**Water Quality Standards hearing**

**Bend Transcription**

**2/1/11**

**Eric Nigg** - OK, if everybody could take a seat, or take your conversations outside the room. Bonnie. Lance. So if everybody could take a seat, or take your conversations outside the room, we're going to start the hearing portion of this hearing, this meeting. So at this time I'd like to begin the hearing on the rule making for revised human health water quality standards for toxic pollutants. I'm Eric (Nigg). I'm the water quality manager for the Bend office, here for the Department of Environmental Quality. This hearing will be recorded to maintain a permanent record. Today's date is February 1st, 2011, and we're in Bend, Oregon, and the time is 2:35. I'm going to be calling people up in order, I believe I received only three comment registration forms at this point, so I will be calling people up in order. At this point, we will not place a limit on the time for speakers, but we'd like to keep it to a reasonable time period.

So I'm going to begin taking comments. If anyone has prepared a written statement, or other documents, it would help to summarize them orally, and then introduce the written material into the record. Written comments are given the same weight as oral comments. Comments will be taken in the order received. Please come up to the table to speak as I call you. Um, so the first person in Chris Gannon. Okay, Chris has given me some comments. Please state your name for the record.

**Chris Gannon** - Right, my name is Chris Gannon. I represented the Crooked River Watershed Council. And I wanted to read, just very quickly, about a page and a half. I will try to summarize it as best I can. Um, our work at the Watershed Council focuses on watershed help and function. We assist willing landowners with project selection, project design, funding and implementation to address issues on their lands. We partner with various state and federal agencies, as well as local organizations that have special skills or technical capacity, such as OSU extension, the soil and water conservation district, and non-governmental organizations, such as the Deschutes River Conservancy,

Clearly, we support water quality in Oregon. We also support protection of human health for all Oregonians. However, we have specific concerns about this proposal. Our concerns are for unintended consequences. It is extremely difficult to fully understand the potential economic impacts to our service area, given DEQ has not assessed these to any degree of specificity. We are concerned that without this analysis, producers in our service area could face unknown and perhaps significant direct economic impacts. We request that DEQ develops this information and makes it available before adoption of these proposed rules.

In addition, we are concerned about some of the secondary consequences that could occur. These relate to fish advisories and general anxiety that the public could experience as health concerns about fish consumption are magnified. Increased fish advisories in our area impact a significant economic sector related to recreational fishing.

We are also concerned about what could be referred to as an unintended ripple effect on how fish is processed, both from recreational and commercial harvest, both from recreational and commercial harvesters. By-products of fish processing have the potential to contain the highest level of contaminants. Use of fish by-products for planting organic gardens, seeding high mountain spawning areas, and in secondary market applications such as pet food, all have the potential to be impacted.

The Council is not convinced that this change in consumption rate will have the desired effect on protecting the health of those individuals and groups that consume high levels of fish and shellfish. This is because most of what has been measured in fish tissue is contamination from legacy chemicals long since banned for production or use, for example PCBs and DDT. It seems highly doubtful that the new consumption rate will have any effect at all on controlling health impacts attributed to legacy chemicals.

We suggest the following alternative approach that we believe will have the desired effect of protecting human health while minimizing unintended and largely unspecified consequences to the broader population, particularly those whose economic futures may be adversely affected by this proposal.

We suggest that DEQ consider developing site-specific criteria for certain water bodies that are the conduits to tribal exposure. Rivers like the Willamette, the Columbia, and perhaps the Deschutes to the Pelton re-regulating dam, as well as the Umatilla, should all be considered. This approach would allow DEQ to focus more tightly on the problem and reduce the potential economic impacts to other water bodies that have little, if any, effect on tribal consumption, tribal exposure.

Another viable option for DEQ to consider would be to propose an outright ban on some of the compounds that, under the new consumption rate, will be set at such low levels as to be immeasurable. or nearly so. When allowable quantities in water approach zero, it makes sense to consider regulations that remove the threat completely.

In closing, we offer you the following philosophical concept that has been effectively applied to many challenges facing human populations through time, and that the Council believes should guide your overall analysis of this issue. This is a concept by Raymond C. P. Beamesderfer. It's a tough name to pronounce, but I think that's correct. And it's titled "Deciding When Intervention is Effective and Appropriate." It is a systematic decision making process to determine for a given case if (1) the problem being addressed is significant enough to warrant action, (2) the solution being proposed is effective in fixing or significantly reducing the size of the problem, and (3) the biological benefits of the action outweigh costs as well as social and political considerations.

So the questions boil down to, is it significant, can it be affected, and is it acceptable? These three questions form the basis for a systematic decision making process for implementing management actions. This approach suggests that the answer must be yes to all three of these questions for intervention to be effective and appropriate. If any one answer to these questions is no, there's probably no point in proceeding further.

Thank you very much.

