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SPOKANE REGIONAL CLEAN AIR AGENCY
BOARD MEETING MINUTES

December 6, 2007 9:00 a.m.
SPOKANE COUNTY PUBLIC WORKS BUILDING
LOWER LEVEL HEARING ROOM

BOARD MEMBERS PRESENT:

Board Member Melissa Ahern
Chair Jeff Corkill
Commissioner Mager
Mayor Matthew Pederson

STAFF MEMBERS PRESENT:

Bill Dameworth, Director
Barbara Nelson, Finance & Personnel Admin.
Margee Chambers, Public Information Specialist
Ron Edgar, Chief of Technical Services
Matt Holmquist, Compliance Administrator
Joe Southwell, Engineer
Ray Kelleher, Advisory Council Member
Michelle Wolkey, Legal Council
Mary McDermott, Secretary

BOARD MEETING: The board meeting was called to order at 9:08 a.m.

1. Advisory Council Report – Ray Kelleher

Ray gave an overview of the November council meeting. Lisa gave a presentation on a video that was put together on the coast by the Puget Sound Clean Air Agency in conjunction with British Columbia. It is a presentation of what happens when wood smoke is not controlled. One of the pollutants that they have noticed is formic acid that comes from the wood. Spokane Clean Air is offering this video in the community and will send it to Channel 5 and 7. A copy of the video has been given to the library in the Valley and three high schools and Spokane Clean Air will make it available to all of the high school science departments. One way to get the concept of what 2.5 microns is is to take a metric ruler which has 25.4 little segments for every inch and that one little segment is divided into 1,000 parts. Another concept is to compare the 2.5 microns to compare a human hair at 100 microns. So you have smoke particles that are 50 times smaller than a human hair. The Spokane Clean Air calendar has been distributed to many groups including some of the regulated sources in Spokane County and each month has something that is pertinent to the area. We are trying to get clean air information out as much as we can to all of the businesses in the area and Ray tries to do that through the chambers. Ray goes to both the Spokane Valley Government Affairs meetings and the West Plains and an individual that is with the City of Spokane comes to both of those meetings and knows what Spokane Clean Air is trying to do concerning wood burning. Bill updated the Council on the Wood Stove Advisory Group. In December people will be able to apply at nine different retail agencies that sell wood stoves for a voucher on a first come first served basis. They will have to meet

certain criteria to be eligible for the rebate and their old device has to be destroyed. There will also be a complete change out program for low income individuals in the early spring. Spokane Clean Air will be hosting the call in center on December 12 at the KHQ TV station for solid fuel burning device questions. Commissioner Mager and Board Member Ahern were very pleased with the calendar that Spokane Clean Air produced and distributed. Bill added that the calendar was produced in place of an annual report.

2. Director's Report – Bill Dameworth

Bill stated that Spokane Clean Air has begun its annual performance reviews of all personnel. Bill has completed all of the supervisory staff's reviews and they should be finished in the next week or so with the personnel staff. This is good for staff to discuss where they are headed, issues that they may have, etc.

Spokane Clean Air has received a proposal from K&L Gates to help with the Baker Commodities issue. Their Seattle office has a lot of experience with regulatory development and defending agencies against lawsuits and Spokane Clean Air needs that kind of experience. They're estimating the cost between \$8,500 and \$12,000. Bill would like to know if the Board would like this sent out for bid or do a sole source bid. Michelle Wolkey stated that if they are a sole source you can do it that way but she doesn't know enough of their background to know if that's true, if they're the only people in the state that are qualified. She was under the understanding that Bill was talking to folks in other Seattle law firms. Bill added that Barb said that it could be if this was put out for bid, somebody else with some experience in the Seattle area might want to bid on it. So maybe the safest thing to do would be to put it out for bid. Michelle added that if there are other people out there that have those qualifications that would be the appropriate thing to do. Bill added that if Spokane Clean Air develops a Reasonably Available Control Technology (RACT) regulation, we can send the source a bill for all of Spokane Clean Air's expenses. The Board agreed to put this item out for bid.

The Wood Smoke Advisory Work Group will be finalizing its report to the legislature at the end of November. Jay Manning of Ecology will sign the letter to the legislature and the governor. There are a lot of ideas in the report and they have elected to make the burn ban stricter than Spokane Clean Air's. The Realtor's would go with a revised disclosure form upon the sale of a house and they would support the bill. The uncertified device would be on the disclosure form where everything else is listed. There will probably be further meetings of the group next year to refine the recommendations. Spokane Clean Air's curtailments are at 30 and 20 and the Group is talking about 25 for the first and the second one would depend on meteorological conditions.

A promising office property has been located. It is 20% larger than the property Spokane Clean Air currently occupies. It was previously a tire store and it is mostly open space so it will need interior modifications. It will take about \$50,000 in modifications for the agency to move in. They are asking \$530,000 for this property. It has parking in the back and front of the building and is located near SCC at Greene Street and Mission. Somebody would need to design the interior modifications for Spokane Clean Air and do the construction work. We would finance this through the county or the city, because it is difficult to get a mortgage unless it is less than ten years and there are a lot of restrictions on public agencies borrowing from commercial banks. We would probably need some legal help on this and two different people were recommended by the Bank of America. The estimated cost would be approximately \$600,000 and we would pursue a low percentage rate for 20 years which could cut our monthly expenses for rent close to half. The question is whether or not the City or County would be

interested in helping Spokane Clean Air out with this. Commissioner Mager suggested that the Board Members take a look at the building before going forward with this item. Moving the Freya and Ferry monitor site would also save \$250 a month. Bill asked the Board if he should move forward on this and make an offer. Commissioner Mager stated that she was not ready to make an offer and the rest of the Board Members agreed.

