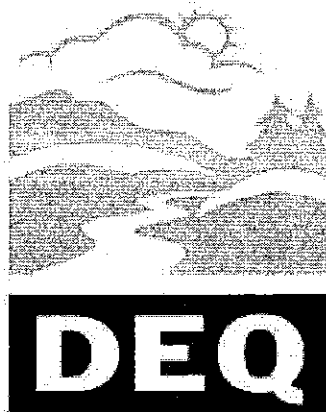


7/19/1974

**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS**



**State of Oregon
Department of
Environmental
Quality**

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A G E N D A

ENVIRONMENTAL QUALITY COMMISSION

meeting of

July 19, 1974

Room 20 State Capitol, Salem, Oregon

9 a.m.

Presentation of Oregon CUP to Willamina Lumber Company

- A. Minutes of June 21, 1974 Commission Meeting
- B. June 1974 Program Activity Report
- C. Tax Credit Applications

AIR QUALITY

- D. Consideration of Adoption of Noise Rules Pertaining to Motor Vehicles
- E. Public Hearing on Noise Rules Pertaining to Industry and Commerce
- F. Highways
 - 1. I-205
 - 2. Satellite Long-Term Parking Facilities Serving Portland International Airport
- G. Ambient Air Standard for Lead--Hearings Officer's Report
- H. Complex Sources Proposed Rules Revisions--Hearings Officer's Report
- I. Consideration of Variance Request (ARCO) Sulfur Content of Residual Fuel Oil

WATER QUALITY

- J. Weyerhaeuser Company, Springfield--Status Report on NPDES Permit Application (formerly Agenda Item No. G, June 21, 1974 EQC Meeting, deferred to July)

LAND QUALITY

- K. Chem-Nuclear Systems, Inc., Environmentally Hazardous Waste Disposal Site License--Authorization for Public Hearing
- L. Adoption of Proposed Regulations for State Financial Assistance to Public Agencies for Pollution Control Facilities for the Disposal of Solid Waste

ENFORCEMENT

- M. Public Hearing on Proposed Revisions to Rules Pertaining to Civil Penalties and Administrative Procedures
- N. In the Matter of the Civil Penalty to Manville Ginter

NORTHWEST REGION

- O. PGE Bethel Turbines, Salem--Limitation of Noise Emissions
- P. Boise Cascade Corporation, Pulp and Paper Mill, Salem--Permit Modifications Related to Proposed Expansion of Pulping Capacity

The Commission will meet for breakfast at 7:30 a.m. in the Blue Room, State Capitol. No-host luncheon at Noon, Blue Room, State Capitol.

MINUTES OF THE FIFTY-NINTH MEETING
of the
OREGON ENVIRONMENTAL QUALITY COMMISSION
July 19, 1974

Public notice having been given to the news media, other interested persons and the Commission members as required by law, the fifty-ninth meeting of the Oregon Environmental Quality Commission was called to order by the Chairman at 9 a.m. on Friday, July 19, 1974, in Room 20, State Capitol, Salem, Oregon.

Commission members present were B. A. McPhillips, Chairman, Dr. Morris K. Crothers, Mrs. Jacklyn L. Hallock, Dr. Grace S. Phinney, and Ronald M. Somers.

The Department was represented by Director Kessler R. Cannon; Deputy Director Ronald L. Myles; Assistant Directors Wayne Hanson (Air Quality), Harold L. Sawyer (Water Quality), Kenneth H. Spies (Land Quality), and Frederick M. Bolton (Enforcement); Regional Administrators Verner J. Adkison (Midwest), Richard P. Reiter (Southwest), and E. Jack Weathersbee (Northwest); staff members John E. Borden, Russell H. Fetrow, Jr., Gary L. Grimes, Thomas G. P. Guilbert, John M. Hector, Norman L. Jette, Allan H. Mick, Robert B. Percy, Ernest A. Schmidt, Barbara J. Seymour, Shirley G. Shay, Paul M. Stolpman, Richard L. Vogt, Jr., Warren C. Westgarth, Patrick H. Wicks, Gerald T. Wilson, and Assistant Attorney General Robb Haskins.

Representing EPA Region X, Oregon Operations Office, was Director John J. Vlastelicia.

MINUTES OF THE JUNE 21, 1974 COMMISSION MEETING

It was MOVED by Mr. Somers, seconded by Dr. Phinney, and carried to approve the minutes of the fifty-eighth meeting of the Commission, held in Coos Bay on June 21, 1974.

PROGRAM ACTIVITY REPORT FOR THE MONTH OF JUNE 1974

It was MOVED by Mr. Somers, seconded by Mrs. Hallock and carried to give confirming approval to staff actions, as reported by Mr. Myles, regarding the

53 domestic sewage, 15 industrial waste, 19 air quality control, and 13 solid waste management projects:

Water Quality Control - Northwest Region (30)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-5-74	Gresham	Sanitary sewer on NE 176th Ave. from NE Glisan St. to 440 ft. south	Prov. app.
6-6-74	Canby	Sanitary sewer system for Candlelight Shopping Center	Prov. app.
6-6-74	Oak Lodge SD	Sanitary sewer lateral C-A-7A and C-10-5-5F	Prov. app.
6-11-74	Lake Oswego	Bryant Woods sanitary sewer	Prov. app.
6-11-74	Lake Oswego	Bryant Woods Plat #3 sanitary sewers	Prov. app.
6-11-74	Lake Oswego	Bryant Woods Plat #4 sanitary sewers	Prov. app.
6-12-74	Warrenton	Warrenton sanitary sewer extension	Prov. app.
6-13-74	Hillsboro (Rock Creek)	Golden Acres #2 sanitary sewer	Prov. app.
6-13-74	Hillsboro (Rock Creek)	Azalea East #2 sanitary sewers	Prov. app.
6-13-74	Hillsboro (Rock Creek)	Singing Woods #2 sanitary sewers	Prov. app.
6-13-74	Salem (Willow Lake)	Sanitary sewer relocation for elderly housing site, Mill and Church Sts.	Prov. app.
6-13-74	West Linn (Bolton)	Lamplighter Square subdivision sanitary sewers	Prov. app.
6-13-74	Tualatin	Apache Bluff #13 sanitary sewers	Prov. app.
6-17-74	Gresham	McCall Oil Co. sanitary sewer at SE Burnside and Hogan Rd.	Prov. app.
6-19-74	St. Helens	Assembly of God sanitary sewer	Prov. app.
6-19-74	Dallas (Rickreall Creek)	Prune Ridge subdivision sanitary sewers	Prov. app.
6-20-74	Clackamas County S.D. #1	Assessment District 74-1 sanitary sewers	Prov. app.
6-20-74	Portland (Columbia)	Sanitary sewer in SW 18th Pl. and private property north of SW Seymour St.	Prov. app.
6-20-74	Gresham	Sanitary sewers to serve the Burnside Animal Hospital	Prov. app.
6-24-74	Portland	Johns Landing housing - Phase I sanitary sewers	Prov. app.
6-24-74	Newberg	Sanitary sewer extension #9224.35 N	Prov. app.
6-24-74	Oregon City	Joyce Court sanitary sewers	Prov. app.
6-25-74	West Linn	Jeffrey Lane sanitary sewers	Prov. app.
6-25-74	USA (Aloha)	Lee Zumwalt sanitary sewer	Prov. app.
6-26-74	Hillsboro (Rock Creek)	Sanitary sewer extension on NE 21st Ave. from NE Cornell Rd. to Sunrise Ln.	Prov. app.
6-26-74	Oak Lodge S.D.	Sanitary sewer line 2 A 10-9 second phase of Oakridge #2	Prov. app.

Water Quality Control - Northwest Region (cont)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-27-74	Clackamas County S.D. #1	Scott Mountain subdivision sanitary sewers	Prov. app.
6-28-74	Clackamas County S.D. #1	Cascade Greens Phase 3 sanitary sewers	Prov. app.
6-28-74	Salem (Willow Lake)	Liberty Road SE sanitary sewers	Prov. app.

Water Quality Control - Water Quality Division (23)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-4-74	Rufus	Sewerage system and 4.5 acre sewage treatment lagoon with land irrigation	Prov. app.
6-7-74	Eugene	Calvin St. and Sleepy Hollow subdivision sewers	Prov. app.
6-7-74	Roseburg	Umpqua West Estates sewers	Prov. app.
6-7-74	Medford	Ramada Hills subdivision sewer	Prov. app.
6-10-74	Salem (Willow Lake)	Addendum #1 - STP construction	Approved
6-10-74	Brownsville	Scoville Estates subdivision sewers	Prov. app.
6-10-74	Hepner	Valleyview Estates subdivision sewers	Prov. app.
6-10-74	Rogue River	Rogue River High School sewer extension	Prov. app.
6-11-74	Lebanon	Pletzer's Green 1st Addn.	Prov. app.
6-12-74	Toledo	L.I.D. #19 sewer	Prov. app.
6-12-74	Lynnbrook	Lynnbrook Subdivision - Phase II sewers	Prov. app.
6-13-74	Corvallis	Wake Robin subdivision sewer	Prov. app.
6-13-74	USA (Beaverton-Aloha)	144th St. pump station improvements	Prov. app.
6-14-74	Coos Bay #2	Pump Station No. 14	Prov. app.
6-14-74	Eagle Point	Butte Crest subdivision sewers	Prov. app.
6-14-74	Harrisburg	D & G Shelter Products sewer	Prov. app.
6-17-74	Bend	East Pilot Butte Int.	Prov. app.
6-18-74	Coos Bay	Add. No. 1 - Multiple P.S. project	Approved
6-19-74	Lafayette	0.30 MGD activated sludge STP with polishing ponds and disinfection	Prov. app.
6-20-74	Clackamas County S.D. #1	C.O. #2 Int. sewer contracts	Approved
6-25-74	Salem (Willow Lake)	Addendum #2 STP contract documents	Approved
6-25-74	Arch Cape S.D.	Addendum #2 - STP contract documents	Approved
6-28-74	Boardman	Port of Morrow Industrial Park STP 0.01 MGD package plant with holding pond and irrigation disposal	Prov. app.

