Appendix D to
Concise Explanatory Statement
Chapter 173-442 WAC
Clean Air Rule
Chapter 173-441 WAC
Reporting of Emissions of Greenhouse Gases

Transcript from July 12, 2016 public hearing

September 2016
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Appendix D to
Concise Explanatory Statement

Adoption of
Chapter 173-442 WAC
CLEAN AIR RULE

and

Amendments to
Chapter 173-441 WAC
REPORTING OF EMISSIONS OF GREENHOUSE GASES

Prepared by
Capitol Pacific Reporting, Inc.

Air Quality Program
Washington State Department of Ecology
Olympia, Washington
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PROPOSED AMENDMENT OF GREENHOUSE GAS REPORTING RULE
CHAPTER 173-441 WAC

and

PROPOSED NEW CLEAN AIR RULE, CHAPTER 173-442 WAC

JULY 12, 2016

Davenport Grand Hotel
333 West Spokane Falls Boulevard
Spokane, Washington 99201

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MS. BALDWIN: Okay. I'm Karin Baldwin, the hearings officer for tonight's action.

This evening we're conducting a hearing on the proposed amendment to the Greenhouse Gas Reporting Rule, Chapters 173-441 WAC, and the new proposed Clean Air Rule, Chapter 173-442 WAC. We have a court reporter with us tonight who is transcribing the hearing.

Let the record show it is 6:39 p.m. on July 12th. And this hearing is being held at the Davenport Grand Hotel, 333 West Spokane Falls Boulevard in Spokane, Washington. Legal notice of this hearing was filed in the Washington State Register, Number 16-12-098, on May 31st, 2016. On June 1st, 2016, Ecology issued a statewide news release on the rulemaking and hearings.

Ecology also placed information on their website for the rule and in the online public calendar, and announcements went out by e-mail to the Clean Air Rule e-mail distribution list, the Air Quality Rule and SIP listserv, the Greenhouse Gas Reporting listserv, Washington Carbon Reduction listserv, and the WAC Track listserv. Ecology sent a reminder about the public hearing dates and times to the Clean Air Rule list on July 6th, 2016.
So I will call people up to provide testimony based on the order your name appears on the sign-in cards. Once everyone has indicated they would like to testify has had the opportunity, I will open it up for others. Each person is given one opportunity to comment. You can summarize lengthy or similar comments and submit more details in writing by July 22nd.

If people would like to testify as a group, they will be given the same amount of time as an individual commentor, three minutes. And due to the number of people we have testifying, you are not able to give your time away to another commentor.

Remember, comments should be about three minutes. And after that, with 30 seconds remaining before you reach that limit, Angie is up front and she will hold a sign to let you know you need to summarize your comments so the next person can come up to testify.

When I call your name, please come up to the stage and sit right here next to me. Because we want to make sure we get a good recording of your comments, please speak into the microphone. If you haven't given us contact information, such as an address or e-mail, please do so before you begin, or provide this after the hearing. You may, however, remain anonymous if you wish. Speak clearly and not too fast so that we can get a good recording of
your testimony.

And we will begin with Dan Wilson, to be followed by Jessica Spiegel.

Is there anybody else who would like to provide testimony at this time?

Okay. Can you please -- we have a -- we'll have a card that we can have you fill out. And then after you've filled out the card, you can hand it to Angie as well.

So, Dan, you can go ahead and come on up.

Okay. Are you ready?

MS. FRITZ: Yeah.

MS. BALDWIN: You can start any time.

MR. WILSON: Good evening. My name is Dan Wilson. And I want to thank both the governor and the Department of Ecology for your efforts over the last two years in crafting a Clean Air Rule.

As president of the United Steelworkers Local 338, I represent more than 1100 workers in the Spokane area. Many of these workers work in energy-intense, trade-exposed industries, like Kaiser Aluminum, which will be directly affected by the rule. So leakage or the transfer of good-paying, middle-class jobs and carbon to other parts of the world where emissions are not regulated has been a big concern for us.

There are those who say the rule is not aggressive
enough and doesn't fully address the problem, while others say the rule is unnecessary and punitive. Even though I'm concerned about the lack of detail in portions of the rule, I believe the rule will effectively curtail the production of greenhouse gases and help preserve jobs.

