workshops and why you submitted this pretty lengthy and very detailed document on the very last day? Don't you think that makes it hard on us to respond to you if you come in on the very last day and why did you not come to the workshop?

Brock Nelson: Well I can't speak to why no one from UP came. I don't know if they received the notice I just for the first time heard here.

Board Member Corkill: Why would they not have received the notice if they were sent it? Because it really was sent, but you represent their company.

Brock Nelson: I can't speak to why we didn't. Yes, I did not have a notice sent to me, so I did not participate.

Board Member Corkill: Couldn't you ask them? When did you first find out?

Brock Nelson: When we got the notice of public comment; this is what we provided the letter on. That's the first notice that I was made aware of about the process and July 21st was within the comment period, was it not?

Board Member Brattebo: July 21st was within the comment period. We did not have a – it was scheduled for June 24th at the last minute we did not have a board meeting for lack of a quorum.

Brock Nelson: And again, we did get the notice within the comment period and we're tracking the process there and provided comments accordingly.

Board Member Brattebo: It's just that I think, to echo Jeff, is what if we'd had the meeting? What if we'd had done this discussion in June or the first of July, you would have missed it.

Brock Nelson: What I can't speak to is whether or not when you didn't have the meeting, you extended the period publicly and allowed us to still submit comments.

Board Member Brattebo: I believe you did. But anyway . . .

Board Member Dempsey: I think anybody who has ever had anything lost in bureaucracy can understand how things could get lost and sometimes people don't necessarily get the word in a timely manner.

Brock Nelson: If nothing else I'd like to offer the Board my personal contact information and support going forward and I'll do the best I can to make sure we are having a dialogue. Thank you.

Board Member Corkill: You claim that you dispute some of the health benefit studies. What are your specific objections to that?

Brock Nelson: I'm not the expert to address that question. Again, our written comments, to the best of my knowledge have put things in writing but and there's a letter here that I just submitted from Environ on behalf of BNSF that I think does get to some of those health risk issues, because if I'm not mistaken it was an assessment of the BNSF yard not UP.

Board Member Corkill: On page four it talks about you claim that your not a source of emissions in the railroad yard because of some weasel word you're talking about whether you're mobile or non-mobile. Do you want to comment on that?

Brock Nelson: I don't have that right in front of me so I don't know what context you've taken that out of.

Board Member Corkill: I've taken it out of the letter that was written by . . .

Brock Nelson: You'll also note that I did not sign the letter or submit it so I don't have it committed to memory. Our in-house counsel and environmental experts worked collaboratively with BNSF to submit this, so I may not be the person to answer your question. Again, after the fact if there are questions from Staff or the Board, I'll work to get them answered for you.

Board Member Corkill: So when was this received by us?

Board Member Brattebo: Today, just now.

Board Member Corkill: It ends up being here before the end of the comment period?

Brock Nelson: I'm submitting it as part of my testimony today. (Someone from the public replied – and actually that was submitted last July to the Agency in response to the study; he just provided an additional copy.)

Bill Dameworth: We shared that with the Board when it came in.

Board Member Corkill: When did we receive this? (Bill Dameworth and Board Member Brattebo replied we received it last year.)

Brock Nelson: It's my understanding it's not been responded to.

Bill Dameworth: No it hasn't been responded too. He is criticizing that we didn't go out and start fresh, rather than taking somebody else's study and saving ourselves a lot of money and time and we acknowledged that when we wrote this; in fact none of those are perfect. If you were to start one fresh and collect all of the ambient monitoring data and all the emissions data, I'm sure someone could find some criticism to make; it's just the nature of how this works.

Board Member Dempsey: Was this a 15 year old study.

Bill Dameworth: This was a study that was done by people in California on their railroad yard in Stockton which is about the same size as the rail yard here.

Board Member Dempsey: With the same configuration with the mountains and . . .

Bill Dameworth: Similar, so we just translated that study and fooled around with it. We admitted that we were just taking work that somebody else had done and see how applicable it is to us. So it is a way to get something that cost somebody hundreds of thousands of dollars to get this done with just staff time to see how applicable it is to us. So we admitted that it wasn't the highest quality work but we certainly we're within our budget.