Water Quality Control - Industrial Projects (15)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-7-74	Tillamook County	<u>John L. Love</u> --holding tank for animal waste disposal system	Approved
6-12-74	Washington County	<u>Forest Fiber Products Company</u> wastewater control facilities	Approved
6-19-74	Multnomah County	<u>McCall Oil</u> --wastewater treatment facility for oil storage tank farm	Approved
6-24-74	Columbia County	<u>Portland General Electric Beaver Turbine Plant</u> --wastewater facilities	Approved
6-25-74	Tillamook County	<u>Robert Chatelaine</u> --holding tank for animal waste disposal system	Approved
6-25-74	Tillamook County	<u>James Ward</u> --holding tank for animal waste disposal system	Approved
6-25-74	Clatsop County	<u>Roger Olson</u> --holding tank for animal waste disposal system	Approved
6-27-74	Marion County	<u>Blundell Kanning Kitchen</u> wastewater drain	Approved
6-28-74	Clatsop County	<u>Joe Rohne</u> --holding tank for animal waste disposal system	Approved
6-28-74	Yamhill County	<u>Charles J. Kadell</u> --holding tank for animal waste disposal system	Approved
6-28-74	Yamhill County	<u>Hollis Slater</u> --holding tank for animal waste disposal system	Approved
6-28-74	Tillamook County	<u>Ernest Lowrance</u> --holding tank for animal waste disposal system	Approved
6-28-74	Tillamook County	<u>John Hurlimen</u> --holding tank for animal waste disposal system	Approved
6-28-74	Tillamook County	<u>Victor Shreve</u> --holding tank for animal waste disposal system	Approved
6-28-74	Yamhill County	<u>Norman Rasmussen</u> --holding tank for animal waste disposal system	Approved

Air Quality Control - Northwest Region (6)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-10-74	Multnomah County	<u>General Electric Service Shop</u> installation of a burnout oven for electrical parts	Approved
6-13-74	Multnomah County	<u>Star Machinery</u> installation of a paint spray booth for demonstration purposes only	Approved
6-13-74	Clackamas County	<u>Omark Industries, Inc.</u> venting exhaust fumes from silk screen tables	Approved
6-13-74	Multnomah County	<u>Pennwalt Corporation</u> installation of a caustic absorption tank and scrubber to control chlorine waste gas	Approved

Air Quality Control - Northwest Region (cont)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-20-74	Multnomah County	<u>Albers Milling Company</u> control of grain and feed dust emissions from transfer conveying and elevator discharge points	Approved
6-27-74	Washington County	<u>Forest Fiber Products</u> control of hardboard tempering oven emissions utilizing dry filter media	Approved

Air Quality Control - Air Quality Division (13)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-3-74	Marion County	<u>Safeway Stores, Inc.</u> 172-space parking facility	Approved Cond. app.
6-4-74	Clackamas County	<u>Holly Farms Shopping Center</u> 501-space parking facility	Cond. app.
6-6-74	Clackamas County	<u>Kaiser Foundation Central Facilities</u> 245-space parking facility	Cond. app.
6-6-74	Clackamas County	<u>Heritage Estates, Inc.</u> bread distributor; 10-space parking facility McLoughlin Blvd.	Approved
6-10-74	Marion County	<u>Equitable Towers</u> office and parking facilities-- 154 spaces	Cond. app.
6-11-74	Washington County	<u>Beaverton Park & Ride Station</u> 206-space parking facility	Approved
6-14-74	Washington County	<u>Sunset Volkswagen</u> 171-space parking facility	Cond. app.
6-14-74	Deschutes County	<u>Brooks-Willamette</u> boiler stack test	Reviewed and Req. add. info.
6-24-74	Washington County	<u>Denny Village Condominiums</u> 174-space parking facility	Cond. app.
6-26-74	Multnomah County	<u>Bess Kaiser Hospital</u> 203-space parking expansion	Cond. app.
6-26-74	Multnomah County	<u>Central Plaza South</u> 485-space parking facility	Cond. app.
6-26-74	Multnomah County	<u>Rustler Steak House</u> 78-space parking facility	Cond. app.
6-28-74	Douglas County	<u>International Paper Company</u> (Gardiner)--steam boiler modifi- cation, plan review (N/C 246)	Approved

Land Quality - Northwest Region (6)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-10-74	Multnomah County	<u>Columbia Land Reclamation</u> new demolition landfill; Operational Plan	Prov. app.
6-21-74	Polk County	<u>Fishback Hill Landfill</u> existing garbage site; Operational Plan	Prov. app.

Land Quality - Northwest Region (cont)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-24-74	Multnomah County	<u>St. Johns Landfill</u> existing garbage site; Operational Plan for tire processing	Approved
6-24-74	Metropolitan Service District	<u>Solid Waste Management Plan</u>	Review
6-25-74	Marion County	<u>Woodburn Sanitary Landfill</u> new garbage site; Operational Plan	Prov. app.
6-26-74	Columbia County	<u>Mickey's Landfill</u> existing garbage site; amendment to Operational Plan	Approved

Land Quality - Solid Waste Management Division (7)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-11-74	Klamath County	<u>Modoc Lumber Company</u> existing industrial site; Operational Plan	Approved
6-14-74	Lincoln County	<u>John T. Clark</u> - sludge drying site; new domestic site (letter authorization)	Prov. app.
6-18-74	Klamath County	<u>Crescent Landfill</u> new domestic site; Construction and Operational Plans	Prov. app.
6-21-74	Lane County	<u>Autzen Stadium Demolition Site</u> new domestic site (letter authorization)	Prov. app.
6-24-74	Jackson County	<u>John Ousterhout Landfill</u> new industrial site (letter authorization)	Prov. app.
6-25-74	Coos County	<u>Bohemia, Inc., Wilkin's Corner</u> Landfill new industrial site; Construction and Operational Plans	Add. info. req.
6-27-74	Jackson County	<u>Crater Log Salvage</u> existing industrial site (letter authorization)	Prov. app.

Dr. Crothers inquired about the pending projects list. Mr. Cannon said the information would be available for the next Commission meeting.

TAX CREDIT APPLICATIONS

It was MOVED by Mr. Somers, seconded by Dr. Crothers and carried that the report of the Department regarding the following tax credit applications be adopted and made a part of the record. As recommended by the Director, Pollution Control Facility Tax Credit Certifications were approved for issuance to the following

applicants for facilities claimed in the respective applications and with 80 percent or more of the claimed costs being allocable to pollution control:

<u>Appl. No.</u>	<u>Applicant</u>	<u>Cost</u>
T-527	Chevron Asphalt Company	\$ 84,076.00
T-532R	Omark Industries, Waste Treatment Department	260,640.00
T-540	Marvin L. Markman	10,940.00
T-544	Union Pacific Railroad Company	176,653.00
T-558	Permaneer Corporation, White City Division	25,997.75
T-559	Permaneer Corporation, White City Division	28,042.00
T-564	Permaneer Corporation, Dillard Division	21,154.71
T-549	Fred E. Moe	11,186.16

Although the motion passed unanimously, Mr. Somers stated that he still opposed granting tax credits to industries which are not regulated because the Department has no means of insuring proper use of the pollution control facilities.

ADOPTION OF PROPOSED MOTOR VEHICLE NOISE RULES

In order to demonstrate the objective of the proposed noise standards, Mr. Hector played a tape recording in which typical excessive motor vehicle and industrial noises were contrasted with proposed noise levels, both produced by electronic amplification and attenuation.

Mr. Hector then presented the staff memorandum report which included a synopsis of testimony received at the public hearing held by the Commission on June 21, 1974 in Coos Bay, to consider adoption of the new and in-use motor vehicle noise regulations and three procedure manuals; corrections to the Motor Vehicle Sound Measurement Manual, NPC-21; and modifications to the rules made after evaluation of the testimony presented at the hearing and received within the ten subsequent days the record was left open.

It was the Director's recommendation that the Commission approve and adopt the noise procedure manuals, NPC-1, 2 and 21 and the submitted rules for new and in-use motor vehicles to become effective ten days after publication by the Office of Secretary of State.

An addendum to the staff report explained that the Department's proposed noise limits for motorcycles were identical to California's standards for road motorcycles except that the Department designated limits by model year, not manufacturing year as was done in California. The Department subsequently learned that

model year limits would prohibit the sale of some road motorcycles produced in good faith to meet the most stringent noise regulations in the nation. Since this was clearly not the intent of the Department, the Director further recommended that for motorcycles, Table A of the proposed rules be amended to read as follows (the changes given represent a one-year delay in the proposed noise limits for motorcycles):

Motorcycles	<u>Model Year</u>	<u>Max. Noise Level</u>
	1975	86
	1976	83
	1977-1978	80
	after 1978	75

Also recommended were word changes in the motorcycle limits in Tables B, C, and D, necessary for consistency:

- (1) change all references to "1975" to "1976".
- (2) change all references to "1976" to "1977".

Chairman McPhillips interrupted the meeting to introduce Governor McCall for presentation of the Oregon CUP to Willamina Lumber Company. In making the presentation to John Hampton of the company, the Governor noted that the presentation of the Oregon CUP was a rare occasion in that Willamina Lumber was only the fourth firm based and located in Oregon which has qualified. He stated, "...symbolically it is, I think, the most coveted award that you can receive in reflecting your sensitivity toward the amenities of nature anywhere in the United States." Mr. Hampton introduced Mr. Lloyd Lewis, Plant Manager, assigned the environmental cleanup program in behalf of the company, and asked Mr. Lewis to receive the CUP for Willamina Lumber. Mr. Lewis commended Mr. Fetrow and Mr. Mick of the DEQ staff (Northwest Region, Salem Branch) for their assistance. The Governor congratulated the Commission and the staff on the excellence of the selection.

Returning to the agenda item before the Commission, Mr. Somers and Mr. Hector discussed the ambient limits set for off-road motor vehicles.

It was MOVED by Mr. Somers that section 35-015(12) be amended as follows: after the word "purpose", insert the words "including water craft", and MOVED the adoption of the proposed rules as amended.

Mr. Cannon entered into the record a telegram dated July 18, 1974, received

from the Motorcycle Industry Council, Washington, D. C., which has been made a part of the permanent record.

The motion was seconded by Mrs. Hallock and carried.

PUBLIC HEARING ON PROPOSED COMMERCIAL AND INDUSTRIAL NOISE RULES

Proper notice having been given as required by state law and administrative rules, the public hearing scheduled on this date of July 19, 1974, in the matter of statewide rules and procedure manuals relating to noise pollution from industrial and commercial sources was opened by the Chairman with all members of the Commission in attendance.

Mr. Stolpman presented the staff memorandum report regarding the rules and changes in the sound measurement procedures manuals NPC-1 and 2, noting that in the last nine months the Department has held two sets of public hearings and has worked with an advisory noise committee in formulating the proposed rules.

The following witnesses presented testimony:

The Honorable Lynn Newbry, Oregon State Senator, Talent, Oregon, submitted prepared testimony which has been made a part of the permanent record. He spoke of the economic effect of the proposed regulations and noted that industry was not given the same consideration in the application of these proposed rules as were the owners, operators and manufacturers under the motor vehicle noise rules. He stated, "There is a strong question in my mind as to whether industry and commerce should be called upon to make substantial additional investments to lower current noise levels when other segments of the economy are being regulated at existing levels or exempted entirely." He added that he personally knew of three small plants in his senatorial district which will either be forced to close or move their operations if the proposed standards are adopted. He asked the Commission to carefully consider the social and economic impact of the proposed regulations prior to adoption.

Dr. Crothers asked for details of the plants referred to by the Senator. Mr. Newbry replied that two of them are small wood cut-up plants and the third is a steel fabricating plant, all located in the City of Ashland in an industrial zone adjacent to an old residential area. Two of the plants have been in the area for more than 25 years, and none would qualify for exemption under the proposed rules.

Mr. Joe Smith, Medford Corporation, Medford, asked the Commission to reconsider Table G and "start working with an allowable 65 dBA."

Mr. Thomas C. Donaca, representing the Noise Committee of Associated Oregon Industries (AOI), submitted prepared testimony which has been made a part of the permanent record. Mr. Donaca questioned the Commission's legal authority to adopt standards as well as the Commission's authority to grant variances, exceptions, exemptions and to require compliance schedules. His statement also dealt with specific concerns with the standards as proposed. He said the Commission should have an opinion from the Attorney General as to whether or not it has the authority to grant variances, and also asked that the Commission's preemptive power be defined by the Attorney General.

Mr. Ben Heald, also a member of the Noise Committee of AOI, discussed Octave Bands and Audible Discrete Tones. He submitted a copy of "'A' Weighted Equivalent to Octave Band Analysis" from a 1971 issue of the Federal Register. His main objection was to Table J in the low frequencies, which he felt was too restrictive. He asked for further consideration and study since low frequency noises are hardest and most expensive to treat. He said the rules generally were very workable with the exceptions he and Mr. Donaca defined.

Mr. Donaca completed AOI's presentation by asking that all blasting noise be exempt, not just construction blasting noise. He stated that the proposed rules were "the most complete, the most comprehensive and the most complex" of all of the noise regulations that have been or will be presented to the Commission. He requested that AOI's recommendations for changes be considered because industry and commerce "have the heaviest burden of compliance of all the classes enumerated, let alone some of those which are not even enumerated."

