**M I N U T E S**

LANE REGIONAL AIR PROTECTION AGENCY

BOARD OF DIRECTORS MEETING

MONDAY–SEPTEMBER 26, 2011

LRAPA MEETING ROOM

1010 MAIN STREET

SPRINGFIELD, OREGON

ATTENDANCE

Board: David Monk, Chair–Eugene; Bill Brommelsiek, Vice-Chair–At-Large (Springfield Area); Mike Fleck--Cottage Grove/Oakridge; Brian Forge–At-Large (General); Scott Lucas–Eugene; Andrea Ortiz–Eugene; Jeannine Parisi–Eugene; Dave Ralston–Springfield; Faye Stewart–Lane County

(ABSENT: None)

Staff: Merlyn Hough–Director; Merrie Dinteman; Tom Freeman; Max Hueftle; Ralph Johnston; Matt Lee; Nasser Mirhosseyn

Other: Earl Koenig, Vice Chair, Russ Ayers, Jim Daniels and Laura Seyler–LRAPA Advisory Committee; Ruth Duemler, Eugene; Diana Ebersbacher–Seneca Sawmill; Larry Sanderson–Trus Joist

1. OPENING: Board Chair **Monk** called the meeting to order at 12:18 p.m.

2. ADJUSTMENTS TO AGENDA: **Hough** brought up three adjustments to the agenda.

Postponement of Agenda Item Number 7. **Hough** reported that staff had been notified by the respondent in the enforcement case that there had been a death in the family, and they had requested that the board’s action on this item be postponed until the October board meeting. **Hough** said staff agreed to do that.

Stipulated Final Order for Seneca Sustainable Energy. **Hough** said the SFO for the enforcement action was signed after the packets for this board meeting had been prepared and distributed. The board decided to discuss this under the Director’s Report agenda item.

Expiration of **Hough**’s Current Term on Board of Directors of Cascade Sierra Solutions. The board decided to discuss this under the Director’s Report agenda item.

3. PUBLIC PARTICIPATION:

**Ruth Duemler**, Eugene. **Duemler** noted that the board would be considering adoption of a Limited Maintenance Plan for PM10 for Eugene-Springfield, in a later agenda item, and spoke of the high rate of asthma and lung cancer among residents of the area. She suggested that LRAPA establish a medical advisory board, specifically lung experts, to advise the Board of Directors regarding the health effects of air pollution. **Duemler** cited the American Lung Association’s reports which give this area poor marks for air pollution; and **Ralston** pointed out that the ALA report is erroneous because it extrapolates Oakridge’s wintertime high particulate levels throughout the county. He added that, even though LRAPA has explained Lane County’s separate airsheds to ALA and tried to get them to use the correct information, the annual ALA report continues to publish the erroneous data..

**Brommelsiek** commented that there is a medical doctor, Dr. **Larry Dunlap**, on the LRAPA Advisory Committee, and **Duemler** indicated she is familiar with Dr. **Dunlap**.

**Stewart** said Lane County has a Health Advisory Committee made up of a lot of people from the medical field, and suggested that LRAPA tie into that committee rather than establishing a separate committee. **Ortiz** said she was going to suggest the same thing because there is a lot of expertise on Lane County’s committee, and there would be a natural connection between that committee and LRAPA. There was brief discussion about how to get LRAPA’s concerns on that committee’s agenda.

**Hough** said that LRAPA does work in conjunction with Lane County’s Health Advisory Committee to put out joint news releases about specific air pollution situations and the potential health threats to area residents. He gave two examples: earlier this September when smoke from wildfires east of the Cascades drifted into the Valley; and in 2008, during the Olympic trials in Eugene, when smoke from California wildfires impacted this area.

4. CONSENT CALENDAR:

 A. Approval of Minutes of July 25, 2011 Board of Directors Meeting. **Lucas** noted that on page 2 of the minutes, he and **Ralston** were reported to have initiated the action to approve the expense reports through May 31, 2011. He said neither he nor **Ralston** was present at the July 25 meeting. **Dinteman** said she would look at the transcript of the meeting and make the necessary correction. *[According to the transcript, the motion was made by* ***Brommelsiek*** *and seconded by* ***Forge****.]*

**ACTION: MSP (Ortiz/Brommelsiek)(8 in favor and 1 [Lucas] abstention) approval of minutes of the July 25, 2011 LRAPA Board of Directors Meeting, as corrected.**

B. Approval of Expense Reports Through July 31, 2011 and August 31,2011. **Brommelsiek** noted that the reports include a new column and asked **Mirhosseyni** to explain it. **Mirhosseyni** said the old column was called “Estimated To Date,” and he changed it to “Periodic Averages,” meaning that the number in that column represents what should be normal for the percentage of the fiscal year that has passed at the time of the report. If the figures are not what they would normally be, the actuals would show in that column.

**Forge** noted that the income from grants and local dues is indicated to be much higher than what is anticipated for the year, with some partners not being able to contribute this year. **Mirhosseyni** explained that the budget was approved based on the requested dues from local partners and the amounts anticipated from state and federal grants. He said he normally adjusts those figures mid-year to represent a more accurate picture of revenues and expenditures.