Again I want to thank you for your work and for affording us the opportunity to participate and provide input throughout the rulemaking process.

MS. BALDWIN: Thank you.

Jessica Spiegel, followed by Amber Waldref.

MS. SPIEGEL: Mr. Clark, Ms. Rees, and all of the representatives of the Department of Ecology, hello and thank you for letting me speak.

My name is Jessica Spiegel, and I represent the Western States Petroleum Association, a nonprofit trade group comprised of 25 companies that explore for, develop, transport, refine, and market petroleum products in five states, including here in Washington.

Let me start by saying that WSPA has the utmost respect for Ecology and its staff. In our long-shared experience, we have always had a solid working relationship with the Department. While we may not always see eye to eye, we have been able to rely on the fact that the relationship is open and transparent. It is because of this relationship that we are deeply concerned about the lack
of transparency with this particular rulemaking.

WSPA is not opposed to well-designed, market-based programs to reduce carbon emissions so long as they are cost effective and they do not unduly burden businesses. Unfortunately, this rule simply does not meet these criteria. Specifically I will highlight our concerns with three main points.

One: The fact that the rule is only 29 pages could give the impression that it is simple or straightforward. However, we found the exact opposite. It is short because it has very little detail or specificity. For example, definitions are not provided for key words such as "producers" and "final distribution." Concepts are abstracted across sections. Key pieces of information are never analyzed, such as how many ERUs and allowances should be anticipated by the rule.

And digesters is a great example. I think we have an inordinate amount of dairies within the state, so we can actually interpret how many credits would be available from that.

All of this reinforces our belief that the process to develop this rule has been rushed. We represent the single most impacted sector in this rule many times over. We should be able to read the rule documents and decipher how we are obligated, how we can comply, what things mean,
and so on.

Number two: Refining in Washington is significantly energy intensive and trade exposed. This is relative to other jurisdictions throughout the country and world. Using Waxman-Markey as a guide, which is a big guidance that's used, refining is similarly situated to many of the entities which are listed in the document.

As an example, after aerospace, petroleum is the largest value exported product that is manufactured in Washington, but it's fourth on the list. Washington really deserves a better evaluation on EITE, one that is fair to all impacted industries in the state.

Now, I would like to identify subpart mm today. I do realize it's a very technical comment. But by not using the traditional kinds of distribution as a point of obligation, that is, at the loading rack, the rule creates an unnecessary data quagmire. The best way to describe this use of subpart mm is asking us to figure out how many eggs were used in a bakery based on bread-sales information at nearby grocers.

Any rule that impacts such a fundamental component of our lives should be well thought out.

Thank you. And thank you for your time.

MS. BALDWIN: Thank you.

Amber Waldref, followed by Pauline Druffel.
MS. WALDREF: Good evening. My name is Amber Waldref, and I'm a current Spokane City Council member and I chair the city council's Public Works Committee. And I'm pleased to offer some comments related to the Clean Air Rule.

I believe strongly in our state making investments that will reduce greenhouse gas emissions; and I've been active in environmental advocacy personally in Washington state for over 18 years, and I appreciate and support the governor's climate-protection goals.

You may not know that Spokane has been actually contributing to carbon-emission reductions in our state for the last 25 years with the choice to incinerate rather than landfill our solid waste.

When I was elected to office, I had many questions about our Waste to Energy facility; was it efficient in managing our waste, was it the best option for managing our waste as compared to land filling. And over the years I've gained a greater understanding of the trade-offs and the choices. There's obviously no perfect solution in how we manage our solid waste, but the Waste to Energy facility was a choice our citizens made for disposing. And these are the facts about its carbon footprint.

Over the lifecycle of the waste, EPA has estimated that a minimum of one ton of carbon dioxide equivalents are
avoided for every ton of municipal waste directed to Waste to Energy rather than transported to a landfill.

So using this EPA estimate, that would translate to about 250,000 tons of avoided carbon dioxide equivalent emissions annually; and at that rate, over the 25-year life of our Waste to Energy facility, that means we have avoided 6.25 million metric tons of carbon dioxide equivalent. Without Waste to Energy, we would have to long-haul our solid waste to a landfill at least 200 miles away, further adding to the carbon footprint.