Mr. Mark Dodson, attorney representing Pacific Gas Transmission Company (PGT), distributed copies of a prepared statement, a copy of which has been made a part of the permanent record. PGT owns, operates and maintains a natural gas pipeline and related facilities in Central Oregon. With respect to the six pipeline compressor stations in the state, PGT recommended to the Commission that the noise levels specified in Table G, pre-1978 be adopted as the maximum allowable statistical noise levels for existing, new or modified noise sources, and that the post-1977 standard be deleted entirely.

Mr. David A. Pahl, Executive Vice President of the Northwest Food Processors Association, supported the testimony given by Mr. Donaca in behalf of AOI. The Association requested that those food processing plants located near "noise sensitive areas" qualify for reasonable variance relief under section 35-100 of the proposed rules. The variance request would apply to those plants because of "a short season of operation (noise generation) and a limited volume of low-value production against which to apply the costs of expensive noise reduction modifications." A copy of Mr. Pahl's statement has been made a part of the permanent record.

Mr. Delbert Johnson, representing the Oregon Railroads Association, requested that sounds created by railroads be exempt from the proposed regulations only until the proposed federal regulations to control railroad noise, first published on July 3, 1974, are finalized and it can be determined whether or not the federal regulations will be preemptive in all areas.

Mrs. Jeanette Egger, representing the Oregon Environmental Council, submitted prepared testimony, a copy of which has been made a part of the permanent record. The Council asked the Commission to return the levels to those of the March 1974 proposed rules, with one-year phase-in period, and to return the measurement point to the property line at those previous levels. The Council also asked that noise sensitive property include "Theaters, outdoor amphitheaters, campgrounds, and any point in a private or public park or recreation area where hiking, picnicking, nature study, fishing or reading take place" and that the definition of "quiet areas" be returned to that of the February draft. The Council was also disturbed that the standards would be enforced essentially on a complaint basis.

Mr. Walter A. Hitchcock, Environmental Coordinator, Port of Portland, submitted prepared testimony, a copy of which is made a part of the permanent record, which stated that the Port "fully supports the Department's efforts to regulate noise from industrial and commercial activities." The Port offered amendments to the proposed rules to provide for local enforcement; to remove the complaint basis for enforcing the rules; to provide for a mechanism to insure attainment of post-1977 levels by January 1, 1978; to establish a review authority for new sources; to remove the discriminatory aspects of the section which restricts the increase in ambient noise levels for new sources in undeveloped industrial and commercial areas; and to alter the allowable octave band sound pressure levels contained in Table J.

Mr. Roger Emmons, Executive Director of the Oregon Sanitary Service Institute, distributed prepared testimony which he summarized. A copy has been made a part of the permanent record. Mr. Emmons asked for a clarification of the Road Vehicle Auxiliary Equipment exemption to assure the industry that compactors built into packer trucks for the handling of storage of waste products are included. He also expressed concern for enforcement of the standards on a complaint basis; the establishment of "quiet areas"; the authority of the Commission to grant variances; and the ambient noise level restrictions by new sources in undeveloped commercial and industrial areas.

Mrs. Hazel Stevens of Eagle Creek, expressed concern for the encroachment of noise in her rural community, particularly the rock crusher and motor bikes. She questioned the complaint procedures under the proposed rules and urged the Commission to adopt rules whereby readings are taken either from the edge of the industrial site where the noise is generated or from the edge of the nearest property owner.

Mrs. Marlene Frady of Salem, distributed prepared testimony, a copy of which has been made a part of the permanent record. MRS. Frady said that the noise level would be increased and the regulations violated many times in areas where industry is located near residences. The remainder of her testimony, quoted from several sources, dealt with various human problems associated with noise.

The Chairman recessed the hearing at 12:10 p.m. for luncheon.

The meeting was reconvened at 1:30 p.m. and the first witness called in the continuation of the public hearing on industrial and commercial noise regulations was Mr. Gene Hopkins, Executive Vice President for Greater Medford Chamber of Commerce. Mr. Hopkins submitted prepared testimony, a copy of which has been made a part of the permanent record. He stated that the Chamber "supports the establishment of sound and economically practical noise emission controls. [However]....We view the regulations as proposed as being lopsided in environmental concern, while almost ignoring the need for beneficial economic development and for meeting energy conservation needs."

Mr. Jim Van Vorhees of Prineville, representing Coin Millwork, asked that the Commission "balance the interests of both industry, the people and noise." He stated that the conditions for the granting of exceptions should be spelled

out in the rules. He asked the Commission to consider the impact of the proposed regulations on zoning and comprehensive planning efforts throughout the state.

Mr. Paul J. Willoughby, audiologist with the Portland Ear, Nose and Throat Clinic, discussed the section on preferred frequencies, stating that the use of one-third octave band filters was not practical at this time because they are quite rare, the standard octave band filters being the type most typically used.

Mr. James Lee of Portland, representing the Northwest Environmental Defense Council, stressed the necessity for regulating low frequency noise. He also did not favor the concept of noise sensitive property line, claiming that the regulation of noise at its source was superior. He also criticized those sections of the rules dealing with impulses and pure tones, stating that it was impossible to regulate pure tones adequately unless the one-third octave band filter was used. (Prepared testimony, submitted after the meeting, has been made a part of the permanent record.)

There were no further witnesses. Written testimony submitted for the record but not presented at the hearing was received from Mr. Charles H. Frady, Salem, representing the East Salem Environmental Committee as its president, dated July 19, 1974; Oregon Concrete and Aggregate Producers Association, Inc., dated July 18, 1974; and Portland General Electric Company, dated July 19, 1974.

The Chairman closed the hearing but stated that the record would remain open for 10 days to allow for the submission of written testimony.

Mr. Somers recommended referral of the proposed regulations to the Department's legal counsel for clarification. He also asked that section 35-005(2) be modified so that it is specifically a preemptive regulation, and that 35-035 be made a uniform regulation with the provision that it be enforced by complaint.

HIGHWAY I-205

Mr. Vogt presented the staff memorandum report regarding an application from the Oregon State Highway Division to construct a 9.2 mile freeway with eight lanes from the Lewis and Clark Highway in the State of Washington to the existing section of I-205 in Oregon (the Southeast Foster area). The Department reviewed the I-205 Highway Impact Study and all additional air quality information, including a brief analysis of the potential noise impact, submitted by the Highway Division.

The Director recommended that the Commission approve the construction of the proposed 9.2 mile section of I-205 subject to the following conditions:

1. The Oregon State Highway Division (OSHD) shall initiate changes in design acceptable to the DEQ to reduce the carbon monoxide levels beyond the right-of-way in the area between Stark Street and Division Street on the east side of I-205.
2. The OSHD shall initiate changes in design acceptable to the DEQ to reduce the adverse impact on Rocky Butte jail resulting from high ambient air levels of carbon monoxide and lead.
3. The Highway Division shall submit to the Department for review and approval including a time schedule for implementation a detailed noise monitoring program to be implemented upon completion of the project. The result of the noise monitoring program shall be submitted to the Department including actual measurements taken and an assessment of the noise impact of the project.
4. The OSHD shall initiate an ongoing ambient air monitoring program acceptable to the DEQ to be designed to monitor the actual impact of I-205 on a "real time" basis along the right-of-way of the proposed freeway. Control measures acceptable to the DEQ shall be implemented to minimize adverse effects identified by this monitoring program.

Commissioner Mel Gordon of Multnomah County submitted prepared testimony, a copy of which has been made a part of the permanent record. He said that the concept has changed from a bypass freeway with four lanes and three interchanges to a full eight-lane freeway with eight interchanges. He concurred with the Director's recommendation but asked that action be deferred until an alternative proposal from Multnomah County could be presented to the Commission.

Dr. Phinney noted that the Commission could only take action on those proposals before it, and no alternative proposals had been presented. Mr. Hanson stated that in order for the Department to comment on any other proposal, that proposal would have to be submitted to the Department by the Oregon State Highway Division.

Mr. Clifford G. Allen of Portland, representing a citizens' committee (ENUF) concerned about freeways, stated that Commissioner Gordon's testimony covered many matters he had intended to bring to the Commission. He said there were many large institutions near the proposed freeway and particularly for this reason, the air quality standards should be enforced.

It was MOVED by Mr. Somers, seconded by Dr. Phinney and carried to approve the Director's recommendation.

SATELLITE LONG-TERM PARKING FACILITIES SERVING PORTLAND INTERNATIONAL AIRPORT

It was MOVED by Mr. Somers, seconded by Mrs. Hallock and carried to approve the Director's recommendation that the Commission defer approval of the 190-space Goss Bros. Construction Company facility and direct the Department not to approve this facility or similar facilities until the Port of Portland has completed an overall plan and or Multnomah County has indicated the proposal or similar proposals for projects are consistent with Multnomah County plans for the area.

Letters had been received from Mr. Daniel M. Uman, Director, Multnomah County Department of Environmental Services, and Mr. I. James Church, Director, Aviation, the Port of Portland, supporting such action. Both have been made a part of the permanent record.

PROPOSED AMBIENT AIR STANDARD FOR LEAD

It was MOVED by Dr. Crothers, seconded by Mr. Somers and carried to approve the Director's recommendation that the Commission defer action on the Proposed Ambient Air Standard for Lead until the next meeting of the Commission.

Chairman McPhillips read into the record a letter received from Governor McCall, dated July 8, 1974, supporting the proposed lead standard. Mr. McPhillips said the matter would be brought to the Commission at its meeting scheduled for September 4, 1974 in Portland.

COMPLEX SOURCES PROPOSED RULES REVISION

Mr. Guilbert stated the Director's recommendation requested deferral of this matter.

It was MOVED by Mr. Somers, seconded by Mrs. Hallock and carried to approve the Director's recommendation that the Commission defer action on the proposed rules for Complex Sources and Maintenance of Air Quality Standards until such time as the Department has completed an evaluation of testimony presented and a revision of the proposed rules.

VARIANCE REQUEST (ARCO), SULFUR CONTENT OF RESIDUAL FUEL OIL

Mr. Hanson said that ARCO had withdrawn its variance request and therefore no action on this matter was required.

CHEM-NUCLEAR SYSTEMS, INC., AUTHORIZATION FOR PUBLIC HEARING

It was MOVED by Dr. Phinney and seconded by Mr. Somers to approve the Director's recommendation that the Commission authorize and direct the Department to:

1. Schedule a public hearing on the proposed Chem-Nuclear Arlington site license to be held on August 26, 1974, in The Dalles, Oregon.
2. Issue appropriate notices of public hearing and advise interested parties of the scheduled hearing.
3. Make the final draft of the proposed license available to the public by not later than August 1, 1974.

Mr. Jonathan Newman, an attorney with the Portland law firm of Hardy, Buttler, McEwen and Weiss, which firm represents Nuclear Engineer Company, a competitor in the field of hazardous waste disposal, spoke in opposition to the proposed hearing date. He asked that a date beyond August 26th be set so that adequate time is permitted for evaluation of the proposed license which was not to be available for public distribution until August 1st. He also asked that Nuclear Engineering Company be admitted as a party to the hearing, that the hearing be held in Gilliam County, and that it be conducted as a contested case hearing.

Mr. John Mosser, representing Chem-Nuclear Systems, Inc., said that a hearing was held two years ago in Gilliam County. He said that he would not object to a hearing date of 30 days following distribution of the proposed license but would not want the hearing delayed for 60 to 90 days.