**Forge** asked if there were a specific reason to wait half-way through the year to make those adjustments, or if they could be made quarterly to give the board a better idea of the agency’s fiscal situation. **Mirhosseyni** explained that at the time these reports were prepared, there were a couple of supplemental grant requests which were not yet determined, and he did not want to adjust the figures until the outcome of those requests was known. He said he found out recently that LRAPA did not secure either of those grants. He will make the necessary adjustments for the next monthly reports, and further adjustments will be made at the end of the fiscal year to reflect actuals.

**Monk** said he had some questions about the Everybody Wins section of the expense reports. In the total actuals for the July 31 report, the beginning fund balance was negative $135,000, and an additional negative $17,000 made the ending fund balance negative $152,000. In the August 31 report, the beginning balance began again with negative $135,000, with another negative $36,000 and an ending balance of negative $72,000. **Monk** said he thought the ending balance should be more like a negative $171,000 rather than $72,000, and he wondered if there was a typo in the report or if he was misunderstanding the figures. **Mirhosseyni** said the ending fund balance is basically a formula which takes the beginning fund balance and what takes places between revenues and expenditures and modifies the balance, based on the formula. He said he would look to see if perhaps the formula is incorrect. **Mirhosseyni** said he agreed with **Monk**, that the ending balance should be more like negative $171,000, unless there were some revenues which were not captured in the report. He said LRAPA did receive a ODOE Energy Tax Credit during that month, which may have impacted the ending balance. **Monk** asked **Mirhosseyni** to send an e-mail to board members when he figured out what the numbers in the report should be.

**ACTION: MSP (Stewart/Forge)(Unanimous) approval of expense reports through July 31, 2011 and August 31, 2011 , as presented.**

5. ADVISORY COMMITTEE: Committee Chair **Amy Peccia** was unable to attend this board meeting. In her absence, Vice-Chair **Earl Koenig** reported on the committee’s activities for July and August. He said the committee continued to discuss the various sources of information about functions of the board, staff and advisory committee, and would continue that at their meeting the day after this board meeting. They also talked about the possibility of doing quarterly tours of industrial facilities. He said there have been good comments regarding previous tours that have been done to familiarize people with what industry is doing to maintain air quality.

**Ortiz** asked if the committee had received the link to the League of Oregon Cities website, to access the information they have available on functions of boards, committees and staffs. **Hough** said he was not sure what-all they had received, and he would check to be sure they get all the information they have been promised.

**Ortiz** announced that the city of Eugene is doing some training for commissions and board, and anyone who is affiliated with the city of Eugene would be able to attend. She said the training covers public meetings, ethics and legal points of serving on city boards, commissions and committees; and she would find out if others can also attend, so that LRAPA board and committee members could get that training if they want it.

6. PUBLIC HEARING FOR PM10 LIMITED MAINTENANCE PLAN FOR EUGENE-SPRINGFIELD: **Hough** noted that this has been on the board’s agenda for the past couple of meetings, the first time just as an overview and the second, to authorize public hearing at today’s meeting. **Hough** said there were two parts to the action being requested, one to re-designate the area, officially, as attainment for PM10, and the other to adopt a maintenance plan to outline the reasons that LRAPA is confident that the area will stay within the standards for the foreseeable future. **Hough** said the Eugene-Springfield area has been well within the PM10 standards for quite a few years and has, in fact, been running at about half the standard in recent years.

**Ralph Johnston** explained that the action also included a couple of rule changes, to update some definitions. **Johnston** said the maintenance plan keeps the same controls that are currently in place and just re-designates the area from non-attainment status to what is called a “maintenance area.”

**Hough** said the proposal was advertised as required, and several comments were received. Most of those simply required staff to explain an aspect of the plan to the commenter. For example, a person asked if the redesignation would affect the Plant Site Emission Limits for industries in Eugene-Springfield, and the answer is that it would have no effect on Plant Site Emission Limits. Another individual asked whether the maintenance plan would address all permits, and not just a specific source category. The answer, again, was that the maintenance plan would affect any source of PM10. The monitoring network is located where it will give LRAPA a continuing sense of PM10 emissions from residential wood heating, mobile sources and industrial emissions, which are the three source categories of most interest for PM10.

**Hough** said a revision was made to the proposal in response to a comment from ODOT, and **Hough** referred to a redlined, revised page 13 of the explanatory document for this agenda item. He stressed that the revision would not change the intent of the proposal, but would simply clarify it. ODOT requested clarification of whether or not hot-spot analysis would be required for transportation projects. **Hough** said staff believes it is appropriate to require hot-spot analysis if the project is of a magnitude great enough to warrant it. **Johnston** explained that the magnitude that would require the analysis would be 125,000 Average Daily Traffic (ADT); and peak traffic at this time in Lane County is on I-5, just south of Beltline, and is about 66,000 ADT. ADT in the Portland area would require hot-spot analysis, but Lane County does not have those significant ADT numbers .  **Johnston** said the threshold would not apply to anything that has been done in Lane County before. He said an example of a project that would require the hot-spot analysis for PM10 would be a mega-diesel truck terminal. The redesignation and maintenance plan would exempt the analysis for regional PM10 conformity; however, hot-spot conformity analysis still needs to be done for major transportation projects.

