CITY OF Salem
AT YOUR SERVICE

February 16, 2011

WRITTEN TESTIMONY

Environmental Quality Commission
811 6th Avenue
Portland OR 97204

Chairman Blosser and Members of the Commission:

The City of Salem Willow Lake Water Pollution Control Facility (WLWPCF) is responsible for treating the wastewater generated by the citizens of Salem, Keizer, Turner, and other unincorporated areas of Marion County served by the sewer collection system. The current service population is approximately 229,000 people.

The City of Salem strongly supports efforts to reduce toxics from all sources entering Oregon's waterways. To achieve this, we:

- work with industries to limit the toxics discharged into our sewer system, through our pretreatment program
- operate our treatment plants effectively
- sponsor drug take-back events
- partner with area dentists to reduce mercury-containing wastes into the sewer
- use due diligence in environmental site assessment for land acquisition and site cleanups

Treatment Technologies to Meet the Proposed Toxic Numbers at the Wastewater Plant are not Available

Effective and feasible treatment technologies to reduce toxic chemicals such as legacy pesticides, PCBs, or plastizers to the proposed levels do not exist. Chemicals such as legacy pesticides and PCBs have been restricted for decades, yet still appear in wastewater effluent. An analysis completed for the Oregon Association of Clean Water Agencies (ACWA) by Dr. Dave Stone of Oregon State University estimated the load of PCBs entering a typical medium sized Oregon wastewater treatment plant from excretion due to body burden and food waste alone. Based on data from a mid-sized Oregon community, a daily average of 0.16 ng of PCBs per liter is estimated to reach the wastewater influent due to human excretion. The proposed water quality standard for PCBs is 0.0000064 ug/l (0.0064 ng). Oregon treatment plants are unable to achieve the proposed water quality standard due to human waste entering our system. There is no reasonable, effective treatment process for removing PCBs and DDTs at these very low levels from wastewater effluent in order to achieve the Department of Environmental Quality (DEQ) proposed water quality standards. The most effective strategy to reduce these legacy pollutants is through watershed based Total Maximum Daily Load (TMDL) processes that involve all sources in the watershed; not regulations focused primarily on National Pollutant Discharge Elimination System (NPDES) permit holders.

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Effective Toxic Reduction must be Tackled on a Watershed Basis and Involve All Sources of Pollution

We want to ensure that investments in water quality programs are effective in reducing toxic pollutants. Some toxic chemicals can be tackled by wastewater utilities by changing treatment technologies or reducing discharges to their sewer system; other pollutants cannot. Chemicals, such as the legacy toxics DDT and PCBs or plasticizers such as bis(2-ethylhexyl) phthalate are found everywhere in the environment, in people, and in wastewater effluent at low levels.

DEQ and the Environmental Quality Commission (EQC) should be incorporating specific standard implementation strategies (likely by the type of pollutant, such as PCBs or legacy pesticides) that are allowed under the Clean Water Act such as developing watershed based TMDLs for toxics, using Site Specific Criteria or committing to Use Attainability Analysis to adjust the listed uses of a water body. The revised toxic criteria should not be implemented until the DEQ has developed and the EQC approved an implementation strategy by chemical class.

Adopting the revised standards without accompanying implementation plans will not move the state towards achieving the water quality goals in the revised standards and puts NPDES permit holders at unnecessary legal risk.

DEQ's Solution of 'Variances' must be improved

We appreciate DEQ's offer of variances as a compliance tool, especially where that tool incorporates pollution reduction plans as a way to make progress to the degree feasible towards improvement. We have several concerns:

- The EPA regulations restrict variances to being short-term and temporary. There is nothing short-term and temporary about legacy pesticides or very low levels of PCBs or pesticides that are present throughout the environment. Even addressing current use toxics will be complicated and may take many years to resolve.
- There is nothing short-term and temporary about the investment our community has made over many years to build and maintain our community's wastewater collection and treatment infrastructure. Capital investments made to comply with any regulatory requirements have life spans of decades, not the five-year cycles proposed for the variances.
- There is a substantial amount of paperwork involved in securing a variance. DEQ has estimated that cost as between $8,000 and $44,000. This paperwork exercise would need to be repeated at each permit renewal and is specific to each pollutant of concern, and each permittee. This diverts ratepayer investments from other investments that would have greater water quality benefits. Renewal or reissuance of variances also has the potential to repeat those costs on the five-year permit cycle.

An analysis completed by ACWA indicates that many, if not most, domestic major wastewater treatment plants will need variances for pollutants that cannot be effectively treated or removed from the wastewater stream, such as PCBs from human and food waste or phthalates. That equates to an overall expenditure of between $392,000 to $2,156,000 for a paperwork exercise; for no water quality benefit. That expenditure will reoccur every permit cycle. DEQ's statement that first time variance costs are anticipated to be greater than subsequent requests is not supported.

The overall scheme that DEQ has developed for variances should be simplified, clearly stated, and efficient. Multi-Sector variances should be allowed outright to accommodate similar situations

throughout a Basin or even throughout the state. We also have questions on how the Background Pollutant Allowance will be useful to municipalities and districts. The obligation to make specific findings regarding endangered species, existing water quality uses, and unacceptable risks to public health should be made by DEQ, not by the variance applicant.

Overall, we have numerous questions regarding variances and how they will be used in Oregon. DEQ is asking municipalities and districts to support the revisions in the toxic water quality standards when the path for securing NPDES permits through variances is still very unclear.

As an example, one of the variance 'experts' the DEQ asked to speak at its variance workshop held on January 26, 2011, in Portland, was the chief of the Wisconsin Department of Natural Resources Wastewater Section. In response to a question, he indicated that he would not use the variance process to handle wide-spread legacy pollutants such as PCB issues, remarking it would "grind the permitting process to a halt. You would want an implementation procedure other than variances…"

DEQ Underestimated Financial Impact

We think DEQ has underestimated the scope of impact on the proposed revisions in terms of:

- The impact on DEQ staff resources and or their ability to conduct other 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 wastewater permit holders that the proposed revisions will affect and the number of toxics that each of those permittees may be required to address through variances
- The cost to water quality permit holders of applying for and maintaining a variance as a compliance tool

We recommend that the EQC request from DEQ a specific implementation plan by category of pollutants (such as metals, PAHs, or legacy PCBs and pesticides or similar categories). The implementation plan should lay out the Clean Water Act tool that will be used to resolve the underlying water quality criteria including development of a TMDL, use of site specific criteria, or development of a Use Attainability Analysis, and the glide path to achieving the necessary reductions across all sources in the watershed to achieve the water quality standard. The revised toxic water quality standard should only be adopted and effective when the implementation plan is agreed to by the EQC.

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