Chris Cargil: Good morning Board and Members, my name is Chris Cargil, I'm the Eastern Washington Director for Washington Policy Center (WPC). Thank you for the opportunity to address you this morning on this topic. Let me just quickly tell you that WPC is an independent, non-profit, non-partisan research organization; a think tank if you will, here in Washington State and we have an office here in Spokane. One of our research centers is a center for the environment and when this rule came up we were very interested in it to see exactly how it was written and the process by which it was talked about and of course the hearing that's being held here today. Let me first say that I think everybody in this room today cares about air quality in Spokane, I don't think that is particularly an issue. We have really four minor concerns about this particular rule. Of course, who will be impacted; the evidence that PM_{2.5} and NO_x specifically comes from these particular sources that we're talking about; is the air quality in the Spokane region worse, in other words, is there a reason to be doing something like this; and finally, could something like this be done voluntarily or is there a program where an indirect source could voluntarily try to reduce these numbers? Let me just quickly take each one of those. First of all, as was said earlier, we don't really know who's going to be impacted by this; we just don't know for sure who's going to be impacted by this and we think from a

public policy point of view, it is really critical to know who's going to be impacted so that you can get their feedback and move forward. Second, is there evidence that $PM_{2.5}$ and the NO_x comes from these specific sources? If you look at the graphics just on SRCAA's website, you'll see that only about 12 percent of $PM_{2.5}$ comes from mobile sources. Now there's no question about it the NO_x comes from mobile sources; I mean it's 83 percent on the web site. So that is not particularly the issue, it's the question of the $PM_{2.5}$. Is the air quality in the Spokane region worse? I think we all saw, it's not. I mean it is drastically improved; we've increased the number of good days, we've had our $PM_{2.5}$ readings, our ozone readings are both down so really there's a question of whether there's a particular need right now for this type of rule. And finally, could there be a voluntary option? I know that SRCAA already has the no-idle zone option or no-idle zone program that they are doing. I want to just call your attention to a program that they are running right now in Puget Sound called the SCRAPS program and that has allowed them to take 280 of the dirtiest, oldest trucks, it's a voluntary program, that they were able to take 280 of the oldest, dirtiest trucks off the road and they say that has contributed to a reduction of 5 tons in diesel particulate matter and 80 tons of nitric oxides in the Puget Sound area. So those are some of the concerns that we have and that we would call your attention to. We don't think right now that there is simply enough evidence to move forward with this particular rule. We think it would be much better to try to look at a voluntary program option first, see if that makes a difference and then perhaps down the road we could look at an indirect source rule. Thank you all very much.

Board Member Corkill: You're looking at an overall picture of Spokane. But how do you feel about if you were living right next to a place that put out a lot of diesel fumes? You know, I mean there's not the same concentration of pollutants uniformly throughout the Spokane air shed.

Chris Cargill: I think you're absolutely correct, but until we see actual evidence showing that there's a particular health problem in those specific areas, and again I think we're talking about something that we don't know for sure who we're talking about. We don't know if it's the rail yards for sure, we don't know if it's the STA bus barn, we don't know if it's the airport or what have you. We just don't know. So until we know specifically which areas we're talking about here I think that's really an impossible question to answer.

Board Member Corkill: Do you think there's a connection between NO_x levels and diesel 2.5 levels and health?

Chris Cargill: That's something that's beyond what my research is all about. You would have to ask a health professional. I am not sure. I would just tell you that the numbers right now show that both the $PM_{2.5}$ and the NO_x levels have come down in Spokane and that's a good thing.

Board Member Corkill: Over the whole air shed or where it's monitored. The NO_x levels are . . .

Chris Cargill: I'm looking at the numbers on the Clean Air Agency's web sit which show from 2000 to 2010 the 24 hour and the annual periods have come down for $PM_{2.5}$.

Board Member Corkill: And how much averaging do you think goes in there?

Chris Cargill: The Clean Air Agency would have to answer that question.

Board Member Corkill: I mean there's not just one monitor for NO_x and one monitor for PM_{2.5}. So there are probably 12 monitors of PM_{2.5} and 1 for NO_x and then so you're averaging those 15.

Chris Cargill: Well I'm not averaging, the Agency is.

Board Member Corkill: No, you're just representing average data.

Chris Cargill: Right, I'm just looking at the data the Agency has provided.

