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Environmental, Energy & Technical Committee Meetings

June 9-10, 2009
Radisson Hotel, Reagan National Airport
Arlington, VA
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M I N U T E S

TUES-WED JUNE 9-10, 2009

CIBO JUNE 2009 COMMITTEE MEETINGS

FOCUS GROUP SESSION

Improving Energy Efficiency by Integrating Energy Supply with Energy Demand

Fundamental Approach to Energy Management –
Ken Lesher, Albemarle Corp.

Ken developed and implemented a global energy management process for Albemarle in 2005 in response to rising energy prices. Albemarle is the result of the split of the Ethyl Corp. into two companies. The petroleum additives retained the name Ethyl Corp. and the chemicals company became Albemarle Corp. with $2.4 in annual sales and 13 manufacturing sites around the world. Of these, 7 sites are in the US. The program, as implemented, resulted in a 14.3% energy reduction over a 3 year period (1.8 trillion BTU/yr). About 3/4 of the savings came from the US plants as the EU plants already had a stronger energy efficiency culture.

Energy management is the managing or controlling of energy usage by maximizing the efficient use of a minimal amount of energy to do the desired job or task. It is a continuous energy efficiency improvement process. It is more than just cost reduction projects. A culture for energy efficiency is important as well as the tracking and controlling of energy utilization and its improvement. The basic objectives of an energy management program are to improve overall energy utilization/efficiency, reduce energy costs, and implement energy utilization tracking and control processes. Efficiency improvements include eliminating the need for the energy or eliminating the task itself, as well as minimizing the energy consumed for the task and maximizing the recovery of lost or rejected energy.

Maximizing recovery of lost or rejected energy involves looking at all the sources of rejected heat and attempting to match up the requirements for other parts of the plant. Cost reduction sometimes favors cost over efficiency (as in the case of cheap substitute fuels). Implementing energy utilization tracking and control processes are critical to success. Without measurements, it is impossible to know where the losses and inefficiencies are. All key energy values need to be defined and measured. Meaningful energy utilization and cost trending capability are important. An effective energy efficiency culture is required to sustain the gains that are developed. Improved work practices, industry best practices, and employee training are needed. As part of the culture, other benefits (environmental, safety, cost, etc.) should be maximized.

A multi-step process was developed because everything can't be done at once. The 80/20 rule applies (80% of the benefits from 20% of the opportunities). Also, 20% of the people control 80% of the energy consumption. Thus, people solutions are 80% of the answer. A "Best Practices" document is a powerful tool to enhance consistency, generate new ideas, and improve culture. Tracking and reporting progress is essential. Measurement of the key energy variables is critical. Data analysis and trending is also important as it is very difficult to infer success from "bottom line" costs. Prices change, volumes change, and other costs change with time. Measurement and trending provides sustainability of improvements, identification of future opportunities, and verification of improvements. All forms of energy inputs and users should be reviewed and monitored.

Energy management is a top down process requiring keeping management involved. Albemarle implemented a 4 tier program. The first tier was the low to no capital project approach (low hanging fruit). These include energy audits, fixing leaks, improving operations, and installing measurement devices. The second tier involves higher capital project costs with potentially lower, near term financial returns. Projects should not be rejected due to low capital returns as energy prices change. At a future date, the project may show good returns. More formalized idea generating and screening processes are needed. Formalized tracking processes are needed. Tier three involves the operating discipline needed to make work force behavior changes. Enhance employee awareness by displaying the data showing the progress toward the goal. Measurement and gap analysis shows the progress. The energy goals have to be tied in with the site operational performance and compensation benefits.

The fourth tier is the long term strategic intent with energy management. This involves significant corporate management commitment and involvement. Awareness of the benefits, beyond pure economics, are important (emissions reductions, "green technology", local involvement, etc.). Higher level technologies need to be considered. Energy management needs to be involved in new plant designs before construction. The goal is competitive advantage. Energy improvement targets and expectations need to be set with top management. Formal cross functional site management teams are needed with an energy champion. An idea generation process needs to be implemented. Energy consumption assessments need to be carried out. Material balances, energy balances, process flow sheets, and utility flow diagrams are essential to identify opportunities.