**Eric Nigg** - Do you want me to take this?

**Chris Gannon** - That's what you have.

**Eric Nigg** - Oh, that's what I have. Alright, thank you.

**Chris Gannon** - Sure.

**Eric Nigg** - Okay, the next person is Jerry Brummer. And Jerry is also handing me a document, Please state your name for the record.

**Jerry Brummer** - For the record, I'm Jerry Brummer, and I'm the public works superintendent for the city of Prineville. The City of Prineville operates two parallel partially aerated facultative lagoon plants that treat approximately a million gallons of influent each day, producing a class three - C - excuse me, they've changed that - effluent. The treatment plant serves a population of approximately nine thousand residing with the city limits. With a current unemployment rate of nineteen percent, one of the highest monthly service rates of fifty-one dollars, it is important that any changes to DEQ's toxic water quality standards are well thought out, and do unduly burden our ability to serve our constituents.

The City of Prineville strongly supports the effort to reduce toxics from all sources of Oregon's waterways. To achieve this, we diligently manage and operate our treatment plant to insure that all regulations are met and exceeded. We work with industries to limit the toxics discharged into the sewer systems, and require pretreatment programs of all industrial wastes to limit toxins. We operate our treatment plant effectively. We recently implemented a drug disposal contamination site. We have developed partnerships with the Crooked River Watershed Council. With them, we put in two wetlands along Crooked River that we think really helps the water quality in the area. The city is in the development stages of its first storm water master plan. We're also working with a group of area irrigation districts to help develop a habitat conservation plan to ensure the survival of the recently reintroduced threatened steelhead.

The city also recently adopted an updated wastewater facility plan that directs the City to construct a 280 acre disposal wetland. The city is excited for this project to commence, as it will drastically increase the habitat and recreational opportunities while stimulating flows in the lower crooked river with up to two million gallons of cool, clean water each day. The City has also recently completed a large infiltration and inflow reduction program that would reduce winter influent rates by 50%. We believe at this time that effective and feasible treatment technologies to reduce toxic chemicals such as legacy pesticides, PCBs, or plasticizers to the proposed levels do not exist. Before you impose stricter water quality standards, we hope you investigate how this will impact smaller communities such as Prineville. We are trying to do the correct thing, but we need to understand what these new standards will mean to the City on a day to day basis.

And I'm just going to move over here. I didn't know we could turn this in, so... We think the DEQ has underestimated the scope of the impact on the proposed revisions in terms of the impact the DEQ staff resources, and/or their ability to conduct better priority activities within their organization; the fiscal and workload impact to both permittees and DEQ of moving beyond variances to the development and implementation of watershed-based toxic reduction plans; the impact of the proposal on ratepayers, including businesses and industries that discharge to our facilities; the number of municipal water permits - wastewater permit holders that their proposed revisions will affect and the number of toxics that each of those permittees may be required to address through variances; and the cost to water quality permit holders of applying for and maintaining a variance as a compliance tool. Thank you.

**Eric Nigg** - Thank you, Jerry. Alright, the next person and last person that I have a form for is Bruce Jim. Please state your name for the record.

**Bruce Jim** - My name is Bruce Jim and a member of the Confederated Tribes of Warm Springs. I'm also a member of the Fish and Wildlife Committee. I happen to be the Chairman, and as well as being the Chairman of the Columbia River Inter-Tribal Fish Commission. I wish to express my support for the Oregon Department of Environmental Quality proposal to revise state water quality standards based on a fish consumption rate of 175 grams per day. Increasing the Fish Consumption Rate that is recognized by the State of Oregon will result in decreasing the levels of toxic pollution that are considered allowable in our rivers, lakes and streams. This proposed 175 grams per day fish consumption rate is based in part on a comprehensive study of the ceremonial and subsistence consumption habits of the Warm Springs tribal members along with other members of the Columbia River Tribes. Results from this study prove that the consumption of 23 eight ounce servings of fish meals per month is a realistic value that represents the fish consumption habits of our people. The importance of fish to the tribes cannot be overstated, for the fishery resource is not only a major food source for tribal members, it is also an integral part of our cultural, economic, and spiritual well-being.

As ceremonial and subsistence fishers, we rely on the protection and enhancement of water quality to a level that is sufficient to protect our water and fish from harmful exposure to waterborne pollutants. This documented degradation of water quality in the Columbia River Basin has heightened our concern for the fishery's resource, and the health and livelihood of our tribal members. Current national estimated fish consumption rates are simply not sufficient to protect our tribal peoples residing in the Columbia River Basin, or other people that consume healthy amounts of fish. I urge the DEQ to adopt the standards that are based on these proposed reasonable and reliable measures of fish consumption by the residents of Oregon.