**Monk** noted that there was a proposal several years ago to put in a truck/rail link in northern Eugene, but it did not happen. He asked if that would trigger the hot-spot requirement, and **Johnston** said it would not meet the threshold for the requirement.

**Parisi** asked if ODOT’s request was just to clarify the proposal or to recommend that LRAPA change the proposal. **Hough** responded that it was two-fold. Staff wanted to be sure the agency’s intent was clear in the proposal; but ODOT also suggested that LRAPA exempt hot-spot analysis, just from a program efficiency standpoint. ODOT’s specific request was for LRAPA to determine whether a risk for PM10 hot-spot violations still exists and, if it does not, incorporate that into the maintenance plan before it becomes final. This reduces the level of analysis that would currently be necessary to carry out mega- projects in the Eugene-Springfield area, and acceptable streamlining measures would reduce the administrative burden and the costs of such mega-projects during the environmental phase. When LRAPA staff looked at what it would take to trigger the requirements, it was so large that staff could not make a case to include in the plan a basis for a project that large.

**Ortiz** asked what will happen if, in the future, the economy improves and traffic increases to levels that would trigger the hot-spot analysis requirement. **Johnston** explained mobile sources are the primary source for carbon monoxide, and conformity analysis is done regionally for carbon monoxide. It has been demonstrated that mobile sources are very low contributors to particulate matter. Mobile sources have been exempt from regional conformity analysis for PM for a long time; but regional conformity analysis must be done for carbon monoxide every three or four years.

**Hough** said, even in the 1980s when emissions of everything, including PM10, were higher, regional conformity, for particulate matter, was not required for transportation, because mobile source emissions were not a big enough part of the emission inventory. ODOT did not question that part and even sent a letter in 1994 making it clear that they agreed that the analysis should not be required. ODOT has changed its rules over time, to get more specific about criteria for hot-spot analysis, and they asked for clarification so that they would know if LRAPA was asking for a relaxation of that requirement.

**Forge** referred to the Land Use Evaluation Statement portion of the report, in the section regarding industrial emissions control technology. He noted that, because Eugene-Springfield has been a nonattainment area for PM10, industrial sources have been required to use Lowest Achievable Emission Rate (LAER) technology. He asked if changing the area to attainment would weaken those requirements by requiring Best Available Control Technology (BACT) instead of LAER. **Forge** also asked if the Seneca Sustainable Energy permit was written based on LAER or BACT.

Regarding the Seneca Sustainable Energy permit, **Hough** explained that because their PM emissions would be under the 15 Ton Per Year threshold, the permit did not require either LAER or BACT analyses for particulate matter. He added that, even though they did not have to do the analysis, the control technology they chose to use would probably be in the category of LAER because it is a four-field electrostatic precipitator which is beyond anything that had been seen in Oregon, or in the Pacific Northwest, before.

**Hough** went on to explain that both LAER and BACT are very stringent levels of control; however economics can be considered in the case of BACT but not with LAER. LAER is used because you are in an area that violates federal standards, and a new industry wants to locate in the area. Allowing the new industry would typically require that they use the best control technology that has been used by any facility, anywhere, at any time, regardless of cost. The fact that BACT allows consideration of cost/effectiveness is why it is considered a more workable level of control technology.

**Monk** asked if any new industry coming into the area, or a major modification to an existing source, would fall under these requirements. **Hough** said each specific pollutant is viewed differently. The Seneca Sustainable Energy facility did have to undergo BACT analysis for carbon monoxide because the area is a maintenance area for CO. It also had to undergo threshold analysis for PM10, and a separate modeling analysis for nitrogen oxides.

Public Hearing. **Monk** opened the public hearing at 12:53 p.m., asking if anyone in the audience wished to comment regarding the proposal. No one responded, and **Monk** closed the public hearing at 12:54 p.m.

**Hough** said notice of this hearing was put out to the public in several ways. Notice of hearing and solicitation of public comment was published in the Eugene *Register Guard* and in the Secretary of State’s *Oregon Bulletin*. In addition, notice was sent to LRAPA’s list of interested persons. Because today’s hearing was a joint LRAPA/DEQ hearing, DEQ also sent the notice to its own list of interested persons.

**ACTION: MSP (Stewart)(Ralston)(Unanimous) adoption of the proposed Eugene-Springfield Limited Maintenance Plan for PM10 and associated amendments to LRAPA rules, as revised.**

**Brommelsiek** thanked **Johnston** for an outstanding job of putting the maintenance plan and rulemaking package together and working with the advisory committee to bring it to the board.

**Monk** said he is glad this plan is finally in place but did note that being a nonattainment area probably has afforded LRAPA some opportunities to get grant funding that it would not otherwise have gotten. He said it will be good, however, to finally have the area redesignated as attainment, since it has been complying with the standards for so many years.