Dr. Phinney, with the approval of Mr. Somers, withdrew her original motion and then MOVED that the Commission authorize the Director to set the date for the public hearing. Mrs. Hallock asked that the motion be amended so that the hearing would not be held sooner than 30 days after public distribution of the proposed license. The amendment was acceptable to Dr. Phinney. Dr. Crothers asked that the Director set the hearing date no sooner than 30 days but no later than 60 days after the proposed license was made available to the public. This further amendment was acceptable to Dr. Phinney. The motion was then seconded by Dr. Crothers and when voted upon, carried unanimously.

WEYERHAEUSER COMPANY, SPRINGFIELD--STATUS REPORT ON NPDES PERMIT APPLICATION

Mr. Sawyer summarized the status of the Department's NPDES permit authority

and the terms of the proposed Weyerhaeuser permit, based on the information available to the Department. The permit was drafted pursuant to the NPDES requirements, and constitutes the first permit under the federal law but a renewal of a discharge permit under state law. A public hearing was held on the proposed permit and following the hearing, the Department's technical staff evaluated the testimony presented as it related to the issue of the issuance of the permit. The staff recommendation to the Director was that the proposed permit be issued as soon as possible so as to place Weyerhaeuser Company under a current, enforceable permit.

Dr. Crothers asked Mr. Sawyer if the 4,000 pound level for wintertime discharge of BOD, required in the original permit, was a realistic figure and whether or not the company has been in violation of this permit requirement. Mr. Sawyer replied that based on the information available at this time, the figure did not represent a realistic number, and that the company has been technically in violation of that limit. The company has also "had programs underway approved by us for making improvements to reduce those discharge levels, and it was our judgment at the time and under the circumstances that enforcement action should not be undertaken where they were proceeding in an attempt to reduce these levels." A major factor contributing to the violation was the deterioration of the efficiency of the aeration lagoon treatment system. He explained the operation of this treatment system and the dredging that has been done to improve its efficiency. The discharge is currently in the range of 2,000 pounds per day.

Several witnesses had asked to present testimony on this matter, and the Chairman called for their comments.

A statement by the League of Women Voters of Central Lane County was read into the record by Mrs. Gladys Bohrer in behalf of League President Annabel Kitzhaber, a copy of which has been made a part of the permanent record. The statement, in opposition to the permit as written, dealt with the issues of public participation, which the League interpreted as public participation in the drafting of the permit; the zero discharge requirement of the Federal Water Pollution Control Act Amendments of 1972, which the League stated should be a "goal" rather than an "ideal"; the mixing zone with respect to its size and location; and monitoring and enforcement aspects of the permit requirements. The League also recommended several modifications of the proposed permit.

Mrs. Robin Jaqua of Eugene, representing herself and other concerned citizens of Eugene-Springfield, commented on a petition signed by approximately 400 persons which was submitted at the public hearing on the permit held in May, to which neither the Hearings Officer's report nor the Director's report referred. She then read the petition which called for the Department to reject any permit which would allow any increased amount of pulp effluent to be released into the McKenzie River, and urged that Weyerhaeuser be held "rigidly responsible for any violation of its present allocation and that prosecution be prompt for any violation thereof." She urged the Commission to "veto" the Director's recommendation.

Mr. James Draeger of Eugene, representing himself and other concerned citizens working at the Survival Center and the Environmental Studies Center at the University of Oregon, adopted into his testimony the points made by Mrs. Jaqua. He said, "We cannot accept the NPDES permit in its present form." He urged the use of automatic monitoring devices and wanted the permit limited to one-year.

Mr. Leon Earl Henderson of Eugene, representing himself and others who have mutual feelings about the McKenzie River, endorsed the statements of the previous speakers.

Mr. Tom Bowerman of Eugene, representing himself and his family, opposed the proposed permit on the particular basis of the allowable discharge into state waters and the net decrease in water quality standards. He submitted a letter to the Commission dated July 19, 1974, which has been made a part of the permanent record.

Mrs. Gladys Bohrer of Eugene, discussed mixing zones and the visible pollution in the McKenzie River.

Mr. Loyd Dolby of Eugene, a Professor of Chemistry at the University of Oregon, suggested the permit be recast in terms of chemical oxygen demand rather than biological oxygen demand, because he said the latter is so imprecise.

Mr. William Wilson, a Eugene architect-engineer, asked for a one-year permit and zero pollution of the McKenzie River.

Mr. Jim Long of Springfield, had submitted prepared testimony (a copy of which has been made a part of the permanent record) but had to leave the meeting prior to its presentation. His statement asked for the submission by Weyerhaeuser of an Environmental Impact Statement, and that the chemical oxygen demand of the company's effluent be determined.

Mr. John Neilsen, representing the Oregon Environmental Council, submitted prepared testimony, a copy of which has been made a part of the permanent record. Mr. Neilsen's remarks acknowledged strong support of the Hearings Officer's report.

Mr. Jerry Harper, Environmental Manager for Weyerhaeuser (Oregon), stated that he had not planned to make a statement but decided to explain some of the positive activities the company would be carrying out in the next few years. He said that self-monitoring does work and the fact that the company was found to be in violation 10 out of 15 months supported that statement. He said that he did not know of any reliable equipment to monitor BOD and solids, the two key parameters contained in the permit, which must be monitored daily on a manual basis. He said he was also disturbed by the accusations of the biological effects on the McKenzie River from the company's discharge, noting that neither the Department nor the fish and game agencies have presented any indications to Weyerhaeuser that they are concerned about decreasing water quality.

Mr. Harper briefly discussed the major components of Weyerhaeuser's pollution control plans for the Springfield plant, proposed in order to comply with the proposed permit, and which will cost about \$4.4 million. These include a primary treatment system (a clarifier to replace the existing primary ponds, a \$2.2 million condensate treatment system, and internal systems "which we believe to be the actual answer to environmental problems, not technology that's tacked on at the end of the pipe." The company plans to spend a total of \$7.3 million in projects for air and water quality control in their Springfield and Cottage Grove plants.

In reply to questions from Mr. Somers, Mr. Harper stated that the company has presented these proposals to the Department and has received conceptual approval.

Commissioners questioned Mr. Cannon and Mr. Sawyer about the length of the proposed permit and any problems anticipated by the issuance of either a one-year

or a four-year permit. Mr. Sawyer summarized the review process and said, "If a permit were set to expire in one year, we would have to at least six months prior to that expiration, start the process of drafting the new permit in order to assure that one is issued prior to expiration because there is no provision in the federal law for extending a permit if we fail to complete action on it. This we do not feel would give us adequate time to collect additional information, review, or evaluate on a one-year permit cycle--at a bare minimum two years, from a practical standpoint on workload." He also pointed out that the Department can initiate action at any time to modify a permit.

Mr. McPhillips spoke of the special nature of the McKenzie River and his concern for maintaining its extraordinary qualities.

Mr. John Vlastelicia, Oregon Operations Director, Region X, EPA, commented on a federal statute, Public Law 92-500, which requires that no NPDES permit can be issued unless the effluent limitations and receiving water quality standards are met.

The Commission agreed that the matter be set over to the September 4, 1974 Commission meeting to be held in Portland, and instructed the staff to incorporate Weyerhaeuser's proposals in the permit.

ADOPTION OF PROPOSED REGULATIONS FOR STATE FINANCIAL ASSISTANCE TO PUBLIC AGENCIES FOR POLLUTION CONTROL FACILITIES FOR THE DISPOSAL OF SOLID WASTE

It was MOVED by Mr. Somers, seconded by Mrs. Hallock and carried that the staff report regarding the above-stated agenda item not be read but be made a part of the minutes of the meeting, and that the Director's recommendation be adopted. (A copy is attached to and made a part of the official minutes.)

PUBLIC HEARING TO CONSIDER NEW RULES PERTAINING TO A SCHEDULE FOR CIVIL PENALTIES AND AMENDMENTS TO RULES PERTAINING TO PRACTICE AND PROCEDURE

Proper notice having been given as required by state law and administrative rules, the public hearing scheduled on this date of July 19, 1974, in the matter stated above, was opened by the Chairman with four Commissioners in attendance (Dr. Crothers was absent).

Mr. Bolton summarized the staff memorandum report dated July 10, 1974.

Mr. Somers asked what the Department thought of the proposed amendments, and Mr. Cannon replied that the Department would like to take them under advise.

Mr. Somers asked what the Department thought of the proposed amendments. Mr. Cannon replied that the Department would like to take them under advise-ment and come back to the Commission after the staff had an opportunity to review them.

Mr. McPhillips said that two witnesses had indicated they wished to testify:

Mr. Roger Emmons, Executive Director, Oregon Sanitary Service Institute, said he would appreciate the opportunity of having the regulations held over until the next Commission meeting and asked that a letter which would be sent to the Department be entered into the record. Mr. Rudy Lachenmeier of Western Environmental Trade Association, said he, too, would agree to having the rules held over and submitted a letter to the Commission outlining specific recommendations.

It was MOVED by Mr. Somers, seconded by Dr. Phinney and carried to enter Mr. Lachenmeier's recommendations into the record as well as Mr. Emmons' letter when it arrived, and to continue the hearing to the September 4, 1974 Commission meeting.

MANVILLE GINTER, ASSESSMENT OF CIVIL PENALTY FOR UNAUTHORIZED OPEN BURNING

Although Mr. Ginter was informed that he could present arguments to the Commission on this date, he did not appear to do so.

It was MOVED by Mr. Somers, seconded by Dr. Phinney and carried to adopt the findings and recommendations of the Hearings Officer in this matter.

PGE BETHEL TURBINES, SALEM--LIMITATION OF NOISE EMISSIONS

Mr. Mick read the conclusions and Director's recommendations from the staff memorandum report dated July 11, 1974.

Conclusions

1. Operation of the Bethel turbines with present mufflers at the 100 MW power level produces noise levels which exceed presently imposed limits, proposed DEQ industrial noise standards, and which are readily audible in some houses up to 2,300 feet from the turbines.

2. Operation at 55 MW power level with present mufflers produces noise levels which meet presently imposed limits, comply with proposed DEQ daytime standards, exceed proposed night-time standards and are barely audible in nearest privately owned residences.
3. Proposed additional muffling equipment should readily enable the PGE Bethel facility to comply with proposed DEQ daytime and night-time standards.
4. Proposed DEQ standards should be protective against speech interference during daytime hours and against sleep interference during night-time hours (also against general annoyance), except possibly for highly sensitive or sensitized persons. They do not require suppression of industrial noises to inaudible levels.

Director's Recommendation:

Based upon the information available to date, it is the recommendation of the Director that the Commission approve the following requirements to be met by PGE:

1. Installation of the proposed noise suppression equipment be approved to be installed in accordance with the following timetable:
 - a. By no later than August [changed from July] 15, 1974, commence construction.
 - b. By no later than October 1, 1974, complete all construction.
 - c. By no later than October 15, 1974, demonstrate compliance with the Department's industrial day/night noise standard.
2. Until the noise suppression equipment is installed, operation of the facility shall be limited to daylight hours (7:00 a.m.-8:30 p.m.) and to one generating twin-pack at a power level not to exceed 55 megawatts.
3. After noise suppression equipment is installed, PGE shall operate the Bethel facility so as to continuously comply with the Department's day and night noise standards.
4. The Department shall, in cooperation with PGE, evaluate the effectiveness and adequacy of the installed noise suppression equipment and resultant noise level impact on the Bethel community, and report the results of its evaluation to the Commission no later than December 31, 1974.

The Chairman announced that no further testimony would be heard in this matter but accepted a written statement from Mrs. Marlene Frady of Salem.