3. Public Information/Education Update – Margee Chambers

In November, Spokane Clean Air was invited to attend Sacred Heart Medical Center's benefit fair and we were advocating wood heating, curtailments and commute trip reduction (CTR) and how motor vehicles cause over half of the air pollution in our community. The 2008 calendars went out to a mailing list of approximately 600 people and the "On the Air" newsletter was printed and distributed. We developed the fall/winter CAP newsletter and distributed them to the regulated sources. Materials have been produced for the new Pollution Prevention program. The wood heating season is here and on December 12th, Spokane Clean Air will be on KHQ's live Call-In Center for wood heating questions. TV spots on wood heating began airing this month and will continue through January. A winter comprehensive tool kit has been developed for the CTR office's 130 work sites. The grant project for the wood stove change-out program is scheduled to launch December 17th and we start accepting applications on January 2nd. To market this program there are approximately 74,000 inserts going out in December's City Utility Billing and an additional 10,000 will go out in January in Vera Power's billing. We were approved for the AmeriCorp membership and will be hiring a coordinator for the "No Idle Zone" school program, which starts January 22nd. Plans are underway for the Youth Conference with donor mailings sent out. EPA partnered with Scholastic and created a "Magic School Bus gets Cleaned Up" book. Spokane Clean Air ordered 500 complimentary copies that will be distributed in the new year.

4. Activity Report for October 2007 – Ron Edgar

In general, it is the wood heating season and we will be getting more complaints as the season progresses. Other activities are normal. The air quality was good in the first part of October and at the end of the month we had some moderate air quality with one short 24 hour wood stove ban. Chair Corkill would like to see the air pressure charted on the y-axis and time on x-axis.

5. Income/Expense Statement for October 2007 – Barbara Nelson

Barb stated that the income and expense statement is on track. Spokane Clean Air is moving through some of the bigger projects that are in place this year such as the retro-fit fueling stations being completed and that will contribute to the overall year-to-date expenditure totals. Some of the equipment is in house that was purchased for the new monitoring sites and we will be getting more deliveries of the next stages and those will be being set up.

6. CONSENT AGENDA – ACTION ITEM – Approval of the November 1, 2007 Board Minutes / Approval of Vouchers for November 2007 – \$278,886.78

Mayor Pederson moved to approve the consent agenda and Commissioner Mager seconded it. Motion passed unanimously.

7. Resolution 07-39 – Amendment to the Agreement with Department of Natural Resources – Matt Holmquist

Spokane Clean Air has had an agreement with DNR since 1994 and there have been a few updates over the years and the latest update pertains to the curtailment issue. Since the wood stove curtailment value was decreased, Spokane Clean Air would like to have the curtailment for silvicultural burning follow that lead and DNR has agreed with this change.

Board Member Ahern moved to approve Resolution 07-39 and Commissioner Mager seconded it. Motion passed unanimously.

8. Public Hearing – Resolution 07-40 – Adoption of Source Test Rule – Joe Southwell

Per discussion and input at the October board meeting, staff was given Board approval to proceed with the formal rule making process for adopting a source test regulation.

This is a brief background on Spokane Clean Air's reasons for developing a source test regulation. Air pollution sources are occasionally required to perform initial or periodic tests to demonstrate compliance with emission standards. The source is responsible for having the test performed and test reports submitted. Spokane Clean Air's role in this is the review and approval of test plans prior to the test being performed, observation of the tests when possible, and review of the test reports. Over the years staff has identified occasional problems or concerns on how source tests were performed and/or reported, the most recent example being TransCanada and the Waste-to-Energy (WTE) plant. After the WTE issue, Bill asked staff to work on a draft source test regulation which would establish requirements for test plan content, test date notification, test performance, and test results reporting. Several other air quality agencies have regulations and/or guidelines for these kinds of tests. Staff prepared an initial draft of the source test regulation and requested some initial comments from source test companies and other local Washington State air agencies in February 2007. After this, with the Board's approval, we proceeded with the notice of the proposed regulation and provided that notice to affected facilities and requested preliminary comments at a couple different dates. We held two preliminary comment periods on April 23rd through May 18th and August 10th through August 31st of this year. At the October board meeting, staff was given approval to proceed with the formal rule-making process. A formal comment period on the proposed rule was held from October 26th through November 30th. The text of the proposed source test rule is an attachment to Resolution 07-40.

During the April to May comment period, Spokane Clean Air received a total of seven comments. The majority of the comments came from Wheelabrator, which is the operator of the WTE plant and Spring Environmental, an environmental consulting business. The primary theme of the comments received for that period was that the regulation should provide for some flexibility in testing, notification and scheduling requirements. There were some suggested revisions to the rule language. Wheelabrator also questioned the need for a rule versus a guideline. Based on those comments received, staff revised the proposed regulation and held a second comment period in August. A total of three comments were received during that period and the main comments came from Wheelabrator. There was the question on the need of a rule versus a guideline and they stressed a need for flexibility during testing to adapt to potentially variable or changing testing conditions. Per discussion with the staff and Director, we came to the conclusion that we prefer to go with the rule versus the guideline approach. Based on those comments received, staff made some minor revisions to

the proposed regulation and initiated the formal rule making process and held a formal comment period from October 26th through November 30th. No comments were received through last Thursday, which is when the board packets were prepared and mailed out. However, Spring Environmental e-mailed some comments last Friday evening. Spring Environmental's comments can be summarized as follows: 1) You should probably separate the rule from guidance because the rule as written is more like a guidance document; 2) There were some questions on rule interpretation and some language revisions for different scenarios that may occur during testing; and 3) Concerns regarding a lack of notification of proposed rule to source testing companies, boiler maintenance firms and Spring Environmental. The comments were reviewed by the staff and Director and believe a rule is more appropriate than a guideline, primarily because a rule is more enforceable than a guideline. Based on comments received over several comment periods, Spokane Clean Air tried to modify the proposed rule to provide greater flexibility and allow for some agency discretion; however, the proposed rule has not substantially changed from the last couple drafts. In regards to notifications, after our initial request for comments from the source test companies and local air agencies, we focused our notification efforts on the affected sources, as we feel they are the ones who are responsible for having the tests performed and test reports submitted.