**Parisi** asked if there will be press release regarding this accomplishment. **Hough** responded that, while staff does need to get the word out about major accomplishments, this one will not be completed until the Oregon Environmental Quality Commission had adopted it, probably in December, and the EPA has accepted it and made the official redesignation. **Hough** said he will work with staff to put out some kind of release to the public about the board’s having adopted this plan.

7. REQUEST TO DISMISS, AND APPROVAL OF FINAL ORDER, FOR ENFORCEMENT ACTION NUMBER 10-3234, **JEAN LAKE**: This item was postponed until the October board meeting, in response to a request from the respondent. Board members turned in their copies of the case review to staff, to be re-distributed in the packets for the October meeting.

8. DIRECTOR’S REPORTS FOR JULY AND AUGUST 2011:

Air Quality. **Hough** reported that the most interesting air quality conditions happened a week or two after the director’s report was prepared. Smoke from Central Oregon wildfires impacted this area, sending the Air Quality Index into the moderate range for a few days, for both ozone and particulate. He added that some other areas of the state, closer to the fires, had AQIs into the unhealthy and even the hazardous ranges. **Hough** said LRAPA worked with Lane County health to prepare press releases, to alert people to health issues related to the smoke getting into the Valley.

Monthly Board Meeting Schedule. **Hough** said staff had surveyed board members regarding changing the monthly board meeting day and time, to accommodate **Fleck**’s other commitments, and that a noon meeting on the third Thursday of each month seemed to be the best possibility. Board members agreed to that.

**Brommelsiek** asked if the advisory committee will also need to change its schedule, as a consequence, and **Koenig** said that was not yet known.

The next LRAPA Board of Directors meeting will be held at 12:15 p.m. on Thursday, October 20, 2011.

**Hough** added that the plan still is not to have a meeting in August or December unless the board feels it is critical to have more than ten meetings per year.

Complaints. **Lucas** pointed out that a dent collision repair shop in central Eugene had 32 complaints in July and none in August, and he wondered whether that was a neighbor calling every day for a month, or a lot of people calling on one day, and whether they fixed something that resulted in no complaints the following month. Staff checked on that situation and found that the shop had only two complaints in July. **Dinteman** said she had put the wrong number in the report.

Train Idling in West Eugene Railyard. **Ortiz** referred to a meeting held in Eugene which she was unable to attend, and asked **Hough** about the meeting. **Hough** said LRAPA had sent out invitations to elected officials to attend, but told them it was not necessary for them to attend the first meeting for scoping. Among those in attendance were **Brenda Wilson** from the city of Eugene, Lane County Commissioner **Rob Handy**, **Kevin Downing** from Oregon DEQ, and a couple of people from Oregon Toxics Alliance. LRAPA staff went through the history of complaints received from residents of the area, of which there were not a great many in recent years. He added that the city of Eugene had no recorded complaints. The session was mainly to share information. **Hough** said **Downing** had a lot of helpful information about the work he’s done with some things that are being explored in California and in Spokane. He said railroad activities have been at a generally lower operating level, and there is some evidence that they are trying to accommodate the location of the idling. **Hough** said **Brenda Wilson** planned to brief Mayor **Piercy** and Councilor **Ortiz**.

**Hough** said there is some interest in expanding railroad operations in Eugene because of the Coast Line increasing service levels to Eugene. **Ortiz** asked if anyone from Union Pacific was at the meeting, and **Hough** said no. He said the meeting was intended to be the first in a series of two or three meetings, where more elected officials and Union Pacific representatives would be involved if there is a specific request. Staff wanted to be sure there is support from elected officials before pressing forward with the issue. **Ortiz** said there is another line that runs north/south, which she believes is a Burlington line, which seems to do most of the idling in her neighborhood. She said she hopes they will get into the conversation, as well.

Wetlands Burning. **Stewart** said he had received a couple of calls about smoke from open burning in the wetlands in West Eugene, and he asked if they had a permit from LRAPA, and who was doing the burning. **Hough** responded that it is a coalition of The Nature Conservancy, BLM, the city of Eugene, the Corps of Engineers, and others. They submit a joint application to LRAPA each year, outlining their plans for open burning and the conditions under which they plan to burn. LRAPA issues a permit, either agreeing with their proposal or adding more restrictions to it. They burned three parcels last Tuesday, and it became clear to them, as well as to LRAPA, that the third burn occurred too late in the day. They are looking at perhaps putting a 4:00 p.m. end time on their burns, because the winds start to shift about that time in the afternoon. **Stewart** said he observed the smoke as he was headed home that day, and the smoke seemed to drift along closer to the ground and linger in the Valley, rather than going straight up like open burning of grass seed fields used to do. **Stewart** said he had no calls on either of the first two burns, but did get some about the third one. **Hough** said the coalition does a lot of outreach before burning, and they have a lot of equipment on the ground to help manage the burns. He said he expects future applications and permits to specify end times for the burning, to try to avoid having this same problem in the future.