Board Member Corkill: Yes, but if it's pretty averaged, averaged, averaged over the whole air shed, and we're not talking really about this rule doesn't really apply to the whole air shed.

Chris Cargill: Well sure and again I would say well then show me the examples, show me the readings from these particular indirect sources that we're talking about that show it is an enormous number higher than the averages in the entire Spokane County area and I haven't seen those numbers yet.

Board Member Corkill: I think there's been some study but it's, well I'll ask Ron, have we done any monitoring around the

Ron Edgar: I have not done any monitoring specifically aimed at any one particular source. Our monitors have all been set up to represent a neighborhood scale and that's the smallest area.

Board Member Corkill: I think the data comes from working out how many trends go through and how much emissions they put out per hour or per gallon, etcetera and if it's particularly concentrated in one area then the PM_{2.5} and the NO_x are going to be concentrated in that one area.

Board Member Brattebo: I think that the methodology described in here is designed to answering a question.

Chris Cargill: Yes, and I would agree that the methodology in there is designed to answer the question, I think our point is that it seems that as Congress did a couple of years ago, we have to pass it to find out exactly who's going to be impacted. So what we're suggesting is perhaps we should do the exact opposite, find out who's going to be impacted and try to figure out those specific areas. I mean, I appreciate the fact that we got the 35 different stakeholders involved, but really that only narrows it down to those 35. So I think it would be much better in terms of a public policy perspective if we could really figure out whose going to be impacted and then those people could come and say okay here's what we've done. But really, an overall view of this we really think that it would be better to look at a voluntary option first. Try to convince then voluntarily first other than doing a rule.

Board Member Corkill: But don't you think the health study that was done is somewhat getting at what you're talking about.

Chris Cargill: I'm sorry.

Board Member Corkill: Don't you think, I mean there's a health study of a modeling of a particular area given the geomethology of that area and how many diesels go through and stuff, that's what this health

study is all about and then someone has the possibility of increased cancers of people living around railroad yards.

Chris Cargill: We'll you know I'm not a health expert so I can't comment on . . .

Board Member Corkill: But you're after a study, isn't that a study?

Chris Cargill: I'm after a study. I'm sorry.

Board Member Corkill: You're out there looking for direct effects.

Chris Cargill: I'm looking, I'm asking for the specific data from the points that we're talking about in Spokane. That's what I'm asking for, before the Board moves forward.

Board Member Brattebo: And then methodology, I think your suggestion is could this happen voluntarily versus having regulatory.

Chris Cargill: Right, exactly.

Board Member Dempsey: Could the Board get another copy of that health study?

Bill Dameworth: Certainly, I can send it off to you or here after the board meeting. They have actually two studies. One of them was a modeling study that we did based on the UP Railroad in Stockton and kind of overlaying that on a map of Spokane. That's a modeling study, that's just theoretical. We also have a study from the Washington Department of Health that says in the neighborhood around the BNSF railroad that there are 40 percent more incidents of cancer than normal rates in Spokane. To me since one of our primary objectives is protecting public health and the environment too, I think it's incumbent upon us to take that data and try to do something about it if we find that there are sources like these indirect sources that are causing this; and people can say well it could be something else; could be these people that smoke like chimneys even though the average smoking rates in Spokane County are pretty similar to the rest of the state. So just taking a look at the evidence to us is that here you have the incidence of cancer and you have the incidence of the rail yard; it seems to me like there's a direct correlation. So I think that's important to look at.

Chris Cargill: You know I can't speak to whether there's a direct correlation or not. Again I'm not a health expert. I think something, just too kind of conclude here, I think that it would be better to try to do something voluntarily with these indirect sources.

Bill Dameworth: And you think we haven't done that?

Chris Cargill: I'm not necessarily saying that you haven't done that but . . .

Bill Dameworth: Because then you'd be wrong if you would say that, because we have.

Chris Cargill: I'm not necessarily saying that you haven't done that. What I'm saying is that I think there are other ways to go about it before we move into the regulatory things.

Bill Dameworth: I see you don't have any sense of history about this. This has been going on for sometime.

Board Member Brattebo: Thank you Mr. Cargill (Chris Cargill "Thank you") and we got the history.