Energy distribution systems are a key part of many plants. The steam distribution system doesn't always show up on someone's score card. All forms of energy need to be evaluated. Employee involvement is important to maintain "buy in" and momentum. All ideas need to be documented and periodically reviewed. Energy pricing is very dynamic. Completed projects may enhance previously tabled ideas. New technology may be able to bridge the gap on economics. A priority list needs to be established to fit with resource and capital allocations. A comprehensive site "Best Practices" document needs to be developed and implemented. Site purchasing practices need to be reviewed. New technologies need to be evaluated to further reduce energy consumption.

DOE and American Chemical Council (ACC) have a number of documents and software tools that can prove helpful. The ACC also has Energy Efficiency Awards which provide recognition and momentum for the energy management process. A brief example of a steam trap maintenance program was reviewed. A steam trap survey was done once a year. A database was created that identified every trap with location, number, stainless steel tag, and documentation. The traps should be tested using ultrasonic leak detection equipment and an infrared thermometer. Steam trap selection should be confirmed according to required specs. Audits should include steam traps.

Weekly site "walk arounds" should be conducted. Manufacturer audits should be done every 2 years. Receiver vents should be monitored by the operating units and checked daily.

Real Time Energy Management and Optimization Systems –
Oscar Santollani, Soteica, LLC

Soteica has implemented real time energy management and optimization systems (RTEMOS) at over 20 companies. The early development of these systems came from the MESA simulation system developed at DuPont in the 1980s. In the late 90s, closed loop simulations and controls were developed. Some sites are cogeneration plants are some are interested in greenhouse gas (GHG) emissions.

An RTEMOS is online and connected to the site's real time, site wide, data logging system that includes all utilities (chilled water, cogen, steam, fuels, GHG emissions, etc.). Every 15 minutes, the system takes a snapshot of the site and calculates the overall consumption and energy efficiency of the system. It then tries to minimize the consumption or optimize the efficiency through the links with the control system. All of the site personnel can utilize the system including utilities operators, engineering, process operators, instrumentation engineers, and other system operators. Having a centralized system brings consistency and transparency to the system. The data is sent back to the Plant Historian database from which the KPIs and trending data can be retrieved. Thus, the main uses are monitoring, KPI calculation and recording, auditing, accounting, sensitivity analysis, and optimization.

A case study from a refinery operation in Spain was shown. The data chart showed the gap between the actual cost of output against the target cost of output. The initial data showed a wide spread of gaps. With the decision to fully utilize the system, the operations tightened up immediately (i.e. variation was greatly reduced). Further, the gap value was reduced just with better operations. As energy savings projects were implemented, the gap was further reduced and the variability of the gap figures tightened even further. A savings of 2 million euro/yr were realized. Air Liquide had a similar experience for the production of industrial gases. Extending the realized benefits includes "time of day" or "take or pay" systems, validation of KPI calculations, and a continuously vetted model for process modification studies.

Going back to the previous presentation, there is a lot of value up front in having this model available. This includes getting the P&IDs corrected and making sure the mass and energy balances really work. In Tier 1, the optimization system is generally a "no capital cost" system. The data provides direction for where the focus should be. It provides the means to balance the system. In Tier 2, the system can be used to show the impact of proposed capital changes on the plant. In Tier 3, the system becomes the "energy watch dog" that keeps everyone focused on minimizing energy cost. It also becomes the energy KPI calculation engine. Finally, in Tier 4, once a validated model is in place, production planning can done to adjust production to take advantage of variations in energy pricing.

A sample from the Rohm and Haas Deer Park facility showed the high level front page showing the steam and the fuel systems. Clicking on these icons allows the user to "drill down" into the plant down to the final details (individual valves, traps, and sensors). The model keeps track of the imbalances in the calculations. In terms of rejecting a calculation, if the imbalance is relatively

steady, the trend line data will still be useful. The system interfaces with XL spread sheets. Thus, existing spread sheet summary sheets can be populated with valid data.