Mr. Somers MOVED that the Director's recommendation on this matter be followed subject to an amendment adding paragraph number five, that no later than December 31, 1974, the plant emit, as a condition precedent to the plant operating, a noise level no greater than 45 dBA at any affected residence within 3,000 feet of the plant unless they [PGE] have purchased or obtained an easement for the emission of noise from the affected property. The motion was seconded by Dr. Phinney and carried.

BOISE CASCADE CORPORATION, PULP AND PAPER MILL, SALEM

Mr. Fetrow read the Conclusions and Director's Recommendations from the staff memorandum report regarding amendment of the permit authorizing expansion of pulping capacity and improvements to wastewater control facilities proposed by Boise Cascade for the Salem pulp and paper mill.

Conclusions

1. It is not known conclusively at this time whether Boise Cascade will be able to comply with the stringent 200 ppm hourly SO₂ average imposed by the EQC and whether this standard is practicable from a standpoint of preventing excessive particulate generation and subsequent mist eliminator plugging.
2. Strict Department enforcement of the revised SO₂ limits during the six-month evaluation period will be undertaken only if it appears that Boise Cascade is negligent in their application and/or operation of the recovery furnace emission control system. The Department will at all times enforce the permit condition that emissions be kept to the lowest practicable levels.
3. The Department will evaluate the practicality of the revised SO₂ emission standards and compliance with all other air permit conditions during the 6-month evaluation period and report back to the EQC with recommendations regarding compliance with permit conditions as related to proposed expansion and/or revisions in SO₂ limits if deemed appropriate.

Director's Recommendation

This report is intended to apprise the EQC of past and proposed Department action regarding permit conditions and enforcement as a result of action taken by the EQC at the June 27, 1974 hearing which was held to consider an expansion request by Boise Cascade, Salem. Since this is intended as a status report, no Commission action is required.

There was no further business to be brought to the attention of the Commission, and the meeting was adjourned by the Chairman at 5:35 p.m.

Shirley G. Shay, Secretary
Environmental Quality Commission

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 8

STATE FINANCIAL ASSISTANCE

Subdivision 2

STATE FINANCIAL ASSISTANCE

TO PUBLIC AGENCIES FOR
POLLUTION CONTROL FACILITIES FOR THE
DISPOSAL OF SOLID WASTE

82-005 PURPOSE. The purpose of these regulations is to prescribe requirements and procedures for obtaining state financial assistance for planning and construction of pollution control facilities for the disposal of solid waste pursuant to Article XI-H of the Oregon constitution.

82-010 DEFINITIONS. As used in these regulations unless otherwise required by context:

(1) "Department" means Department of Environmental Quality. Department actions shall be taken by the Director as defined herein.

(2) "Commission" means Environmental Quality Commission.

(3) "Director" means Director of the Department of Environmental Quality or his authorized deputies or officers.

(4) "Agency" means municipal corporation, city, county or agency of the State of Oregon, or combination thereof, applying or contracting for state financial assistance under these regulations.

(5) "EPA" means U. S. Environmental Protection Agency.

SOLID WASTE DISPOSAL

POLLUTION CONTROL FACILITIES

82-015 ELIGIBLE PROJECTS AND PROJECT PRIORITIES. Projects eligible for state financial assistance under ORS 468.220 and priority ranking of such eligible projects will be based on the following criteria approved by the Commission.

(1) Projects eligible for state financial assistance for pollution control facilities for the disposal of solid waste as authorized in ORS 468.220 shall meet the following criteria

(a) The project or facility is part or parcel of or complementary to a Department approved and locally adopted Solid Waste Management Plan.

(b) The project or facility has proven or demonstrated technical feasibility.

(c) The project or facility is within local economic constraints and abilities to administer.

(d) The project or facility must be approved by the Department.

(2) Priority of eligible projects for state assistance for planning and construction of pollution control facilities for the disposal of solid waste shall be based upon the following criteria:

(a) The project or facility is replacing existing inadequate or unacceptable methods of solid waste disposal and thereby results in improved environmental quality.

(b) The project or facility recovers resources from solid wastes.

(c) The projected facility will establish improved solid waste management practices.

(d) The need for state assistance is demonstrated.

82-020 ELIGIBLE COSTS. Eligible costs for state assistance for planning and construction of pollution control facilities for the disposal of solid wastes shall include but not necessarily be limited to:

(1) Land acquisition limited to that minimum amount of land necessary to the project.

(2) Engineering costs for design and supervision

(3) Legal assistance directly related to project

(4) Construction

(a) Site development

(b) Structures (including earth structures

(c) Fixed utilities

(5) Major equipment (initial purchase only)

(a) Solid waste processing and handling equipment

(b) Landfill operation equipment

(c) Rolling Stock

(d) Miscellaneous equipment under \$1500

82-025 SPECIAL CONSIDERATIONS ON ELIGIBLE COSTS FOR EQUIPMENT. Equipment purchases for solid waste disposal facilities with state assistance shall be given special consideration. Intended equipment purchases shall be itemized in the grant loan application and

the applicability of each individual piece of equipment to the project or facility clearly outlined for Department review. The following criteria shall be applied by the Department to equipment purchases:

(1) Equipment purchases shall be limited to initial purchases only and eligibility restricted to only that equipment necessary to sustain the performance of the project or facility.

(2) Equipment required, whether for processing or landfilling of solid wastes, that has an expected useful or mechanical life less than the anticipated life of the project, will require a sinking fund or equivalent replacement fund in the submitted project budget for such equipment replacement throughout the life of the project.

(3) All major equipment purchases shall be done through open bidding on specified types or equivalents of equipment. Specifications on major equipment needs shall be reviewed by the Department prior to purchase.

(4) Equipment purchases less than \$1500. (small tools, office equipment, etc.) do not require specifications but must be reviewed and approved by the Department.

82-030 APPLICATION DOCUMENTS. The representative of an agency wishing to apply for state financial assistance under these regulations shall submit to the Department three signed copies of each of the following completed documents:

(1) Department Solid Waste Management Projects Grant-Loan application form currently in use by the Department at the time of the application for state financial assistance. This form will be provided by the Department upon request.

(2) All applications for federal financial assistance to the solid waste projects for which state financial assistance is being requested.

(3) Resolution of the Agency's governing body authorizing an official of the agency to apply for state and federal financial assistance and to act in behalf of the agency in all matters pertaining to any agreements which may be consummated with the Department or with EPA or other federal agencies.

(4) Five year projection of the agency's estimated revenues and expenses related to the project (on forms provided by the Department).

(5) An ordinance or resolution of the agency's governing body establishing solid waste disposal user rates, and other charges for the facilities to be constructed.

(6) A legal opinion of the agency's attorney establishing the legal authority of the agency to enter into a financial assistance agreement together with copies of applicable agency ordinance and charter sections.

An application is not deemed to be completed until any additional information requested by the Department is submitted by the agency.

Applications for financial assistance for planning under ORS 468.220 (1) (e) shall be on special forms provided by the Department and shall be accompanied by a resolution of the agency's governing body.

82-035 APPLICATION REVIEW. Application documents will be reviewed by the Department staff to determine that: the proposed facilities for which state funds are requested are eligible under these regulations and applicable Oregon statutes; the proposed sources of local revenue to be pledged to the retirement of state loans are acceptable and adequate under the statutes; the facilities for which state financing is requested will be not less than 70% self-supporting and self-liquidating from approved revenues, gifts, user charges, assessments and other fees; and federal or state assistance funds are assured, or local funds are available, for the completion of the project.

82-040 LOAN OR OBLIGATION PURCHASE AGREEMENT.

(1) Following review and approval of the application documents and final construction plans and specifications by the Department and legal authorization by the governing body of the agency or its electorate, if necessary, to enter into a loan agreement with the state or an agreement to sell its general obligation bonds or other obligations to the state, the Department may enter into such loan or purchase agreement in a principle amount not to exceed 70% of the eligible project cost including the construction bid accepted, estimated engineering and inspection costs, eligible legal and fiscal costs and a contingency allowance to be established by the Department.

(2) The loan or purchase agreement shall identify sources and amounts of revenue, to be dedicated to loan or obligation retirement

sufficient to demonstrate that the facilities to be constructed will be not less than 70% self-supporting and self-liquidating. The agency will be required to furnish an annual audit report to the Department to show that adequate and acceptable revenues continue to be available for loan obligation retirement.

(3) The Department must be assured that at least 30% federal or state grant funds, other funds or combinations thereof are available to complete the total project.

(4) When the state is requested to purchase local obligations and obligation purchase agreement is entered into, the local obligations will be purchased at par to an even multiple of \$5,000, in an amount not to exceed 70% of the total eligible project cost as determined in subsection 1 of this section; except that when the amount of local obligations to be purchased by the state is less than \$100,000 they may be purchased at par to a multiple of \$1,000 in an amount not to exceed 70% of the total eligible project cost.

(5) The loan or obligation interest rate to be paid by the agency shall be equal to the interest rate on the state bonds from which the project is funded, except as provided in subsection 6 of this section.

(6) The loan or obligation retirement schedule of the agency must retire its debt obligation to the state at least as rapidly as the state bonds from which the loan funds are derived are scheduled to be retired except that when a debt retirement schedule longer than the state's

bond repayment schedule is legally required, special debt service requirements on the agency's loan or obligation purchase will be established by the Department.

(7) Loan or obligation interest and principle payments shall be due at least thirty days prior to the interest and principle payment dates established for the state bonds from which the loan or obligation purchase is advanced.

82-045 CONSTRUCTION BID DOCUMENTS REQUIRED. Following receipt of construction bids, the agency shall submit three copies each of the following documents to the Department for review and approval of contract award: tabulation of all bids received; engineer's analysis of bids; engineer's recommendations; low bidder's proposal; publisher's affidavits of advertising; and a current project cost estimate summary including an estimate of funds available for the project.

82-050 ADVANCEMENT OF LOAN OR OBLIGATION PURCHASE FUNDS.

(1) Upon receipt of three copies of the executed construction contract and the loan or obligation purchase agreement, the Department will approve the final loan amount and authorize the Treasury Department to advance the full amount of the loan or obligation purchase price to the agency.

(2) If the funds are advanced under the terms of a previously executed obligation purchase agreement, the agreement will specify a period of time, not to exceed six months, following the advancement of funds by the state during which the agency agrees to offer its obligations for public sale. The terms and conditions of the Department's bid offer

for the agency's obligations will be made available to other prospective bidders when the notice of sale of the agency's obligations is published. If the state is the successful bidder for the agency's obligations, the state will receive the obligation and the obligations will be retired under the terms of the obligation purchase agreement. If a private purchaser is the successful bidder, the state will receive reimbursement of the loan or obligation purchase funds previously advanced plus interest at the interest rate on the state bonds from which the project would have been funded if the state had been the successful bidder.

(3) Any excess loan or obligation purchase funds held by the agency following completion of the project must be used for the payment of loan or obligation principal and interest.

82-055 ADVANCEMENT OF STATE GRANT FUNDS.
Depending on priority ranking as determined by the Department and the current availability of EPA or other federal grant funds, a project may receive a state grant in an amount not to exceed 30% of the total eligible project cost under the terms of a separate grant agreement. Grant payments will be advanced during construction, if requested by the agency, in increments of approximately 25% of the total eligible grant project costs as the work is completed. Each payment will be based on the consulting engineer's latest cost estimate of the completed work in place, plus materials

purchased and delivered at the time the payment request is submitted to the Department, and expenditures for engineering, legal and fiscal services that have been documented by the agency to date.



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RONALD M. SOMERS
The Dalles

KESSLER R. CANNON
Director

To: Environmental Quality Commission
From: Director
Subject: Agenda Item C, July 19, 1974, EQC Meeting
Tax Credit Applications

Attached are review reports on 8 Tax Credit Applications. These applications and the recommendations of the Director are summarized on the attached table.