I guess there's a few comments that have been made. It's kind of a touchy issue on here. One of the things that it seems that the tribes kind of targeted in a sense, by communities or whatever, or something that's kind of appealing, I get. You know the things that the tribes do for this area, for the river systems, and everything else, the enhancements of fish, and all the projects that they pay for in this basin, whether it's in the Deschutes River Basin, Crooked River Basin, or John Day Basin, the tribes of Warm Springs, Oregon retain these areas. In these areas, in the treaties they retained, from the headwaters of this such-and-such boundary, has a great meaning to our people. And when we look back on this river system and stuff, we don't look back just for the Indian people, we look back for all the user groups that utilize these areas for recreation, for fishing. You look at all of Central Oregon, in these areas on Columbia River, Deschutes River, John Day River, areas of fishing, that people come from all over Central Oregon to do this fishing. And maybe if something was to happen to this toxicity of the fish, or whatever, you know they're going to be one of the main ones complaining about, why wasn't nothing done at this time? Today we have an opportunity to do something, to clean our streams, to where our children can go and swim in these streams and waters without trying to get some - pick up some kind of disease or something. But when I - what I said about the headwaters and everything else, our forefathers extended that. You know, just like they say, from the headwaters of Deschutes, and all that, was I guess, expressing their concern over the waters today. Their foresight, and stuff that they looked at, making these streams.

You've got to understand - you know, I've told 'em, I wish there was a way to educate the general public on the treaties, and the meaning of the treaties with the tribes, and how the interpretation is in this area. A lot of things has been accomplished by these communities with the help of the tribes. The steelhead programs at Crooked River I was talking about, the tribes were very instrumental in putting a lot of those back. The (sockeye?), the reintroduction, I guess you might say, a lot of these stuff have come forth, you know, just like on the John Day River. A lot of that has that protection that the tribes have, and we don't do that just for the tribes, we do that for the general public. Thank you.

**Eric Nigg** - Thank you. And Bruce had provided us with some documents here, too. Okay at this time, I have no more registration forms filled out, and so I'm assuming there's nobody who wants to go on the record?

**Chuck Lang** - Is it too late?

**Eric Nigg** - Go ahead. Fill out a form, please. [pause] And I will remind people again, we are accepting comments until twenty - the 23rd of February at five o'clock. You can send them in any of the ways that (Koto?) had up on the board, email, or send them to Andrea. Um, there are going to be other hearings around the state, but it might kind of tough to get to.

**Chuck Lang** - I was hoping some of this stuff would be covered before I got here.

**Eric Nigg** - Okay, I've received a comment registration form from Chuck Lany?

**Chuck Lang** - Lang.

**Eric Nigg** - Lang? Please state your name for the record.

**Chuck Lang** - My name is Chuck Lang. I live in Prineville, Oregon. Um, I have about a half a page to read. If I started out without reading it, I'd be off on rabbit trails, and we wouldn't be out of here by four. So I'll just read it, so it'll be clear: There are global sources and reservoirs of DDT and PCBs in the ocean's food chain and in the ocean sediment has the production of DDT and PCBs have not been universally banned globally. Major portions of the life cycle of the Pacific salmon is spent outside Oregon waters. PCB and DDT manufactured for use offshore produce hot spots scattered around the world to which migratory species like the Pacific salmon are exposed. In time, with the elimination of offshore sources, combined with the painfully slow rate of environmental degradation of these chemicals, eventually the concentrations in Pacific salmon and other marine species will decline.

The abstract of the study, Johnson - LL Johnson, 'a' and 'b', that was cited in the DEQ website, a juvenile Chinook salmon study, states that PCB and DDT were found in the digestive tracks, not in the tissues. because juvenile salmon spend time going in and out of the estuary until they have matured enough to survive in the ocean, it is very possible, as the study suggests, that the toxins were digested after entering the estuary, where the Oregon freshwaters and the oceans mix.

The concentration levels of PCBs and DDTs in Oregon's fish and wildlife have declined over the decades since the elimination of their use in the United States, and will continue to decline with or without the higher consumption and higher water quality standards.

Including the Pacific salmon and other marine species in the new consumption - fish consumption rate - used in the Oregon water quality criteria is not supported by science, and represents and ineffective and inappropriate change. That's probably the reason why EPA is recommending not including Pacific salmon and marine consumption and marine species consumption rates in Oregon's water quality criteria. It is also why water quality criteria will not provide additional protection to people eating Pacific salmon for subsistence.

Additional studies should be undertaken to determine if juvenile salmon are contaminated before they reach the estuary. While the higher consumption rate may be justified to generate health advisories, using it for inland water quality criteria calculations are premature.

**Eric Nigg** - Thank you. Alright, having heard from everyone in the room who has given us a form, and seeing no other additional people who want to comment, I'm going to call this hearing adjournment. Um, so thank you for coming. We'll take all these comments into consideration, along with whatever else we receive. And there will be a response to public comments associated with the rule making. Thank you.

So it's now 2:55 pm on February 1st, 2011. Thank you.