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everyone, everywhere,
all the time.

**Advisory Council
Meeting Agenda**

Board of Directors

<p>Bremerton Patty Lent, Mayor</p>	9:00-9:05	I	<p>Approval of Minutes – December 10, 2014 Regular Meeting</p> <ul style="list-style-type: none"> • <i>Frank Migaiolo</i>
<p>Everett Ray Stephanson, Mayor Paul Roberts, Board Chair</p>	9:05-9:50	II	<p>Strategic Plan Implementation Updates</p> <ul style="list-style-type: none"> • Public Outreach (Objective 3.3) – <i>Joanne Todd</i>
<p>King County Dow Constantine, Executive</p>	9:50-10:10	III	<p>Legislative Update – Climate Policy and Other Issues</p> <ul style="list-style-type: none"> • <i>Craig Kenworthy</i>
<p>Kitsap County Edward Wolfe, Commissioner</p>	10:10-10:35	IV	<p>Briefing – Harbor Craft Auxiliary Engine Replacement Program Grant</p> <ul style="list-style-type: none"> • <i>Beth Carper</i>
<p>Pierce County Pat McCarthy, Executive</p>	10:35-11:00	V	<p>Update – Seattle Chinatown/International District Near-Road Monitoring Project</p> <ul style="list-style-type: none"> • <i>Phil Swartzendruber</i>
<p>Public-at-Large Stella Chao</p>	11:00-11:25	VI	<p>Briefing – Preliminary Summary of 2014 PM Levels</p> <ul style="list-style-type: none"> • <i>Kathy Strange</i>
<p>Seattle Ed Murray, Mayor</p>	11:25-11:35	Staff Reports	<ul style="list-style-type: none"> • Wood Stove Retrofit Challenge Update – <i>Phil Swartzendruber</i> • January Director’s Report to the Board (included in packet)
<p>Snohomish County Dave Somers, Councilmember</p>	11:35-11:45	VII	Advisory Council Member Reports
<p>Tacoma Ryan Mello, Councilmember</p>	11:45	VIII	Adjourn

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**PUGET SOUND CLEAN AIR AGENCY
ADVISORY COUNCIL**

REGULAR MEETING MINUTES

December 10, 2014

1904 3rd Avenue, Suite 105
Seattle, WA 98101

Advisory Council Members Present:

Bill Franz, representing Snohomish County Suburban Cities
Kimberly Freeman, representing Planning
Tim Gould, representing King County Public-at-Large
Ronn Griffin, Kitsap County Public-at-Large
Debbie Hannig, representing Area Sources (by phone)
Jason Jordan, representing Port of Tacoma
Kristin Lynett, representing Pierce County Public-at-Large
Kelly McGourty, representing Puget Sound Regional Council
Frank Migaiolo, representing Large Industry
Greg Tisdell, representing Small Business
Jay Wellan, representing Snohomish County Public-at-Large (by phone)

Advisory Council Members Absent:

Art Castle, representing Construction
Mary Basballe, representing Tribal
Janice Gedlund, representing Port of Seattle
Steve Gerritson, representing Environment
Ngozi Oleru, representing King County Environmental Health Services Justice
Kathy Ross, representing Education
Alexandria Teague, representing Environmental

Frank Migaiolo called the meeting to order at 9:10 a.m.

VI. STAFF REPORTS

Legislative Update

Craig Kenworthy said he would give the legislative update while the group is waiting for additional Advisory Council members to arrive. He said Governor Inslee will be introducing his climate/transportation policy next week. Mr. Kenworthy said if a carbon pollution cap and trade system or similar plan is part of the policy, the Puget Sound Regional Council (PSRC) wants some of the funding to be available for transportation infrastructure.

(Kimberly Freeman and Kristin Lynett arrived to join the Advisory Council.)

Mr. Kenworthy added there has been ongoing discussion about a clean fuels standard.

Greg Tisdell said this is consistent with what he has heard from the business community regarding transportation issues.

(Debbie Hannig joined the Advisory Council by phone.)

I. Approval of Minutes

Mr. Migaiolo asked if there was any discussion regarding the minutes from the October 15, 2014 Advisory Council meeting.

There was no Advisory Council discussion.

Mr. Migaiolo asked for approval of the October 15, 2014 minutes; there was quorum approval between the members present and non-present members who had approved the minutes earlier by e-mail.

Mr. Kenworthy introduced Bill Franz, the new representative for the Snohomish County Suburban Cities position. Mr. Kenworthy said Mr. Franz is the Public Works Director for the City of Lynnwood.

(Jason Jordan arrived to join the Advisory Council.)

II. Strategic Plan Implementation Updates

Wood Smoke and Outdoor Burning (Objective 1.3)

Andrew Green said he would provide a very short update on wood smoke and outdoor burning (Objective 1.3), since the Advisory Council has already discussed this issue at previous meetings.

Mr. Green said under Goal 1 (Protect public health and the environment from air pollution), Objective 1.3 calls for the agency to reduce emissions and exposures from wood smoke and outdoor burning. He said although we haven't discussed the targets very much, the target to meet that goal is that there will be no days with 24-hour fine particle levels over 25 µg/m³ (micrograms/cubic meter) in high-wood-smoke communities by 2020.

Mr. Green said the strategies to meet that objective are:

- 1) Restore healthy air to the Tacoma/Pierce County nonattainment area.
- 2) Reduce wood smoke pollution in other highly impacted communities that experience unhealthy levels.
- 3) Minimize pollution from outdoor fires.

Mr. Green said the FY15 deliverables from this objective are broken into three categories, with tasks under each area:

- 1) The smoke reduction zone (SRZ), where we have spent around \$2 million: on increased burn bans; removing old uncertified wood stoves; with a stepped-up outreach campaign; and seeking redesignation of SRZ into attainment
- 2) Other highly impacted communities
- 3) General outdoor burning

(Kelly McGourty arrived to join the Advisory Council.)

Mr. Jordan said he has heard that the EPA is about to re-designate the SRZ and asked how that will change the agency's strategy there.

Mr. Green said the high level answer is that not much changes because we are in a 10-year maintenance plan so we have to continue to do the work. He said the reality is more complex, for example, the heaviest outreach effort may not need to be maintained at the current magnitude of effort.

Kathy Strange said a review happens after every heating season and if PM levels are not coming down enough we will continue the current levels of engagement.

Mr. Kenworthy said we probably won't do as much on outreach and perhaps enforcement next season; however, we may go back to current levels in a year or two to remind people that the issue still exists.

Mr. Jordan said there have been several burn ban days this year and wondered how PM levels are looking so far this year.

Ms. Strange said they are acceptable so far.

Mr. Tisdell said since health is the agency's main concern, will funding be available to continue to support the enforcement and outreach programs?

Mr. Kenworthy said we have been able to use some state diesel funds towards these programs since we have been in nonattainment. He said once the SRZ is declared to be back in attainment, we may lose some of those kinds of funds. He said it will be harder to convince the Legislature that we still need funding to continue associated programs.

Mr. Tisdell asked Ms. Hannig if the Hearth Products Association planned to continue educating the public on clean heating choices.

Ms. Hannig said HPBA retailers sell a tremendous number of gas products and are focusing on all options. She said they are advising customers on the benefits of newer wood stoves and alternate fuel products as well.

Ms. Freeman asked whether when Tacoma/Pierce County goes into maintenance mode for attainment it will still be called the SRZ.

Mr. Kenworthy said probably yes, because it is easier for the public to understand the concept. He said we aren't going to celebrate the redesignation because we aren't done. He said the redesignation helps the local businesses in terms of some requirements, but we need to keep working on keeping the air clean. He said for the next 10 years we need to keep proving that we have kept the air clean and will continue to keep the air clean in the SRZ.

Mr. Franz asked if there are other areas besides Tacoma/Pierce County violating the PM standard.

Mr. Kenworthy said yes, Yakima County frequently needs to call burn bans. He said Darrington is in a gray area, because of its geographic location it is at a higher risk for exceedences and we have called burn bans for Darrington alone when the rest of Snohomish County was not in a burn ban.

Mr. Kenworthy said EPA won't update the PM standard again until 2017 and Darrington and Yakima County may be at risk of violation then.

Mr. Jordan asked if EPA lowers the standard again, are we at risk of going back into violation even though we meet the current standard?

Mr. Kenworthy said if EPA lowers the 24-hour standard, we could go back into violation and would have to go back into the whole State Implementation Plan (SIP) process again, even though we would be on a maintenance plan from the last process.

(Tim Gould arrived to join the Advisory Council,)

Mr. Tisdell asked how the public felt about the agency calling a separate burn ban for Darrington.

Joanne Todd said some residents were fine with it, others were unhappy because they believe they should be free to burn whenever they want to. She said the education and outreach has been helping a little.

Ms. Strange said one of the FY15 deliverables for Objective 1.3 is to weave environmental justice into the strategic plan through looking at highly impacted communities with air quality monitoring studies. She said staff used a mix of demographics, health information and pollution levels to identify which communities qualified as highly impacted. She said the first community selected was Auburn/Algona. She said their fine PM levels are on par with Tacoma/Pierce County for pollution levels so we conducted a mobile monitoring study. She said rather than just studying the levels, staff is working on partnering with active community groups and discussing their level of interest/concern about air quality issues.

Ms. Strange said the second area studied was along Highway 2 to Skykomish. She said we have not been out there with monitoring equipment and have placed monitors at Sultan, Skykomish, and along Highway 2 in that area. She said we have not conducted outreach there yet because we don't know if there is a problem until we see the monitoring data.

Mr. Jordan asked what led the agency to pick Auburn/Algona.

Ms. Strange she said we looked at previous season monitoring data plus socio-economic information for Auburn/Algona. She said also we didn't have as much monitoring data as we wanted for south King County.

Mr. Green said with respect to the outdoor burning piece of the FY15 deliverables for Objective 1.3, we have discussed this subject in depth with the Advisory Council in the past. He said the agency is currently beginning the process to review whether reasonable alternatives to outdoor burning are available in the agency's 4-county jurisdiction. He said the process will continue through next year.

Mr. Kenworthy said reviewing the availability of reasonable alternatives to outdoor burning is a legislative mandate which the agency is supposed to conduct every 3 years. He said we are actually behind in conducting this review.

Mr. Green said some of the challenges to achieving our objectives are budget constraints, available personnel, available funding, partnerships in the Tacoma/Pierce County area, timing, the monitoring resources needed for Ecology's wood stove program funding, and public support with respect to outdoor burning regulation.

Mr. Gould asked if redesignation to attainment would make it more difficult to obtain stove changeout funding.

Mr. Kenworthy said the Legislature want to use funding to get areas that are in nonattainment into maintenance or keep them in maintenance. He said the areas that are at risk of violating the federal standards will be most likely to get funds, so going forward it may become a little harder to fund the continued maintenance activities.

Mr. Green said the role of the Advisory Council is helping us understand the public attitude about various issues, for example, about the wood stove removal program in the SRZ, and ultimately in other jurisdictions, and reasonable alternatives to outdoor burning in all jurisdictions.

Ms. Freeman asked why the focus now on reasonable alternatives to outdoor burning.

Mr. Kenworthy said the agency banned land-clearing burning in 2009. He said that although reasonable alternatives to the burning of residential yard waste were studied at the time, it was determined that no reasonable alternatives were yet available. He said we are required by state law to revisit this review every 3 years, so we are actually past time to review the availability of reasonable alternatives to yard waste burning in all jurisdictions.

Mr. Green said this is not just a legal mandate, it is the agency's mission that everyone breathes clean air.

Ronn Griffin asked how the agency is advising the public about burn bans.

Ms. Todd said there is an app on our web site available to download for iPhones and Android that notifies users about burn bans. She said the app is not available yet for Windows.

Mr. Griffin asked if he calls North Kitsap Fire, will they know about the agency and air quality burn bans. He also asked how the agency is reaching out to wood stove retailers to make sure they know about burn bans.

Ms. Todd said we are working with the media to make sure that burn bans are being publicized.

Mr. Griffin said email outreach would be good.

Mr. Kenworthy said email outreach is available now; the public can sign up for email notification about burn bans on our web site.

Ms. Hannig said hearth product retailers also offer email notification of burn bans for their customers and let them know about the available changeout programs. She said retailers are pushing the agency's programs as much as possible; they made a particularly strong effort at the Puyallup Fair this year.

Mr. Kenworthy said we have seen the effects of hearth product retailers' support in our wood stove changeout program, many people moved forward with commitments to change out old stoves after talking to retailers at the Puyallup Fair.

National Ambient Air Quality Standards (NAAQS) (Objective 1.1)

Ms. Strange said under Objective 1.1 she will update the Advisory Council on the status of Tacoma/Pierce County's proposed redesignation to attainment with the daily fine particle National Ambient Air Quality Standards (NAAQS). She said she will also discuss the potential ramifications for our region of the revised ozone NAAQS proposed by EPA on December 1. She said the NAAQS are updated every 5 years by EPA based on the latest health data. She said a good example of changes that are made as more health information comes to light is EPA's change of the PM standard in 2006 when it was changed from 65 to 35 $\mu\text{g}/\text{m}^3$. She said the target to meet Objective 1.1 is that the entire region attains NAAQS by 2015 and maintains attainment going forward.

Ms. Strange said the strategies to meet that target are: to secure redesignation of the Tacoma/Pierce County fine particle nonattainment area to attainment status; to track revisions to the NAAQS to understand the potential for new nonattainment areas in our region and if new nonattainment areas are designated in our region (e.g., ozone), to develop effective attainment plans promptly; to make sure gasoline vapor recovery requirements support ozone maintenance, and to meet requirements of legacy maintenance plans from former nonattainment areas, including transportation conformity requirements.

Ms. Strange said the redesignation will post in the Federal Register tomorrow and then the 30-day comment period will begin. She said EPA has 18 months to approve the redesignation,

which will change from the Tacoma/Pierce County area from nonattainment to attainment/maintenance status. She said one day during the recent burn ban the standard was exceeded; however, most of the levels are right around 30 $\mu\text{g}/\text{m}^3$. She said that is acceptable for the regulations, although not so good for our health goal.