Chair Corkill stated that the essence of this comes down to what happens when something goes wrong during the testing. That is what we are trying to get at: what would constitute a valid test procedure and having quality control and quality assurance. He thinks that is what Spokane Clean Air has done here to try and address that in the regulation.

Damon Taam, the System Contract Manager for the Spokane Regional Solid Waste System (SRSWS):

Thank you for the opportunity to comment on the source test rule. I would also like to comment a little bit more about the event that we had before the non-methane hydrocarbon situation we were in. It's those situations that have us making these comments and requesting more flexibility. I guess we're looking at it from going to be less flexible than it was before. What we're trying to do is get it more flexible and realize how stack testing has changed. Stack testing, and I've been present for 15 of these stack tests at the WTE plant and we've contracted with five different firms from all over the United States, from Chicago, the current one is from North Carolina, these people are very expensive, they are testing in parts per billion, parts per quadrillion, what they do is technically very, very difficult to do. It's possible to do but everything has to be perfect. The heaters have to be working; the flow meters have to be working. What I'm trying to do is not go through all the comments that were made by Kelle Vigeland from Wheelabrator, she was unable to be here today. I'm going to cite examples of why we've recommended these specific suggestions. One big one is as mentioned, our recommendation of adopting guidance versus a rule. It is very, very expensive, in fact the WTE plant contracts, the system actually contracts as a third party to do all this testing. We are looking at every year spending currently approximately \$100,000 for a week and a half. They bring in anywhere from 10 to 15 people on site, bringing in mobile labs, probably three or four trailers at a time. Very technical and precision pieces of equipment and if you can imagine doing a rocket, it has many check, check, check points, or taking off in a plane, all those things have to be correct and functioning properly before a test is initiated. Many, many times during those checks, a lot of those factors aren't functioning properly and they have to go and fix it. They bring lots of spare pieces of equipment to anticipate those things but they don't bring everything. That was the case with the non-methane hydrocarbon. They brought things here, they brought another analyzer, a lot of sampling tubes, but they did not bring one piece of line and that one piece of line was used for all the subsequent testing and something was wrong. We innately know after 15 years and the tester knew after he's done

it five times, that there was something wrong, this is not typical. No matter what adjustments were done, something was incorrect and the tester himself felt that the equipment wasn't operating properly, he just couldn't find it. Subsequently we agreed with the flexibility with Spokane Clean Air that we confirm and make sure that that data was incorrect and we agreed to do non-methane hydrocarbon in each quarter, at some expense to us. We're approximately \$25,000 and at each one of those tests all of non-methane hydrocarbon was fine, but that one little sample tube that they didn't have a copy of was probably the culprit, we just couldn't prove it because by the time that we took it out it was all gone. We saw the tests gradually decrease. To us it makes sense.

One big thing that flexibility is needed on is schedule. We agree upon a schedule in our plan prior to testing, but almost in every single test that schedule was deviated from. It was planned, it was set up, but going through the checks something didn't work right so they had to move on to the next test and initiate that, out of order. So they're constantly moving schedules in order to accomplish the task in a timely manner. If we would need approval of such and/or change in such those things, we would need to contact Spokane Clean Air and get approval and sometimes we're working two eight-hour shifts, 16 hours a day and that goes until late in the night and they can't afford to delay and yet at the same time if these rules are adopted and they get put in as a regulation, it would put us in a bad situation where we are looking at possibly getting a Notice of Violation (NOV). We do not want to get in that position and in a position of conflict with Spokane Clean Air. We'd rather try to develop a representation and that's how we view these stack tests, a representation of how we're running all year round to produce and prove to Spokane Clean Air as well as to the public that we are doing what we need to do.

The environment is very, very different with a rule. It puts it on a whole different level, I agree more enforcement but at the same time not necessarily achieving in our mind an end result where we are having quality results for quality procedures. We will still always endeavor and spend a lot of attention, money and effort to achieve that but with a guidance you have a significant amount of advantages over a rule. EPA has realized that, that's why EPA issues guidance and doesn't have a rule. You can go through periodic revisions without having to go through a rule procedure is administrative. It allows Spokane Clean Air much more discretion on a case-by-case basis. We're talking multiple types of facilities, multiple sources to have one rule try to address all of it is very, very difficult and challenging. It allows us, as a source, to raise questions, objections in particular situations. There are literally hundreds of situations that come up and we need guidance and usually for guidance we initiate a call and we talk and we move in that light rather than trying to change a rule. This way we can express our opinion and get comments back and make adjustments. We believe a guidance and education would accomplish the same goals and also enhance the agency's abilities to oversee testing programs. We believe with our source test plan in concert with guidance would accomplish the same goals.