KESSLER R. CANNON

ahc
July 11, 1974

Attachments

- Tax Credit Summary
- Tax Credit REVIEW Reports (8)

TAX CREDIT APPLICATIONS

<u>Applicant</u>	<u>Appl. No.</u>	<u>Facility</u>	<u>Claimed Cost</u>	<u>% Allocable to Pollution Control</u>	<u>Director's Recommendation</u>
Chevron Asphalt Company	T-527	Thermal oxidizer system	\$84,076.00	80% or more	Issue
Omark Industries, Waste Treatment Department	T-532R	Plating waste chemical recovery and reuse system	260,640.00	80% or more	Issue
Marvin L. Markman	T-540	Diversion dam for flush water	10,940.00	80% or more	Issue
Union Pacific Railroad Co.	T-544	Devices for chemical and water recovery	176,653.00	80% or more	Issue
Permaneer Corporation White City Division	T-558	Sanderdust collection and metering system	25,997.75	80% or more	Issue
Permaneer Corporation White City Division	T-559	Two sanderdust collection and conveying systems	28,042.00	80% or more	Issue
Permaneer Corporation Dillard Division	T-564	Sanderdust storage silo and air conveying system	21,154.71	80% or more	Issue
Fred E. Moe	T-549	Pressurized diesel fueled orchard heating system	11,186.16	80% or more	Issue

Date July 8, 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron Asphalt Company
5501 N. W. Front Avenue
Portland, Oregon 97210

The applicant owns and operates a manufacturing facility and sales outlet for liquid asphalt products, paving asphalts, cutbacks, Bitumuls and roofing asphalt at the above address.

2. Description of Claimed Facility

The facility claimed in this application is described to be a thermal oxidizer system for the air still consisting of a burner plenum, oxidizer chamber, combustion air blower and controls.

The facility was completed and placed in operation in May 1972.

Certification is requested under the 1969 Act with 100% of the cost being claimed as allocable to pollution control.

Facility cost: \$84,076.00 (Accountant's certification was provided).

3. Evaluation of Application

The claimed facility was installed in accordance with detailed plans and specifications reviewed and approved by the Columbia-Willamette Air Pollution Authority.

The claimed facility serves to oxidize hydrocarbon materials thereby eliminating a white opaque plume and odiferous substances. An inspection of the facility indicated that the unit is in compliance with applicable emission regulations.

Some heat is recovered from the oxidizing process. This heat comes from the burning of both hydrocarbon fumes and auxiliary fuel. The estimated value of reclaimed heat is about \$20,000 per year. The annual operating expenses including labor, fuel, maintenance and depreciation are about \$26,360.00. Thus, the facility operates at an annual loss of about \$6,000+.

It is concluded that the claimed facility was installed and is operated to control air pollution and that 100% of the cost is allocable to pollution control.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$84,076.00 with 80% or more allocable to pollution control, be issued for this facility claimed in Tax Application T-527.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Omark Industries, Inc.
Waste Treatment Department
2100 S. E. Milport Road
Portland, Oregon 97222

The applicant leases production facilities and pollution control equipment from Omark Properties, Inc.

2. Description of Claimed Facility

Refer to attached Review Report presented to the Environmental Quality Commission at its June 21, 1974 meeting.

3. Explanation and Evaluation

Omark Properties, Inc., as owner, was granted a certificate for specific water pollution control facilities at the June 21, 1974 EQC meeting.

Omark Properties, Inc. as owner and lessor desires that Omark Industries, Inc. as lessee receive the credit and therefore has applied for a change in name on the certificate.

The certificate issued on June 21, 1974 is still in the possession of the Department at the request of Omark Properties, Inc. pending approval of the name change.

4. Director's Recommendation

It is recommended that the certificate issued to Omark Properties, Inc. on June 21, 1974 based on Application T-532 be amended to show issuance to Omark Industries, Inc. as lessee.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Omark Properties, Inc.
Omark Industrial Park
Waste Treatment Department
2100 S.W. Milport Road
Portland, Oregon 97222

2. Description of Claimed Facility

The claimed facility, a plating waste chemical recovery and reuse system, consists of Chrome Recovery, Chrome Waste Treatment, Zinc Recovery and Acid/Alkali Neutralization. The major equipment of each system is as follows:

A. Chrome Recovery

1. Cation Exchanger
2. Anion Exchanger

B. Chrome Waste Treatment

1. Treatment Tank, 650 gallon
2. Automatic Chemical Monitoring and Control
3. Chemical Feed

C. Zinc Recovery

1. Boiler
2. Heat Exchanger
3. Separator
4. Condenser
5. Condensate Cooling Tank
6. Electronic/Pneumatic Control

D. Acid/Alkali Neutralization

1. Treatment Tank
2. Automatic Chemical Monitoring and Control
3. Chemical Feed
4. Precipitator, 2800 gallon
5. Polyelectrolyte Feed
6. Centrifuge

Piping, electrical wiring and controls, buildings and land required are included.

The claimed facility was placed in operation in November 1973. Certification is claimed under the 1969 Act with 100% of the cost allocated to pollution control.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Marvin L. Markman
Rt. 3 Box 82
The Dalles, Oregon 97058

The applicant owns a hog operation, The Dalles, Oregon, on Fifteen Mile Creek.

2. Description of Claimed Facility

The claimed facility consists of a diversion dam for flush water, several hundred feet of PVC transmission line, two lagoon cells totaling 1.29 acre-feet storage, and land for effluent disposal.

The animal waste control facility was placed in operation in November 1973.

Facility Cost: \$10,940 (Includes \$2000 owner labor).

3. Evaluation of Application

This facility was installed to alleviate an existing manure discharge to Fifteen Mile Creek and to accommodate additional manure loads resulting from new hog operations.

The main function of the pollution control system is to collect liquid manure wastes and impound them in lagoons. The non-overflow ponds are used alternately so that liquid evaporation and seepage leave a solids residue which can be separated, collected and dispersed on nearby fields. Any excess liquid can be sprinkle irrigated on cropland.

A recent flood has temporarily taken the diversion dam out of service; however, repairs are underway. The facility is performing as designed.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facilities claimed in Application T-540, such certificate to bear the actual cost of \$10,940 with 80% or more of the cost allocable to pollution control.

Facility Cost: \$260,640.00 (accountant's certification was attached to the application).

3. Evaluation of Application

Installation of the claimed facilities removes and recovers for reuse 99% of the chemicals in the Chrome waste water chemicals, 99% of the Zinc Chloride waste water chemicals, 99% of the acid alkali waste from the effluent previously discharged to Milwaukie Sanitary Sewer.

Although there is value in the reclaimed chemicals, Omark Properties claims, in the application, that total annual operating expenses exceed that value.

4. It is recommended that a Pollution Control Facility Certificate be issued for the facilities claimed in application T532 such certificate to bear the actual cost of \$260,640.00 with 80% or more of the cost allocable to pollution control.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Union Pacific Railroad Company
726 Pittock Block
Portland, Oregon 97205

The applicant owns and operates a timber treating plant in The Dalles, Oregon. The principal product is treated railroad ties.

2. Description of Claimed Facility

The claimed facility consists of various devices for chemical and water recovery including 9 pumps, a decantation tank and recovery tank for pentachlorophenol, a decantation tank and recovery tank for creosote, a decantation tank and recovery tank for a 50/50 mixture of the two preservatives, a high condensate recovery tank, a high chemonite holding tank and a high oil recovery tank.

The facility was placed in operation in January, 1971.

Facility Cost: \$176,653.41

3. Evaluation of Application

The facility was constructed as a result of conditions set forth in DEQ Waste Discharge Permit No. 711. The installation recirculates all phenols, COD and BOD. Suspended solids are disposed on land. No discharge enters public waters.

The claimed facility's main function is to prevent contamination of public waters. The secondary function is to recover wood preservatives for use at the plant. Union Pacific estimates that recovery is valued at \$2,700 per year. Due to operating costs no profit is realized from these facilities.

The facility is performing as designed.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facilities claimed in Application T-544, such certificate to bear the actual cost of \$176,653 with 80% of the cost allocable to pollution control.

Date July 9, 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Permaneer Corporation
White City Division
1790 Avenue "G"
White City, Oregon 97501

The applicant operates a particleboard plant at White City, Oregon.

2. Description of Facility

The facility claimed in this application is described to be a sanderdust collection and metering system and consists of the following:

1. Storage silo.
2. Silo discharge bin.
3. Explosion relief hatches.
4. Fire protection equipment.
5. Necessary foundations, electrical components, etc.

The facility was completed and put into operation in November, 1969.

Certification is claimed under the 1969 Act and the percentage claimed for pollution control is 100%.

Facility cost: \$25,997.75 (Accountant's certification was provided.)

3. Evaluation of Application

This facility enables the plant to contain sanderdust collected by the baghouse filter, until the dust is burned as fuel in the particleboard dryer furnace.

Prior to the installation of this facility, sanderdust would intermittently overflow an existing collection silo, resulting in a sanderdust waste pile with attendant wind blown fugitive emissions.

It is concluded that this installation does operate satisfactorily and does reduce sanderdust windblown fugitive emissions.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$25,997.75 with 80% or more of the costs allocated to pollution control be issued for the facility claimed in Tax Application T-558.

Date July 9, 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Permaneer Corporation
White City Division
1790 Avenue "G"
White City, Oregon 97501

The applicant operates a particleboard plant at White City, Oregon.

2. Description of Facility

The facility claimed in this application is described to be two (2) sanderdust collection and conveying systems and each system consists of the following items:

1. Air fan, with 40 H. P. motor
2. Carter Day baghouse filter
3. Conveying duct
4. Necessary supports, controls, etc.

The facility was completed and put into operation in December, 1970.

Certification is claimed under the 1969 Act and the percentage claimed for pollution control is 100%.

Facility cost: \$28,042 (Accountant's certification was provided).

3. Evaluation of Application

Materials handling system No. 1 enables sanderdust to be conveyed from the sander collectors to a sanderdust storage silo. From this silo, which acts as a surge bin, sanderdust is conveyed by a second materials handling system, No. 2, to a small silo from which sanderdust is fed to a furnace supplying heat to a particleboard dryer.

Prior to the installation of the storage silo, sanderdust would intermittently overflow the small silo, resulting in piles of waste sanderdust with attendant wind-blown fugitive emissions.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$28,042 with 80% or more of the cost allocated to pollution control be issued for the facility claimed in Tax Application T-559.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Permaneer Corporation
Dillard Division
PO Box 178
Dillard, OR 97423

The applicant operates a particleboard plant at Dillard, Oregon.

2. Description of Facility

The facility claimed in this application is described to be a sanderdust storage silo and air conveying system and consists of the following:

1. Storage silo (National).
2. Silo discharge bin (Ersham).
3. Explosion relief hatches.
4. Fire protection equipment.
5. High pressure air conveying system.
6. Necessary foundations, electrical components, etc.

The facility was completed and put into operation in November, 1969.

Certification is claimed under the 1969 Act and the percentage claimed for pollution control is 100%.

Facility cost: \$21,154.71 (Accountant's certification was provided.)

3. Evaluation of Application

This facility enables the plant to store and contain collected sanderdust, until the dust is burned as fuel in the particleboard dryer furnace.

Prior to the installation of this facility, sanderdust was stored in a wooden shed structure. Leaks in the shed resulted in wind blown fugitive emissions.