Matt Ewers: My name's Matt Ewers, I'm with Inland Empire Distribution Systems, we're a third party logistics (3PL) company operating in this area. We're actually identified as four out of the six potential sources of this ruling. We operate a warehouse; we're located in Industrial Park. We're the only Trans loader for the BNSF and UP railroads in this area. We are in the transportation center. So one of the things when I read through this, in our facility we have over 100 trucks a day coming and going out of our facility and these trucks are coming and going from Canada and all over the U.S., we have no control of what kind of fuel they're purchasing, we have no control over the age of their engines or their maintenance programs. They're coming and going all the time out of our facility, basically bringing in goods and taking goods out of this area; those that you consume yourself. So if we don't have control of this then what are the consequences if we can't solve the problem, is there going to be a fine, are you going to shut us down? If there's the former then basically you are just going to increase the cost of transporting goods in and out of this area. I don't think it's going to solve the problems; you're still going to consume goods. We've got to bring them in; we've got to take them back out. Lastly I would just like to say there really needs to be a cost benefit analysis on this before you put something like this in place. That's all I have. Thank you.

Sandra Jarrard: Good morning, my name is Sandra Jarrard and I'm from Greater Spokane Incorporated. This week was the first week we've heard of this resolution. We've had a lot of our members contact us asking us about it so we're in the process of setting up a meeting with Mr. Dameworth and we're just hoping that whatever comes out of that meeting we can hopefully provide to you their concerns before you adopt this resolution. So I'm just saying if you could please hold on, on adopting it that would be good for our members. That's it.

Laura McAloon: I'm Laura McAloon with K&L Gates and I'm here on behalf of BNSF and the UP railroad also. I do have a letter that we prepared and it's too lengthy obviously for me to read into the record but I do want to hit the high points of it because I've heard a lot of the issues that we raised in this letter discussed in the comment already today. One is the procedural deficiencies with how this rule has been promulgated and the process that you've gone through. While we know that there was a process of outreach back in February, I think it's significant that only about a third of the people that were contacted by the Agency actually came to three days of meetings. So that in my mind raises questions about was that enough outreach to get the stakeholders to attend; because one of the things that the railroads would like you to consider is engaging in more public outreach with those stakeholders. You commented on the fact that the official comment letter that was received during the comment period was received on the very last day as was the Department of Defense letter. The only other comment that you had was an e-mail comment that was received early on in your process. Again, I think that lack of comment that you received during the initial comment period plus the extended comment period demonstrates that people weren't aware of what the rule was; the impacted parties weren't aware of the rule, despite the best efforts of the Agency and I'm not faulting that, I'm just saying that it's clear from today's messaging that more public outreach should be undertaken. The other issue that I wanted to raise is the federal preemption issue and that's a significant part of the railroad's position on this. Staff report talked about the intent to work with the State Department of Ecology and let the EPA incorporate this rule into the SIP, giving it the full force and effect of federal

law. We agree that incorporating a rule such as that into the SIP does that but what it does is it sets up an even bigger federal challenge of does ICCTA, the Interstate Commerce Act that it impacts rail transportation, preempt the EPA regulations, the EPA's full force and effect. The San Joaquin rule has not met its last challenge because of that very issue. What has happened now in California is it's set up another legal challenge to does ICCTA preempt the EPA rule on emissions because I can tell you for certain that the railroad's position is that it does. If it doesn't, then the whole purpose of intent that is behind ICCTA of not creating a patchwork of regulations that the railroads have to comply with as they go across the U.S.; it's useless because what you're setting up is a rule here in Spokane County that's different than the rule that the railroad has to comply with in Idaho or in Grant County. It doesn't matter, outside of Spokane County the rules are different and that creates a significant burden for the transportation of goods on rail. So those are the two primary issues that I wanted to bring to your attention. We've already reached out to your legal counsel, Ms. Wolkey and your council Mr. Whited in Seattle. We want to discuss the concerns that we have, we think there are other state APA issues. We do think that the cost benefit analysis for this rule is required by the APA; but we absolutely would encourage you to engage in it in a voluntary effort rather than having to get into a dispute over whether it's required. If you have any questions, I'd be happy to try and answer them.

Board Member Dempsey: I'm curious how long, if we deferred this, how long would it be a reasonable time to allow whatever needs to be to be done?

