CITY OF COTTAGE GROVE

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March 11, 2011

Andrea Matzke
Oregon DEQ
Water Quality Division
811 SW Sixth Avenue
Portland, OR 97204

Re: Comments on Proposed Toxics Rulemaking - due 3/21/11
E-mailed to: ToxicsRuleMaking@deq.state.or.us

Dear Ms. Matzke:

The City of Cottage Grove is a community of 9,495 residents located in Lane County.

The City of Cottage Grove strongly supports efforts to reduce toxics from all sources to Oregon's waterways. To achieve this we have:

- Worked with industries to limit the toxics discharged into sewer systems, including two lumber mills and one winery pretreatment program.
- Operated our treatment plant effectively producing a Class 4 effluent.
- Participated in drug take back events.
- Have strong partnerships with the Coast Fork Willamette watershed council or other community groups.
- Partnered with area dentists to reduce mercury-containing wastes into sewer.
- Promoted public information and involvement programs to reduce use and discharge of toxic pollutants.
- Encouraged native plant or naturescape programs to reduce use of fertilizers and toxic pesticides.
- Enhanced salmon habitat improvement by removing two dams in the upper watershed of the Row and Coast Fork Willamette Rivers.
- Practiced due diligence environmental site assessment in land acquisition and site cleanups.
- Purchased of a golf course to land apply treated wastewater effluent to meet TMDL's.
- Completed a feasibility study to identify potential sites for wastewater reuse.
- Implemented an ongoing infiltration and inflow reduction program.

Impact on Oregon's Domestic NPDES Permit Holders

ACWA technical experts have analyzed the impact of the DEQ's proposed revisions on a subset of domestic wastewater treatment plants. DEQ's implementation for these water quality standard revisions must extend beyond the temporary bridge of a variance to permanent solutions within the tools of the Clean Water Act, such as TMDLs, site specific criteria, or Use Attainability Analysis.

This analysis, which has been provided to DEQ by ACWA, shows that domestic wastewater plants will have difficulty meeting the revised water quality standards for several classes of pollutants including:

1. **Legacy compounds, including PCBs, DDT, and legacy pesticides**. The chemicals in this class are already restricted by EPA action. Low levels of PCBs and DDTs reach treatment plants though body burden from historic exposure, through food, background levels in potable water, and possibly from illegal dumping into the sewer systems.

   An analysis completed for 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. The report estimates that 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 and food waste.

   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 DEQ proposed water quality standards[1].

2. **Consumer Products, including bis(ethylhexyl) phalate.** Plastizers like phalates are everywhere in the environment, including in wastewater. There are no reasonable, effective treatment processes for removing phthalates at the DEQ proposed levels from wastewater effluent.

3. **Metals and arsenic.** Oregon's rivers and streams have naturally levels of arsenic and mercury many times over the DEQ proposed standards. Technology to meet these low limits is not available.

4. **Chlorination by-products.** Most wastewater utilities in Oregon use chlorine for disinfection. Oregon wastewater utilities could move to non-chlorine disinfection

[1] These levels of PCBs cannot be measured, therefore the Quantation Level becomes the compliance points; however the underlying water quality standard remains in place

systems, however, this will require significant finance investments to revise existing disinfection systems.

The DEQ analysis greatly underestimates the impact of the proposed rule revisions on water quality permit holders, and most importantly, does not incorporate the implementation mechanism needed to achieve toxic reduction within the context of the Clean Water Act.

DEQ's limited recommendation of variances as the only compliance tool for local governments will be an expensive investment with no environmental benefit. Variances are short-term and temporary tools. The overall DEQ rulemaking package does not address how variances can be used at facilities unable to meet water quality standards due to human caused load, where there is no feasible, effective treatment technology available.

DEQ has identified a burdensome, expensive, regulatory process with an uncertain outcome as the primary mechanism to obtain relief from these water quality standards. We cannot rely on such process as the only mechanism for compliance.

We recommend that DEQ and EQC adopt an implementation plan development process for each class of chemicals that are likely to be exceeded under the new standards. The implementation plan would detail how the appropriate water quality compliance tool under the Clean Water Act would be developed to resolve the underlying standard violation, including development of Total Maximum Daily Loads, site specific criteria, or a Use Attainable Analysis.

The implementation plans should be adopted along with the proposed standards.

Effective Toxic Reduction Must Be Tackled At 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 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 found everywhere in the environment, in people, and in wastewater effluent at low levels.

DEQ and the Environmental Quality Commission 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 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 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 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 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.

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. 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.

DEQ Underestimated Financial Impact

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

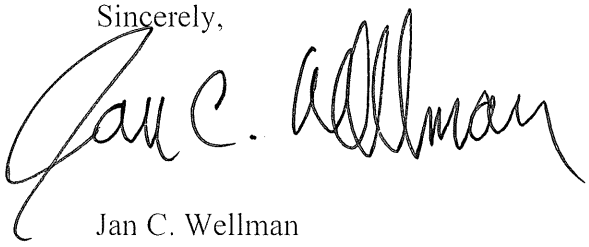
- The impact on DEQ staff resources and or their ability to conduct other priority activities within their organization,
- The fiscal and workload impact to both permittees and DEQ of moving beyond variances to the development and implementation of watershed-based toxic reduction plans,
- The impact 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, and
- The cost to water quality permit holders of applying for and maintaining a variance as a compliance tool.

Summary

An effective water quality toxic reduction program must be a broad initiative, and all sources must be addressed - - it cannot be just focused on water quality permit holders. We are interested in seeing the DEQ's plans for a comprehensive toxic reduction program tied to adoption of more stringent toxic water quality standards.

We support the written comments provided by Oregon ACWA.

Sincerely,



Jan C. Wellman
Public Works Director