Ms. Strange said regarding the expected revision to the ozone standard, the current standard is 75 $\mu\text{g}/\text{m}^3$ and EPA is proposing a new from standard of 65-70 $\mu\text{g}/\text{m}^3$ and waiting for comments on the proposal.

Mr. Kenworthy said health groups will suggest EPA should change the standard to 60 $\mu\text{g}/\text{m}^3$, business will propose no change to the current standard, and ultimately EPA's decision will fall somewhere between. He said it will be an ongoing battle, with industry claiming there will be major job losses if it is required to clean up its practices.

Ms. Strange said ozone photochemical pollution needs sunlight to form and is a summer issue; there is some risk but a lot of uncertainty. She said the standard looks at 3 years of data and whether or not the new standard is being met will be based on data from the summers of 2014-2016. She said whether or not we exceed the new standard depends on the next 2 years. She said Enumclaw was the highest of all the monitors at 68 $\mu\text{g}/\text{m}^3$ in 2014.

Mr. Jordan asked if the agency will take a stand on what the level should be.

Mr. Kenworthy said staff will discuss the issue with the Board.

(Jay Wellan joined the Advisory Council by phone.)

Mr. Jordan said if the agency plans to provide a recommendation on the new ozone standard, he hopes the Advisory Council will have some input.

Mr. Kenworthy said agency comments may not have much influence on the final decision.

Kristin Lynett asked about the health effects of ozone.

Ms. Strange said ozone is a lung irritant which reduces lung function and also causes systemic and cardiac effects. She said it is a complex chemistry and there is not a very large segment of the population being exposed to ozone. She said there is a much larger area exposed to $\text{PM}_{2.5}$.

Mr. Kenworthy said if someone offered us funding on PM or ozone, we would choose PM. He said ozone does have health effects but for a limited period of time and for a limited number of people. He said the biggest regional health gains come from controlling PM.

Mr. Franz asked if this would be different if we were in southern California.

Mr. Kenworthy said yes, because it would have a much higher impact. He said our geography and metrology are different so the effects are different.

Ms. Strange said we will look at possible nonattainment boundaries, modeling, and an ozone mini-study around Enumclaw and Pierce County sites. She said the main source for ozone in our area is transportation. She said the Puget Sound Regional Council (PSRC) will discuss ozone at their meeting tomorrow; Mr. Green and Mr. Kenworthy will give a presentation on the subject. She said staff is working with Ecology to make sure we are all on same page.

Ms. Strange said there are no easy solutions; all the easy solutions have already been implemented. She said there are maybe 20 different smaller fixes to look at; we will reevaluate our situation in a year.

Mr. Jordan asked if there are any changes in auto industry standards.

Ms. Strange said Tier 3 standards are coming, but won't begin until 2017.

Mr. Kenworthy said federal fuel and vehicle standards are putting us on the right path, but might not be enough in the short term to reach attainment.

Kelly McGourty said we are on a long expensive pathway over the next 3 years. She asked if there was any thought about the agency implementing a marketing campaign to encourage the public to make better transportation choices.

Mr. Kenworthy said he is not sure we can make a difference with that kind of campaign. He said that media is expensive even in a compact geographic area like the SRZ. He said the resources we would need to reach the public on the ozone issue and actually achieve behavior change are monumental.

Mr. Green said ozone is not our number one priority and we don't want to spend our limited funding on something that isn't our highest priority.

Ms. McGourty asked if the models are sensitive enough to show what level of transportation activity would alleviate the problem.

Ms. Strange said we have looked at that, but have questions about the model's performance. She said we need more detailed modeling to handle that kind of sensitivity. She said the general answer is that even with major changes in transportation levels, there is still not enough ozone reduction.

Mr. Kenworthy said for example, if we remove 20% of cars from the roads on any given day, that may only reduce ozone emissions by 1 part per billion and we may need to reduce it by 3 parts, if we are over the standard.

Mr. Gould said we need to look for co-benefits with reducing other pollutants. He said for example, efforts to reduce PM should also reduce ozone at the same time.

Mr. Kenworthy said a carbon tax or similar effort may help reduce ozone and we are looking at what those potential co-benefits might be.

Ms. Strange said gas vapor recovery issues were discussed at the last meeting Advisory Council meeting in detail. She said the FY15 deliverables are to analyze the emissions implications of Stage II vapor recovery systems and to participate in the Joint Legislative Audit & Review Committee (JLARC) study of gasoline vapor regulation. She said so far the analysis of Stage II is complete and staff is recommending that Stage II should be retained, at least pending an eventual ozone standard. She said the preliminary JLARC study report was released in late November and though we support the main findings we continue to raise questions about other points.

Ms. Strange said with respect to PM, all the PM_{2.5} monitors are under the PM_{2.5} NAAQS; staff will report the 2014 data in early 2015. She said the challenges are that air quality (achieving NAAQS) is affected by many factors beyond our actions and with respect to ozone, the new NAAQS is still uncertain.

Ms. Freeman said so many regional air quality problems are tied to transportation. She said there is always talk that the solution is switching to other modes of transportation; however, switching is easier said than done. She said, for example, driving to work from north Tacoma takes 10 minutes and a bus takes 2 hours. She said maybe we should use some funding for a competition to tell us how to solve the problem and ask people what would make them shift.

Mr. Kenworthy said the question is whether to have that conversation now or later when we know whether we are really at risk of going into nonattainment for ozone. He said that doubling public transportation use might not affect ozone levels on hot days.

Mr. Wellan asked where we are currently with best days versus worst days.

Ms. Strange said ozone is photochemical pollution which needs sunlight to form. She said it is a summer issue. She said the standard looks at a 3-year average, the designated years being 2014-2016. She said where we end up depends on the next 2 years. She repeated her earlier comment that Enumclaw showed the highest reading at 68 µg/m in 2014.

Ms. Lynett asked if we send out ozone alerts.

Ms. Strange said we used to have smog alerts in the past (e.g., don't drive, refuel your car at night, etc.). She said we moved away from these because we didn't want to focus public attention on this if it is not going to reduce pollution levels significantly.

Ms. Lynett said she thought some people would change their behavior if they knew.

Ms. McGourty asked if we are unique in this problem in terms of how we are addressing it.

Ms. Strange said no, other areas are the same. She said for example, California would be all in on addressing the problem; however, some regions are similar to the Puget Sound in that exceedences occur during only a few days in the summer and don't have a major effect on public health.

III. Strategic Plan Progress Reporting

Mr. Green said both the Advisory Council and the Board of Directors have asked how we intend to report our progress against the 2014-2020 Strategic Plan. He said we propose to provide a more systematic annual reporting against plan strategies and objectives, while retaining and avoiding redundancy with the existing monthly Executive Director's report to the Board. He distributed extra copies of the proposed report form from the packet.

Ms. Lynett said she appreciates Mr. Green bringing this forward; reporting is important. She said she would like for staff to send the Advisory Council the monthly Director's Report.

Mr. Jordan said he agrees that Advisory Council members should receive the Director's Report. He said he likes the proposed form and it would be good to add a line item showing the dollars spent and the budget going forward.

Mr. Green said adding the funding/budget information is on his to-do list.

Mr. Tisdell agreed the Advisory Council should receive the same information given to the Board.

IV. Briefing – Dry Cleaners Project

Mario Pedroza said the agency has requested delegation of the National Emission Standards for Hazardous Air Pollutants (NESHAP) rule for Perchloroethylene (perc) users from EPA. He said we plan to phase in enforcement of the rule starting with an education phase from 2014 – 2015, following with the enforcement phase starting in October 2015.

Mr. Pedroza said the basic requirements for following the regulations are dry cleaners must check for leaks at least every 2 weeks, fix leaks within 24 hours, and keep records (purchases of perc, leak inspections, and proof of repairs within 24 hours). He said the regulations can be difficult to follow even in English, and 80% of dry cleaner owner-operators in our region are Korean and there is a language barrier that we work to overcome.

Ms. Lynett asked if perc is a health problem.

Mr. Pedroza said perc is toxic, persistent, and has strong health implications.

Mr. Pedroza said the agency used to conduct inspections for perc on older machines (where clothes were removed from washers to dryers) until the late 1990s. He said we continued to inspect businesses as they transitioned to single units with no clothes transfer, which cut down a major source of emissions. He said once dry cleaners were all using the newer machines, the agency reduced the inspection program to a simpler format.

Mr. Pedroza said EPA notified the agency to update its rules in January of 2008 to reflect federal rules. He said at that time the agency decided to decline delegation. He said the agency's

approach to regulating dry cleaners that use perc has evolved over the years. Since the first dry cleaner NESHAP in 1993, EPA has updated the rule several times.

He said the agency understands that EPA Region 10 is not enforcing the federal standard nor does it have plans to actively enforce the rule. He said if the agency doesn't regulate dry cleaners in our jurisdiction, they won't be regulated by an air agency at all and the air quality and health benefits of the federal rule will not be realized. He said that's why the agency has requested delegation of the dry cleaner NESHAP from EPA and put together a project team in FY13 to design an approach to achieve compliance with the dry cleaner NESHAP.

Mr. Franz asked if perc is a liquid.

Mr. Pedroza said yes.

Mr. Griffin said perc also has other uses.

Mr. Pedroza said yes, it is used as a degreaser in other industries.

Mr. Pedroza said with respect to the agency's air quality concerns, there was a case in New York of a family living above a dry cleaning establishment where the family became so sick they were taken to the emergency room and it turned out they all had perc in their blood; even the baby and the mother's breast milk. He said perc can have negative cognitive effects in people. He said perc-based dry cleaners are no longer allowed to co-locate in buildings with residents.

Mr. Pedroza said although we know this is a health issue, many dry cleaners are more concerned about monetary issues, so agency staff approached dry cleaners with a monetary message first.

Mr. Pedroza said the agency took over enforcement of the NESHAP in 2013 and after over 21 random inspections we found that:

- Leaks were common
- No leak detectors
- No record keeping
- Poor equipment maintenance
- Lack of federal rule knowledge

Mr. Franz asked what perc smells like.

Mr. Pedroza said it has a sweet, citrusy odor. He said the problem is that it lingers in the air for many days.

Mr. Griffin said it is also a groundwater issue.

Mr. Pedroza said cleanup is expensive and some old dry cleaners premises are hazardous waste sites. He said we are encouraging dry cleaners to switch out of perc.

Mr. Griffin asked where southern California is on this issue.

Mr. Pedroza said they are outlawing the use of perc; we are not at that point.

Mr. Griffin asked if industry can still use perc as a degreaser.

Mr. Migaiolo said it is still an option. Mr. Pedroza agreed.

Ms. Lynett asked how many perc dry cleaners are in the region.

Mr. Pedroza said the agency had 230 listed in its database, but it turns out many of those have switched to other methods of cleaning, some of which are as bad as perc (bromide solution). He said we still haven't convinced dry cleaners that this is a real health issue. He said inspectors are visiting all dry cleaners in the region.

Mr. Pedroza said the agency has developed a number of tools for inspectors and dry cleaners to use:

- 230 perc leak detectors were purchased which were given to dry cleaners
- Checklists were developed
- Dry cleaners web page was created
- Dry cleaners DVD was produced

Mr. Pedroza demonstrated the web page for Advisory Council members. He said we have also made an educational DVD in both Korean and English (he also demonstrated the video).

Mr. Pedroza said when inspectors go to dry cleaners' establishments they bring laptops and show them the educational video, conduct an inspection, and show dry cleaners' staff how to use the leak detectors. We will visit all dry cleaners twice this year, about 6 months apart. He said we will begin enforcement of the regulations next year.

Mr. Franz asked what the first time penalty is for non-compliance with the regulations.

Mr. Pedroza said typically it starts at a \$1,000, but we'll see if we will have a specific penalty worksheet for dry cleaners; we haven't made that decision yet.

Mr. Griffin asked if perc appears in sewage systems and what the tie-in is between groundwater and air quality concerns.

Mr. Pedroza said this sort of pollution crossover is discussed by the Interagency Resource for Achieving Cooperation (IRAC) at their monthly meetings. He said this group provides a forum for government regulators to identify and resolve gaps, overlaps and conflicts with other agencies' regulations. He said participants include staff from numerous local, regional, state and federal agencies.

Mr. Griffin asked if dry cleaners are required to conduct a mass balance.

Mr. Pedroza said he doesn't have an answer to that; however, he said they don't buy very much product annually.

Mr. Jordan asked if perc is taxed and if so, does any of that funding come to the agency.

Mr. Pedroza said not in the form of taxes, rather dry cleaners pay a registration fee to the agency.

Mr. Griffin asked if the long-term goal is to eliminate the use of perc.

Mr. Pedroza said that hasn't been decided yet. He said right now the only plan is to regulate perc dry cleaners and not regulate other dry cleaners so there is an incentive for them to stop using perc. He said dry cleaning is not a thriving industry, and most dry cleaners are not selling their businesses or passing it on to their family, rather just closing the business when they retire.

Mr. Tisdell asked if there is an Envirostars program for dry cleaners.

Mr. Pedroza said yes.

Mr. Griffin said dry cleaning bags should say this garment has been cleaned with perc and advise people to air out the dry cleaned items.

Mr. Kenworthy said we are in the early stages of working with dry cleaners and the health message hasn't penetrated yet. He said essentially they want the agency to go away and that isn't going to happen. He said asking them to put a hazardous label on the cleaning is going to be a hard sell.

Mr. Tisdell said maybe the agency could go directly to bag manufacturers.

Mr. Pedroza said enforcement of the NESHAP is estimated to begin October 2015, which gives dry cleaners plenty of time to learn the requirements and to ask for assistance during our educational/ inspection visits. He said the enforcement strategy will be implemented by the compliance North and South Team supervisors, and policy decisions for dry cleaners will be made prior to implementing enforcement.

Mr. Pedroza said that around 80% of dry cleaners are still using perc with around 20% now switched to other methods.

Mr. Kenworthy said we will give the Advisory Council an update on this issue next year.