One of our concerns is cost. Cost of hiring these testers. If we make them stop and wait until we have approval from Spokane Clean Air, it's going to cost money. Also our availability, Spokane Clean Air's availability to be on call during those periods of times will be again we need somebody on call during that period of time. Usually Kelle and I are on call, but a lot of times those issues are difficult. Training costs for Spokane Clean Air's staff will probably be necessary in order to administer this kind of detailed administrative rule. Again, it hits our rate payers. Usually what happens in these situations, these stack testers are highly paid technical professionals. They do this on a daily basis throughout the whole United States. Usually they will bring to us a problem and they will recommend something and usually their recommendation is something we go with anyway just

because they know what they're doing and we don't want to be in a difficult position where we are fighting and/or trying to not receive a NOV. The bottom line on that non-methane hydrocarbon is it was a problem with a tester. It was a problem with a piece of equipment that was unanticipated, they did the proper procedures but something from another test influenced the test at our facility and we had to demonstrate and I'm asking for that same kind of flexibility in the future, but with a rule there's a whole lot less flexibility.

Chair Corkill asked why Damon thinks there is source testing. Why do you think your company has to have source testing? Damon replied to assure that when we operate, we operate within the means of our permit. Chair Corkill stated you don't think it is connected with the health of the people who are down wind of your factory, that's why you source test. Damon replied most definitely. Chair Corkill asked don't you think that they have a right to have your plant running as efficiently as possible with not emitting stuff. Getting tested is part of doing business. The fact that you bring up the costs is that that is a part of doing business and running that plant and I'm sure the money is part of the accounting system of the WTE plant and that you know you've got to do source testing every once in a while. Damon replied that they take that very seriously. They do want to do a very good job and have those tests represent a representative condition of what we run all year round, but a lot of times to have a condition represent our normal operation is also a challenge and those are some of the things that are hard to duplicate all the time at one test. For instance, if all of a sudden we had a big fire going on, it's not representative of normally what happens but an explosion happens in the boiler, what we typically want to see is a representative condition and test that representative condition. Chair Corkill stated that he is not talking about that; he just thinks that the expense is part of doing business. You know this equipment and the fact that there are five companies, technology is pretty sophisticated this way so blaming it on technology is a bit specious he thinks. He thinks that by having guidelines, it just means that it is like the fox looking after the chicken coop in a way, you want the flexibility to do what you want to do rather than what us as a public agency would like you to do. Damon replied he doesn't believe that's the case. We specifically hire a third party and we specifically are the ones, not the operators hiring them, we hire them. Chair Corkill added that that is probably part of your license isn't it? Damon replied it is part of their job and part of their permit. Chair Corkill added you have to do that, not you do it out of your choice. Damon replied no, Wheelabrator doesn't hire them-they are the operator. The system as the owner hires them in order to make sure there is distance between the operator and the stack tester, themselves. We create that situation where there's accountability not to the operator but to the owner. In other situations in their other plants, they actually hire the stack tester. We wanted to make sure there was distance between the two and we do feel we are making sure that it's a good job but his point was over time, these stack tests have been getting very, very accurate but also prone to false positives because they're going very, very small, parts per billion and parts per trillion. So there is an increased level of potential error either by the lab and/or by the sampling and in trying to keep ahead of that curve such that there's no error, is very, very difficult. That's all my point is and let us demonstrate to you if there is a problem lets demonstrate to you why there is a problem, satisfy your concerns that there is no problem. We did that with the non-methane hydrocarbon with Bill and we demonstrated that it wasn't a problem but that's the kind of flexibility and opportunity that it gives us to make sure that it isn't. Chair Corkill added that when you are doing chemical analysis, you have to have quality assurance rules and you run quality controls and then you have assurance. But you have to have, the way he understands quality assurance, is you have some rules, which whether you accept or reject the data, guideline they're rules and that is in a clinical lab that I'm more associated with than an environmental lab but they're not guidelines, they're rules. If this thing happens, then you have to make some decision on whether to accept or reject the data and that's what he thinks Spokane Clean Air is asking for is having quality assurance rules rather than guidelines

because guidelines for valid results reduces the validity of the results if they're just guidelines. Bill interjected that one of the issues here is whether the stack test in question is thrown out and whether the company can throw it out or whether they should present the information to Spokane Clean Air and let us decide to throw it out. I think that was the issue here. If there is an equipment malfunction, Spokane Clean Air has no problem discarding the test. But in this case here, we were unable to demonstrate a malfunction in the equipment, the issue was that the stack test results were higher than what was anticipated so therefore something must have been wrong with the equipment but nobody ever figured out what it was. So we agreed that rather than giving you a NOV based on the presumption that you were in violation because at least part of the test indicated you were, we elected to do these quarterly stack tests to beef up the record a little bit. The issue for Spokane Clean Air is that if it's guidance than you can do as you wish with the test results. But with the rule you would basically have to give it to us and let us decide whether or not to accept it or not. On the issue of scheduling, Spokane Clean Air has done quite a bit to make the scheduling more flexible and you can put that in your stack test plan to where it says that you'll do these things, this is the anticipated order we are going to do them in but we could change the order. You can put some flexibility into your stack test plan and once it's approved by us, then you're good to go. I don't think it is quite as dire as what you are saying here and the reason for a rule as opposed to guidance is once we've gone through all of this process that we are going through now, you may as well make a rule out of it because you're going through the proper procedures. Most guidance is just administratively issued, you don't need Board approval or any public inspection of it or anything of that sort. I think this is a better way to go, I am opposed to the idea of guidance because it is just Spokane Clean Air's opinion, you can have a different opinion and then we just disagree about what ever the issue is. If it is a rule than it is cut and dried what you have to do. Damon stated that that is their concern. It is too cut and dried for something so general. Because for instance, yes the machines that were measuring the non-methane hydrocarbon were calibrated using the cal-gas. The line that in our opinion was the source of the problem was after where the cal-gas was inserted. There was no means to test that line. There are lots of little things like that that do happen and what we're saying is in this case, the stack tester is the person that made the decision, we didn't make the decision to stop the test, bring in the additional analyzers, bring in dual analyzers and still could not find out what was wrong and still did the test and it showed a problem. From there we said lets take another company and do it differently. From there it showed it hasn't been a problem for all this time and these years with one test and with one company, you can have a problem. Chair Corkill stated yes, that's after the fact. The fact that this happens once and that's what people are looking for, you can't have it both ways. You're looking for a change and if you see a change, you can't say well we never had a change before therefore there must be something wrong. Board Member Ahern added isn't it feasible that we have a rule and that there is still an opportunity to dialogue and interact with us about the types of issues that you're raising and I certainly feel that we would be, that that information would be welcomed and it would be included and we would make our decisions based on that understanding. I just don't see how establishing a rule would disallow that type of dialogue and that type of understanding if there's some unique type situations or whatever, that would be absolutely of interest to us. Damon stated that their concern is when you establish a rule it becomes a permit condition in a Title V situation. A lot of times a Clean Air Agency doesn't have the option of whether or not and have the flexibility because they have EPA or someone else looking over their shoulder saying "No you have to do this". To be a rule in our opinion needs to be much, much bigger to anticipate almost any and all problems because the consequences to us are great. Board Member Ahern stated doesn't that depend though on how the rule is written? Damon answered yes it does. We are looking for more flexibility in the rule if there is such a rule and it's difficult to describe a lot of these scenarios that typically are unanticipated. Stack testers will tell you that themselves that I can't anticipate or bring that much equipment. Board Member

