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March 9, 2011

Andrea Matzke
Oregon Department of Environmental Quality
Water Quality Division
811 SW 6th Avenue
Portland, OR 97204

Subject: Comments on Oregon Department of Environmental Quality's Proposed Toxic Water Quality Standards Revisions

Dear Ms. Matzke:

The City of Hermiston (City) respectfully submits the following comments on the Oregon Department of Environmental Quality's (DEQ) proposed toxic water quality standards revisions. The City's Recycled Water Plant (RWP) serves a population of nearly 17,000 residents and is scheduled to undergo extensive upgrades to produce the highest quality Class A recycled water. By upgrading from the outdated and overburdened rotating biological contactor (RBC) treatment with best available membrane bioreactor (MBR) technology, the City is committed to "going the extra mile" to provide near potable-quality Class A recycled water for beneficial reuse and discharge to the Umatilla River.

The City strongly supports efforts to reduce toxics from all sources to Oregon's waterways. To achieve this, the City has committed over $22 million to upgrading its RBC wastewater plant to an MBR RWP, producing the highest quality Class A recycled water suitable for virtually unrestricted beneficial reuse. In addition to producing Class A recycled water, the City's RWP project includes a major beneficial reuse component: providing water to WEID for use in agricultural irrigation. The reuse aspect will allow the City to meet the ultra-stringent temperature and ammonia standards established in the Umatilla Total Maximum Daily Load (TMDL) during the warm summer months by providing the water to WEID, rather than discharging to the river. The City will also relocate its current outfall on a side channel of the Umatilla River to the pool upstream of Three-Mile Dam for discharging in the winter. By relocating the winter outfall, the City's discharge will receive higher flows with better dilution compared to the current location, particularly to help meet ammonia limits. The RWP project has garnered support from various partner trustees in the Umatilla River watershed, including the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), Oregon Department of Fish and Wildlife (ODFW), the U.S. Bureau of Reclamation (USBR), and West Extension Irrigation District (WEID).

Given the City's efforts to reduce toxics in Oregon waterways, the City has several concerns regarding DEQ's proposed toxic water quality standards rulemaking.

Treatment Technologies to Meet the Proposed Toxic Numbers at the RWP are Not Available

Effective and feasible treatment technologies to reduce toxic chemicals such as legacy pesticides, PCBs, or plasticizers to the proposed levels do not exist. Effective toxic reduction must be tackled at a watershed Basis and involve all sources of pollution. The City wants to ensure that investments in water quality programs are effective in reducing toxic pollutants. Some toxic pollutants can be tackled by wastewater utilities by changing treatment technologies or reducing dischargers 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 ubiquitous in the environment, in people, and in wastewater effluent at low levels.

The 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. 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 the City as an NPDES permit holder at unnecessary legal risk.

DEQ's Solution of Variances Must Be Improved

The City appreciates 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. However, the City has several concerns.

The U.S. Environmental Protection Agency (EPA) regulations restrict variances to being "short term and temporary". Legacy pesticides or very low levels of PCBs or pesticides ubiquitous in the environment are neither short-term nor temporary. Even addressing toxics still in current use will be complicated and may take many years to resolve.

The investment our community has made over many years to build and maintain our community's wastewater collection and treatment infrastructure is for the long-term and permanent. Capital investments made to comply with any regulatory requirement 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 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, such as the proposed RWP upgrades. Renewals or reissuances of variances also have the potential to repeat those costs on the five-year permit cycle.

The overall scheme 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. 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 City.

DEQ Underestimated Financial Impact

It is the City's opinion that 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 the City 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 RWP
- 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; and
- The costs to water quality permit holders of applying for and maintaining a variance as a compliance tool.

Conclusion

In closing, an effective water quality toxic reduction program must be a broad initiative, and all sources must be addressed. The program cannot be just focused on water quality permit holders. The City is interested in seeing the DEQ's plans for a comprehensive toxic reduction program tied to adoption of more stringent toxic water quality standards and being an active partner in protecting the quality of Oregon's waterways.

Very truly yours,

Ed Brookshier
City Manager

cc: Mayor
City Council
Brad Bogus, Kennedy/Jenks Consultant