Seneca Sustainable Energy (SSE), Stipulated Final Order (SFO). **Hough** reported that LRAPA and SSE had signed an SFO as part of an enforcement action taken after the facility did not pass its first compliance source test. **Hough** explained that SSE conducted stack testing during April-July 2011 as required by the Air Contaminant Discharge Permit issued by LRAPA. SSE encountered an issue with the testing which appears to be related to the combination of air pollution control equipment installed to reduce particulate matter (PM) and nitrogen oxides (NOx) emissions. When all of the NOx emission controls were operating, including the Selective Non-Catalytic Reduction (SNCR) equipment, the PM emission test results were outside the permit limits; when all of the NOx emission controls except the SNCR were operating, the PM emission test results were well within the permit limits. Engineering testing indicates that the operation of the SNCR equipment may be causing the test method to generate false readings of PM emissions.

**Hough** said the SFO requires SSE to an conduct alternative, more sophisticated and accurate PM stack testing method which does not have that interaction and so is considered more accurate. The alternative test method is also more expensive. The SFO outlines the conditions and penalties for SSE to operate without the SNCR equipment (except during the test itself), until the test results are reviewed and approved, in order to reduce the risk of exceeding the more restrictive PM emission limits. **Hough** said SSE was required to submit the source test protocol, for LRAPA approval, by September 28, 2011; and the source testing is to be completed by October 12, 2011, with a written report documenting the test results submitted to LRAPA no later than 45 days after the testing is completed. If the new PM stack testing indicates compliance with the PM emissions limits with the SNCR operating, then SSE is required to resume continuous operation of the SNCR immediately upon LRAPA approval of the test results.

SSE believes the increased PM emissions shown in their initial test is an artifact of the test method, and they are hoping the more accurate test method will prove that to be the case. They have said they are prepared to not operate the SNCR until they get the results of the new testing back, and **Hough** said that is what triggered the SFO. There are penalties required because there are parts of their permit conditions with which they will not comply if the SNCR is not operating. SSE has agreed to an initial civil penalty as part of the signed SFO. Depending on what the tests show, there could be additional penalties assessed, depending on how much their NOx emissions exceed the permitted limits during this period. **Hough** added that SSE has been committed to doing the more expensive testing and to paying whatever penalties are assessed by LRAPA.

Without the SNCR equipment operating, **Hough** said, the NOx emissions are expected to exceed the 42.3 pounds per hour rolling average permit limit, possibly up to 56 pounds per hour. NOx emissions are considered ozone precursors and are of greatest concern in July-August during the summer ozone season.

**Hough** said the SFO includes the additional testing requirements, compliance schedules, interim emission limits, and specified penalties. The initial stipulated penalty is $9,856; additional penalties of $3,800 to $15,200 are imposed if the NOx emissions exceed the annual permit limit. He added that the SSE emissions during the SFO time period are not expected to cause or contribute to any violations of the ambient air quality standards in the Eugene-Springfield area.

**Hough** said staff knows that there is a lot of interest in this facility. If the more sophisticated testing shows that the facility is able to operate both the PM and NOx controls and meet the permit limits, then the SFO will phase out. If the testing identifies some continuing problem, the SFO will go to Phase II.

**Ralston** asked why SSE is being fined if the SNCR control equipment is causing a false PM reading. **Hough** explained that the test method they chose to use costs several thousand dollars, whereas the more sophisticated testing they will now do is in the tens of thousands of dollars. In addition, there was another alternative they could have chosen, which would have been to put their argument in the case that this is an artifact. What they did not want to do, though, is to take the risk of being wrong and violating the permit limits. **Hough** explained further that PM is a higher priority in Lane County than NOx, especially after August when there is less of an ozone issue. They have chosen to temporarily turn off the NOx controls in order to prove compliance with PM limits. **Hough** said the tests will hopefully show that the facility is in compliance, and they will be able to be back up to full normal operation shortly after the testing is completed; and the SFO will be settled. If the facility is shown not to be in compliance, LRAPA will work through the situation with SSE.

**Parisi** commented that this issue reminds her of when you build a LEED-certified building with really high environmental standards for building efficiency, you go through a process called “commissioning,” which is a test to see if all the equipment that you put on your building, to bring energy usage down to really small standards, actually performs. She said when the city of Eugene, and EWEB, did that very early on, the investment of the substantial amount of money to do the commissioning really did prove whether or not the investments were worthy. Sometimes they do not perform as installed, and you have to do a lot of fine-tuning; and it is worth the extra investment to have the assurance that the equipment is performing as you expected it to perform. **Parisi** asked how LRAPA will know what the accurate particulate readings are at the facility, if the tests keep giving false readings; and what would be the long-term strategy if testing shows that the high readings were not an artifact and a false positive.

**Hough** explained that in the standard test method for a combustion source like SSE, there is a front half that is primarily filtering the particles out; and there is a back half which is an ice bath that condenses particles. What happens is that, because it is an ice bath, the condensibles can be more extreme than what atmospheric conditions would do. He added that some of the salts that are part of the urea addition that’s part of the SNCR process get caught in that, as well, and that has been recognized as a problem. He said it is only when you get down to these very restrictive limits that having a back half complication like that becomes an issue. He said the front-half testing has been better than they anticipated.