Ahern asked if there was a list of quintessential things that can go wrong. You're saying there's this list, is there any clear understanding of what the bulk of the time those things might be. Damon stated we have a potential list of things that would normally go wrong but there is a larger list of things that usually don't go wrong. For instance, that sample line, they don't bring a spare one, they bring separate analyzers that frequently go wrong but not the sample line, they clean it appropriately and do the normal things they do with water, acetone, they clean it very well but apparently the product that was left in that sample line wasn't amenable to that cleaning that they did. They didn't have a substitute and they didn't even have one at their main office to air freight over. So those are one of the real rare situations but they do happen. Board Member Ahern stated that in that case isn't the liability with the testing company and so wouldn't they have to repeat the test free of charge if something goes wrong like that. Damon replied yes it is, but they're basically saying well we can't prove it was and we can't prove it wasn't. Commissioner Mager stated that so basically they aren't confirming your belief that it was the tube. Damon replied they have said it is a possibility. They have a business they run, they don't want to say that but both Wheelabrator and I feel that it was that piece of tube. Just looking at the test results that we have all the time as well as the quarterly test, there's nothing much else that's changed. Chair Corkill stated that he thinks one thing is Damon is looking at the consequences for the company and the name of our agency is Spokane Regional Clean Air Agency and we're looking at the consequences for the people who breathe the air that has some of the effluent of your company coming out. Damon added that he represents the same people. He represents the people that dispose of the garbage, we take care of it, we've promised various things as well as we're accountable to their costs and that's where we're heading. We believe that we do a very, very good job, an impeccable job and spend the money appropriately but where we need to spend money where it's cost effective as well and to have delays is a concern of ours that we will work with it but at the same time it's a potential vulnerability in our minds with a rule.

Beth Hodgson, Spring Environmental:

I would like to point out that I still support the position I submitted earlier which is for guidance. I do recognize that the proposal is to address concerns that have occurred and I appreciate that. I have worked as a source tester 11 years ago I was working in Portland for Omni Environmental and I've done testing. I've gone through the experience and spent the hours doing it. There are issues relative to stoppages and I appreciate the impact of that. This rule doesn't just address that though. This rule covers everything from you have to put a written notice that you're delaying a test and I submitted a comment saying "Well I've done testing on an asphalt plant or coordinated testing, I don't do the testing now". So we coordinated testing, on Sunday we found out that it was going to rain on Monday, so you don't run an asphalt plant in the rain. Can't do testing on Monday, so we contacted the testing firm and agreed, we have cell phone numbers, we contacted them and said okay we aren't going to be running tomorrow there's no point in making the trip. They agreed, they stopped it. Sunday night Spokane Clean Air is not open. According to this proposal we're going to have to provide notice in writing and receive approval before the test is postponed. Now I sent that as a comment and that is in the comments you received and Joe wrote back and said "We understand your concern about postponements, however Spokane Regional Clean Air Agency would not consider the facility to be out of compliance, even though that's specifically what it says in this proposed rule if Spokane Clean Air was not able to respond to the postponement fax or e-mail prior to the actual postponement date". So he's telling me in an e-mail that the proposed rule wouldn't necessarily apply. I don't have a problem with rules relative to stoppage or procedures relative to that. I can appreciate having a basis for doing that but all the rest of this about what's supposed to be in a test plan and what's supposed to be in a rule or in a report are written in the regulations. Dr. Corkill you asked well don't they have to follow particular procedures, they do, the source test firms have to follow federal