V. 2015 Advisory Council Meeting Calendar

Mr. Kenworthy said rather than have 10-11 meetings a year; we would like to suggest changing to 7-8 meetings per year, and conducting slightly longer meetings. He said as much as possible we seek Advisory Council input and then go to the Board; with fewer meetings that may mean a few cases where we have to go to Board before we receive Advisory Council input. He said we

could also call a phone meeting for a briefing on a single topic on rare occasions. He said the proposed calendar is weighted towards spring budget discussions with the Board.

Ms. Lynett said she is concerned that with fewer meetings, if she has a schedule conflict and is unable to attend, she will miss much more information.

Mr. Kenworthy said we chose to keep a longer version of the Minutes so Advisory Council members can receive fairly detailed information about what was discussed at each meeting. He said we have some members whose attendance is more sporadic and we are requesting better attendance.

Ms. McGourty said she is fine with the proposal and would like a placeholder on the calendar as far in advance as possible if a phone meeting is going to be called.

Mr. Kenworthy said he will let Advisory Council members know at least a couple of months in advance if a special phone meeting is called.

Mr. Jordan said he would prefer an in-person meeting rather than a phone meeting; he said a lot of the information the Advisory Council receives is visual.

Mr. Kenworthy said we could conduct a webinar type meeting, to preserve the visual aspects.

VII. Advisory Council Member Reports

Mr. Migaiolo asked if there were any Advisory Council member reports.

There were none.

VIII. ADJOURN

With no further business, the Advisory Council adjourned at 11:35 a.m.

I hereby certify this to be a true and correct record of the Minutes of the December 10, 2014, meeting of the Board of Directors of the Puget Sound Clean Air Agency.

Attest:

Craig T. Kenworthy
Executive Director

jwc

Date: February 4, 2015
To: Advisory Council
Puget Sound Clean Air Agency
Subject: Strategic Plan Implementation Updates – *Public Outreach (Objective 3.3)*

Honorable Members:

To ensure you are aware of how we are doing in executing the strategic plan, we update you on specific plan Objectives on a rotating basis.

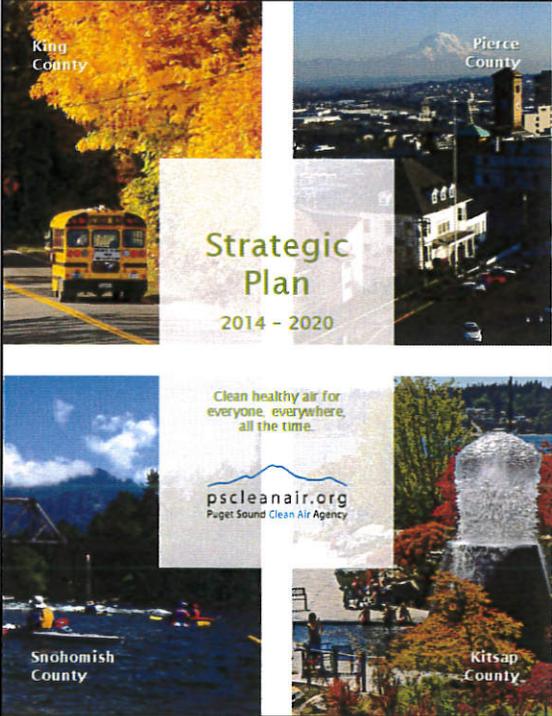
This month we will discuss Objective 3.3, “*Engage in meaningful dialogue and outreach with all sectors of the public.*” Objective 3.3 is one of our “Excellence” objectives. As we say in the strategic plan, our effectiveness depends not only on *what* we do, but *how* we do it. Our “*how*” objectives, such as how we engage and inform our public, are important to reaching our vision on our “*what*” objectives.

Respectfully submitted,



Craig T. Kenworthy
Executive Director

jwc



King County

Pierce County

Strategic Plan
2014 - 2020

Clean healthy air for everyone, everywhere, all the time.

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Snohomish County

Kitsap County

Periodic Update

Engage in meaningful dialogue and outreach with all sectors of the public

Objective 3.3

Advisory Council
February 11, 2015



Outline

1. Refresher: what's in the Plan?
2. For each strategy:
 - FY15 deliverables
 - Status
3. Resources & roles
4. Potential challenges
5. Advisory Council advice
6. Board input



Goal, Objective, Target

Goal 3: Employ the best people, policies and practices to achieve our work

Objective 3.3: Engage in meaningful dialogue and outreach with all sectors of the public

Targets:

- Public awareness of air quality issues increase 25 percent from 2014 to 2020
- Three new organizations identified annually for partnership emphasis
- Our technology platforms provide infrastructure availability 99.5 percent of the time.



Strategies

- A. Develop and continually enhance outreach tools (e.g. website, social media) to improve user interface and information accessibility and transparency, for the public and staff.
- B. Broaden our community connections by building new, and strengthening existing relationships with partner organizations and involving them in our outreach.



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Strategies

- C. Proactively reach out to communities by scheduling at least two presentations per county per year to schools, chambers of commerce, service clubs or other organizations.
- D. Actively seek out local media coverage of air quality issues.
- E. Engage and solicit input from community members and stakeholders in active dialogue on regional air quality and pollution prevention. Use tools that allow ease of stakeholder input and facilitate information incorporation into Agency decision making as appropriate.



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Strategies

- F. Identify highly impacted communities and develop effective mechanisms to mutually engage with them on air quality education and issues.
- G. Respond to our public's questions and concerns with exemplary customer service.
- H. Provide the public and our staff with better access to agency records by completing the transition to an online, electronic storage system.




Strategy A: FY15 Deliverables & Status

Develop and continually enhance outreach tools

- Launch redesigned Agency website
 - Website launched. Fine tuning continues
- Deliver phase II of Agency website redesign
 - Defining Phase II now
- Continue to expand social media presence and dialogue
 - Twitter and Facebook continue to increase reach. Lively discussion on Facebook during Burn Ban season.
- Increase targeted use of survey tool I enhanced outreach to create dialogue
 - New Survey tool not yet in production – Survey Monkey in use
- Launch burn ban application
 - Burn Ban 411 was released this fall.
- Chair National Association of Clean Air Agencies (NACAA) Public Education and Outreach Committee




Strategy B: FY15 Deliverables & Status

Build new and strengthen existing community relationships with partner organizations

- Inventory current Agency relationships with community groups and develop relationship management tool.
 - Julio (EJ) is working on inventory
- Select three organizations for developing partnership and involving in our outreach.
 - International District, Allentown, Algona/Auburn outreach
- Develop plan to continue outreach to identified partners to keep them in touch with our actions and increase awareness
 - Spanish-TV (KOMO)
 - International Examiner
 - Individualized website pages



Strategy C: FY15 Deliverables & Status

Schedule at least two presentations per county per year

- Deliver at least two presentations per county
 - Outreach for outdoor burning alternatives will result in a minimum of three outreach sessions per county
 - Other sessions TBD/Kitsap
 - Outreach to Snohomish County Fire Chiefs
- Participate in community-based events (health and climate objectives) to raise visibility and awareness of the Agency.
 - Duwamish/Georgetown groups
 - Latino health fairs
 - KAGRO
 - Other community events



Strategy D & F: FY15 Deliverables & Status

Actively seek out local media coverage of air quality issues

- None scheduled for FY 15
 - Spanish radio, TV outreach for Agency issues

Identify highly impacted communities and develop effective mechanisms to mutually engage with them on air quality education and issues

- Communities identified
- Engagement and outreach in process throughout Agency through in-person meetings, social media, community event participation and more.




Strategy E: FY15 Deliverable & Status

Engage and solicit input from community members in active dialogue on regional air quality and pollution prevention

- Continue to expand social media presence and dialogue
 - Facebook and Twitter are growing followers who engage in lively discussions
- Use and develop appropriate tools to enhance dialogue with public – look for non-traditional ways to reach public
 - YouTube presence growing with Agency education videos (Monitoring 101 first of series)
 - Television commercials for SRZ
 - Text alerts growing
 - Burn ban app launched
- Compliance Connection Project
 - RFP successful, candidate chosen, work underway




Strategies G & H: FY15 Deliverables & Status

Respond to our public's questions and concerns with exemplary customer service

- Respond to inquiries from the public
 - Ongoing

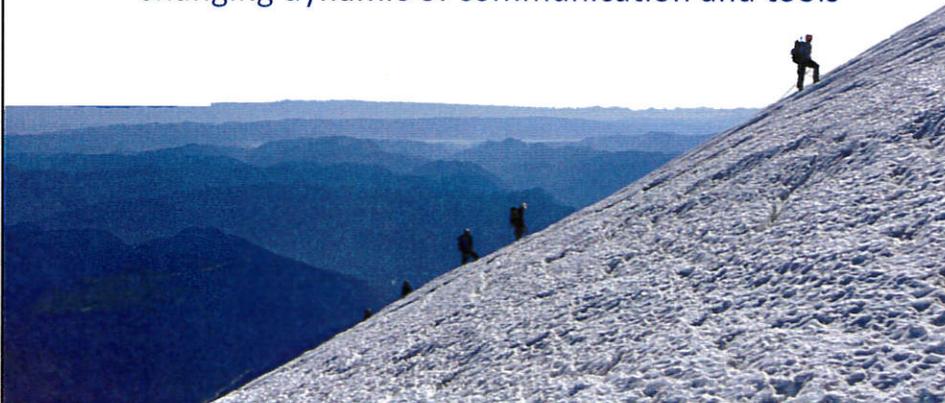
Provide the public and our staff with better access to agency records by completing the transition to an online, electronic storage system

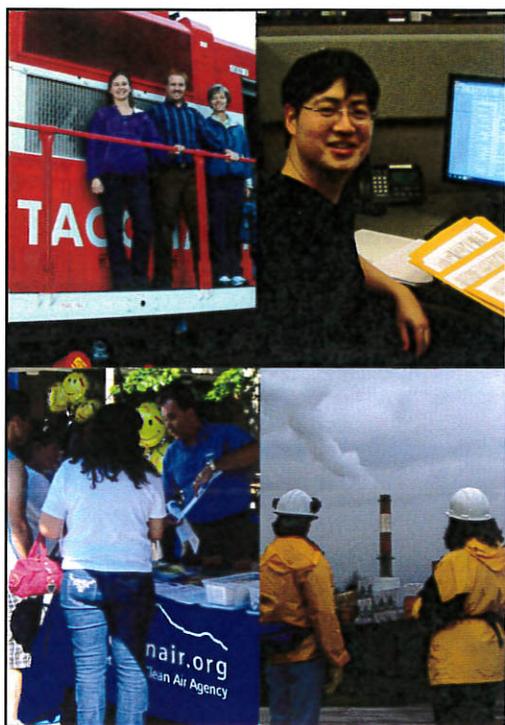
- Continue adding records to, and increase functionality of, internal online records center
 - Ongoing

 Resources & Roles	
Strategy	Personnel
Develop and enhance outreach tools to improve user interface	Communications Dept., IT Department
Broaden our community connections by building new and strengthening existing relationships with partner organizations	Virtually everyone at some point
Proactively reach out to communities by scheduling at least two presentations per county	Joanne, Kit, Landon, Della
Actively seek out local media coverage of air quality issues	Joanne, Della, Landon
Engage and solicit input from community members in active dialogue	Virtually entire Agency
Identify highly impacted communities and develop effective mechanisms to mutually engage with them on air quality education and issues	Tania, Kathy, Della, Landon, Joanne, Hi-C Committee, Compliance Connection members, and many more
Respond to our public's questions and concerns with exemplary customer service.	Entire Agency provides this service at some point
Provide the public and our staff with better access to agency records by completing the transition to an online, electronic storage system	Andy, Stella, John

Potential Challenges

- Adverse public reaction to issues, including burn bans, SRZ rule
- Not enough funding to achieve desired outreach
- Changing dynamic of communication and tools





Advisory Council Advice

- Outreach
- Evangelize
- How/Whom to contact as community leaders



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Puget Sound Clean Air Agency

Thank You

Date: February 4, 2015
To: Advisory Council
Puget Sound Clean Air Agency
Subject: Legislative Update – Climate Policy

Honorable Members:

The state Legislative session will include discussion of several climate change policy proposals. Concepts likely to be discussed include: ‘cap and trade,’ carbon tax, clean fuel standard, zero-emission vehicle measures, as well as several concepts relating to renewable energy and energy efficiency.

Goal Two of our strategic plan is to “*Become the most climate-friendly region in the United States.*” Under that Goal, we chose to focus on the transportation sector, which emits nearly 50 percent of our climate pollution and is a sector where we have expertise and proven success, and can add the most value. Consistent with this choice, and in particular the strategy to “*Secure the adoption of state and local carbon-reducing policies,*” I and other agency staff will engage in the Legislative discussion about transportation-related state climate policies.

I proposed and the Board agreed that we also engage in the discussion regarding overarching (“economy-wide”) carbon reduction policies such as ‘cap and trade,’ for three main reasons: 1) they would likely reduce transportation emissions, 2) they could affect our clean air regulatory programs, and 3) they could profoundly advance our region’s ability to reach Goal Two and our long-term vision. In addition, the alignment of events that make a meaningful legislative policy possible may be of limited duration.

At your February meeting I will brief you on the principles that will guide staff’s engagement in Legislative discussion. We will seek consistency with these principles as things wind their way through the legislative process.

Building on our long-term vision for air quality and climate and our strategic plan goals, the Puget Sound Clean Air Agency supports state climate policy proposals that:

1. ***Make Substantial Reductions*** – reduce greenhouse gas emissions broadly and deeply enough to put us on a path to achieve the state's greenhouse gas reduction goals by returning emissions to 1990 levels by 2020, and reducing emissions another 25 percent by 2035
2. ***Lead the Nation*** – contribute to our becoming the most climate-friendly region in the United States and show the way for other regions
3. ***Are Durable*** – establish a robust regime that will sustain emissions reductions over many years or decades
4. ***Support the Clean Air Regulatory Framework and Other Clean Air Strategies*** – are consistent overall with clean air regulatory programs and other criteria pollutant and toxics reduction strategies

5. ***Engage Everyone and Support Equity*** – encourage everyone to play an active role in reducing greenhouse gas emissions, and ensure everyone benefits from clean and healthy air and a safer climate

I look forward to our conversation.