For district energy or college campuses, utilities are the core business of these suppliers. The RTEMOS already has the software for the typical system, so no major modifications are required to the software. The cogen model, GHG model, and alternate fuels model are included. The system helps operations to run at minimum energy cost in real time. It ensures that everyone is working with the same information. The constant validation provides the common check point for all energy project evaluations. It becomes the foundation of the energy KPI program. For refinery applications, the energy real time system interfaces with the process real time system in an effort to optimize overall operations.

ENERGY COMMITTEE SESSION

Frederick P. Fendt, The Dow Chemical Company, *Energy Committee Chairman*
Robin Mills Ridgway, Purdue University, *Energy Committee Vice-Chairman*

Bob Corbin introduced John Stier and Eric Malinowski of Delta Global Corporate Consultancy, one of CIBO's newest members. Bob also introduced John Sutton of ENTEC Services as a guest. Oscar Santollani of Sotieca was also present as a guest. Kristin Calabrese of Eastman Kodak will also be a guest. Fred gave the antitrust admonitions. The usual round-the-table introductions were done. The minutes of the last meeting were approved.

Council on Energy Efficiency Manufacturing –
Fred Fendt, The Dow Chemical Company

The DOE has established and independent entity to certify efficiency improvements in manufacturing. This NGO could fit in nicely with CIBO as an organization that helps to improve the efficiency of manufacturing plants. The ASME Standards have already been written and are maintained by ASTM. DOE would like an independent organization (like CIBO?) to be the administrator of the program. The actual certification work would be done by a contractor. There is also the likely need to provide certifications for the GHG reductions which might get credits for efficiency. Eventually it is hoped that these standards would become ISO standards. The GHG registries would not get into the details of certification, but would keep track of the recorded savings. There are 3 levels of audit: self audit and self verification, self audit and outside verification, and full audit and outside verification. DOE has formed a working group to look into this. They would like to get something started by the end of the year. It was agreed that CIBO would investigate how this concept might be organized including timing and any restrictions that might be imposed on CIBO. The results of the investigation will be reported at the next meeting.

2009 Energy Bill –
Marc Yacker, ELCON

Marc is the chair of the Manufacturing Energy Group (MEG) that meets to share common problems and issues. It is not a lobbying group. ELCON represents consumers of electricity. The Energy Bill

in the House has to go to 8 other committees in the House. Speaker Pelosi has asked for review by the committees by June 19th, but this does not appear likely. A Senate bill has yet to be formulated. Eventually any bill would have to be reconciled by a conference committee before being passed by both houses of Congress.

Issues identified by MEG include renewable energy standards or portfolios. This has been a problem in the past. However, some members making consumer goods may embrace this kind of standard. The House bill is calling for 20% renewables. Another issue is demand response.

The issue for demand response is compensation. If a company cuts back on demand during peak periods, there should be compensation. The related issue is the "smart grid". This concept involves the demand side and the supply side being in electronic communication with each other. Maintenance of the grid would benefit from improved technology. However, expenses need to be justified. Estimates for implementing the "smart grid" range from $1 - 2 trillion over the next 10 years.

Another concept that has been put forward has been "revenue de-coupling". The NAM and ELCON are vehemently opposed to this concept in both theory and practice. Environmental groups and some utilities have supported this concept, but again, costs only go up under this concept and consumer groups have been opposed.

Combined heat and power needs to be addressed. The Energy Policy Act of 2005 repealed PURPA for areas of the country where competitive markets for electricity exist. Since then, the FERC has decided that competitive markets are predominant in many parts of the country. Industrial users have disagreed.

Transmission systems are another concern. Transmission siting comes under state jurisdiction. This presents problems as transmission lines, like pipelines, benefit the people at the ends of the lines, but not the people in the middle. This brings up issues of who pays for what and how much.

ENVIRONMENTAL COMMITTEE SESSION

Maxine D. Dewbury, The Procter & Gamble Company, *Environmental Committee Chairman*
Ann McIver, Citizens Thermal, *Environmental Committee Vice-Chairman*

Boiler MACT –

John DeRuyter, E.I. DuPont de Nemours & Co.