With these facts in mind, I'd like to ask Ecology to reconsider how Spokane's Waste to Energy facility is affected by the proposed rule. I believe the Waste to Energy facility should either be exempted from the rule because of the ongoing carbon-emission-reduction benefit provided by the facility compared to land filling, or at a minimum I believe Ecology needs to consider the overall benefits of our solid waste disposal program here in Spokane.

The biogenic carbon portion of our emissions should be exempted, a credit should be provided for our energy creation at Waste to Energy, a credit for avoided tons of carbon dioxide resulting from our recycling and composting. Carbon-reducing investments made by the City should be valued higher than purchasing of credits from
others outside of our state.

Solid waste collection and disposal is obviously a critical community service, and we do it here in Spokane without any profit motive. We do it here locally. And I believe the State should recognize that Spokane's Waste to Energy facility has avoided carbon dioxide. And we don't see that that's considered in this proposed rule.

The State does need to work with Spokane to develop programs in investments that will reduce waste, because ultimately that's the best way to reduce carbon -- future carbon emissions from all types of solid waste, is to reduce the waste stream. Thank you.

MS. BALDWIN: Thank you.

So Pauline Druffel, followed by Laura Ackerman.

MS. DRUFFEL: Hi. I'm Pauline Druffel. I live in Spokane, and -- excuse me -- and I'm grateful for the opportunity to speak here. Thank you.

I've been aware of the reality of human-caused global warming since the mid 1970s. I am relieved that our state government is now acting to decrease the human-caused production of greenhouse gases. But I hear and read about others objecting to regulations, saying these regulations will raise the cost of energy. And I want to speak to that.

Over many years we have had relatively cheap energy.
And I'm aware of a fair amount of coal being mined on public lands at very low rates. This is partly -- that's one of the reasons why it's been low. And it's also low because gas -- coal and oil production was subsidized through the government. But the low cost is also because the producers and users of fossil fuel energy did not have to pay for the negative consequences of the burning of fossil fuels.

My brother and others -- people have suffered from asthma and has been paying that price. And now that global warming is leading to climate change, more of us in Eastern Washington have had to deal with droughts and wildfires. Huge areas of tribal lands burned in 2015, farmers in the Palouse have poorer crops because of the drought, and those dependent on fishing have been economically affected by streams that were too warm and too shallow to support the aquatic life. The west side of our state is going to be affected economically, or already is, by sea-level rise and acidification of the waters. These realities carry a huge economic cost for the people affected.

But the good news is that alternative energy is becoming more common and the price is going down and there are more jobs developing in that area. More solar panels and windmills are getting produced and utilized.
I urge the Department of Ecology to set even higher standards for greenhouse gas emissions so as to reduce these gases even more and to protect long-term health of our economy, our people, and our environment.

MS. BALDWIN: Thank you.

Laura Ackerman, followed by Breean Beggs.

MS. ACKERMAN: Good evening. I'm Laura Ackerman of the Lands Council here in Spokane. Thank you, Department of Ecology, for having this hearing here.

The Lands Council is interested in reducing carbon emissions, not only because it makes our work harder in advocating for Inland Northwest forests, water, and wildlife, but also because it's perilously harmful for the health of Washington state citizens, especially those of lower incomes, people of color, the disabled, elderly, and children. In other words, there's a huge percentage of people in this state harmed from carbon emissions.

Writing in a commentary in Environmental Health Perspectives, Frederica Perera, the director of the Columbia Center for Children's Environmental Health, identifies fossil fuel combustion and associated air pollution and carbon dioxide as the root cause of much of the ill health of children today. Because of their inherent biological vulnerability, children now bear a disproportionate burden of disease from both pollution and
climate change.

The single most important action we can take for our children and their future is to cure our addiction to fossil fuels, she says. The commentary summarizes robust scientific evidence by the Columbia Center for Children's Environmental Health and others, concluding that by sharply reducing dependence on fossil fuels, children's health would benefit and the billions of dollars spent to remediate health problems could be saved. All children would benefit, especially poor children who are most affected by toxics and stressors due to air pollution and climate change.