It is concluded that this installation does operate satisfactorily and does reduce sanderdust windblown fugitive emissions.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$21,154.71 with 80% or more of the costs allocated to pollution control be issued for the facility claimed in Tax Application T-56

Date June 12, 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Fred E. Moe
Route 2, Box 1590
Hood River, OR 97031

The applicant owns and operates an apple and pear orchard near Hood River, Oregon.

2. Description of Claimed Facility

The facility claimed in this application is described to be a pressurized diesel fueled orchard heating system consisting of a 10,000 gallon diesel storage tank; fuel pump, motor, regulator, gauge and filter; 800 heaters and associated PVC pipe and valves.

The facility was completed and placed in operation in March, 1973.

Certification is requested under the 1969 Act with 100% of the cost being claimed as allocable to pollution control.

Facility cost: \$11,187.16 (Accountant's certification was provided).

3. Evaluation of Application

The claimed facility was installed as a replacement for about 800 class II pot type heaters in 30 acres of orchard. The new system emits very little smoke compared to the smudge pots. The claimed facility is not used for any other purpose than orchard heating.

Since the claimed facility replaced an existing orchard heating system, operates at much lower emissions than the previous method and serves no function other than orchard heating, it is concluded that the claimed facility was installed and is operated to a substantial extent for reducing atmospheric emissions and that the portion of the cost allocable to pollution control is 80% or more.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$11,186.16 with 80% or more allocable to pollution control, be issued for the facility claimed in Tax Application T-549.



DEPARTMENT OF JUSTICE
PORTLAND DIVISION
555 STATE OFFICE BUILDING
PORTLAND, OREGON 97201
TELEPHONE: (503) 229-5725

Tax Credits Section
Appl. No. T-549
Received JUL 11 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

July 9, 1974

Mr. Kessler Cannon, Director
Department of Environmental Quality
Terminal Sales Building
1234 S.W. Morrison
Portland, Oregon 97205

Re: Tax Relief Application No. T-549 - Fred E. Moe, Hood
River, Oregon

Dear Mr. Cannon:

You have inquired whether the tax relief sought by Mr. Fred E. Moe under Tax Application No. T-549 is legally available in view of ORS 468.290, which excepts from most of Oregon's air pollution control laws all agricultural operations (excepting field burning), the use of agricultural equipment, the growing or harvesting of crops and the raising of fowls or animals. In my opinion, the answer is affirmative.

There is no language in ORS 468.155 to 468.190, governing pollution control facilities tax relief, which specifically excepts such facilities when used for agricultural operations or equipment from the benefits of these statutes. Further, ORS 468.155 defines "pollution control facility" or "facility" broadly enough to include the facility which is the subject of this tax relief application. And the legislative policy of these statutes, as set forth in ORS 468.160, is unqualifiedly "to assist in the prevention, control and reduction of air and water pollution in this state by providing tax relief with respect to Oregon facilities constructed to accomplish such prevention, control and reduction."

Statutes must, whenever possible, be construed together and in such manner as to be consistent rather than in conflict, thus giving effect to both statutes. McClain v. Lafferty, 257 Or 553. There is no irreconcilable conflict between

Mr. Kessler Cannon

-2-

July 9, 1974

the broadly inclusive legislative policy expressed in ORS 468.160 and the air pollution control exceptions for agriculture in ORS 468.290. Full effect can be given to both. The disposal or elimination of air pollution by a facility in an agricultural operation may be rewarded in the form of a tax credit under one statute though the control of such air pollution is denied by another statute. The legislature may implement a policy by the use of a carrot instead of, as well as in addition to, a stick.

Further, I have been advised that the Commission has approved seven quite similar tax relief applications by agriculturists between October 29, 1971, and October 12, 1973, which constitutes a course of administrative interpretation entitled to careful consideration by any court, particularly since the legislature took no action at its 1973 session to modify or reverse such administrative interpretation. Gouge v. David, 185 Or 437.

Please let me know if we can be of further assistance in this matter.

Sincerely,



RAYMOND P. UNDERWOOD
Chief Counsel
Portland Office

ej



ENVIRONMENTAL QUALITY COMMISSION

1234 S.W. MORRISON STREET • PORTLAND, ORE. 97205 • Telephone (503) 229-5696

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KESSLER R. CANNON
Director

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. L, July 19, 1974 EQC Meeting

Adoption of Proposed Regulations for State Financial Assistance to Public Agencies for Pollution Control Facilities for the Disposal of Solid Waste

BACKGROUND

A public hearing was held at the June 21, 1974 meeting of the Environmental Quality Commission to receive testimony pertaining to the proposed rules for State Financial Assistance to Public Agencies for Pollution Control Facilities for the Disposal of Solid Waste. At that time one set of written comments from Malheur County was entered in the record and no oral testimony was presented. The record was to remain open to receive any additional written testimony for 10 days following the hearing.

DISCUSSION

The proposed rules for financial assistance were advertised in the Secretary of State's Bulletin dated June 1, 1974. Copies of the proposed rules in preliminary draft form were mailed to all known interested parties in early May and again in final proposed form on June 3. Those receiving copies included all County Courts and Commissions, all COG's and Solid Waste Planning Grantees, OSSI, AOI, LOC, AOC and others.

The letter from Malheur County is attached as the only comment received by the Department regarding the final proposed draft. In summary, the county questioned the requirement that a project proposed for state financial assistance should necessarily:

1. Be part of a DEQ approved Solid Waste Management Plan.
2. Have proven or demonstrated technical feasibility.



3. Is shown to be within local economic constraints.
4. Provide a sinking fund for equipment replacement.

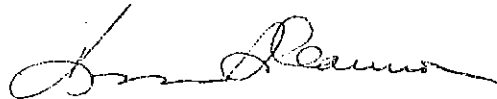
The Department is deeply involved in development of regional solid waste management plans and will continue to support their implementation. There are insufficient Pollution Control Bond Funds available to finance most research and development type projects. Without items 3 and 4 above being met, a project could very well collapse financially before complete payback of any loan.

DIRECTOR'S RECOMMENDATION

It is recommended that the attached proposed rules for State Financial Assistance to Public Agencies for Pollution Control Facilities with the following minor modifications be adopted as permanent rules, that they be filed promptly with the Office of the Secretary of State and become effective 10 days after publication by that office:

82-015 (1) a and d Delete "of Environmental Quality"

82-020 (1) to read "Land acquisition limited to that minimum amount of land [~~minimum~~] necessary to the project.



KESSLER R. CANNON
Director

EAS:mm
7/9/74

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 8

STATE FINANCIAL ASSISTANCE

Subdivision 2

STATE FINANCIAL ASSISTANCE
TO PUBLIC AGENCIES FOR
POLLUTION CONTROL FACILITIES FOR THE
DISPOSAL OF SOLID WASTE

82-005 PURPOSE. The purpose of these regulations is to prescribe requirements and procedures for obtaining state financial assistance for planning and construction of pollution control facilities for the disposal of solid waste pursuant to Article XI-H of the Oregon constitution.

82-010 DEFINITIONS. As used in these regulations unless otherwise required by context:

(1) "Department" means Department of Environmental Quality. Department actions shall be taken by the Director as defined herein.

(2) "Commission" means Environmental Quality Commission.

(3) "Director" means Director of the Department of Environmental Quality or his authorized deputies or officers.

(4) "Agency" means municipal corporation, city, county or agency of the State of Oregon, or combination thereof, applying or contracting for state financial assistance under these regulations.

(5) "EPA" means U. S. Environmental Protection Agency.

SOLID WASTE DISPOSAL

POLLUTION CONTROL FACILITIES

82-015 ELIGIBLE PROJECTS AND PROJECT PRIORITIES. Projects eligible for state financial assistance under ORS 468.220 and priority ranking of such eligible projects will be based on the following criteria approved by the Commission.

(1) Projects eligible for state financial assistance for pollution control facilities for the disposal of solid waste as authorized in ORS 468.220 shall meet the following criteria

(a) The project or facility is part or parcel of or complementary to a Department of Environmental Quality approved and locally adopted Solid Waste Management Plan.

(b) The project or facility has proven or demonstrated technical feasibility.

(c) The project or facility is within local economic constraints and abilities to administer.

(d) The project or facility must be approved by the Department of Environmental Quality.

(2) Priority of eligible projects for state assistance for planning and construction of pollution control facilities for the disposal of solid waste shall be based upon the following criteria:

(a) The project or facility is replacing existing inadequate or unacceptable methods of solid waste disposal and thereby results in improved environmental quality.

(b) The project or facility recovers resources from solid wastes.

(c) The projected facility will establish improved solid waste management practices.

(d) The need for state assistance is demonstrated.

82-020 ELIGIBLE COSTS. Eligible costs for state assistance for planning and construction of pollution control facilities for the disposal of solid wastes shall include but not necessarily be limited to:

(1) Land acquisition

Limited to that amount of land minimum necessary to project.

(2) Engineering costs for design and supervision

(3) Legal assistance directly related to project

(4) Construction

(a) Site development

(b) Structures (including earth structures

(c) Fixed utilities

(5) Major equipment (initial purchase only)

(a) Solid waste processing and handling equipment

(b) Landfill operation equipment

(c) Rolling stock

(d) Miscellaneous equipment under \$1500

82-025 SPECIAL CONSIDERATIONS ON ELIGIBLE COSTS FOR EQUIPMENT. Equipment purchases for solid waste disposal facilities with state assistance shall be given special consideration. Intended equipment purchases shall be itemized in the grant loan application and

the applicability of each individual piece of equipment to the project or facility clearly outlined for Department review. The following criteria shall be applied by the Department to equipment purchases:

(1) Equipment purchases shall be limited to initial purchases only and eligibility restricted to only that equipment necessary to sustain the performance of the project or facility.

(2) Equipment required, whether for processing or landfilling of solid wastes, that has an expected useful or mechanical life less than the anticipated life of the project, will require a sinking fund or equivalent replacement fund in the submitted project budget for such equipment replacement throughout the life of the project.

(3) All major equipment purchases shall be done through open bidding on specified types or equivalents of equipment. Specifications on major equipment needs shall be reviewed by the Department prior to purchase.

(4) Equipment purchases less than \$1500. (small tools, office equipment, etc.) do not require specifications but must be reviewed and approved by the Department.

82-030 APPLICATION DOCUMENTS. The representative of an agency wishing to apply for state financial assistance under these regulations shall submit to the Department three signed copies of each of the following completed documents:

(1) Department Solid Waste Management Projects Grant-Loan application form currently in use by the Department at the time of the application for state financial assistance. This form will be provided by the Department upon request.

(2) All applications for federal financial assistance to the solid waste projects for which state financial assistance is being requested.

(3) Resolution of the Agency's governing body authorizing an official of the agency to apply for state and federal financial assistance and to act in behalf of the agency in all matters pertaining to any agreements which may be consummated with the Department or with EPA or other federal agencies.

(4) Five year projection of the agency's estimated revenues and expenses related to the project (on forms provided by the Department).

(5) An ordinance or resolution of the agency's governing body establishing solid waste disposal user rates, and other charges for the facilities to be constructed.

(6) A legal opinion of the agency's attorney establishing the legal authority of the agency to enter into a financial assistance agreement together with copies of applicable agency ordinance and charter sections.

An application is not deemed to be completed until any additional information requested by the Department is submitted by the agency.

Applications for financial assistance for planning under ORS 468.220 (1) (e) shall be on special forms provided by the Department and shall be accompanied by a resolution of the agency's governing body.

82-035 APPLICATION REVIEW. Application documents will be reviewed by the Department staff to determine that: the proposed facilities for which state funds are requested are eligible under these regulations and applicable Oregon statutes; the proposed sources of local revenue to be pledged to the retirement of state loans are acceptable and adequate under the statutes; the facilities for which state financing is requested will be not less than 70% self-supporting and self-liquidating from approved revenues, gifts, user charges, assessments and other fees; and federal or state assistance funds are assured, or local funds are available, for the completion of the project.