John reported on a number of subjects under MACT. The ICR testing phase 2 letters have gone out. However, there have been some letters that have been either rescinded or replaced. John noted that some units that were dropped in the past have been added back in. These might have been due to either mistakes in the first requests or additional test requirements. In addition, more HAP requests have been added to the test requirements. EPA is conducting a webinar on June 18th covering testing. Space is limited so interested parties should sign up soon. On PM, condensables are being requested. There is limited experience for testing companies with the new testing protocols for the condensables. There are special considerations for glassware and temperature that need to be

adhered to. Preparation work is quite intense. The letters with the enclosure should be included in any RFQs for testing as there are footnotes that require heavy metals to be done simultaneously with the PM testing. Boilers that swing load would make measurements over the load range as part of normal operating conditions. PM 10 is not being requested.

PM 2.5 is being requested on the grounds that the probe will fit inside a 4 inch port (instead of a 6 inch port). Soot blowing was suggested during at least one run. Existing PM limits based on method 5 should not be compared to results obtained with condensables. State agencies should be notified in advance to avoid issues of missing the PM limit during the test. Dioxins and furans are appearing on the list. This is being forced on EPA by the Brick MACT decision. The non detect issue is still confused. The EPA would rather see hard numbers. Tests should be run longer if necessary. Some units have tested at 6 - 9 hours and still got non-detect levels. This gives rise to the question of what limit the standard should be set at. One proposal is that the standard for non-detect would be half the detection limit. The risk for MACT is that a "zero" measurement for the "best 12%" would force a "zero limit" for MACT.

With regard to the 112(j) and 112(g) Hammer determinations, E.I. DuPont de Nemours & Co. submitted part 1s and part 2s for their plants. West Virginia asked for additional information. Citizens Thermal also submitted, but Indiana has not asked for anything. Georgia Pacific submitted and has learned that in the Pacific Northwest an eNGO plans to file law suits against those that have not submitted part 2s.

On the July proposal date, the testing results will not come in until October. EPA will write something for July and ask for an extension to December. Some environmental groups are willing to see a delay with the idea that states would use case by case MACT after December. Absent a rule, the states are free to use the NACAA model rule, which has much tighter CO numbers than the former Boiler MACT rule. In North Carolina, only pristine wood is being treated as fuel. Any other wood is being treated as waste and would be classified as a CISWI unit. OSW is still looking at July 15th for a definition of solid waste. Interacting with this, are the proposed bills in the House and Senate with regard to what constitutes biomass or renewable fuels for the climate change bills.

The Health Based Compliance Alternative, HBCA, may only appear in the preamble as an expression of willingness to accept comment on the methodology. If such a sentence is not in the preamble, the issue will be closed. It there is a sentence, there is a slim chance that a state might approve such a method. The environmental groups are vehemently opposed to HBCA. The floor methodology that was proposed by AF&PA (taking into account the fact that one single unit could not meet all of the MACT limits at the same time) has not been favorably received by EPA.

CO2 Legislation/Regulations –

Rob Kaufmann, Koch Companies

The EPA GHG Reporting Rule is taking comments. Key issue include levels of detail and accuracy, timing, CBI, compliance certifications, once in-always in, CO2 not a "regulated pollutant", and reporting threshold and de minimis. With EPA wanting measurements submitted in March 2011 for emissions in 2010. Unit level fuel data is a problem for confidential business information (CBI). While this data could be made available to EPA, it is not desirable to have it available to the public.

Compliance certifications are being based on the cap and trade programs rather than reporting requirements. The emissions threshold is at 25,000 tons/yr. Comments are suggesting 50,000 tons/yr or up to 100,000 tons/yr. Georgia Pacific has been tracking CO2 and other GHGs since 2000. These company records have been 3rd party certified. Fuel purchases, steam flows, etc. are used to calculate GHG emissions. EPA has indicated that current wording was purposely vague. However, comments might push the wording to more stringent requirements. Compliance certifications are another matter. EPA wants to use Title IV type certifications (including a personal representative review). EPA indicated that this approach would avoid the need for 3rd party certifications.