Among the conclusions, reducing air pollution will see fewer babies born at low birth weight, fewer children suffering from asthma and neurological development problems such as lower IQ and ADHD. Lower emissions of CO2 and mitigation of climate change will reduce the number of children dying as a result of floods and drought, and fewer children will suffer from heat stress, malnutrition, infectious disease, respiratory illness, and mental illness from displacement, social, and political instability. It is a moral imperative to reduce our dependence, she says.

I will be sending you other studies on air pollution. I just want to briefly mention one from the Columbia
University's Mailman School of Public Health on the Great London Smog of 1952 caused by air pollution. Five days, 4,000 people killed, premature death. Sixty years later the study had been done. It's resulted in thousands of cases of childhood and adult asthma. You can read about it in the American Journal of Respiratory Critical Care Medicine. And Beijing has the similar problems.

Now, we may not have a London in Washington state, a London-like thing in Washington state, but we often have long-term, cumulative exposure to pollution. And that is the killer as well.

So do it right the first time in these rulemakings. We can't allow for loopholes. If we want to reach our goals, this is just a first step. And we need legislative work on air pollution. Just the health data alone necessitates this rule. Thank you.

MS. BALDWIN: Thank you.

Breean Beggs, followed by Scott Simmons.

MR. BEGGS: Good evening. I'm Breean Beggs. I'm a Spokane City Council member from the South Hill, District 2.

And if you walk around in our district, you talk to people and you see the signs in their yards, you'll see they're very concerned about climate change and the costs we're all going to be paying for our children and
grandchildren.

The City of Spokane is -- wants to commend the State and the governor for moving ahead. We long ago passed an ordinance to reduce the city of Spokane's greenhouse gas emissions by 2030 from the -- 30 percent reduction by 2030 from the 2005 baseline. We've also taken other actions to reduce greenhouse gases, including converting all our solid waste collection feet -- fleet to natural gas and diesel, included work on our urban forest, making our streets and sidewalks more pedestrian and bike friendly, and just recently passed a Green Building ordinance.

Our concern, in addition to what Council Member Waldref stated and some other members are going to say, is that really this rule be applied fairly, that we share the burdens equally across, not based on political exemptions, and especially that we include enough incentive -- creative incentives that even if you have a fixed situation, you can find other ways to reduce your greenhouse gases and be part of the system. And the more incentives that are there, the more likely we'll make greater progress.

My personal concern is that even though this rule is going in the right direction, it's still not going to address the problem fully. 1.7 percent reduction per year is probably not enough. My sense is, even on the chart
that you showed at the beginning, we're still not going to meet that political goal. And the way that climate change is accelerating and the fact that much of our city couldn't breathe for a couple weeks last summer during wildfire season shows us we're probably going to have to do more.

So I suggest that we increase the reductions. And the best way to do that would be cover more of the sources and spread that more fairly throughout.

I think everyone, or at least most people know the truth of climate change. And as long as the State uses good data and is effective in their rule, transparent, and they spread the burden fairly and creatively, people will get behind it. But to the degree that it's political and it's not data-centered, then people will be skeptical.

So I encourage you to dig even a little bit deeper, be more creative in your incentives, cover more of the producers. Thank you.

MS. BALDWIN: Thank you.

Scott Simmons, followed by Matthew Pederson.

MR. SIMMONS: Good evening. My name is Scott Simmons, and I'm the public works director for the City of Spokane.

I'd like to discuss some of the circumstances and facts around costs of implementing the Clean Air Rule for the Waste to Energy facility that the Spokane -- City of
Spokane operates and how those dollars might be more effectively spent implementing programs that consider the totality of solid waste practices.

Remember, our community's household -- median household income is significantly lower than the state's average income, which requires us at the City to be particularly sensitive and conscious about the affordability of our services.

Carbon dioxide is a byproduct of combustion. Today at the Waste to Energy plant, we do not have a technology that exists to further reduce the carbon emissions as long as we continue to process the material. That means, in order for us to comply, we have to do one of two things. We have to buy our way out of the regulation by purchasing credits or accepting fines. Buying credits will be expensive and won't achieve any advances in reducing the greenhouse gas impact of the solid waste disposal. And while we have some questions about how fines would be calculated under the rule, the cost is substantial, again, without having any effective gains in environmental improvements.

We also question whether the purchase of credits is an appropriate expense for public utility ratepayers. Such credits wouldn't be directed to the improvements at our public facilities.
Number two: We close our facility and landfill our waste, dumping our solid waste problem and subsequent greenhouse gas emissions on another county and quite possibly another state which don't have these regulations in place.