Laura McAloon: Well I think there are a number of issues that have been raised. I would think multiple months to be able to consider the issues. You have issues about the validity of the health study; there were many, many questions and concerns raised about both the modeling study and then also the Department of Health study a year ago that haven't been responded to in the July 2010 letter that BNSF submitted to the Agency after it had it's consultant Environ review the modeling study. I would note that Environ points out in that July 2010 letter that they were never given an opportunity, they were not given access to the Department of Health study but based on the extrapolations from it they have concerns. I myself actually looked under the Agency's web site to try and find that Department of Health study and couldn't find it. So I think there are too many unknowns Ms. Dempsey to be able to answer that question in an educated manner. I just think there are too many questions.

Board Member Dempsey: Early on when we started this early on, I know our Director sent a letter to the railroad (Bill "BNSF") but we had a problem with a response, getting a response back. Is there anyway that we can clear this up so that there is a better line of communication between the Clean Air Agency and BNSF?

Laura McAloon: I absolutely think there is and I guess could you clarify for me what the problem was with the response? You didn't receive a response.

Bill Dameworth: I sent the Chairman of Berkshire Hathway who owns the BNSF a letter with a copy of the modeling study and asked if they would be willing to work with us on reducing emissions from the rail yard and I think he referred it to his environmental person in Wichita, David Seep. I think it's the fellow that's on this consultant letter and he talked about maybe meeting with us; I said, when would you like to do it and never heard another thing.

Laura McAloon: I can tell you that you have the railroad's attention. I'm confident that they are already asking to set up meetings both with your legal council and with the Agency. I've been on multiple

conference calls in the last few days. They want to work with this. It's an issue because of the Interstate Commerce issue, local rules on indirect source emissions are an area of significant concern for the railroads because they don't want to have that patchwork of local regulations. I'm not sure what the breakdown in communication was, I know after about 7:30 this morning, that Mr. Seep was one of the people on that initial e-mail distribution list or mailed distribution for the February meeting. For whatever reason, that didn't get through because the railroad, at least from BNSF's perspective and then I know they've been working with the UP, has only been made aware of this issue within the past three to four weeks.

Board Member Corkill: Bill, he has reported over and over again at these meetings in his director's report that he tried to contact Burlington Northern and we have probably for the last six months I'll say you can go back or one could go back and look in the director's report from meetings; so . . .

Laura McAloon: And I think that's a sign of the fact that we need to work on that communication and that there needs to be some more better communication; and I can tell you that the railroads are certainly interested in that and they're willing to do that. I don't know I can't speak to why there would have been a breakdown.

Board Member Corkill: So you also claim that the procedural question that it was unclear, you claimed it was not clear what the workshops were about; you know other than there wasn't adequate notice. Could you expand on – then why did you tell us . . .

Laura McAloon: No, I didn't say that they were unclear about the notice; I haven't actually seen the notices that went out in February. I was given an excel spreadsheet this morning, it showed who was sent the notices. My comment was that if you invited 35 people and you had 13 attend, that's not a very good response especially on three days worth of meetings. Based on that response, I would have queried at that time; what do we need to do more in terms of outreach because obviously we're not getting enough feed back if only one-third of the people that were contacted on a rule that we think could impact them, aren't coming to our meetings to find out about the rule. I think the fact that you have so many people here today demonstrates that once people started talking about this . . .

Board Member Corkill: For once, what do you mean once, we've been at this for a long time and I don't think this is . . .

Board Member Dempsey: Excuse me; I think we can have a certain modicum of civility.

Board Member Corkill: Okay, but we, Spokane Clean Air, which they put out this thing and whether people want to respond to it is up to them. It's not up to Spokane Clean Air to say, "Oh please come to our meeting, please come to our meeting." I don't know how you can say if you only found out yesterday about what was going on, that our procedures aren't clear. Based on some bogus statistics of the number of people that came to how many were invited. What's that got to do with it?

Laura McAloon: I'm simply saying that what I'm hearing people say today and what my clients would like to relate is that they think that there has not been enough discussion with the stakeholders. The people, the businesses, the governments that are covered by the definition of a mobile source. That that discussion could be . . .

Board Member Brattebo: We're starting to get that communication in the last hour or so.

Laura McAloon: I appreciate that. I think you are. Thank you.

Board Member Dempsey: If I could just make a comment. I believe that one of our meetings in February, the weather was absolutely foul and we didn't really expect very many people because it was really hard to get around.