**Parisi** asked if it will be possible to back calculate the methodology to back out whatever the false reading is, and **Hough** said that would be the next step, after comparison testing with the other, more sophisticated method. He said the other method is a dilution-tunnel method in which you have this condensible force but you are simulating what the atmosphere does. He said it is the method used for woodstove laboratory testing, but it is very expensive to set up and operate and requires a team of the best source testers to be able to handle this type of a testing operation. If SSE complies using that method, **Hough** said, LRAPA will need to decide whether they will be required to use the same method every time or to use the standard method, which **Hough** said he believes they will be using in tandem with the more sophisticated method for the October 12 source testing. He said they could look at the front half and compare it to the results of the dilution tunnel and also look at the back half and how much it adds compared with what the dilution tunnel adds to the front-half concentration. It may be that the standard method could be used with the information they gather from the comparison testing done on October 12.

**Parisi** asked how frequently SSE will be required to do compliance source testing, and **Hough** said source testing is required to be performed annually, in addition to the continuous emissions monitoring performed at the site. If the annual source testing is not compliant, a source is required to test quarterly instead, until compliance is demonstrated.

**Brommelsiek** asked if the testing is based on PM10, PM2.5 or whole particulate; and **Hough** said it is technically based on PM10 because that was the permit requirement in effect at the time the permit was written. **Hough** added that for combustion processes like this one, PM10 is essentially the same as PM2.5, or all fine particulate.

Woodstove Changeout Program. **Hough** reported that ODOE and ODEQ did an audit of LRAPA’s woodstove replacement program, and they were quite pleased with how LRAPA is operating the program. **Hough** said it has given the other agencies some ideas for improvements to programs in other places. He explained that the funding comes from the US Department of Energy and, in Oregon, the Oregon Department of Energy and the Oregon Department of Environmental Quality are involved. This was the first time that US DOE had someone come to LRAPA and review some of the highlights of the program and how it is being operated.

**Parisi** asked if LRAPA is going to be able to spend all the grant money for the woodstove changeout program in Eugene-Springfield by the November of December deadline and said if there is anything EWEB can do to help market the program, she would be glad to do that. She said EWEB has an electronic newsletter going out in the next couple of weeks, and they have mechanisms to get the word out which might be useful. **Hough** said he believes **Markos** has enough people signed up for the program to use the available funding, in Eugene-Springfield and Cottage Grove. He said the agency’s bigger issue has been making sure the interest level in Oakridge is being fully met, because that area is the higher priority. **Hough** added that LRAPA might be getting another $50,000 for that same program, but **Markos** has enough people on the waiting list to use all of that, as well. He thanked **Parisi** for her offer and said he would be sure **Markos** knows she is willing to help if help is needed.

Complaints.

• *Pacific Recycling*. **Monk** noted that Pacific Recycling had two violations, back to back, and he asked what was happening with that situation and where the facility is located. **Hough** said Pacific Recycling is located near J. H. Baxter. A part of their process is to recycle metal, and some of the equipment that they’re getting for metal recycling has other things on it. If they are not diligent in avoiding fires or quickly extinguishing fires, there is an obvious smoke problem, and LRAPA gets complaints about it. LRAPA is continuing to work with Pacific Recycling to establish a good understanding of the requirements and a strong compliance working relationship with them. **Lucas** noted that they were cited on June 27 for burning rubber hoses, and then were cited again on July 8 for the same thing. He commented that the civil penalty for the second violation went up only slightly, and he wondered at what point the fine would go up substantially to be sure the respondent understands the consequences of violating LRAPA’s rules. **Hough** responded that prior violations is one of the aggravating/mitigating factors that are part of the civil penalty matrix calculation. A subsequent citation for burning rubber hoses is not as big a factor as the overall category into which the violation falls, as far as the size of the penalty. **Hough** said subsequent burning of anything would add to the amount of a civil penalty; however, it would not add substantially. **Lucas** asked if at some point, those subsequent actions do add substantially to the amount of penalty, or if a business might just figure a fine of $1,000 every few weeks is cheaper than changing their practices and just accept periodic fines as a part of doing business; making it to their advantage to continue to violate the rules. **Hough** responded that there are multiple factors which affect the amount of the penalty, such as the level of cooperativeness, the intent of the respondent (whether it’s reckless, intentional or negligent), and those factors can add 10, 20, or 30 percent to the base penalty; however, the penalty will not double or quadruple.

• *Cottage Grove Manor*. **Fleck** said he had an e-mail contact with the board of that facility, and he understands that they are selling the property to St. Vincent DePaul. He asked how that works, when the property changers ownership with an enforcement action pending. **Hough** suggested that **Fleck** get together with himself and **Tom Freeman** to talk about the situation.