Respectfully submitted,



Craig T. Kenworthy
Executive Director

jwc

Date: February 4, 2015
To: Advisory Council
Puget Sound Clean Air Agency
Subject: Briefing – Harbor Craft Auxiliary Engine Replacement Program

Honorable Members:

At the February 2015 Advisory Council meeting, Beth Carper will provide an update and answer questions about the Agency's Harbor Craft Auxiliary Engine Replacement Program, funded by a grant to the Agency from the Department of Ecology. Beth will discuss the agency's efforts to build relationships with harbor craft industries and to reduce emissions in the sector.

Respectfully submitted,



Craig T. Kenworthy
Executive Director

jwc

Harbor Craft Auxiliary Engine Replacement Program

Funding

Washington State Department of Ecology awarded us \$372,800

Program Design

- Up to \$21,500 for each engine replacement
- Flat-rate reimbursement based on engine size and EPA certification tier

Goals

- Reduce diesel particulate emissions
- Support the NW Ports Clean Air Strategy
- Build relationship with the industry
- Provide a platform to share energy efficiencies and successes



Harbor Craft Auxiliary Engine Replacement Program

Project Status

Grants Awarded	Total Vessels	Total Engines
American Construction	2	2
Argosy Cruise	2	2
Clipper Vacations	1	2
Crowley Marine Services	2	3
Harley Marine	1	2
Island Tug and Barge	1	2
King County DOT	1	2
Sound Experience	1	1
WA Dept. of Corrections	2	2



Date: February 4, 2015
To: Advisory Council
Puget Sound Clean Air Agency
Subject: Update – Seattle Chinatown/International District Near-Road
Monitoring Project

Honorable Members:

At the February 2015 Advisory Council meeting, Phil Swartzendruber will report on the Near-Road Special Monitoring Study that was conducted in Chinatown/ International District in the summer of 2014. Phil will briefly review the project design, present preliminary results, and answer any questions.

Respectfully submitted,



Craig T. Kenworthy
Executive Director

jwc

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Puget Sound Clean Air Agency

2014 Chinatown-International District Near-Road Study Update

Phil Swartzendruber
PSCAA Advisory Council
February 11, 2015

Clean, healthy air
for everyone, everywhere,
all the time.

Quick Review of Observations

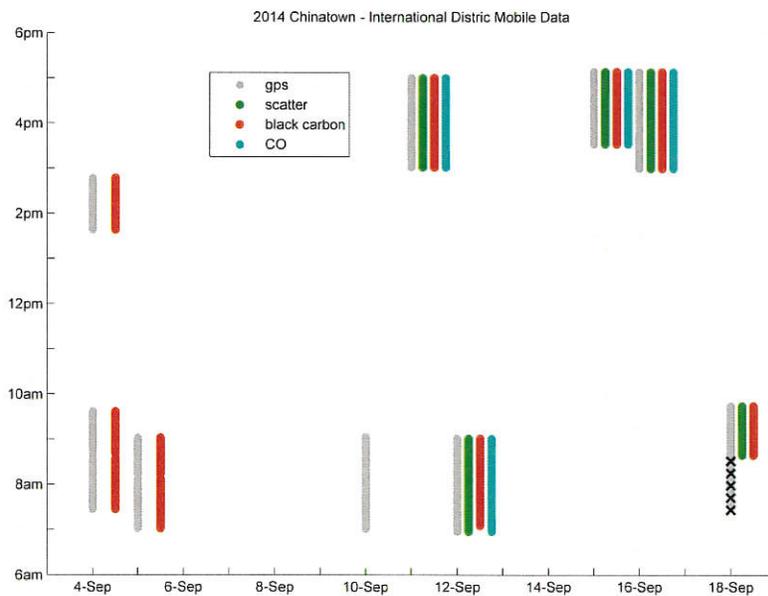
- CO 10&W, 3-poles, mobile
- O₃+NO₂ 10&W
- BC 10&W, 14&M, mobile
- NO₂, NO_x 10&W, 3-poles, 4 perimeter
- scatter 10&W, mobile
- PAH mobile

Map of monitoring sites

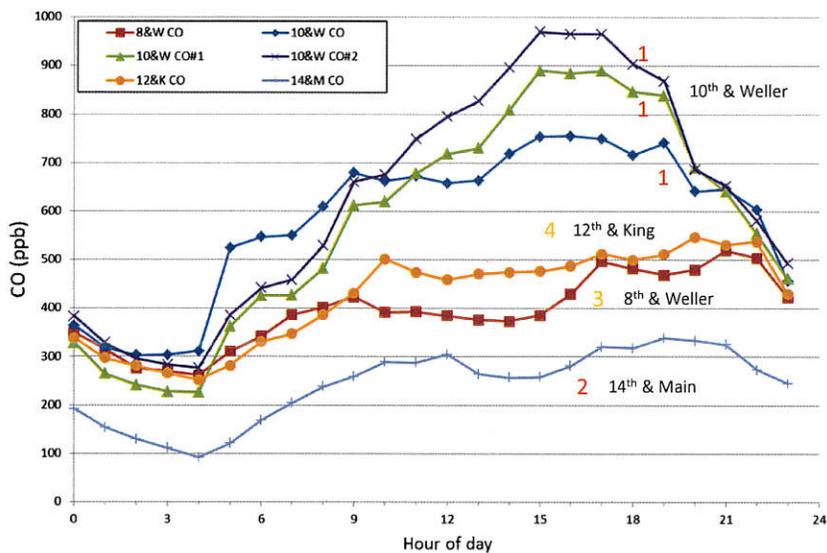


- 1) 10th & Weller NRM
- 2) 14th & Main
- 3) 8th & Weller
- 4) 12th & King
- 5) 5th & Dearborn
- 6) 12th & Judkins
- 7) 14th & Spruce
- 8) 18th & Weller

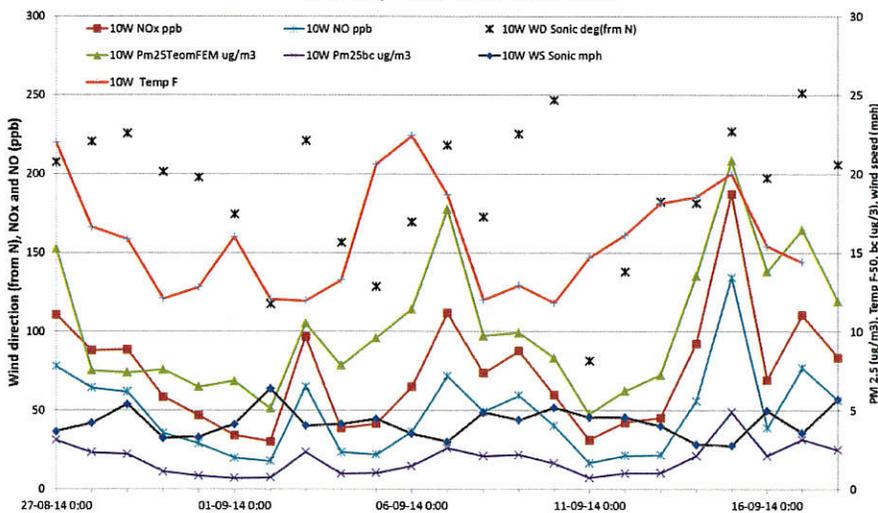
Mobile Data Availability



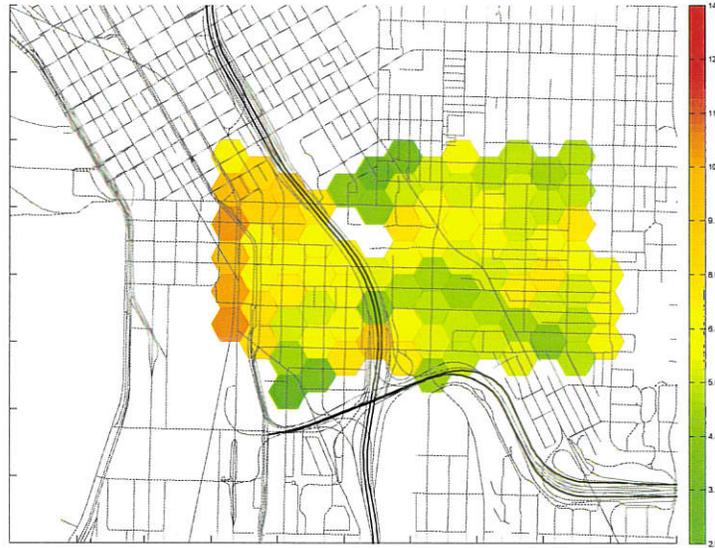
Daily carbon monoxide at four sites



10&W Daily PM2.5, NO, NOx, black carbon, temperature, wind speed, wind direction



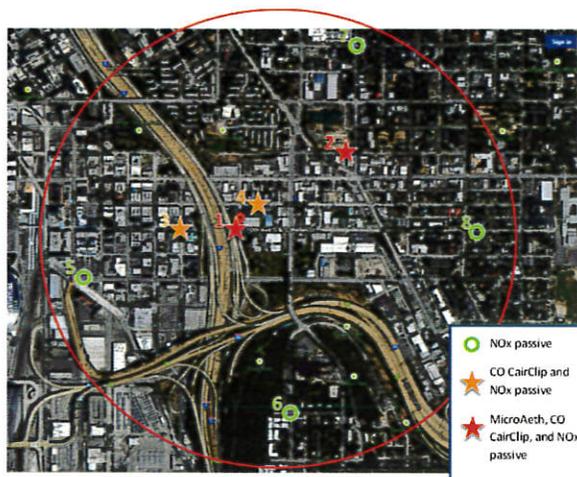
Mobile average PM (scat.) 500m cells



Mobile average BC, 500m cells

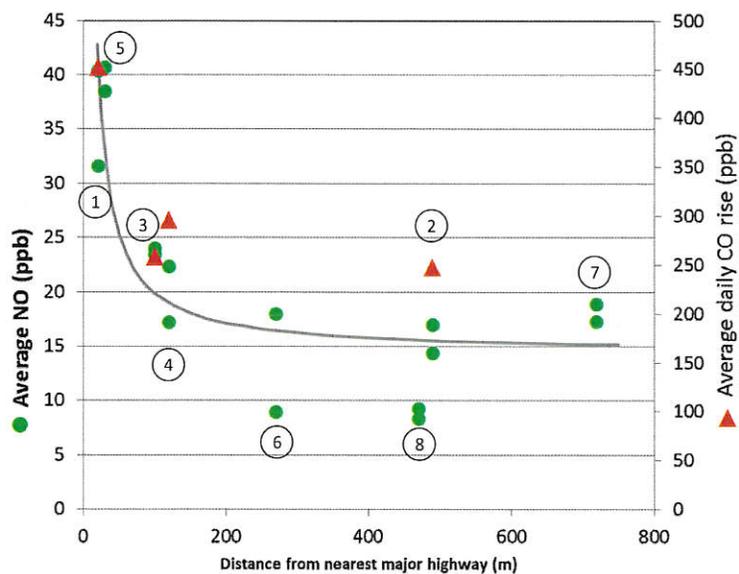


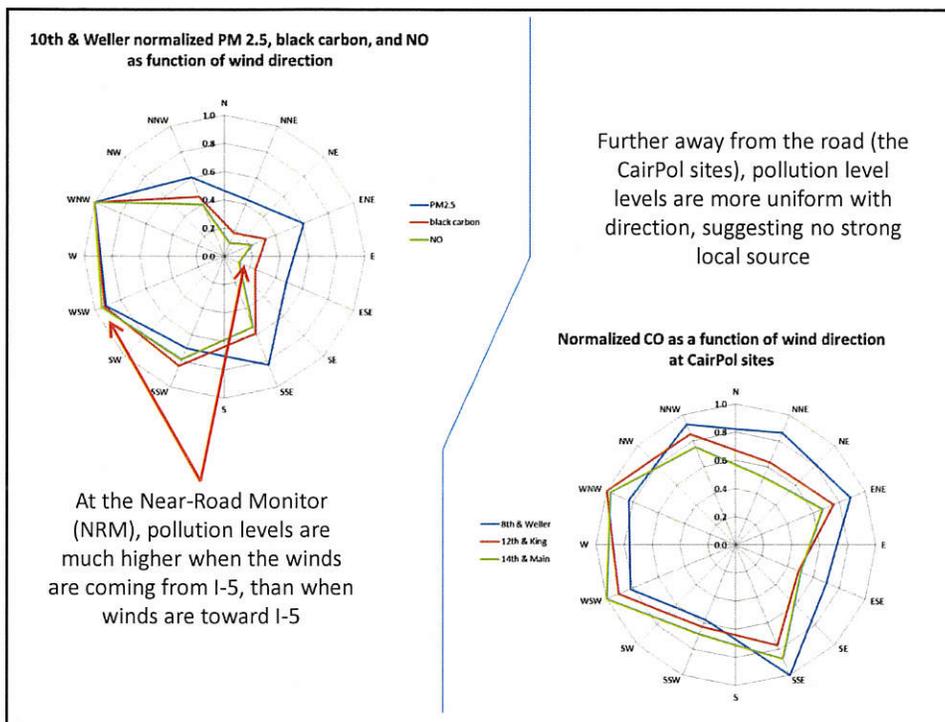
Map of monitoring sites



- 1) 10th & Weller NRM
- 2) 14th & Main
- 3) 8th & Weller
- 4) 12th & King
- 5) 5th & Dearborn
- 6) 12th & Judkins
- 7) 14th & Spruce
- 8) 18th & Weller

Pollution vs Distance to major traffic





Conclusions I

- The following suite of pollutants are closely correlated, so likely have a common source from I-5:
 - CO, PM2.5, NO_x, black carbon
- diurnal pattern is consistent with presumed traffic patterns
- away from I-5 (> 100m) sees about ½ the CO spike as the 10&W NRM
- traffic apart from I-5 appears to impact area as well, but to a much smaller extent