Board Member Brattebo: But we're getting that communication today. Thank you for your input.

April Westby: I did though, have some people that weren't able to attend and I forwarded the workshop materials. So those that are trying to attend that the weather was in the way. There were a few.

Beth Hodgson: I'm Beth Hodgson with Spring Environmental here in Spokane and I'm an environmental consultant and the reality is this is not, I don't know who the 35 companies are, I just have some comments relative to the rule language itself which I work with a variety of different companies trying to understand how these apply and I've received a lot of e-mails from my clients saying "Beth what do we have to do about this." and in many cases it's nothing because they don't trigger the 150,000 hours give or take. A couple of comments that I would ask you to consider if you're going to be looking at this language at all; one of them is a general question, I know and I have been following this, that this was originally triggered because you had concerns with diesel and specifically related to the railroad and then it turned into this indirect source rule and then it turned into PM and NO_x, which I found interesting. So the trigger was actually instead of being diesel consumption it was specifically calculating emissions of PM_{2.5} and NO_x and that's the discontinuity on my end for understanding how to apply that. The second thing on here is in condition A1b, it talks about an adverse human health effect and the DOE doesn't even have their engineer's review of the health impacts, they actually have a team of industrial hygienists do it. So I'm curious how SRCAA's going to actually be able to do this with the talent, which you have wonderfully talented people on staff, but they're not industrial hygienists. You don't have any industrial hygienists so I'm curious how, from a resource point of view, SRCAA's going to be able to address this that was one of my questions. In 2a, it talks about this applying to owners or operators of indirect sources and Mr. Ewers commented about this, but the idea that industrial parks and airports, facilities that have a whole bunch of vendors at their facilities and they're suppose to have control over what those vendors provide for vehicles in their yards. I think there's going to be some significant implementation concerns here. So I have a concern relative to that definition of who are the owners and operators and what authority or ability they're going to have relative to this. My other comment is relative to 2c, says that you're gonna run the models and the agencies have historically not run the very refined models, so I'm curious how much training's gonna be incorporated into your training programs to address the advanced modeling requirements that are gonna be required for these sites for running a couple of models a year. One of my other questions is relative to the practicable. This rule doesn't say anything about whether or not it's gonna be signed by a licensed engineer; but what's the definition of practicable and I know we had this discussion relative to the odor rule, but is a licensed engineer signing anything if they have to? That's not quantitative and that's not something that's actually a definition, there were some comments about cost thresholds, we do have those for BACT; but something that actually defines what that's gonna be; whether or not a PE signs it, but what does that mean, how does somebody know that they can comply with this? And the last comment I have is relative to 1g, it says once the reduction plan is approved, it's considered final and shall be

implemented. So what happens if the source changes, like it goes out of business, it's significantly reduced; there's nothing in this rule that allows for that to be changed. And Mr. Corkill, in answer to your question of why I didn't submit comments prior to this, because I was fortunately very busy and today is a public hearing and I have an opportunity to speak today so that's why I'm speaking. Anyone have any questions? Thank you.

There were no other comments from the public.

Board Member Dempsey: I'm very concerned about this and I have been from the beginning because I have felt that it's, we started with an idea on one hand and then we took an idea on the other hand and said kind of, these are related but we didn't have the proof that they were related, we just said they were related. I'm not sure that the health study is a valid health study, that's why I would like to have a copy of it. I am so concerned about the unintended consequences of establishing this rule when there's so much we don't know, so much information we don't have, we don't have the information on whether there is the emissions, whether they're going into the Hillyard area and we're not sure of that, we think it is. We think well this would be a good idea to have this rule; I don't think it's a good idea to have more bureaucracy just for the sake of, well we need this rule. I don't think it's a wise thing and I would really like to defer it so that we can get the public comment, we can work with the railroads, we can work with the other people that are involved and like the lady said, we've got their attention; so let's take this attention and let's work with it and let's see what we can come up with that will be a valid working model that we can take and do some constructive work on our clean air rather than; I see this as kind of an oppressive thing to kind of a gotcha and I don't like the idea of an agency of the government stepping in and saying gotcha. So I'll let somebody else talk.