• *Northwest Mineral Resources*. **Forge** asked how the enforcement action with Northwest Mineral Resources at Saginaw is coming, and **Hough** said his understanding is that the problem deals with whether a section of land was authorized for use as a road. He said he believed the county had sued the company and has asked LRAPA for input along the way. LRAPA inspector **John Morrissey** has been to the location and has given background information to the county, but it has not related to violation of LRAPA rules or permits. He said that was the case to which **Stewart** had referred at the previous meeting when he commented on **Morrissey**’s level of inspection activity at the site. **Forge** said he has noticed excessive dust events a couple of times, and **Hough** asked him to contact LRAPA if he sees more such events.

Oakridge PM2.5 Advisory Committee. **Brommelsiek** said he had received several agendas for these advisory committee meetings in his packet, but no meeting notes. **Hough** said he had intended to give board members the agendas so that they can see the type of information the committee is covering. He said if board members are interested, he can give them copies of the same information discussed with the advisory committee. **Brommelsiek** said he would like to have a copy of it, or perhaps have it put on the agency’s website.

Cascade Sierra Solutions (CSS) Board of Directors. **Hough** said his term on the CSS Board of Directors will expire in December; and, although other CSS board members have welcomed him to apply for another term, he is not inclined to do so. He said he is very comfortable with where CSS is at this point and is inclined not to continue on that board; however, if the LRAPA board feels it is important for him to continue, he will certainly factor that into his plans for the coming year.

**Monk** commented that, when CSS was first established, he believed **Sharon Banks** had said LRAPA would have a permanent position on its board. He asked if that is still the case and asked **Hough** to get clarification, because he was confident that Banks had told the LRAPA board that the agency would have a permanent seat on the CSS board, whether it be **Hough** or another staff member. **Hough** said he really was asking the board for feedback about how important they believe it is for him to remain on the board.

**Monk** said this item should be placed on the October meeting agenda so that the board can talk about it before the term actually expires.

**Lucas** asked **Hough** to also consider who else at LRAPA might be appropriate to sit on that board, if the board decides to allow **Hough** to step down but still wants someone from LRAPA there.

**Fleck** said he would like to get some background information on CSS. **Mirhosseyni** suggested he look at the CSS website, which has extensive information. He also said he might have an electronic version of the information **Banks** presented to the board in 2010, which he could forward to **Fleck**. **Dinteman** said she would send **Fleck** a copy of the minutes of that 2010 meeting, or get him the specific meeting date so that he will know where to find them on LRAPA’s website.

9. OLD BUSINESS:

A. LRAPA Board Information Binders. Staff will soon have the contents of the binders on flash drives or CDs for board members.

B. Organizational Dynamics and Collaborative Approaches. **Hough** said he had originally put on today’s agenda an item to discuss scheduling board tours of industrial facilities; however, the agenda was too full, and that item was postponed until October. In the meantime, the advisory committee will be discussing it, as well, to perhaps frame some issues for the board to talk about at its October meeting.

**Monk** said he had spoken with **Bob Chadwick** of Consensus Associates, who had suggested that having some face-to-face meetings between board members and industrial facility managers would be a way to engage industry and build a better working relationship between industry and LRAPA.

C. Air Toxics Program Development Committee. **Brommelsiek** reported that the committee discussed the efforts underway to develop the plan for the Oakridge PM2.5 nonattainment area. Staff will be looking at the effect of the woodstove changeout program on fine particulate levels; and, if the program is not adequate to reduce those levels sufficiently to meet the new standard, the Oakridge advisory committee will need to look at additional changeouts and more restrictive wood-burning practices. **Brommelsiek** noted that more than half of the business of replacing the old, uncertified woodstoves in Oakridge has come to Springfield businesses.

Air toxics monitoring has stopped at both the Amazon Park and Petersen Barn sites, due to lack of funding. Final analysis of the sampling which has been done at the two sites is still being completed. When all the information is in, hopefully in about a month, the committee can look at the comparison between the two sites, which should help to determine where LRAPA should go from here with regard to air toxics.

Much of the last PATSAC meeting was devoted to discussion of environmental justice, and they have come up with a technique using census tract information about minority populations, and overlaid that with the information on potential long-term exposures identifying those census tracts that have elevated levels compared to the average. They are using that in their decision-making, regarding which control strategies to propose, to address air toxics in the Portland area. The LRAPA committee talked a bit about what direction LRAPA should take. **Brommelsiek** said the biggest question was how much of what PATSAC has done can LRAPA steal to use in Lane County. There was a sense that the committee believes the area and residential wood combustion, on-road, off-road equipment emissions, etc., are probably similar in Lane County to what has been found in Portland; however, the point source information from PATSAC probably is not as usable, because Lane County’s point sources are not that similar to those in the Portland area.

**Brommelsiek** said the main questions the committee is working with, regarding the PATSAC data are:

• Does adopting PATSAC’s environmental justice tool for Lane County make sense?

• What processes should we follow, if we decide to move forward with some of the results of the PATSAC study?

• How should we go forward in Lane County?

• Can we assume that air toxics chemistry is similar in Portland, vs. Lane County? This is something scientists will need to review.

• What are DEQ and EQC going to do for follow-up to the PATSAC? If they accept the committee’s recommendations and develop some programs that are appropriate for Portland, perhaps LRAPA can adopt them for Lane County, as well.