Comments are due on the EPA's proposed endangerment finding by June 23rd. The final finding "will not itself impose and requirements on industry". This finding addresses the Mass vs. EPA Supreme Court decision. Mobil source rules would be paired with a final rule. Key issues include human health vs welfare finding (weather is part of welfare), precedent for stationary sources, litigation and court orders to EPA, Johnson Deseret guidance, and Congressional action. PSD/NSR issues are a problem. Although EPA can set de minimis levels, there is still the major and minor source categories of 10 ton/yr of one pollutant and 25 ton/yr of a combination. With regard to BACT, right now, EPA only has energy efficiency as an available control technology. Energy efficiency audits could become a compliance requirement. The NSPS issue would come up and refineries, cement plants, and boilers are mentioned. The eNGOs are targeting coal fired utility plants, refineries, cement plants, steel plants, and adipic acid plants.

The Renewable Fuel Standard in the 2007 Energy Act is out for comment. One big issue is corn based ethanol life cycle accounting for CO2. This may push cellulosic ethanol. Regional activities include the Western Climate Initiative, which is still California driven. Several states have voted down efforts to join the WCI cap and trade program. Reporting rules seem to be going forward. There may be more focus on complementary activities. The Western Governors report released a statement that a cap and trade would only be implemented if a federal program failed.

The Waxman-Markey bill passed out of Committee in the House. It now goes to other committees. There are slightly less stringent 2020 targets (17% vs. 20%). A GHG registry would be required with 6 months of passage. Industrials would not be included until 2014. Sources that must hold allowances are those burning coal and natural gas (and non-renewable biomass). There will be some "free" allowances. Some 15% of allowances will be reserved for energy intensive trade sectors to be identified by EPA (iron, steel, cement, and paper mentioned). These sectors must meet energy intensity requirements. The system will be output based. The plant output times the sector average of GHGs/unit output sets the allowance. There is a renewable energy standard. There is a proposal for a Carbon Sequestration Corporation to be set up under the EPRI. NSPS would not be put in place until 2020. There are banking and borrowing provisions.

Short Stacks vs. Tall Stacks –

Jay Hofmann, Trinity Consultants

One argument about environmental impacts is that short stacks do not have the long range transport characteristics of tall stacks. Industrials have shorter stacks and utility plants have tall stacks. Thus, impacts from short stacks down wind might be less than a tall stack. However, if the model assumptions are that there is no removal of a particular compound at ground level, then the mass is conserved and downstream mixing in the vertical direction would tend to be uniform. The CALPUFF model does not take out chemicals that reach the ground. Thus, at a great enough distance, the

calculated result from a tall stack and a short stack is the same. The other assumption in the calculation is that there is a mixing cap at a certain height in the atmosphere. This cap traps chemicals below a certain height. For very tall stacks, the gases are emitted above the mixing cap and cause very large transport distances. Of course, there is not perfect reflection of compounds at the surface. Chemicals are depleted by contacting leaves, soil, and water. As a result, these chemicals are not available for downwind transport. The point of the exercise is that we need to be careful about using the statement without looking at the appropriate situation.

Condensable Test Methods Update –

Maxine Dewbury, The Procter & Gamble Company

This material was put together by **Patty Strabbing** of Chrysler LLC. The new methods have been posted in the federal register. EPA sought comment on ending the transition period in 60 - 90 days from the date of promulgation instead of Jan. 2011. The various groups commented to EPA and requested the transition be extended until Jan. 2014. More than 2 years have elapsed since EPA first articulated the need for a transition period. Modifying the method is only the first step. The new test is now RM201A. The modification to the method is the addition of a second cyclone. Additional comments include small stack diameters, sampling time, sampling port size, and additional glassware. Proposed changes to RM202 include a new nitrogen purge to remove SO2 from the gas. Also, the method need not be applied to stacks at 30 C or less (and therefore have no condensables). The next steps include finalizing the methods, using the methods in the field to acquire additional data, and continuing to advocate that EPA pursue efforts on developing an air dilution (conditional method CTM039). A stakeholder process similar to that used for the newly revised RM202 should be pursued.

Litigation Update-

Lisa Jaeger, Bracewell and Giuliani, L.L.P.