Conclusions II

- lots of variability and hotspots in mobile routes
- Baily Gatzert appears far enough from I-5 to not see a major impact from I-5 emissions
- estimated PM at the Ogawa sites away from the road was all $< 7 \text{ ug/m}^3$.
- wind direction shows I-5 influence at Near-Road Monitor, little direction influence otherwise

extra slides

Correlations at 10th & Weller NRM

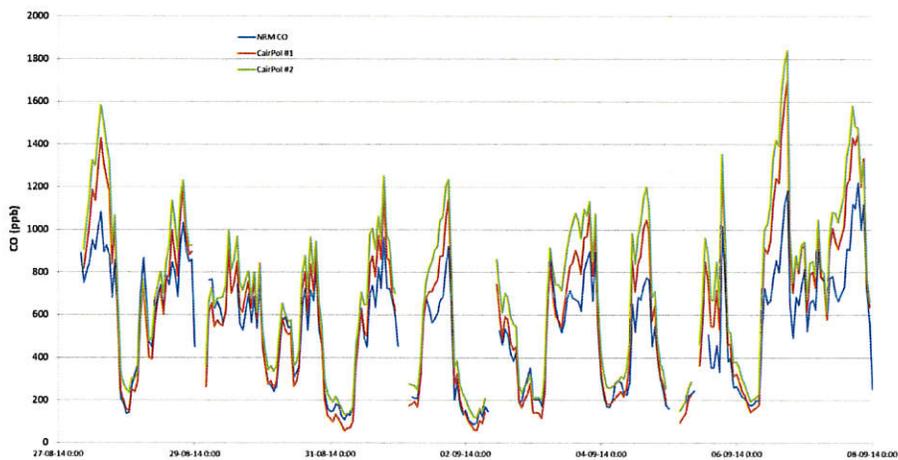
	CO	NOx	PM2.5	bc	NO	O3+NO2	WD	WS	NO2	uv
NOx ppb	0.93	1								
PM2.5 (ug/m3)	0.84	0.86	1							
bc (ug/m3)	0.89	0.98	0.87	1						
NO ppb	0.90	0.99	0.82	0.98	1					
CP O3+NO2	0.68	0.73	0.81	0.73	0.70	1				
WD Sonic deg(f)	0.60	0.66	0.52	0.65	0.67	0.46	1			
WS Sonic mph	-0.57	-0.45	-0.51	-0.32	-0.41	-0.41	-0.27	1		
NO2 ppb	0.95	0.96	0.92	0.92	0.92	0.77	0.59	-0.53	1	
uv (ug/m3)	0.91	0.98	0.88	0.998	0.98	0.74	0.64	-0.36	0.94	1
Temp F	0.50	0.32	0.47	0.30	0.28	0.48	-0.07	-0.45	0.43	0.33

Ogawa Badges...

Puget Sound Clean Air Agency						
Passive Samples Received by RTI on 9/11/14						
Sample_ID	NO2, ng	NO2, ppb	NO2, ppb (Blk Corr)	NOx, ng	NOx, ppb	NOx, ppb (Blk Corr)
Blank A	0			220		
Site 1A - 10th & Weller	5090	14.1	14.1	18258	55.2	54.5
Site 2A - 14th & Main	3853	10.6	10.6	9569	28.3	27.6
Site 3A - 8th & Weller	6524	18.2	18.2	14244	42.3	41.6
Site 4A - 12th & King	4928	13.5	13.5	10726	31.4	30.7
Site 5A - 5th & Dearborn	6208	17.4	17.4	18802	56.7	56.0
Site 6A - 12th & Judkins	3119	8.6	8.6	9136	27.2	26.5
Site 7A - 14th & Spruce	4387	12.1	12.1	10706	31.7	31.0
Site 8A - 18th & Weller	4009	11.0	11.0	7220	21.0	20.3

Puget Sound Clean Air Agency						
Passive Samples Received by RTI on 9/26/14						
Sample_ID	NO2, ng	NO2, ppb	NO2, ppb (Blk Corr)	NOx, ng	NOx, ppb	NOx, ppb (Blk Corr)
Blank B	166			482		
Site 1B	6629	18.6	18.1	17444	51.1	49.7
Site 2B	4947	14.1	13.7	9657	29.5	28.1
Site 3B	7606	21.5	21.1	15834	46.5	45.1
Site 4B	3997	11.5	11.0	11546	34.8	33.4
Site 5B	7388	20.9	20.4	21102	62.6	61.1
Site 6B	5700	16.4	15.9	8914	26.3	24.8
Site 7B	5461	15.6	15.2	11411	33.9	32.5
Site 8B	4417	12.7	12.2	7439	22.0	20.5

Example of good correlation of collocated CO methods (10&W Cairpol & NRM)



Mobile average PM (scat.), 100m cells



Mobile average CO, 100m cells



Mobile average CO, 500m cells



Mobile average BC, 100m cells



Date: February 4, 2015
To: Advisory Council
Puget Sound Clean Air Agency
Subject: Briefing – Summary of Year-End Particulate Matter Levels

Honorable Members:

At your February meeting we will provide preliminary particulate matter levels for 2014. We provide this data each year as we discuss how levels compare to the national ambient air quality standards and our health goals.

Respectfully submitted,



Craig T. Kenworthy
Executive Director

jwc



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Puget Sound Clean Air Agency

Working together for clean air



Preliminary 2014 Fine Particle Pollution Levels

Advisory Council Meeting
February 11, 2015

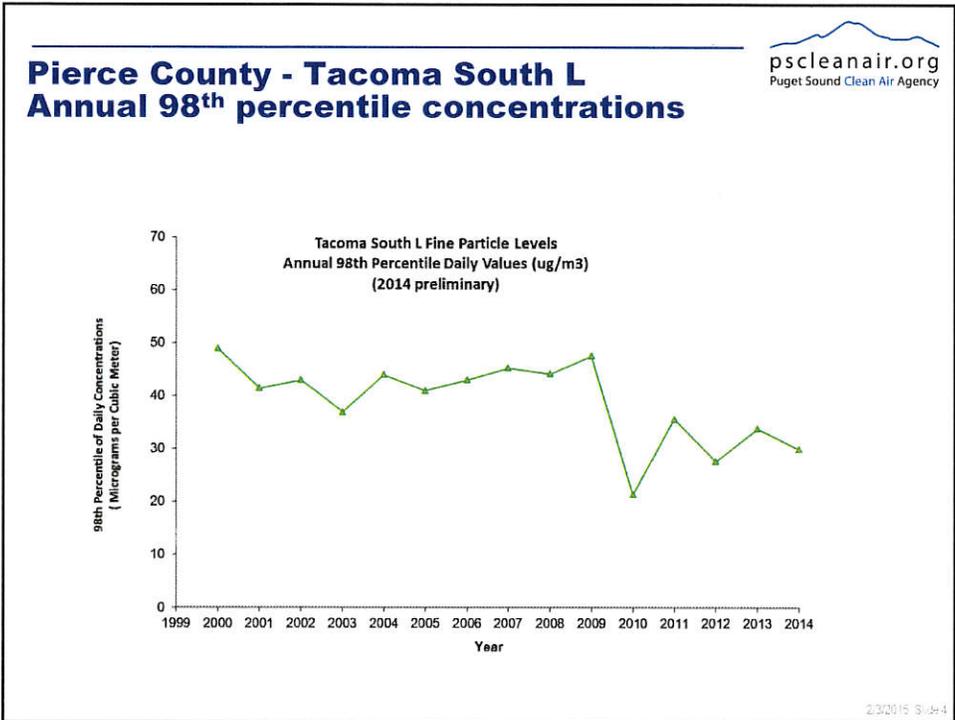
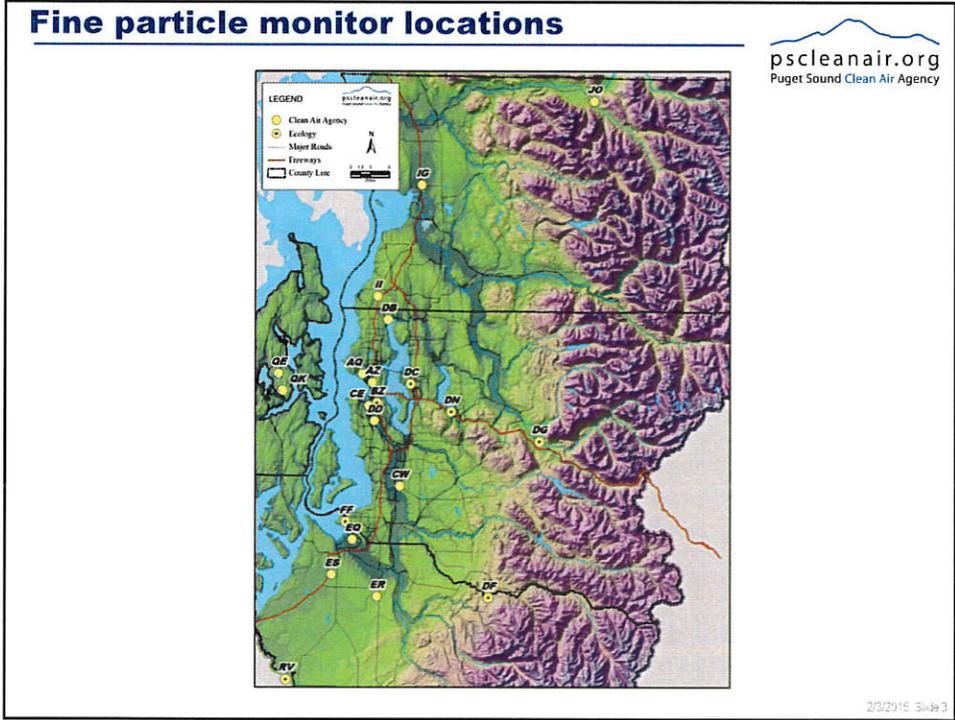


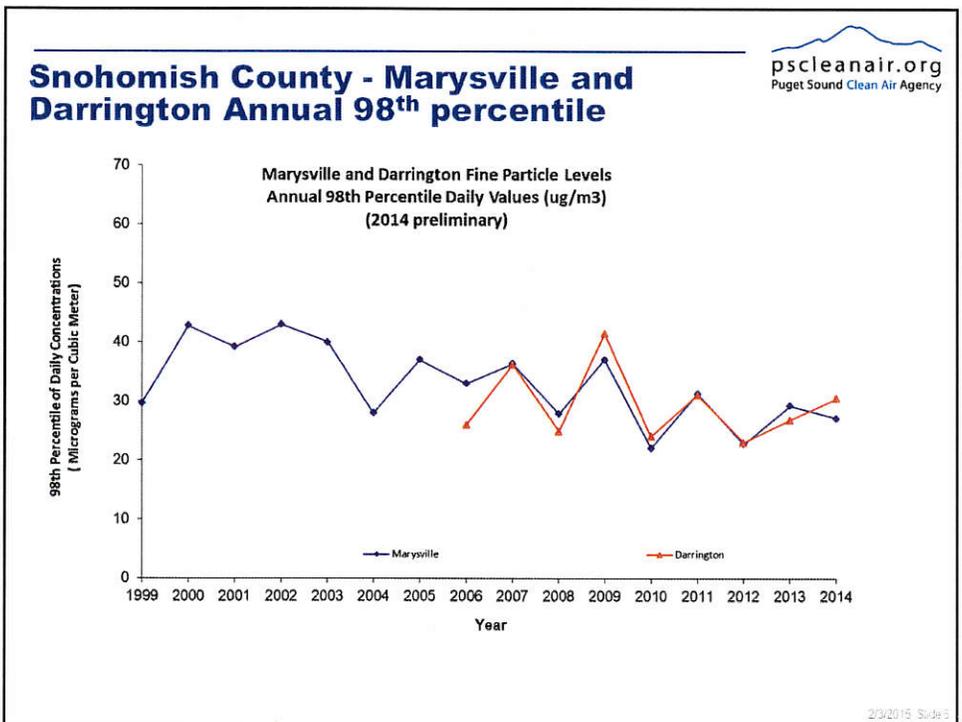
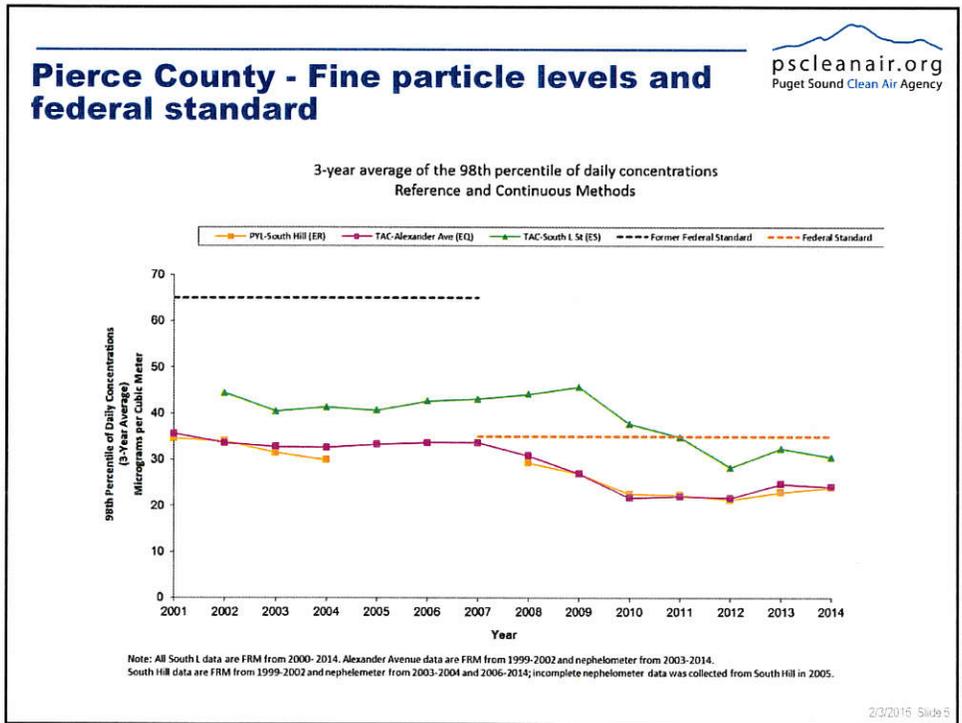
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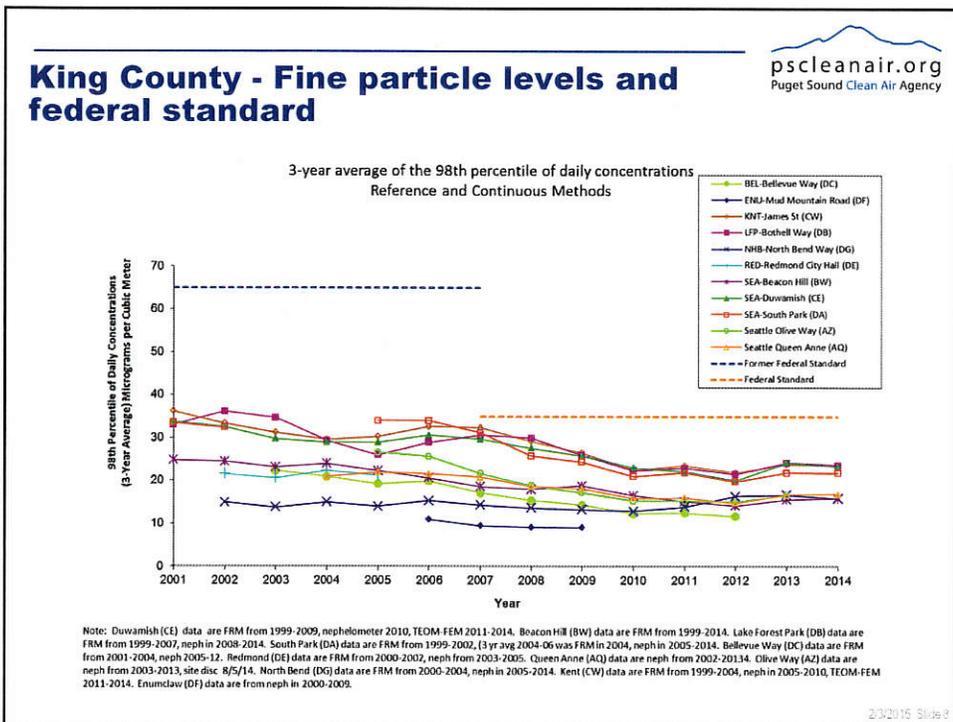
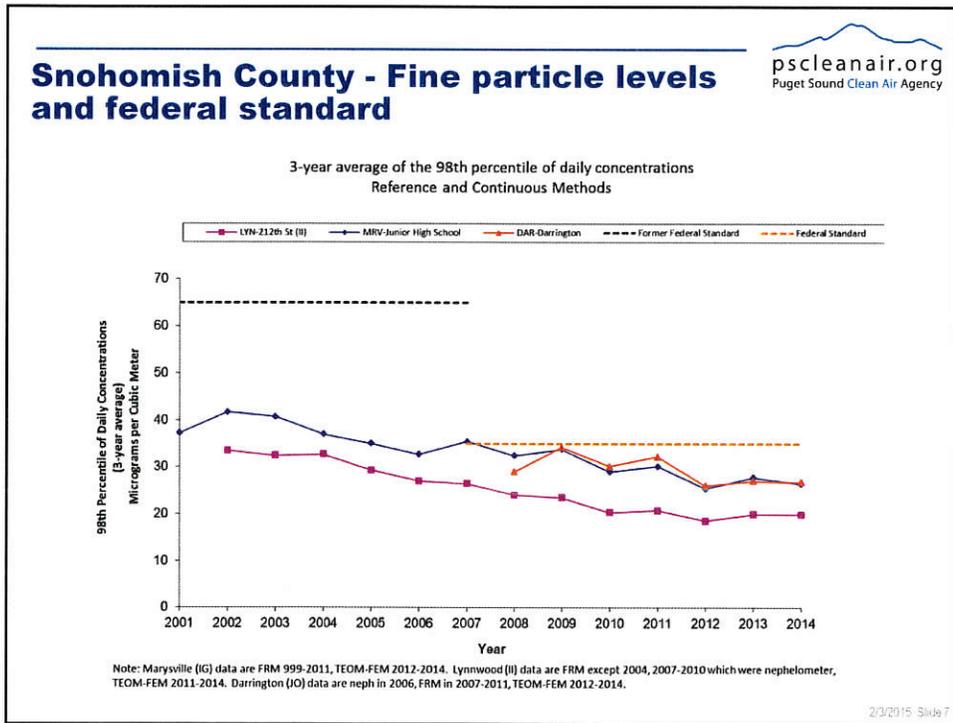
Background