Our carbon footprint would increase substantially because each ton of trash would now be responsible for an additional one ton of CO2 equivalents, based on EPA analysis, and we would also have to long-haul our trash to a regional site.

Additionally, landfills in our state are in a similar predicament. Emissions will actually go up in the large landfills over time as the waste decomposes on a lifecycle basis. They have no effective option to meet the regulation.

The City is asking Ecology to consider the following:
(1) exempt the Waste to Energy facility here in Spokane from the rule because of its historic and ongoing positive impact of avoiding greenhouse gas emissions that was mentioned earlier by our council member; (2) recognize the statutory obligation of local governments to manage solid waste by exempting from the Clean Air Rule in favor of a holistic effort to reduce waste, increase recycling, and create markets of recyclable material within our state for greenhouse gas-emission benefits and job-creation
benefits; (3) look at the overall benefits of the Spokane's solid waste collection disposal system rather than isolating a single component, recognizing exemptions for its biogenic carbon portion, providing a credit for the energy produced, show a credit for the avoided tons of CO2 that are eliminated from recycling and composting efforts, and recognize some of the carbon investments -- carbon-reducing investments the City has made and value those at a higher level.

So in closing, I'll just say that 25 years ago the State of Washington actually joined Spokane in creating and selecting waste to energy as our means of disposal in the community. The State actually provided a $60 million investment in that facility. So it makes sense today for the State to continue to seek greenhouse gas benefits from that investment in a way that is sustainable. Thanks.

MS. BALDWIN: Thank you.

Matthew Pederson, followed by Jennifer Calvert.

MR. PEDERSON: Thank you very much. My name is Matthew Pederson. I'm municipal relationship manager for Republic Services based out of Spokane office at 421 West Riverside.

These statements are being made on behalf of Republic Services who is the owner and operator of the Roosevelt Regional Landfill, a regional municipal solid waste
landfill in Klickitat County. These statements will be
brief and echo the most important substance of the written
comments that were supplied previously.

Republic Services is a leader in sustainability across
the country and understands the intent of the Clean Air
Regulation being proposed by Ecology as a movement towards
worldwide stewardship of our planet in a responsible
manner.

We do have concerns, however, that the rulemaking
activity to enact that what appears to be a workable
emissions cap-and-trade regulation is being overreached in
the state of Washington by the inclusion of landfills,
which we strongly believe are inappropriate for this type
of rulemaking.

Landfills do not fit the intent of the proposed rule.
As described by the EPA, and I quote: Landfills are
different than any other traditionally regulated
emission-source categories. Typically, entities regulated
for air emissions are involved in manufacturing or
production, and their emissions are directly related to
processes involved in creating products or commodities.
When manufacturing or production facilities cease to
operate, their emissions typically cease. Landfills are a
service industry, and -- a repository of waste that needs
to be properly disposed, and their emissions are
byproducts of the decomposition of that waste.

The proposed rules expects facilities to reduce emissions over time, while, in fact, landfills will have an increasing emissions rate during the operating life. Thus the only ways that they could attempt to comply with the proposed rule would be to buy their way out of it by paying a penalty in the form of emission-reduction units or cease operations.

The unintended consequences of forcing -- force fitting landfills into this type of regulation with the existing Roosevelt Waste-to-Rail -- Waste-by-Rail Regional System is the lowest carbon footprint system in the region.

The economics of the -- okay. The economics of the additional cost of purchasing emission-reduction units would make the system uncompetitive with solid waste facilities that would not have to comply with the rulemaking because of their size or with facilities that are located in other states which do not have such rules. In effect, leakage would occur.

The leakage of waste outside of our borders or shipping of waste to smaller facilities would increase greenhouse gas emissions from the extra transportation that any additional 600 trucks -- truck trips per day that would be added to our state highways.

Thank you for your consideration.
MS. BALDWIN: Thank you.

Jennifer Calvert.

MS. CALVERT: Hello. My name is Jennifer Calvert, and I live in Spokane Valley. I'm a mother, a grandmother, high school teacher, bicycle rider, and elderly person with COPD, 71 -- go figure -- and a dedicated air breather.

