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## **BOARD MEETING MINUTES**

The meeting of the Board of Directors of the Northwest Clean Air Agency was held at 1:30 p.m. Thursday, August 13, 2020, via video conference.

### **MEMBERS PRESENT:**

Skagit County	Mary Hudson Ron Wesen
Island County	Bob Severns Jill Wood for Janet St. Clair
Whatcom County	Todd Donovan
Member-At-Large	Terry Nyman

**MEMBERS ABSENT:** Brian Heinrich

**ADVISORY COUNCIL:** Mary Hess, Sandy Paris

### **ALSO PRESENT:**

NWCAA staff members	Mark Buford, Toby Mahar, Agata McIntyre, Seth Preston, Crystal Ruddick, and Laurie Caskey-Schreiber
Legal counsel	Svend Brandt-Erichsen

### **CALL TO ORDER**

Board of Directors Chairman Bob Severns called the meeting to order at 1:33 p.m.

### **APPROVAL OF PRIOR BOARD MEETING MINUTES**

On motion by Mary Hudson, seconded by Bob Severns, the minutes for the June 11, 2020, meeting were approved 6-0.

**PUBLIC COMMENT**

Mary Hess expressed her support for NWCAA to engage in outreach to the businesses near the Intalco Aluminum plant, so that they fully understand the ramifications of the non-attainment zone.

**PRESENTATION**

NWCAA Legal Counsel Svend Brandt-Erichsen presented information about the appeal process.

An appeal is initiated by a person who has an objection to an Agency decision, pertaining to permitting or with regards to enforcement. An appeal must be filed with the Pollution Control Hearings Board of the State of Washington (PCHB) within 30 days of permit issuance or receiving the penalty notice or regulatory order.

The general steps of the appeal process are as follows:

- Appeal is filed with PCHB.
- Prehearing conferences, discovery, and motions are conducted to prepare for hearing.
- Hearing is conducted in front of the PCHB Board with presentation of arguments and testimony to admit evidence and of expert witnesses.
- The board issues a written decision as "Findings of Fact, Conclusions of Law, and Order."
- PCHB decisions may be appealed to Superior Court.
- Superior Court decisions may be appealed to the State Court of Appeals. In certain cases, raising urgent statewide or regional issues, a procedure for direct review by the Court of Appeals may be available.
- State Court of Appeals decisions may be petitioned to be heard at the State Supreme Court. However, the Court is not required to hear the case.

Brandt-Erichsen added that when the Agency issues a permit, the appellant has the burden to prove an error has occurred in argument to the PCHB. However, when an enforcement action is appealed (civil penalty or regulatory order), the burden falls on NWCAA to prove the violation and appropriateness of penalty amount.

NWCAA Executive Director Mark Buford noted that the Board of Directors do not formally hear the appeal, though they may be informally addressed by the appellant during the public comment period of a Board meeting as might happen regarding any agency decision.

**PRESENTATION**

NWCAA Engineering Manager Agata McIntyre shared an update regarding the Intalco nonattainment zone in Whatcom County.

The Agency received a letter from the U.S. Environmental Protection Agency (EPA) today, notifying NWCAA that EPA intends to proceed with designating a small area around the Intalco aluminum smelter as out of attainment with the Sulfur Dioxide (SO<sub>2</sub>) National Ambient Air Quality Standards.

The area is quite small, and the only facilities included in this zone will be Intalco and Petrogas. The Phillips 66 and the BP refineries are both outside of the non-attainment zone.

EPA will conduct a public comment period starting no later than Aug. 26, 2020. Once that period concludes, EPA must issue a formal designation of the non-attainment zone by Dec. 31, 2020. Once that is issued, there will have to be a plan drawn up to bring this area into compliance. NWCAA has no jurisdiction over Intalco, which is under the Department of Ecology's jurisdiction. However, we will be working with Ecology to formulate the compliance plan.

### **ACTION ITEMS**

#### **Resolution 586 – Authorizes amending fiscal year 2021 Operating Fund – Mark Buford**

Buford presented Resolution 586 for Board approval. This resolution authorizes the Agency to carry forward unspent funds that were previously committed to the legal services program (\$67,292), as well as carry forward funds that were appropriated elsewhere in fiscal year (FY) 2020. The Agency restroom renovation project had \$8,329 to be carried forward, and the vehicle purchase for a new air monitoring van that was approved in FY 2020 for \$65,000, needs to be re-budgeted in FY 2021, as the purchase was not completed in FY 2020.