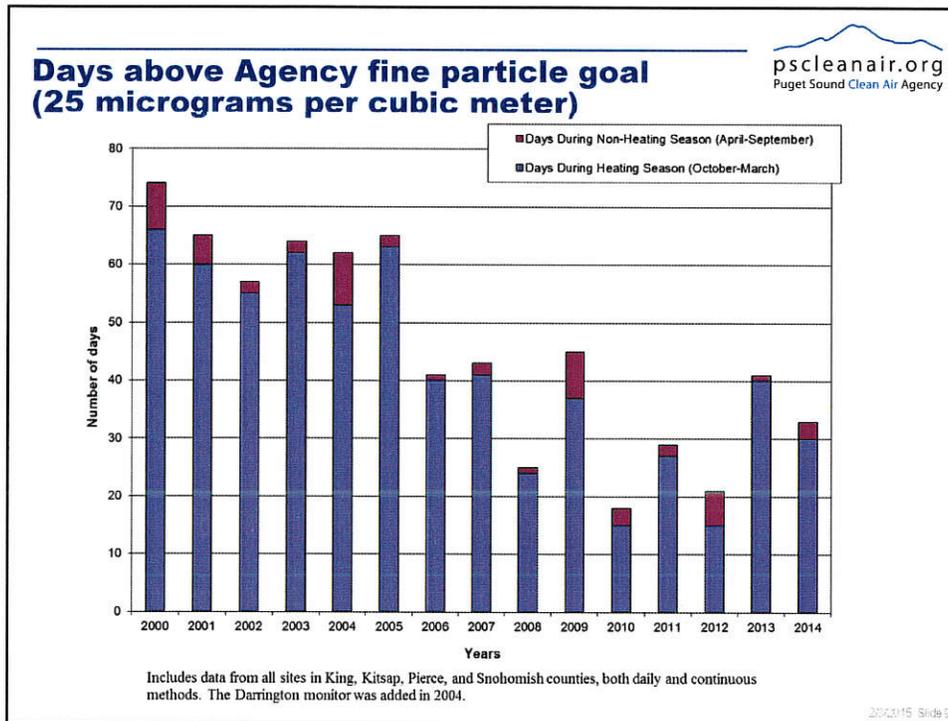
- **The Clean Air Act guides EPA to set National Ambient Air Quality Standards (NAAQS) for six “criteria” pollutants to protect health**
 - EPA is required to review and revise standards based on latest science every five years
 - This presentation focuses on daily fine particle pollution (PM2.5)
 - PM2.5 exposure linked with many adverse health effects – most established include heart and lung effects
- **Our Agency’s 1999 Fine Particle Goal is more protective than the current daily PM2.5 NAAQS**
- **Levels relate to Strategic Plan Targets**
 - Objective 1.1 – Meet National Ambient Air Quality Standards
 - Objective 1.3 – Reduce emissions and exposures from wood smoke

2/3/2015, Slide 2









2014 Fine Particle Levels Summary

pscleanair.org
Puget Sound Clean Air Agency

- Pierce County monitor maintains “clean data” – redesignation request pending, with winter days above Agency’s tighter PM goal
- Snohomish and King County monitors below EPA’s daily standard, with winter days above Agency’s tighter PM goal
- Kitsap monitor below EPA’s daily standard and meets Agency’s tighter health goal

2/3/2015 Slide 10

Thank you and Questions

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Puget Sound Clean Air Agency

2/3/2015 Slide 11

Date: February 4, 2015
To: Advisory Council
Puget Sound Clean Air Agency
Subject: Woodstove Retrofit Challenge Update

Honorable Members:

At the February 2015 Advisory Council meeting, Phil Swartzendruber will provide an update on the Woodstove Retrofit Challenge. The challenge is an open competition for the best new or emerging retrofit technology for reducing pollution from installed uncertified stoves. The open competition portion has closed and the submissions are currently being reviewed. The three best submissions will be eligible for testing in an EPA certified lab. Phil will briefly review the project and answer any questions.

Respectfully submitted,



Craig T. Kenworthy
Executive Director

jwc

Date: January 15, 2015
To: Board of Directors
Puget Sound Clean Air Agency
Subject: Executive Director's Report

Honorable Members:

As I write this, I'm headed to Washington, D.C. for a meeting with OMB on the wood heater new source performance standards. I'll give you an update on that issue when we meet.

Here are some of the important things we've accomplished in cleaning the air and protecting the climate over the last month:

GOAL ONE – PROTECT PUBLIC HEALTH AND THE ENVIRONMENT FROM AIR POLLUTION

Objective 1.1 – Meet National Ambient Air Quality Standards

We continued our efforts in the Tacoma/Pierce County Smoke Reduction Zone, as described below under *Objective 1.3*.

Objective 1.2 – Reduce Transportation Emissions – especially diesel particulate – in highly impacted locations

As of December 31, the ScRAPs 2 program had scrapped 58 pre-2007 dray trucks serving the Port of Seattle and replaced them with trucks that have 2007 and newer engines under the Congestion Mitigation and Air Quality (CMAQ) grant to the Port. The portion of the ScRAPs 2 program funded by an EPA Diesel Emission Reduction Act (DERA) grant to the Port of Seattle has scrapped an additional 5 pre-2007 trucks to date. These trucks were replaced with trucks that have 2010 and newer engines and the owners received a higher financial incentive under the DERA program in order to purchase these newer, more-expensive replacement trucks. We continue to add truck dealers across the country as participating dealers, which accept our ScRAPs 2 voucher as partial payment for the replacement trucks.

We selected four additional fire districts to participate in our Emergency Vehicle Idle-Reduction project using approximately \$100,000 in remaining Ecology grant funds. Two of the new fire districts are in Pierce County, one is the City of Dupont, and the fourth fire district is the City of Bremerton. To date we have provided retrofits at 19 fire districts throughout our jurisdiction and will also provide funding for Tacoma to install their own retrofits in the coming months.

Objective 1.3 – Reduce emissions and exposures from wood smoke and outdoor burning

At the turn of the year, we experienced a large area of high pressure, cold temperatures, and calm winds. We issued a Stage 1 burn ban in Pierce and Snohomish counties on December 30 for Pierce and Snohomish counties. On December 31, we issued a Darrington-only Stage 2 burn ban. We added King County to a Stage 1 Burn Ban on January 1, and upgraded the burn bans for Snohomish and Pierce to Stage 2. On January 2 we downgraded the burn bans to Stage 1 (including Darrington at Stage 1), and we lifted all the bans on January 3. Preliminary data show we exceeded the fine particle air quality standard on January 1 at the Tacoma South L Street, Marysville, and Kent monitors.

Here are the Pierce County numbers for enforcement of this burn ban:

- 150 total smoke observation reports submitted
- 118 reports resulted in notices of violation (NOVs):
 - 117 – visible emissions during burn ban
 - 1 – opacity
- 32 reports closed without NOV:
 - 7 – no adequate source of heat exemption
 - 15 – certified device
 - 3 – duplicate report
 - 6 – bad or no photo
 - 1 – suspected steam
- Average number of days from smoke observation to date NOVs issued – 5 days

In addition, here is a summary of the total enforcement actions taken in Pierce County during the three burn bans in FY15 so far:

- 353 NOVs issued
- Of those:
 - 68 NOVs closed without penalty:
 - 12 – no adequate source of heat exemption
 - 43 – certified device
 - 8 – suspected steam
 - 3 – wrong address
 - 1 – ownership change
 - 1 – NOV replaced with corrected NOV
 - 36 NOVs resulted in a penalty
 - 249 NOVs to be reviewed for possible civil penalty

The “You’ve Got to Go!” video campaign gained attention as it continued on Tacoma Comcast channels. Print ads from the campaign continued to run twice weekly in The News Tribune and Puyallup Herald. Online ads for computer users in the non-attainment area also continued.

Our mobile application (Burn Ban 411) is doing very well in performance and stability as well as distribution, installation numbers, and user reviews. We have 3,523 installations on the Android platform and 3,400 installations on the Apple platform. We actively promote the app via social media channels, electronic communications, in-person conversations, and printed materials. Text alert subscribers for Pierce County are now above 5,000. We established a Darrington-only alert, which attracted 45 users in a few weeks of activity.

As of January 7, the Tacoma-Pierce County Wood Stove Removal/Replacement Program (WSRP) had removed 418 old wood stoves this fiscal year. Of those, 173 participants opted to recycle their old device in exchange for a reward of up to \$350; 115 participants opted for the \$1,500 discount toward a new heating device (but not a wood stove) in exchange for their old wood stove or insert; and 130 low-income participants opted for a free new heating replacement in exchange for their old wood stove or insert. Thanks to being able to offer the program over the summer compared to last year when the program launched in November, we are confident that in FY15 we will top the FY14 total of 504. Since the Wood Stove Program began in Fall 2007 within the Smoke Reduction Zone, over 2,600 old wood stoves have been removed using the incentive funds.

With additional funding from Ecology under a grant to reduce deposition of polycyclic aromatic hydrocarbons (PAHs) in Puget Sound by reducing wood smoke emissions, we are working towards late winter launch of a drop-off stove recycling program for Pierce County communities outside the Smoke Reduction Zone.

The Woodstove Retrofit Open Challenge closed on November 21 with 33 submissions. More than 10 of these submissions had plausible technologies, with several describing existing prototype devices that have had already undergone at least some degree of testing. The technical advisory committee for the challenge is currently evaluating the top submissions in order to recommend three finalists that will be eligible to have their emissions tested by the program in an EPA certified laboratory. We hope to have the finalists selected by the end of January and testing can begin in late spring.