procedures on how to do the testing and those are all written up in the permits and in the test plans and approved. So if there's any basis that someone's not complying with the test protocol then those tests can be rejected and Spokane Clean Air has the authority to do that. That's all part of the acceptance of the test procedure, it's already defined. Some other concerns that I have relative to the procedure, the way that this proposed rule is written there are approximately by my determination 21 components; 12 of them say unless Spokane Clean Air approves differently in writing before the change. So there are 12 cases in there that Spokane Clean Air gets to have discretion on changing what's a rule. We have rules for how long the tubing has to be, on how hot the heater has to be, how long the test has to run, these are all defined in the procedures by EPA. But this idea about having these, the exceptions about what's suppose to be in a test plan, that's not a rule, that's not quantitative and there's no basis of saying when it could get changed. There's also the concern that was brought up earlier about a question about whether public's put at risk. The only thing that puts people at risk is the source itself, not the procedure that's being done here as far as writing up a test plan. That's not affecting the public. Chair Corkill stated that's not true because without quality control then the on going emissions are allowed because of testing which requires quality assurance and the data is only valid when it passes certain rules. Beth replied that those are defined in the regulations in the test procedures. Chair Corkill asked what the present situation is if something is stopped mid-testing. Beth: "I'm sorry". Chair Corkill stated this is what we're talking about here. Beth replied no, we're not just talking about stoppage, that's my concern. The way this is written. Chair Corkill asked what happens under your rules that you say that are in place if a test is stopped mid-way through the test. Beth replied that the EPA procedures don't define a stoppage. It says you start a test and you end it. Chair Corkill "Well then there's a vacuum of regulation, right? Because if something is stopped, then what happens?" Beth replied there is a vacuum of procedure not regulation. But anyway, I said that I agree that there's a question about stoppage but this whole procedure, this four pages is not just about stoppage. There are three paragraphs in here about stoppage, that's it. My concern is about the other three pages in here. That's where my concern comes from. I work with small businesses; nobody is paying for my time to be here. Chair Corkill asked if any of these small businesses have to do stack testing and which ones? Beth replied yes, some of them do like Huntwood. Chair Corkill added that they are not like Wheelabrator's situation. What are they stack testing for in small companies? Beth replied that in the past she has done testing for ethylene oxide on Holy Family Hospital's sterilizer just two months ago. We had particular procedures we had to follow to go through that. Those were defined, we did the test plan, I haven't heard of anything that was disputed in the test plan, the test plan was approved. So my concern through this whole thing is that there have been, I understand, three examples where facilities have had a problem with testing. I don't have a concern about Spokane Clean Air addressing stoppages. I have a concern that this document is trying to put everything else in here. We threw the entire kitchen sink in here and I think there's value in the information but I think it has value in a guidance document. If you want to put information relative to stoppage in a rule, that's something different, but that's not what this is, this isn't just about stoppages. This whole thing is being driven by three companies and there are 600 companies that are regulated by Spokane Clean Air. Bill added that all of them don't have to do stack testing and part of this testing plan is to discuss under what conditions you're going to be testing. For instance, if you can run at 100 percent or maybe sometimes you run 40 or 50 percent. Well you're not supposed to do your compliance test at 40 or 50 percent. So there are a lot of things like that that need to go into the plan that are over and above what the EPA procedures are. I have to say, like you I started out doing stack testing and did plenty of it and I think they have more instrumentation now and it's a little more technical than it used to be but if there's a problem with the test, the tester documents the problem and the agency will throw the test out. Those issues about faulty equipment or cal-gases not being up to snuff or other kinds of issues that could happen with stack testing can be addressed by just submitting the data to us and if it's an invalid test,

we'll throw it out. Beth replied I don't have a problem with the question on stoppages. I have a question and a concern about the other three pages of this. I agree with you that when a test is stopped, I just had to stop one in May because the numbers didn't make any sense, we couldn't get the same value when it was running zero atmosphere as when it was running zero on the bottle. We were trying to figure out what was going on and we didn't even start the test actually, we stopped it before the, we hadn't even started the test. We provided a verbal notification because I was in Colville, sorry but my cell phone doesn't work there, I used a desk phone, I have no access to e-mail as a result, so no written notification was provided and that wasn't your agency but we provided a verbal notification and followed it up with a written. The way this rule is written, the fact that I in this example, which is not your regulated facilities, but the fact that I only provided it verbally meant this facility had a violation, the particular facility is a Title V facility so now they're going to put it on their compliance notification that "Oh, we only did verbal, we didn't get an e-mail or a letter or a fax so in turn it becomes an exceedance." Board Member Ahern asked if the example Beth gave was a quintessential example of how Beth feels that it is kind of this flexibility issue or is there another example. What really is at issue with Beth in these three pages and she understands that's one of those issues, the one Beth just talked about is having the flexibility to respond shortly but not necessarily with a fax or an e-mail. Beth added that she wouldn't say that's quintessential, she has several concerns that she submitted comments on and she had eight comments relative to practical language. None of her comments were incorporated into the e-mail that Joe Southwell provided the Board. She submitted some comments in April and one of the responses from Joe is "You waited until the last minute to give comments." Excuse me, but a public comment period went until November 30th. I have a right to submit comments on November 30th. I have concerns about 30 day notice. This was something that Wheelabrator apparently submitted in their comments. That's great, she doesn't want to have to have a 30 notification, and it has no bearing on her facilities. Why do we need to do it? Because Wheelabrator says there are some facilities that are NSPS it applies to. Okay, then they need to follow it, but that's a difference, that's not a rule, but this as proposed is going to apply to Holy Family's ethylene oxide testing. I only have to do 15 day notice of my test plan, but oh by the way, I need to send a written notification, by the way someday here we're going to run a source test. Chair Corkill stated that this business about telephoning versus having a hard copy, if something came down legally, if it's just a phone call and there's nothing written down, you just get into he said she said unless you are recording all of the messages you get and he thinks that's why he thinks it is important that things are written. Mayor Pederson added that you should have the ability if something comes up and he makes a phone call to an agency directory, his comments should be noted and if he follows that up with either a written or electronic copy that should be perfectly acceptable. It seems like there is a very large concern about the ability to communicate. That is something where this is getting tied up at because it seems like we're placing the rule process in motion to create redundancies for what's all ready been established through the EPA and State. He doesn't know if an entire new rule making process is going to be necessary or if we just need to clarify what already exists. It seems like if we just clarify what already exists and allow the test to happen, and then we can get the data that we need. That's what we need we don't need rules, upon rules, upon rules to get to the data. If we never do the testing then we're not serving the public. We have to do the testing, we have to make sure that it is done under the right conditions and make it as easy for those who are required to the testing to actually get that portion of their jobs done so they can get the data to us so we can make an overall assessment of how things are going in the Spokane Clean Air agency. Bill added that the EPA procedures only talk about how you conduct the test and there isn't anything in there specifying under what conditions you conduct it or when you can stop the test or anything of that sort. So therefore we need something over and above the EPA requirements so that the test does represent what goes on because for most of these sources, unless you are in an upset or breakdown condition, you're suppose to be in compliance the rest of the