So on behalf of all the attributes of myself, I am very grateful that our state of Washington is one of the best states to live in because of the awareness that we have of the importance of clean air for all the citizens of Washington and the willingness to take action to protect our health and well-being.

The major element in assuring that we have clean air to breathe, now and for generations to come, is reducing our dependence on fossil fuels. We need to garner the political will to make the rules, regulations, and laws that support that reduction. And sadly, we are actually coming to this point very late in the game. We should have been working towards this reduction vigorously for at least the last 30 years.

Every year the level of CO2 and other pollutants increases steadily, and we simply must use every tool in our arsenal to force industry and individuals to change our ways. And we can only hope that we are not already
too late.

We have experienced a number of wake-up calls as we see forest fires destroying our communities and causing the State many millions as they continue to increase in frequency and intensity. We are seeing our annual snowpack reduced to unacceptable levels, causing river temperatures to rise and causing harm to fish and problems with agricultural production. Our oceans, which have always somehow seemed intimately vast and impossible to be affected by anything we humans can do, those oceans are warming and acidifying.

Life as we have always known it is changing right before our eyes, and we simply must put our every effort into reducing our impact on the environment.

The Clean Air Rule is a good step towards making the changes that we must make. We must insist that the legislators of both parties work together to ensure real emission reductions, keeping in mind that this is but a first step and that we must allow science-based evidence to determine the very important next steps we must take to preserve life on Earth.

And I feel like what I've been saying and everybody's been saying, they've all been saying it for, but I'm just not sure that we all agree on the urgency. And I'm just here to say, for all those things that I told you, about
me being a mother, a grandmother, about, it is urgent.

And I am empathetic to business and jobs and those kinds of things, but if there's no world here left to -- for us to live, then those businesses are going to go away anyway, so please, please understand the urgency of the problem.

Thank you very much.

MS. BALDWIN: Thank you.

Okay. Is there anybody else who wishes to provide testimony at this time?

Okay. So just to clarify that there are -- there is a box on the table outside the room where you could submit your comments, or you can submit comments to me. There's a form you can write your comments on as well out on the table. So please either submit those, if you wish, tonight in the box or to me.

And if you would like to send in written comments, please remember they're due by July 22nd, 2016. Please send them to Sam Wilson, Department of Ecology, Air Quality Program, P.O. Box 47600. The e-mail address is aqcomments@ecy.wa.gov. Or fax to (360) 407-7534. You can also use the online comment form available on Ecology's web page. All of this information is also available on the handouts for you to take home.

So all testimony received at this hearing, a hearing
held in Olympia on July 14th, 2016, webinar hearings held July 7th and July 15th, 2016, along with all written comments marked no later than 5:00 p.m. on July 22nd, 2016, will be part of the official record for this proposal.

The Concise Explanatory Statement, or CES, contains Ecology's response to questions and issues of concern submitted during the public comment period. We will send notice about the CES publication in a news release to the list services. And if you have not already provided us your contact information, please either see me or Angie after the hearing, and we can get you added to the list. And please note, if, when you submit comments, you elect to stay anonymous, Ecology will be unable to notify you that the CES is available.

So the next step is to review the comments and make a determination on whether to adopt the rule. Ecology Director Maia Bellon will consider the rule documentation and staff recommendations and will make a decision about adopting the proposal. Ecology expects to adopt the rule no earlier than August 31st of 2016.

If we can be of further help to you, please do not hesitate to ask.

On behalf of the Department of Ecology, thank you for coming this evening.
And let the record show this hearing is adjourned at 7:14 p.m. Thank you very much.

(Proceedings concluded at 7:14 p.m.)
STATE OF WASHINGTON )
) ss: REPORTER'S CERTIFICATE
)
COUNTY OF SPOKANE )

I, Terri Rosadovelazquez, a Certified Shorthand Reporter and Registered Professional Reporter in and for the state of Washington, do hereby certify:

That the foregoing hearing is a full, true, and correct transcription of my shorthand notes, to the best of my ability, of the requested hearing, transcribed by me or under my direction;

That I am not a relative, employee, attorney, or counsel of any party to this action, or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of July 2016.

TERRI ROSADOVELAZQUEZ, RPR
WA CCR No. 3070, ID CSR No. 966