On NSPS, the case was fully briefed last year, but delays have caused the oral argument date to Sept. 14, 2009. The panel that was drawn was the one that rejected CAMR. In this case, there are no strict industrial issues. However, decisions in this case will effect everybody. In particular, the definition of a source against an emissions control system is at stake. This comes in the pressure to consider IGCC as a source or as a control technology. If it is considered a control technology, then plants must consider IGCC for any coal fired plant. Another position is the requirement for EPA to set limits for all pollutants. The environmental groups are arguing this case as an authority of EPA under the act rather than a need to do more homework on a particular rule. EPA was also challenged on its failure to set GHG limits under NSPS. This issue was severed from the case. It has languished for the moment.

On the ozone NAAQS, the briefing has been suspended. The case has been held in abeyance. EPA must inform the court and the parties of the action that it will take.

On the CEM rule revisions (protocol gas verification program), the suppliers brought the challenge since the proposed change was made without review and comment. The case is in abeyance pending discussions amongst the parties.

On the Start up/Shut down/Malfunction issue, the industry coalition requested a rehearing en banc and a stay of the mandate. EPA opposed the rehearing en banc. A decision by the DC circuit is expected in June.

On the Johnson memo, a law suit was filed before EPA issued a statement saying that they are reconsidering the memo. This case is also in abeyance.

Comments are due on June 23rd on the endangerment finding. Comments are due on the EPA supplemental to the coal prep plant NSPS on July 13th. Comments on the Portland Cement MACT are due in September.

Section 185 fees are triggered for severe ozone regions that have not reached attainment. The fees are applied to emissions that are greater than 80% of the baseline levels over the last 10 years. The fee levels are on the order of $8 K - 9K/ton. CT is one of the states in severe ozone non attainment.

CAIR Update –

John DeRuyter, E.I. DuPont de Nemours & Co.

John pointed out that a meeting was held with EPA on CAIR at EPA's request. The last trend report shows that NOx and SO2 emissions have trended down. The CAIR projections showed further reductions. A marginal cost curve showed that the 2015 limits proposed in the CAIR of 1.3 million ton/yr of NOx and 2.6 million ton/yr of SO2 came out at $1,500/ton Nox and $1,800/ton SO2. Cost estimates for smaller industrial boilers range from $2,300 - 23,000/ton NOx and $1,000 - 10,000/ton of SO2. This data came from the OTC study data using the EPA developed CUECOST program with input from CIBO. These studies were done at 66% capacity factor. For those units that swing load and have wide seasonal variations, the capacity factor would be lower and the costs would be higher. The modified ICCR database was used to demonstrate the large number of industrial boilers (over 46,000) and the wide range of types and sizes of industrial boilers. By far, the largest number of industrial boilers are natural gas fired (nearly 40,000 boilers). Industrial units burn a lot of "other fuels". This data indicates that the EPA projected reduction costs for industrial units is too low and that natural gas is the primary fuel for many of those boilers. In terms of fuel input (TBTU/yr), "other fuels" (biomass, refinery gases, opportunity fuels, etc.) tends to dominate, followed by natural gas, and then coal.

Rob Kaufmann pointed out that the states are being pressured for additional reductions as the new ozone NAAQS have created more non-attainment areas. Most of these states have already gotten major reductions at utility units and are now looking to industrial units for additional reductions. EPA is evaluating a command and control program, a trading program, and a hybrid program that started with a command and control level with trading for additional reductions.

RICE Proposals and Issues –

John Kuhn, Celanese

The RICE (Reciprocating Internal Combustion Engines) proposed rule was published on March 5, 2009 in the federal register. It is intended to cover existing RICE at area sources, diesel type engines left out of prior rules. The proposed rule is confusion because of the number of classes of units

including engine types, new or existing, horsepower, major/minor/area, emergency vs non-emergency, and limited use over 500 hp. There are no exemptions for any RICE at area sources, or for any RICE less than 500 hp at major sources. There are some exemptions for large units from the old rules. The EPA has assumed that uncontrolled emissions from RICE are not affected by SSM events.