time 100 percent. I don't think we want people just picking the best opportunities to do the test, such as the conditions are perfect. We are not interested in perfect conditions, we're interested in typical everyday conditions and so we need to actually specify that they operate in a normal, good/high production mode, otherwise they could comply with the EPA rules and still not give Spokane Clean Air tests that represent what they think is appropriate. Board Member Ahern stated that in terms of that comment, it seems like this stoppage issue is the big one here because it isn't covered in EPA and does go to the point of the situation that we were specifically concerned with and she thinks that the Board is hearing that no one seems to be uncomfortable for this stoppage rule, to ameliorate the current EPA information and then your comment about testing under the conditions, specifying what conditions testing could take place under and you said that's not covered by EPA and so I wanted to hear further comment on that also. Beth commented that almost all of the permits that she has dealt with in the last 10 years here in Spokane have had a condition that said "operate at maximum production", it's in their permit, you've already put it in their, you've already made it a rule, the question about what type of parameters have to be monitored are submitted in the test plan and either approved or addended. We received a test plan approval that says "okay we agree with this but we want you to add x, y and z". We add x, y and z and we all move on. So it's not something that's in an EPA protocol, but it's something that was done in the test plan, it's been approved by the agency and we do that. So that list was incorporated and we're suppose to comply with it. So in answer to your question, no it's not in a rule but it is being addressed. Unless you have a specific example that she is not familiar with but she has not had a problem where someone said "oh you were suppose to test for x, y and z and it wasn't done". Bill replied, that's not a problem but if the permit is an older permit they may not have the same language you are talking about that the newer ones have. The way Washington rules work, Spokane Clean Air can't go back and fix the old permits and put this language in them. Beth added so now you're doing it to them via another rule making. Bill replied yes. Mayor Pederson stated that it seems like we just keep moving the target. We have to clearly define what we expect of the businesses from their testing process, how we want to see it accomplished and what parameters we are setting for them. But we shouldn't be setting those parameters and then saying "oh, by the way". It seems like we keep coming back to that where we set clear parameters, we set the guidelines and then we tack on a step or two. In the four years that he has been here, it seems it is a constant issue and he doesn't understand. Board Member Ahern stated that what she just heard was that the older permits don't have some of the relevant information in them. That does seem to be of concern to her. Mayor Pederson stated that it seems like we are exploring new ways to expand the bureaucracy. Chair Corkill stated that we are just trying to make more valid the testing procedure. We are not arguing "over what should be tested issues" rather how it should be tested issues" and what happens when something goes wrong and what's the feed back from that. If you can say it's just a guideline, than there is no feed back, it is a voluntary loop. Commissioner Mager added that she doesn't thing that Spokane Clean Air can grandfather in an old permit if it is not meeting the test of clean air. So if there is a problem with an old permit and this rule gets to it, she doesn't think that they are adding a rule for the purpose of expanding bureaucracy but rather it getting to what we see as a glitch or loop hole that needs to be closed. She will say that if you had a verbal telephone call and within 24 hours you got the written, would that not be appropriate because she thinks that Spokane Clean Air should be flexible to odd circumstances that come up that you wouldn't expect to happen very often. If it kept happening time after time, you would think there was some other problem. Bill stated that Joe could amplify this better; he thought that flexibility was put in the rule. If somebody has a problem with equipment not running like it is suppose to be in the test plan and there is some sort of malfunction or a low production day or something of that nature, he has no problem with someone calling up and saying they will have to postpone the test or do it some other time because the conditions are not representative of full production, normal operation, which is what Spokane Clean

Air expects. Joe did make a lot of changes to the flexibility portion of this rule on allowing for agency discretion for some of these problems. Spokane Clean Air's purpose isn't to catch somebody in a technical problem that is beyond their control, it is not our interest to issue them a NOV or have them be out of compliance. Board Member Ahern would like to move incrementally along in this process and it seems like the increment that is highly relevant here is the stoppage issue and that is agreed upon on both sides. It seems to her that preliminarily in hearing what's said today is that there is a potential for this older permit versus newer permit issue to be addressed but perhaps if we have a little bit more time to talk about that, there might be ways that we could work with that as well. Maybe it does require a new rule but it seems like a clear path is needed here that would enable us to respond in a way that is really well understood and clear and she thinks the stoppage issue certainly meets that criterion. She offers that as a possibility and has to leave the meeting right now. Beth added that she doesn't think that the way the proposal was distributed to the public was appropriate and Joe has responded to her in an e-mail, she submitted a comment in April and the Notice says to all interested parties and it went to the regulated facilities; she would think anyone who submitted a comment would be considered an interested party. SCAPCA used to send out tons of Notices to everybody on God's green earth about anything that came up and now she did a public records request to find out who it was sent too because she was concerned, she talked to several of her colleagues in source testing firms. She talked to a boiler company who does combustion testing and they knew nothing about it and this impacts them. It doesn't impact directly Wheelabrator or Huntwood or whoever, it affects the companies that are doing the testing and they didn't get that information again. This really needs to go to the people who are going to have to change the way they do things.