Objective 1.4 – Prevent, reduce and control emissions and exposure from significant stationary sources of air pollution

Agency inspectors continue to work with local community colleges with respect to conducting autobody workshops. Earlier this month, we met with faculty at the South Seattle College to plan a workshop for winter term and discuss a regular schedule for future workshops. The faculty is eager to work with agency staff and a workshop is now scheduled for January 21, 2015. This is an opportunity for the students to become familiar with the agency and applicable regulatory requirements for the industry.

A new compliance strategic project is underway, known as the Compliance Connection project. The project builds on our previous environmental justice permitting project, and the intent of the new project is to find the best ways to engage the public in our permitting process and related

compliance work, especially for communities with environmental justice concerns. We have retained a consultant, Nyawela Consulting, to assist us with stakeholder work in support of the project.

The Agency recently received a favorable decision from the Pollution Control Hearings Board (PCHB) on an appeal of a civil penalty issued for outdoor burning violations. A copy of the decision is attached.

The PCHB ruled in favor of the Agency and upheld a civil penalty issued to Joshua and Laura Johnson for illegal outdoor burning that occurred on April 19, 2014 on the Johnson's property in Puyallup. The Johnsons were cited for burning prohibited materials and burning within 50 feet of a neighbor's fence. The case was referred to the Agency by Central Pierce Fire & Rescue who had responded to a complaint of burning filed by a neighbor of the Johnsons. As part of its investigation, Central Pierce observed a 6 foot by 6 foot fire containing painted dimensional lumber, plywood and what appeared to be roofing material (all prohibited materials) on the Johnson property within 6 inches of the neighbor's fence. Based on that evidence, the Agency issued a Notice of Violation and then a civil penalty of \$7301 to the Johnsons. The Johnsons appealed the civil penalty to the PCHB. The PCHB conducted a hearing and upheld the civil penalty in the amount of \$6301. The PCHB concluded the Agency met its burden of proof that the outdoor burning violations had occurred but disagreed with one aspect of the Agency's penalty scoring. The PCHB found it was not convinced that roofing material and a plastic umbrella base (both petroleum-based products) seen in the photographs taken by Central Pierce had indeed been burned, and following the scoring matrix, reduced the penalty amount by \$1000."

As part of our outreach efforts to the Latino community, we secured a monthly appearance on Univision (TV) to discuss air quality issues.

We are focusing our outreach efforts to marijuana facilities by "plain talking" our website information, customizing the required notice of construction application forms for the industry, and sending out reminders/notices to facilities pending approval from the Washington State Liquor Control Board. These changes should be available on the website by the end of January.

Objective 1.5 – Characterize and communicate air quality throughout the region, with the active participation of the public

We continued our winter fine particle pollution monitoring studies in three areas: Auburn/Algona, Shoreline/Lake Forest Park/Mountlake Terrace, and Route 2 from Monroe to Skykomish. We're operating seven temporary sites, and hoping to add two additional sites. With recent stagnations, we've been able to conduct mobile monitoring during times with elevated levels.

We attended the Algona Public Awareness Coalition public meeting on January 13. While the main focus of the meeting was to discuss concerns about groundwater in the community, we

participated in the “pre-meeting” to share information about our current winter air quality study in Auburn/Algona and hear other potential air quality concerns.

We submitted a proposal for an EPA Community-Scale Air Toxics Ambient Monitoring grant. This grant opportunity emphasized the near-road environment. Our proposal included monitoring for air toxics around the near-road monitoring site in Seattle’s Chinatown-International District. With the grant, we could fill in some expensive-to-analyze data gaps about toxic pollutant levels, such as benzene and formaldehyde, in communities near roads.

We met with the International Community Health Services to discuss preliminary results of last fall’s pilot study in the Chinatown-International District and the best ways to more broadly engage the community in those results and next steps.

GOAL TWO – BECOME THE MOST CLIMATE-FRIENDLY REGION IN THE UNITED STATES

Objective 2.1 – Reduce emissions of greenhouse gases from transportation

We started a contract with Life Cycle Associates (LCA) to better understand the impacts on criteria air pollutants, air toxics and health in our region of a low-carbon fuel standard. Life Cycle Associates authored the recent Office of Financial Management’s report on a low carbon fuel standard in Washington State. We plan to complete this work by the end of January.

We continue to participate in the State’s rulemaking effort for alternative fuel use requirements for local governments. We attended the first stakeholder input meeting in December and shared our plan to develop assistance materials for local governments. As a next step we are planning a workshop in conjunction with the National Association of Fleet Administrators annual green fleets meeting to gather input on the areas we can best support local fleets in complying with the requirements.

The King County-Cities Climate Collaboration’s 2015-2016 work plan includes close collaboration with Western Washington Clean Cities Coalition to reduce emissions from transportation, and in particular from government fleets as they prepare for the alternative fuel requirements. The work plan commits the Collaboration to partnering with the Coalition to accelerate the public and private adoption of clean fuels and advanced vehicle technologies. This work will be highly complementary to our work with State on the alternative fuel rulemaking.

EXCELLENCE IN ACTION – EMPLOY THE BEST PEOPLE, POLICIES, AND PRACTICES TO ACHIEVE OUR WORK

Objective 3.1 – Attract, retain and inspire exceptional staff

Recruitment for the Human Resources Manager position has concluded, and Isela Jiménez Nejbauer has been hired. We are looking forward to Isela starting at the agency on January 26, 2015. She comes to the Agency from the Las Vegas Valley Water District, where she has most currently been a Human Resources Manager.

We are concluding recruitment for a part-time, term administrative support position to assist with the ScRAPs 2 program, funded by grants to the Port of Seattle. We expect to have a new person on-board before the end of January.

With the retirement of James Smethurst, we are currently recruiting for a Front Desk Administrative Assistant and hope to fill the position by February.

Objective 3.2 – Develop a culture that integrates environmental justice and equity principles into our day-to-day work and decisions

Inspector Jessica Landkrohn participated in the Bellevue Community College Industry Mentor Panel on January 14, 2015, as part of ongoing work with the Bellevue College STEM to Stern program. This program helps develop professional skills of student who are traditionally underrepresented in STEM fields, to increase the diversity of STEM field professionals. Jessica contributed her professional knowledge of biology and environmental fields.

Heidi Schillinger from Equity Matters is continuing monthly Cultural Competency trainings with the management team. Her work is helping agency leaders better understand inequity and develop tools and skills toward effective strategic plan implementation.

In addition, monthly equity workshops continue for agency staff. The December workshop was led by Environmental Justice (EJ) Associate Julio Sanchez, who took us on a journey through time, presenting an environmental justice timeline exercise. The purpose was to analyze how economic, social, and political decisions have impacted individuals and the environment throughout the history of United States. Particular attention was placed on how minorities, low income, and disempowered groups have been directly affected by these decisions. The next workshop, in January, will explore participatory methods for agency engagement with impacted communities. Invited guest speakers from the West Oakland Environmental Indicators Project will discuss their relationship building process from collaborations with the Bay Area Air Quality Management District, discuss community participatory research strategies, and answer questions regarding community-agency collaborations and neighborhood scale air quality concerns.

Objective 3.3 – Engage in meaningful dialogue and outreach with all sectors of the public

Our Facebook traffic has grown considerably with citizen debates over the need for burn bans in the area (among other topics). With monitoring throughout the day, we are able to use the forum to correct inaccuracies, and widen knowledge about our mission, and the science that guides us.

Objective 3.4 – Build the agency’s long-term financial strength and ensure accountability

The FY14 audit is under way with the state auditor on site in December. The focus of this audit is on accountability, single audit (grants audit and report to EPA), financial statements, and Title V (Operating Permits).

In December, a management representative from King County’s facilities division took us on a tour of some spaces in two of their buildings (Chinook and King Street Center) to get an idea of the potential spaces that could be freed up from their space consolidation plans over the next year or so. Our tenant representative, Washington Partners, is continuing discussions with King County to scope out a proposal and we also are continuing our review of options involving our current space.

Objective 3.5 – Be a model of environmental sustainability

Lead by our green team, we worked on several internal initiatives over the past several months:

- Bottle cap, pen, and cork recycling
- Paperless paystubs
- Hazardous Waste recycling/disposal (free through King County)
- Mechanisms to make it easier to “turn out the lights” at the end of the day
- Current energy audit and office product review
- Including sustainability considerations in office-lease process

GENERAL

The legislative session kicked off on January 12th. With a number of important issues at hand, I am suggesting the Board reconstitute a subcommittee to receive updates on issues between Board meetings.

With our new Human Resources manager coming on board, I want to note the outstanding work that Laurie and Susan did over the last seven months in managing our ongoing work there, including a number of recruitments. My deep appreciation to both of them.

Respectfully submitted,



Craig T. Kenworthy
Executive Director

Attachment

jwc



STATE OF WASHINGTON
ENVIRONMENTAL AND LAND USE HEARINGS OFFICE **RECEIVED**

Mailing Address: PO Box 40903, Olympia, WA 98504-0903

Physical Address: 1111 Israel Rd. SW, Tumwater, WA 98501

December 31, 2014

JAN 02 2015
Puget Sound
Clean Air Agency

Joshua and Laura Johnson
15402 99th Ave E
Puyallup WA 98375

Jennifer Dold
Puget Sound Clean Air Agency
1904 Third Ave Ste 105
Seattle WA 98101

Re: **PCHB NO. 14-097**
JOSHUA AND LAURA JOHNSON v. PUGET SOUND CLEAN AIR AGENCY

Dear Parties:

Enclosed is the Findings of Fact, Conclusions of Law, and Order of the Pollution Control Hearings Board in this matter.

This is a FINAL ORDER for purposes of appeal to Superior Court within 30 days. See Administrative Procedures Act (RCW 34.05.542) and RCW 43.21B.180. While you must serve the Board and all the parties, it is not necessary to name the Board as a party to perfect judicial review. Pursuant to RCW 34.05.566(3), the Agency will charge non-indigent parties the reasonable cost of copies to pay for the cost of the documentary record to the Court in the event of an appeal to Superior Court.

You are being given the following notice as required by RCW 34.05.461(3): Any party may file a petition for reconsideration with the Board. A petition for reconsideration must be filed with the Board and served on all parties within ten days of mailing of the final decision. WAC 371-08-550.

Sincerely,

Joan M. Marchioro, Presiding

JMM/jb/P14-097
Encl.

CERTIFICATION
On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid or via delivery through State Consolidated Mail Services to the parties of record herein.
I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.
DATED 12/31/14 at Tumwater, WA



POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

JOSHUA AND LAURA JOHNSON,

Appellant,

v.

PUGET SOUND CLEAN AIR AGENCY,

Respondent.

PCHB No. 14-097

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER

This matter arises from the appeal of a \$7,301.00 penalty issued by the Puget Sound Clean Air Agency (PSCAA) to Appellant, Joshua and Laura Johnson,¹ for violations of the outdoor burning regulations. The Pollution Control Hearings Board (Board) held a hearing in this matter on December 12, 2014, at the Board's hearing room in Tumwater, Washington. Board Chair Joan M. Marchioro presided for the Board and was its sole member.² Joshua Johnson represented himself *pro se*. Attorney Jennifer Dold represented Respondent PSCAA. Mary Ann Pennington of Pennington Court Reporting, Renton, Washington provided court-reporting services.

The Board received the sworn testimony of witnesses, admitted exhibits, and heard arguments on behalf of the parties. Having fully considered the record, the Board enters the following:

¹ For ease of reference, the Appellant will be referred to in this decision as Mr. Johnson.

² This case is decided by one Board Member pursuant to RCW 43.21B.305, which allows one Board Member to decide appeals of penalties that are less than fifteen thousand dollars (\$15,000).

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FINDINGS OF FACT

1.

On April 19, 2014, Central Pierce Fire & Rescue (CPF&R) received a citizen report of a possible fire at a neighboring house. Hamrick Testimony; Ex. R-6. Lieutenant John Hamrick of CPF&R was dispatched to investigate the report. The citizen reporting the fire lives at 9818 - 153rd Street East, Puyallup, Washington. Upon arriving at that address, Lieutenant Hamrick contacted the resident and was informed that there was a fire behind the last house on 99th Avenue East off of 156th Street. *Id.* Lieutenant Hamrick could see smoke and observed that it was black and gray in color. He then drove to the house on 15402 - 99th Avenue East, which appeared to be the source of the smoke. *Id.* Mr. Johnson owns the house located at 15402 - 99th Avenue East, Puyallup, Washington. Ex. R-5.

2.

Upon his arrival Mr. Johnson's house, Lieutenant Hamrick was met at the corner of the property by Mr. Johnson, who declined to identify himself. Hamrick Testimony. When asked what was being burned, Mr. Johnson responded that he was burning debris. *Id.* Lieutenant Hamrick testified that he informed Mr. Johnson that burning debris was not allowed as he lived in a non-attainment area and he was not permitted to burn garbage or other debris. He also told Mr. Johnson that the only material he could burn was dry, seasoned firewood of the kind that would be burned in a camp fire. *Id.*; Ex. R-6. Lieutenant Hamrick testified that he asked Mr. Johnson to extinguish the fire and Mr. Johnson declined. Hamrick Testimony. When Lieutenant

1 Hamrick asked to enter the property to view the fire, Mr. Johnson declined the request and told
2 Lieutenant Hamrick to leave the property. *Id.*; Ex. R-6.

3 3.

4 After leaving Mr. Johnson's property, Lieutenant Hamrick returned to the house of the
5 citizen reporting the fire and was given permission to ladder his fence in order to observe the
6 fire. Lieutenant Hamrick was able to see the fire through knot holes in the fence and he took a
7 photograph of the fire with his cell phone through one of the knot holes. Hamrick Testimony;
8 Ex. R-6. He also observed and took a photograph of the fire while looking over the fence.
9 Lieutenant Hamrick testified that he observed a burn pile approximately six feet by six feet in
10 size, six inches away from the fence. The pile contained building debris and ash. *Id.* The center
11 of the pile was burned out, with material smoldering on the perimeter. The debris included
12 painted dimensional lumber, plywood and "what appeared to be roofing material." *Id.*
13 Lieutenant Hamrick testified that the building debris also contained oriented strand board.
14 Hamrick Testimony. He also observed additional building debris stacked at the edge of the
15 burned materials that could have been thrown into the fire. *Id.*; Ex. R-6. Lieutenant Hamrick
16 advised the citizen that a report of the incident would be forwarded to the CPF&R Prevention &
17 Education department for review. Hamrick Testimony.