Board Member Brattebo: I like the comments about what can we do voluntarily (Board Member Dempsey agreed) and maybe you know I got a two and a half year old grandkid and it's only when you start giving them the look and maybe move towards them that he responds and it sort of seems like we've given the look, we kind of today maybe moved towards them seriously and what can be done. We don't know for sure who's bad, who the evil doers might be, if there would be strictly some voluntary work on the determining that through the Agency staff and cooperation and maybe we accomplish the goal. What else.

Board Member Corkill: I would like to have our legal people look at their legal people's stuff and come back and tell us about that. I mean since we've only just got it and there's really been no time for Spokane Clean Air's legal people to look at all the documents here; especially with regards to the case in California and why that's different than here; I'm intrigued by that.

Board Member Brattebo: And the national defense issue is one we need to refer to legal.

Board Member Corkill: I don't think it was aimed at them.

Board Member Brattebo: No, but we've got a lot more paper here to look at than we had this morning. Can we table this until, is that our option?

Michelle Wolkey: Upon a motion of the Board you can do what you think is best.

Board Member Dempsey moved to defer the Indirect Source Rule for six months to allow study and conversation with interested stakeholders and Mayor Crockett seconded it. Motion passed unanimously.

The Board Members present agreed to hold this item over until the September board meeting when all board members would be present.

Board Member Brattebo stated in the mean time we would like to see more talking and see what we can put together. Board Member Corkill added that in those six months, maybe it would behoove the railroads to come up with something which speaks to what they might voluntarily do about reducing emissions; whether they are going to use electric motors out there, improved diesel engines which are cleaner like they use in California but not up here. See how they would solve the problem. Board Member Brattebo stated that we have sort of heard today that they would like to talk to us and work through that, so we've got six months to talk and see everybody's got the message and thank you everybody for your input.

The Public Hearing Closed at 11:43 a.m.

12. Executive Session – Director's Annual Performance Review (20 minutes)

Board Member Dempsey moved the Board into executive session at 11:45 a.m. Michelle Wolkey added that it is her understanding from the Board that there is an additional performance review issue as well under 42 30 110 1G and there will be no decisions made during this executive session. Michelle Wolkey broke from the executive session at 12:05 p.m. to extend the session for another 15 minutes. Board Member Brattebo reconvened the meeting at 12:20 p.m.

Board Member Brattebo stated that the Board made no decisions but there was discussion on the problems at had. Board Member Corkill made a motion to increase the Directors salary to \$95,500 which represents a 1.5 percent increase. Board Member Corkill also stated that Bill has done a really good job and the Board appreciates that and if we had the resources it would have been greater. This in no way reflects the Board's respect that they have for the job that he has done. Board Member Dempsey seconded the motion and Michelle Wolkey stated that this was on top of the 2.5 COLA earlier, effective the 4th of August 2011. Board Member Brattebo reiterated that it has been moved for a 1.5 increase on top of the COLA effective today August 4, 2011 and it has been seconded and Board Member Dempsey seconded the amendment and added that she feels that Bill has done a good job and it is the difficulty of the times rather than anything else why the Board did not authorize a bigger pay increase. Congratulations and well done. Board Member Brattebo added that he appreciates that Bill has taken on some issues that aren't just bread and butter everyday and that is a good way to go; moved and seconded a 1.5 increase effective today. Motion passed unanimously.

13. Board Concerns – Board Member Brattebo had a concern of the attendance of the full board and there has been one member that hasn't been in attendance with any regularity which has put the board in a bind a couple of times to have a meeting. Michelle Wolkey offered to make an inquiry of that topic with the Board's approval. Board Member Dempsey stated that she can understand being busy and not being able to attend a meeting here or there. She thinks everybody should be and it is a reasonable expectation that the board members will be in attendance. Board Member Brattebo added even absent occasionally; Michelle Wolkey will inquire and in the By-Laws it's not required that they be a County Commissioner or

a City Council Member, just a delegate of that office. Board Member Brattebo also stated that it bothers him to discuss county wide policy and not have a representative of the county. Michelle will report back to the Board.

14. Public Forum – There were no public comments.

The meeting adjourned at 12:26 p.m.

The next Board Meeting will be September 1, 2011 at 9:30 a.m. – Spokane Regional Clean Air Agency office at 3104 E. Augusta Avenue.

BOARD MEMBER TOM BRATTEBO, CHAIR

WILLIAM DAMEWORTH, SECRETARY