Commissioner Mager moved to table this Resolution to the January meeting for a decision only so that the comments can be gone over and discussed before the Board makes its final decision and Board Member Ahern seconded it. Motion passed unanimously.

9. Resolution 07-41 – Authorizing the Director to Negotiate the Purchase of an Office Building

Mayor Pederson stated that he doesn't believe the Board is ready to make any offer but he does think that they should authorize Bill to start the discussions of negotiations to see what the overall financial and other impacts are going to be to the agency. The location of the site is centrally located within the County with good access to the freeway and other main arterials. It is away from the County campus but Spokane Clean Air doesn't need to be within the campus district here. He is comfortable with allowing the Director starting some preliminary negotiations to bring back further information to the Board. Bill asked what sort of information the Board wanted and is he authorized to spend any money to get the information (bids, inspections, legal advice, etc.?) Michelle Wolkey stated that the Board can direct Bill to explore possibilities but Bill needs more specificity on what that means. Can he expend funds in the course of doing this? Can he contract with people to do architectural drawings, etc? Commissioner Mager would like Bill to take a look at some of the things that have been outlined in the report and get some bids so that the Board has a better understanding of what it will cost to have something redone; you can start with what an architectural firm will charge to do that. Bill stated that the numbers are rough estimates to construct office space, put in carpet, level the floor, electrical work, etc. They may not be interested in giving a bid since we don't own the building. He can get an estimate for the architectural work and he has an estimate for the legal work. Commissioner Mager added that architectural work would help Spokane Clean Air to know if there are any major structural issues with the building. Bill stated that would be an inspection and would be a condition of the offer. Spokane Clean Air is running out of space for filing and EPA has been to the

office and said that the placing of some of the files could cause problems for new employees being able to locate the files. Chair Corkill asked Bill to look into getting an estimate of how much it might cost to modify to Spokane Clean Air's needs and then bring it back at the next meeting. Mayor Pederson would like to see numbers that are more site specific.

10. Discussion of Quorum for Board Meeting on January 3, 2008

Commissioner Mager stated that she would be gone for the January meeting. Steve Taylor will be filling in Councilmember DeVleming's position. Mayor Pederson will no longer be on the Board as of January 1st. Mayor Pederson stated that the Spokane County Auditor's Office mailed out ballots on Tuesday. The position of the small cities representative is filled through the City Selection Committee which is comprised of the 12 Mayors of Spokane County but does not include the City of Spokane and the Spokane Valley. Chair Corkill thanked Mayor Pederson for all of the work he has done for Spokane Clean Air on the Board and serving as the Chair for two years during turbulent times for the agency. Commissioner Mager thanked him also. Mayor Pederson voiced his appreciation for being on the Spokane Regional Clean Air Agency's Board and to not forget that Spokane Clean Air is a service to the community and is doing a great job working with the people and businesses in the community.

11. Board Concerns:

Bill stated that the Health District Building will be closed on December 24th and he wanted to know if Spokane Clean Air should follow suit. The Board agreed that Spokane Clean Air should be closed since the Health District and the County are both closed on December 24th.

12. Public Forum:

Dale Smith commented on needing more representation on weekends and evenings in the County for open burning and chimneys that put out a lot of smoke all day. People know that Spokane Clean Air is not open weekends or evenings so by the time they get the message, the evidence is gone. He would like to see a 24 – seven like the Fire Departments have and so you can be directed to one that could go out and take care of something rather than having the fire departments run out and decide it isn't their business and it isn't reported. Some of the Fire Departments report things but he believes that all of the Fire Departments should be aware of what Spokane Clean Air wants and work together so if it happens during these certain hours and the Fire Department goes out on something, they can report it to Spokane Clean Air for enforcement. Even the Sheriff's Department should do this if they see something wrong. Bill stated that this has been discussed before and one of the issues is that Spokane Clean Air is a small agency with a limited amount of people that go out and do field enforcement. During burn bans staff did work half days on a holiday and weekends. Commissioner Mager asked if Spokane Clean Air has ever tracked violations or complaints over the weekends. Bill stated that as far as PM_{2.5} air quality, Ron has always said that it is better on the weekends than weekdays within the city. Matt stated that he would do a query of the complaint data base to see if the complaints on the weekends are more than a two day period during the weekdays and bring it back to the next board meeting. Some Fire Departments refer run reports to us more than others especially if they have been out there once or twice before. We typically issue warning letters to first time violators of open burning. Commissioner Mager would like Matt to draft a letter for the Board to look at in terms of inviting the Fire Departments to contact Spokane Clean Air on burning runs they go out on and what they would like to see done so that we can track better what is going on over the weekends. Chair Corkill stated that this way if the person gets a letter from Spokane Clean Air then it doesn't

make the Fire Departments look like the bad guys and people might pay more attention to the rules. Dale stated that he does feel that there should be one number that people can call to get a response because on the recording it does say that the office is closed so they don't leave messages. Commissioner Mager stated that maybe this should be an agenda item so that the Board can discuss how Spokane Clean Air might enact a policy that would be as simple as putting on the recording that our office is closed but we have an agreement with the Fire Departments so please call your local fire station . . . some kind of policy that would help people get the help they need during the off times.

The meeting adjourned at 11:14 a.m.

The next Board Meeting will be January 3, 2008 at 9:00 a.m. in the lower level of the Public Works Building.

JEFFREY CORKILL, CHAIR

WILLIAM DAMEWORTH, SECRETARY