MACT standard was established based on no-control levels. SSM was assumed to be the same. The exemption from compliance during SSM was removed. However, the language that indicates that exceedances during SSM are not considered violations was left in the rule. There is no fuel category except for landfill gas. For area sources, nearly all engines are included. This would mean that a home emergency generator could come under this rule. There are over 1.6 million existing engines deployed in the US. For area sources and existing units, management practices prevail and maintenance requirements have to be followed. Operational checks, maintenance, and readiness testing is allowed, but limited to less than 100 hours/yr.

Existing emergency engines between 50 and 500 hp at major sources are subject to limit emissions for 40 ppm CO for diesel and 2 ppm formaldehyde for spark ignition, but with no requirement for testing. Existing emergency engines greater than 500 hp are exempt under the existing rules. Test data was limited. There were only 10 tests on one unit for CO emissions for diesel engines. EPA took the best test (one test) from that data set and used that to make the MACT floor for all diesel engines. EPA is soliciting comments on the regulation of metallic HAP, distinguishing between rural and urban areas, the use of diesel particulate filters, and special fuels (ultra low sulfur diesel).

RCRA Ash –

Gary Merritt, Inter-Power/AhlCon Partners, L.P.

The debate has been restarted on the regulation of coal combustion byproducts under subtitle C or subtitle D of RCRA. The CCBs were under subtitle D. The new administration, the TVA spill, the environmental push against coal, and the requirement for federally enforceable limits has raised the issue again. EPA has ample authority to enforce subtitle D rules. Recycling and reuse programs will essentially end if this material is regulated under subtitle C (potential liability issues). Support is needed to get state and federal highway programs to write to EPA concerning the use of CCBs in highway construction (CA is the biggest user of CCBs for highways), state legislators, and other federal programs. CIBO is preparing education material on CCBs. Robin Ridgway, Purdue University, has prepared drafts for discussion. PA wrote to the new EPA Administrator (Lisa Jackson) supporting regulation under subtitle D. Beneficial use has to be monitored more frequently. The monitoring time period has been extended. Also, in the event of a problem, the ground water has to be cleaned up to Brownfield Standards.

CIBO Looking Forward Strategy –

Rob Kaufmann, Koch Companies, **Ann McIver**, Citizens Thermal

Multiple rules impacting boilers are coming up. These include Boiler MACT, CISWI, Boiler GACT, CAIR, Regional Haze, PM2.5, Ozone, SSM Vacatur, NSPS updates, GHGs, and NSR "reform". This plethora of regulation is not particularly well coordinated. Education of key decision makers about the cumulative impacts in light of the current economy could be helpful. Arguing for EPA discretion

where it exists can help. Identifying allies could be important. Finally identifying what can be proposed as an alternative can help demonstrate environmental responsibility.

GOVERNMENT AFFAIRS SESSION

Karen J. Neale, International Paper, *Government Affairs Committee Chairman*

Legislative Activities –

Karen Neale, International Paper, **Lisa Jaeger**, Bracewell and Giuliani, L.L.P.

The American Clean Energy and Security Act (HR2454) (Waxman Markey) has passed out of the House Energy and Commerce Committee and will go to several other committees for comment. Speaker Pelosi wants the bill to come to the floor before the July 4th recess. This seems unlikely as the number of interests involved are rather large. The Senate has indicated that it will likely work with the House bill should the bill get passed in the House. The Administration is pushing for a bill that could be successful before the December Copenhagen meeting. The American Clean Energy Leadership Act of 2009 is being marked up in the Senate. A number of Titles have been completed, but a number are still under preparation. The definition of renewable fuels (or at least what is included in renewable fuels) is part of this bill. The preliminary markup looks to be broader and proposes to modify Section 203 of the Energy Policy Act of 2005 (42 USC 15852). The definition covers 6 pages. The capture section is still in preparation.

Next, Environmental, Energy & Technical Committee Meetings
TUESDAY & WEDNESDAY, September 15-16, 2009
Radisson Hotel Reagan National Airport
2020 Jefferson Davis Highway
Arlington, Virginia 22202
Ph: 703-920-8600 ~~~Fax: 703-920-4033