• Are there any legal or regulatory limitations on what, or how, LRAPA can move forward?

**Brommelsiek** said the committee will likely meet again early in November, assuming that the combined results are back from Amazon Park and Petersen Barn monitoring.

D. Personnel Policy Review Committee. **Monk** reported the committee went over the draft personnel policy manual, and he had a few suggested changes. He said he thinks the draft is close to being ready to bring to the board. He said he knew that staff were still getting information, and **Hough** said he is waiting for legal review of the insurance benefits portion of the manual. **Monk** said **Sharon Rudnick** had advised the committee not to be too specific in what is included in the manual, with regard to insurance and other things that could change periodically, to avoid having to change the manual, itself, too frequently.

**Monk** said once the legal review is completed, the committee will get the draft manual to the board. He said **Hough** had brought a request to the committee, regarding the agency’s ability to borrow money, and that it would be easier to do that if LRAPA had an organizational commitment from participating governments, support LRAPA. **Monk** said **Fleck** and **Stewart** were both unsure whether that would be possible at this time. **Hough** explained that a five-year commitment by the local participating governments would be helpful for the personnel policy, regarding retirement plan decisions. There has been some discussion of going with a PERS hybrid plan which would have less liability than the traditional PERS plans but would provide a better retirement for employees. Going to such a plan, however, would require that the agency continue to exist for a minimum of five more years, because it takes five years to employees to become fully vested in the plan. If the agency were to be eliminated prior to that, the amount put into the plan by employees would still be there for them; however, the amount put in by the agency would be lost. **Hough** said a second way to get into the PERS hybrid plan would be to have a line of credit, secured by the office building, and that would have to be endorsed by one or more of the IGA partners, to allow LRAPA to go lower on its reserves in tough financial times than would otherwise be possible. **Hough** said that will be part of the committee’s conversation at its next meeting.

**Monk** said there are some possible legislative changes which the board had talked about, and a lot of the statutory language that creates LRAPA might be modified if the five-year commitment were achieved, from any or all of the partner governments. He it is not clear whether the up-coming sort legislative session would be the right time to make those requests. **Hough** said the short legislative session is intended more for fine-tuning the budget and other adjustments, rather than for substantive discussions.

**Ortiz** said LRAPA should be very cautious about taking this kind of request to the Legislature, because once you start making that kind of changes, you don’t know what the end result will be by the time the request makes it through the legislative process. It could be problematic down the road. She sais she understands that, at this point, the five-year commitment is just a concept, and that the committee will not make any decisions about it without first bringing it to the full board.

**Fleck** reiterated remarks he has made at other meetings, that the Cottage Grove City Council believes that, if the city is expected to pay dues to LRAPA, it should have its own full-time seat on the board. He said it is a big issue for the council and must be taken into consideration when talking about changing the statutory language governing LRAPA.

10. NEW BUSINESS:

Performance Measurement Tools. **Monk** said he hoped this year’s evaluation of Hough’s performance as director will produce some additional performance measurement tools for use in future evaluations.

LRAPA Use of Civil Penalty Money Paid to the Agency. **Brommelsiek** noted the conversation at the July meeting regarding the penalties collected by LRAPA going to Lane County, and possible legislative change or discussion with the county, to have that money given back to LRAPA for use in air quality programs. He said he would like to put the subject on a future agenda so that the board can develop a path forward.

**Parisi** again cautioned the board about the risk involved in opening up legislative change, especially at the state level, because you don’t know what you will get by the time your request goes through the legislative process. She said broader conversations with individual legislators would help to evaluate the risks and the chances of success. **Parisi** suggested that, rather than trying for a legislative fix, an intergovernmental agreement with the county should be explored. **Monk** agreed, and said the county does not earmark those funds because it is not known, from year to year, how much money will be collected by LRAPA and forwarded to the county. Perhaps if the county were not in a position to contribute, that money coming from LRAPA could be used as the county’s contribution.

11. EXECUTIVE SESSION FOR DIRECTOR’S PERFORMANCE EVALUATION: The board went into executive session, with the intention of coming back into open session afterwards. Open session resumed at 3:05 p.m., and members of the audience who wished to do so were invited back into the room for the remainder of the open session.

12. RESULTS OF DIRECTOR’S PERFORMANCE EVALUATION AND MERIT REVIEW: No action was taken at this time.

13. MEETING WRAP-UP AND NEXT STEPS: The board will discuss, at its October 20 meeting, the strategic plan and updated priorities. **Monk** said he would like to do some scenario planning and determine what the board can do to help support LRAPA and provide a greater sense focus. **Monk** also suggested that board members use **Brommelsiek**’s comments to help redo the director’s performance evaluation form, including any different management review evaluation points brought up under the strategic plan and updated priorities discussion.

14. ADJOURNMENT: The meeting adjourned at 3:10 p.m. The next regular meeting of the LRAPA Board of Directors is scheduled for Thursday, October 20, 2011, 12:15 p.m., in the LRAPA meeting room at 1010 Main Street in Springfield, Oregon.

 Respectfully submitted,

 **Merrie Dinteman**

 Recording Secretary