Buford also reported that the Agency had a remaining balance of a two-year, \$330,000 grant from the Department of Ecology to combat wood smoke problems in Columbia Valley and additional funds made available by the State which will both be carried forward into FY 2021.

Motion to approve Resolution 586 was made by Hudson, seconded by Donovan, and approved 6-0.

#### **Bills and claims**

Board members discussed the bills and claims reports for June and July 2020. Mary Hudson made a motion to approve the June (\$397,877.37) and July (\$322,792.60) 2020 bills and claims. Ron Wesen seconded the motion, and the Board approved the bills and claims 6-0.

### **STAFF REPORTS**

#### **Director's report – Mark Buford**

Buford reported to the Board on the following matters:

- Buford mentioned that so far, the wildfire season has not affected our area. There has been some smoke high up in the air from Siberia and possibly fires in California, but British Columbia hasn't had as many wildfires as in past years.
- Agency staff will be meeting with the Advisory Council later in the month to review the draft Strategic Plan. After their review, it will move forward to the Board.
- The South Coast Air Quality Management District, out of Los Angeles, CA, is interested in addressing tanker venting and they have contacted our Agency to share information. Vancouver, BC, is also interested in participating with this exchange.

NWCAA Compliance Manager Toby Mahar will be working with both groups regarding this topic.

- Buford reported that he has been working with Andgar to improve our office building's HVAC system. The estimated cost of improvements is \$12,000 - \$15,000, and should enhance the air flow circulation in the building, making it a healthier place to work for the employees.
- Buford has been nominated by the National Association of Clean Air Agencies (NACAA) to serve as their Co-Treasurer next year. Buford stated that this is a reflection of the good work of agency staff. Thanks to their efforts, NWCAA has a national presence larger than our small size would suggest.

NACAA is the respected and valued voice of air quality agencies across the country. While there is rarely 100% member agreement on any NACAA position, the discussion is always valuable and Buford is honored to be considered for this larger role in NACAA. Board members indicated their support for Buford's involvement and participation with the organization.

#### **New source review and air operating permit update – Agata McIntyre**

NWCAA Engineering Manager Agata McIntyre reported on the June and July 2020 construction permit (new source review) activity.

During June 2020, the Agency received 11 applications for construction permits and issued two construction permits.

One of the applications received in June was from Silvastar Forest Products in Ferndale. They are increasing their lumber-drying kilns capacity up to 40 million board feet per year.

During July 2020, the Agency received five applications for construction permits and issued five permits.

One of the applications received in July was from Sumas Concrete Products. They will be installing a baghouse to control dust from the concrete block manufacturing facility they are constructing.

One of the permits issued during July was for the baghouse replacement that Brooks installed several years ago, and legally challenged the Agency on whether they needed to gain a permit to replace and install this piece of equipment. The Agency views this as the final action needed to end this lengthy legal challenge.

#### **Enforcement update – Toby Mahar**

NWCAA Compliance Manager Toby Mahar reported that the Agency has been busy in June and July with a lot of neighbor-on-neighbor type complaints. NWCAA issued one notice of violation in July for illegal outdoor burning.

#### **ADJOURNMENT**

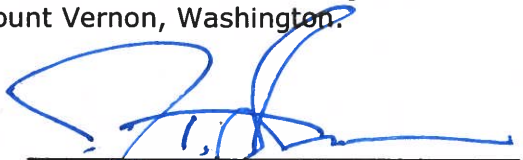
There being no further business to consider, the meeting adjourned at 2:54 p.m.

**CERTIFICATION**

I hereby certify this is a true and correct copy of the minutes of the meeting of the NWCAA Board of Directors held on August 13, 2020, in Mount Vernon, Washington.

ATTEST:

  
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Terry Nyman, Secretary  
NWCAA Board of Directors

  
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Bob Severns, Chair  
NWCAA Board of Directors

DATED: September 10, 2020