18 4.

19 Lieutenant Hamrick prepared a report describing the incident and CPF&R's response.
20 Ex. R-6. CPF&R prepared an invoice for its costs to respond to the incident, which totaled
21 \$275.00. Ex. R-7. On April 22, 2014, the CPF&R Prevention & Education department referred

1 the matter to PSCAA. Ex. R-6. CPF&R Prevention & Education department sent PSCAA the
2 response cost invoice and supporting documentation regarding the fire at Mr. Johnson's property,
3 which included the incident report and photographs of the incident. Gribbon Testimony; Exs. R-
4 6 and R-7.

5 5.

6 PSCAA assigned Inspector Richard Gribbon to investigate the incident. Gribbon
7 Testimony. Using data from the Pierce County Assessor-Treasurer's Office, Mr. Gribbon
8 determined that the property on which the fire took place was owned by Mr. Johnson. Gribbon
9 Testimony; Ex. R-5. Based upon a review of the materials submitted by CPF&R, Mr. Gribbon
10 concluded that a notice of violation was appropriate. Gribbon Testimony; Ex. R-8. PSCAA
11 issued General Notice of Violation No. 3-006682 (NOV) to Mr. Johnson on May 7, 2014. Ex.
12 R-9. The NOV stated that the fire at 15402 - 99th Avenue East, Puyallup, on April 19, 2014, was
13 in violation of (1) PSCAA Regulation 8.04(a) (failure to comply with the provisions of Chapter
14 173-425 WAC); (2) WAC 173-425-050 (prohibiting outdoor burning without a valid permit); (3)
15 WAC 173-425-050(1) (governing outdoor burning of prohibited materials); (4) WAC 173-425-
16 050(6)(a) (unattended outdoor burning); (5) WAC 173-425-050(6)(b) (outdoor burning within
17 fifty feet of structure); and (6) WAC 173-425-060(2)(j) (other burning without authorization
18 from the Agency). *Id.*

19 6.

20 The harms PSCAA's outdoor burning regulations seek to address are primarily nuisance
21 issues and the emission of air toxics. Hess Testimony. Nuisance issues include the negative

1 impact to neighbors caused by outdoor burning. With respect to air toxics, the burning of treated
2 materials such as plywood and asphalt materials results in the emission of pollutants including
3 fine particulates, carbon monoxide, and toxins. These toxic emissions are a threat to human
4 health and can lead to serious respiratory illness and cause cancer. *Id.*

5 7.

6 The NOV included a Corrective Action Order requiring Mr. Johnson to provide a written
7 report describing any actions taken to correct the violation. Ex. R-9. After receiving the NOV,
8 Mr. Johnson contacted Mr. Gribbon requesting an extension of the date to submit a response.
9 Mr. Gribbon granted the extension. Gribbon Testimony. By letter from counsel dated June 2,
10 2014, Mr. Johnson responded to PSCAA's NOV. Ex. R-13. The letter stated that Mr. Johnson
11 would make efforts to cease outdoor burning at his residential property and, if he needed to burn
12 materials in the future, Mr. Johnson would obtain the appropriate permit. *Id.* The letter also
13 stated that Mr. Johnson denied the allegations of outdoor burning in an urban area without a
14 permit and that he would contest any citation containing such claim. *Id.*

15 8.

16 PSCAA subsequently prepared a civil penalty for the illegal burn. Mr. Gribbon
17 completed the Outdoor Burning Civil Penalty Worksheet and Recommendation (Civil Penalty
18 Worksheet) and determined that a penalty of \$9,000.00 plus the economic benefit of not
19 disposing of the materials at the local landfill (\$25.59) and the economic cost to CPF&R
20 (\$275.00) was appropriate. Gribbon Testimony; Ex. R-14. PSCAA Supervising Inspector Rick
21 Hess reviewed Mr. Gribbon's penalty recommendation and reduced the penalty by \$2,000.00.

1 The reduction was based on information provided in the letter from Mr. Johnson's counsel
2 stating that Mr. Johnson would cease outdoor burning and will obtain a burn permit in the future.
3 Hess Testimony; Ex. R-14. Mr. Hess also rounded the economic benefit to \$26.00. *Id.*

4 9.

5 On August 1, 2014, PSCAA issued Notice and Order of Civil Penalty No. 14-0111CP
6 (Penalty) to Mr. Johnson in the amount of \$7,301.00 for two of the violations cited in the NOV:
7 (1) outdoor burning of prohibited materials in violation of WAC 173-425-050(1); and (2)
8 outdoor burning within 50 feet of a structure in violation of WAC 173-425-050(6)(b). Ex. R-15.
9 Mr. Johnson timely appealed the Penalty to this Board.

10 10.

11 At the hearing on his appeal, Mr. Johnson disputed portions of Lieutenant Hamrick's
12 testimony. Mr. Johnson testified that Lieutenant Hamrick did not ask for his name. While
13 admitting that he declined Lieutenant Hamrick's request to enter his property, Mr. Johnson stated
14 that he did not tell Lieutenant Hamrick to leave. Johnson Testimony. Mr. Johnson further
15 testified that Lieutenant Hamrick did not ask him to extinguish the fire. *Id.* Mr. Johnson did not
16 deny that he informed Lieutenant Hamrick that he was burning debris. Mr. Johnson stated that
17 Lieutenant Hamrick provided him with a discourse on the burning of prohibited materials. *Id.*
18 Finally, Mr. Johnson testified that Lieutenant Hamrick did not instruct him to extinguish the fire.
19 *Id.*

1 11.

2 Any Conclusion of Law deemed to properly be considered a Finding of Fact is hereby
3 adopted as such.

4 Based on the foregoing Findings of Fact, the Board enters the following:

5 **CONCLUSIONS OF LAW**

6 1.

7 The Board has jurisdiction over the subject matter and parties pursuant to RCW
8 43.21B.110. The Board reviews the issues raised in an appeal *de novo*. WAC 371-08-485. In
9 an appeal of a penalty, the agency issuing the penalty bears the burden of proving that the cited
10 entity violated the governing regulations and that the penalty assessed for the violations was
11 reasonable. In this case, PSCAA, as the regulating entity, must make the necessary showing by a
12 preponderance of the evidence. *Belfast Gravel v. Northwest Clean Air Agency*, PCHB No. 09-
13 009 (2009); WAC 371-08-485(2).

14 2.

15 PSCAA's regulation regarding outdoor burning provides that "[i]t shall be unlawful for
16 any person to cause or allow any outdoor burning unless the burning is in compliance with
17 Chapters 173-425 and 173-430 WAC." PSCAA Regulation I, Section 8.04(a). With narrow
18 exceptions that do not apply to the facts of this case, WAC 173-425-050(1) prohibits outdoor
19 burning of:

20 ...garbage, dead animals, asphalt, petroleum products, paints,
21 rubber products, plastics, paper (other than what is necessary to
start a fire), cardboard, treated wood, construction/demolition

1 debris, metal, or any substance (other than natural vegetation) that
2 normally releases toxic emissions, dense smoke, or obnoxious
odors when burned[.]

3 The regulations also prohibit outdoor fires within 50 feet of structures. WAC 173-425-
4 050(6)(b).

5 3.

6 The two principal issues in every penalty appeal are whether the violations occurred and
7 whether the penalty is reasonable. Turning to the question of whether the violations occurred,
8 PSCAA established that an outdoor fire containing prohibited material (building debris, painted
9 dimensional lumber, plywood, oriented strand board) occurred at Mr. Johnson's property.

10 Although the majority of the materials were already reduced to ash by the time Lieutenant
11 Hamrick of CPF&R arrived at the scene, he testified that he observed smoke that was black and
12 gray in color emanating from Mr. Johnson's yard. He further testified that the fire was
13 smoldering at its edges. When asked, Mr. Johnson informed Lieutenant Hamrick that he was
14 burning debris. While Mr. Johnson questioned whether the fire could have been a recreational
15 fire as defined in WAC 173-425-030(21), he presented no evidence demonstrating that the fire
16 contained anything other than building debris as described by Lieutenant Hamrick and shown in
17 the photographs in Exhibit R-6. In addition, the definition of recreational fire specifically
18 provides that "[f]ires used for debris disposal purposes are not considered recreational fires."

19 WAC 173-425-030(21). The evidence presented by PSCAA is sufficient to establish a violation
20 of WAC 173-425-050(1).

1 4.

2 PSCAA also established a violation of WAC 173-425-050(6)(a) as the outdoor burning
3 occurred within 50 feet of a structure. The structure in this case is the fence. Lieutenant
4 Hamrick testified that the fire was six inches from the fence. Hamrick Testimony; Ex. R-6. Mr.
5 Johnson disputed that the fire was six inches from the fence. However, Mr. Johnson did not
6 present evidence or assert that the fire was more than 50 feet from the fence. Using the
7 photographs taken by Lieutenant Hamrick, it is difficult to determine with precision the distance
8 of the fire from the fence. Regardless, there is no dispute that the fire was significantly less than
9 50 feet from the fence, thus violating the regulation. The evidence presented by PSCAA is
10 sufficient to establish a violation of WAC 173-425-050(6)(a).

11 5.

12 Once a violation of an air pollution regulation is established, the Board then evaluates the
13 reasonableness of the penalty. In evaluating the reasonableness of a civil penalty, the Board
14 considers three factors: (1) the nature of the violation, (2) the prior history of the violator, and
15 (3) the remedial actions taken by the penalized party. *Kaiser Aluminum Washington v. Spokane*
16 *Regional Clean Air Agency*, PCHB No. 11-100 (2012); *Crestview Development, Inc. v. PSCAA*,
17 PCHB No. 04-059 (2004). As part of such an analysis, the Board has also considered whether
18 the appellant gave any reason for refusing to cooperate with agency efforts to bring a project into
19 compliance with the law, and the fact that the regulatory agency imposed a lesser penalty than
20 allowed by law. *Engman & Timberlake Associates Inc. v. Ecology*, PCHB No. 98-63 (1999).
21 Under its regulations in effect at the time of the April 2014 violation, PSCAA was authorized to

1 issue civil penalties in excess of \$16,000.00 per day, per violation. Former PSCAA Regulation I,
2 Section 3.11(a). The purpose of a civil penalty is to influence behavior, encourage compliance,
3 and deter future violations. *Watts Construction Inc. and Masterson Construction, Inc. v. BCAA*,
4 PCHB Nos. 04-032 & 037 (2005).

5 6.

6 The Nature of the Violation: The nature of the violation in this case is significant in that
7 the fire contained prohibited materials, such as painted dimensional lumber, plywood and
8 oriented strand board, which emit toxic substances when burned. Hess Testimony. The burn
9 pile was fairly large, estimated as six feet by six feet, with additional building debris stacked at
10 the edge which could have been added to the fire. Hamrick Testimony. However, the evidence
11 presented by PSCAA was insufficient to establish that roofing materials had been burned.
12 Lieutenant Hamrick's testimony on this subject was equivocal, the photographs do not clearly
13 show the presence of roofing materials, nor was there any testimony identifying such materials in
14 the photographs. When PSCAA completed its Civil Penalty Worksheet, the agency scored the
15 nature of the violation at the highest level, which requires the materials burned to include
16 petroleum based products. Ex. R-14. Although not plainly stated in the evidence submitted,
17 PSCAA appears to have considered the roofing materials as the petroleum based products
18 allegedly burned by Mr. Johnson. The plastic umbrella stand pictured in the photographs, while
19 adjacent to the fire, does not appear to have been burned. The Board concludes that absent clear
20 evidence of roofing materials or some other petroleum based product among the materials

1 burned, the score for burning prohibited materials should be reduced by one point and the
2 Penalty reduced by \$1,000.00.

3 7.

4 Prior History of the Violator: The second primary factor in reviewing the reasonableness
5 of the penalty is the consideration of prior violations by Mr. Johnson. There was no evidence of
6 any prior violations reported to PSCAA for burning prohibited materials. PSCAA did not
7 attribute any points in the Civil Penalty Worksheet regarding a previous compliance history.
8 Gribbon Testimony; Ex. R-3.

9 8.

10 Remedial Action Taken by the Penalized Party: The third primary factor in reviewing the
11 reasonableness of the penalty is the remedial action taken by Mr. Johnson. While the parties
12 dispute whether Mr. Johnson was asked to extinguish the fire by Lieutenant Hamrick, the Board
13 was not presented evidence of any efforts to extinguish the fire. Finally, the letter submitted by
14 Mr. Johnson's counsel in response to the NOV states that Mr. Johnson will refrain from outdoor
15 burning of debris in the future and will obtain the appropriate permit should such activity be
16 required. Ex. R-13. In calculating the penalty, PSCAA gave full credit to Mr. Johnson for
17 efforts taken to prevent future violations. Hess Testimony; Ex. R-14. The Board concludes that
18 PSCAA's scoring of these factors was appropriate.

19 9.

20 The Board considers this a serious violation because of the prohibited materials burned
21 and the emission of air pollutants caused by the burning of such materials. The Board also

1 recognizes that PSCAA and this Board have the authority to issue and affirm penalties much
2 greater than \$7,301.00 for this type of violation, irrespective of the PSCAA's Civil Penalty
3 Worksheet. The Board concludes that PSCAA established that Mr. Johnson burned prohibited
4 materials within 50 of a structure but did not carry its burden of establishing that Mr. Johnson
5 burned roofing materials. For this reason, the Board concludes that, based on the evidence
6 presented, a penalty of \$7,301.00 is not reasonable and that the Penalty should be reduced to
7 \$6,301.00.

8 10.

9 Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

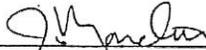
10 Having so found and concluded, the Board enters the following

11 **ORDER**

12 The penalty of \$7,301.00 issued by Puget Sound Clean Air Agency to Joshua and Laura
13 Johnson is REDUCED to \$6,301.00.

14 SO ORDERED this 31st day of December, 2014.

15 **POLLUTION CONTROL HEARINGS BOARD**

16 
17 _____
18 JOAN M. MARCHIORO, Presiding
19
20
21