82-040 LOAN OR OBLIGATION PURCHASE AGREEMENT.

(1) Following review and approval of the application documents and final construction plans and specifications by the Department and legal authorization by the governing body of the agency or its electorate, if necessary, to enter into a loan agreement with the state or an agreement to sell its general obligation bonds or other obligations to the state, the Department may enter into such loan or purchase agreement in a principle amount not to exceed 70% of the eligible project cost including the construction bid accepted, estimated engineering and inspection costs, eligible legal and fiscal costs and a contingency allowance to be established by the Department.

(2) The loan or purchase agreement shall identify sources and amounts of revenue, to be dedicated to loan or obligation retirement

sufficient to demonstrate that the facilities to be constructed will be not less than 70% self-supporting and self-liquidating. The agency will be required to furnish an annual audit report to the Department to show that adequate and acceptable revenues continue to be available for loan obligation retirement.

(3) The Department must be assured that at least 30% federal or state grant funds, other funds or combinations thereof are available to complete the total project.

(4) When the state is requested to purchase local obligations and obligation purchase agreement is entered into, the local obligations will be purchased at par to an even multiple of \$5,000, in an amount not to exceed 70% of the total eligible project cost as determined in subsection 1 of this section; except that when the amount of local obligations to be purchased by the state is less than \$100,000 they may be purchased at par to a multiple of \$1,000 in an amount not to exceed 70% of the total eligible project cost.

(5) The loan or obligation interest rate to be paid by the agency shall be equal to the interest rate on the state bonds from which the project is funded, except as provided in subsection 6 of this section.

(6) The loan or obligation retirement schedule of the agency must retire its debt obligation to the state at least as rapidly as the state bonds from which the loan funds are derived are scheduled to be retired except that when a debt retirement schedule longer than the state's

bond repayment schedule is legally required, special debt service requirements on the agency's loan or obligation purchase will be established by the Department.

(7) Loan or obligation interest and principle payments shall be due at least thirty days prior to the interest and principle payment dates established for the state bonds from which the loan or obligation purchase is advanced.

82-045 CONSTRUCTION BID DOCUMENTS REQUIRED. Following receipt of construction bids, the agency shall submit three copies each of the following documents to the Department for review and approval of contract award: tabulation of all bids received; engineer's analysis of bids; engineer's recommendations; low bidder's proposal; publisher's affidavits of advertising; and a current project cost estimate summary including an estimate of funds available for the project.

82-050 ADVANCEMENT OF LOAN OR OBLIGATION PURCHASE FUNDS.

(1) Upon receipt of three copies of the executed construction contract and the loan or obligation purchase agreement, the Department will approve the final loan amount and authorize the Treasury Department to advance the full amount of the loan or obligation purchase price to the agency.

(2) If the funds are advanced under the terms of a previously executed obligation purchase agreement, the agreement will specify a period of time, not to exceed six months, following the advancement of funds by the state during which the agency agrees to offer its obligations for public sale. The terms and conditions of the Department's bid offer

for the agency's obligations will be made available to other prospective bidders when the notice of sale of the agency's obligations is published. If the state is the successful bidder for the agency's obligations, the state will receive the obligation and the obligations will be retired under the terms of the obligation purchase agreement. If a private purchaser is the successful bidder, the state will receive reimbursement of the loan or obligation purchase funds previously advanced plus interest at the interest rate on the state bonds from which the project would have been funded if the state had been the successful bidder.

(3) Any excess loan or obligation purchase funds held by the agency following completion of the project must be used for the payment of loan or obligation principal and interest.

82-055 ADVANCEMENT OF STATE GRANT FUNDS.
Depending on priority ranking as determined by the Department and the current availability of EPA or other federal grant funds, a project may receive a state grant in an amount not to exceed 30% of the total eligible project cost under the terms of a separate grant agreement. Grant payments will be advanced during construction, if requested by the agency, in increments of approximately 25% of the total eligible grant project costs as the work is completed. Each payment will be based on the consulting engineer's latest cost estimate of the completed work in place, plus materials

purchased and delivered at the time the payment request is submitted to the Department, and expenditures for engineering, legal and fiscal services that have been documented by the agency to date.

ENVIRONMENTAL QUALITY COMMISSION

Attendance Record

Meeting of July 19, 1974

in Salem, Oregon

Name	Organization	Address
Douglas P. Soules	Associated General Contractors	2825 SW Montgomery Dr. Portland, Oregon 97201
Jeff W. Napier	BOARDING IND ASSN.	401 N. Michigan ^{Chicago}
James Hadley	Oregon State Marine Board	Solomon
Charles A. Judy	East Salem Env. Comm.	390 Pine Knoll Lane Solomon, Ore.
Marlene M. Judy	" " " "	" " " "
Dennis David	Motorcycle Industry	Los Angeles
G. D. Cooper	East Salem Env. Comm.	3757 S. Knoll Lane
Miss Hazel Stearns	myself Cannery, ^{g Eagle Creek} Willamette ^{Portland}	101 Box 169 B Eagle Creek, Ore.
Glenn Vorhes	City Coin Millwork	Box 623, Astoria
Dore Wilkins	Coin Millwork	McLay Pl, Prineville
PAUL J WILLIAMS	PORTLAND EAR NOSE AND THROAT CLINIC	2525 W.W. LOVEDAY S
Deborah J. Humphrey	US EPA	1200 6th Ave Seattle
JOHN VLASTELICIA	-EPA	PORTLAND
Bill Mims	CLEAN RIVERS COOPERATIVE	PORTLAND
ROGER ENMON'S	ORE. SAN. SERV. INSTITUTE	SALEM.
BEN HEARD	SANDERSON SAFETY	Portland
JANICE ROWER	Oreg motorcycle Dirs Assn	SALEM.
Mr + Mrs Gordon J Baek	Hempden	Salee
Paul W. Newbry	Legislator	Talent, Ore.
John Apple	Medford APC.	Medford
Joe M. Smith	Medford Corp.	Medford
L.S. Swan	Boise Camera	Salem

DAVID A. PAHL	N.W. FOOD PROCESSORS ASSN	PORTLAND
JOHN W. STUART	Pacific Gas Transmission	San Francisco
WILLIAM R. GOLDSACH	PACIFIC POWER & LIGHT	PORTLAND
WD/Janis	Pacific Gas Transmission	Redmond, Oregon
DENNIS PILVAR	ORE MOTORCYCLES TRAIN ASS.	PORTLAND ORE
Eiji Amato	American Honda	Gardena
Sydney Herbert	League of Women Voters	Central Lane (Eugene)
R.F. Larkort	390 Hampden Ln NE.	Salem Oreg.
James B. Lee	1712 NE 67 th	Portland
Jeanette M. Egge	290 Iron Mountain Blvd, L. Oswego	
Chih Beckman	Oregon Environmental Council 5454 Center St.	Salem
Walt Hitchcock	Port of Portland	Portland
Frank Lachmann	Western Env. Trade Assoc.	Portland
Mable D. ...	WT-80 Key Bldg	Portland
Chiff Alb	ENUS	Portland
Gladys Bohrer	Spfd pollution	Spfd
Mary Sheriffs	Weyer. permit	Eugene
Tom Downer	ASSOC. ORE IUD	PTLD
Peggy Jay	Weyer. permit	Eugene
Don Dugdale	Weyer. permit	Springfield, Or
LEON ERIC HENDERSON	WEYERHAEUSER PERMIT	EUGENE, ORE.
W. Fuere	Committee Oregon Dept	Portland, Ore.
T. BOURZEMAN	Weyerhaeuser PERMIT	EUGENE
Mrs H D Barnhardt	Home owner	Salem
John D. Morse	Chem Nuclear	Portland

MINUTES OF THE FIFTY-EIGHTH MEETING

of the

OREGON ENVIRONMENTAL QUALITY COMMISSION

June 21, 1974

Public notice having been given to the news media, other interested persons and the Commission members as required by law, the fifty-eighth meeting of the Oregon Environmental Quality Commission was called to order by the Chairman at 9 a.m. on Friday, June 21, 1974, in the Coos Bay Cultural Center, Coos Bay, Oregon.

Commission members present were B. A. McPhillips, Chairman, Dr. Morris K. Crothers, Mrs. Jacklyn L. Hallock, Dr. Grace S. Phinney, and Ronald M. Somers.

The Department was represented by Director Kessler R. Cannon; Deputy Director Ronald L. Myles; Assistant Directors Wayne Hanson (Air Quality), Harold L. Sawyer (Water Quality), Kenneth H. Spies (Land Quality) and Frederick M. Bolton (Enforcement); Regional Administrators Verner J. Adkison (Midwest) and Richard P. Reiter (Southwest); staff members Ronald E. Baker, Glen Carter, Delbert P. Cline, Edward T. Davison, Thomas Guilbert, John Hector, Merlyn Hough, Donald K. Neff, T. Jack Osborne, Ernest A. Schmidt, Barbara J. Seymour, Shirley G. Shay, John L. Smits, Paul M. Stolpman, R. Terry Westfall, and Chief Counsel Raymond P. Underwood.

Representing EPA Region X, Oregon Operations Office, was Director John J. Vlastelicia.

MINUTES OF THE MAY 24, 1974 COMMISSION MEETING

It was MOVED by Dr. Phinney, seconded by Mrs. Hallock and carried that the minutes of the fifty-seventh meeting of the Commission, held in Portland on May 24, 1974, be approved as prepared and distributed.

PROGRAM ACTIVITY REPORT FOR THE MONTH OF MAY 1974

It was MOVED by Mr. Somers, seconded by Mrs. Hallock and carried to give confirming approval to staff actions, as reported by Mr. Myles, regarding the

71 domestic sewerage, 2 industrial waste, 25 air quality control, and 10 solid waste management projects:

Water Quality Control - Northwest Region (29)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
5/1/74	Woodburn	Brandywine San. Sewer Improvements	Prov. app.
5/1/74	USA (Oak Hills)	Oak Hills Sewage Treatment Plant	Prov. app.
5/3/74	CCSD #1	Sewage Pumping Stations, Lower Phillips and Upper Phillips	Prov. app.
5/3/74	Gresham	San. Sewer on SE 282nd Avenue, North from SE Powell Blvd.	Prov. app.
5/6/74	Sandy	San. Sewers for Miles Hts. Subdn.	Prov. app.
5/7/74	Salem (Willow Lake)	Pringle Cr. Estates San. Sewers	Prov. app.
5/8/74	Portland	SE Henderson St. and SE 87th Ave.	Prov. app.
5/8/74	Oak Lodge SD	San. Sewer between Rose Ave. and Portland Ave. in the "Doral" Subdn.	Prov. app.
5/8/74	Canby	Oak St. San. Sewer Extension	Prov. app.
5/9/74	Hillsboro	Rood Bridge Rd. San. Sewer Extension	Prov. app.
5/9/74	Salem	Lakewood Park Sewers	Prov. app.
5/13/74	CCSD #1	Highlands Subdn San. Sewer	Prov. app.
5/13/74	CCSD #1	Boyer Meadows Replat Subdn. San. Sewers	Prov. app.
5/13/74	Multnomah Co. (Inverness)	Revised Barkerbrook and Holcomb Hts. San. Sewer	Prov. app.
5/14/74	Hillsboro	Padgett Park No. 3 Subdn. San. Sewer	Prov. app.
5/14/74	USA (Somerset West)	Berger School Sanitary Sewer	Prov. app.
5/16/74	Hillsboro	Willow Oak Park Subdn 32nd Court San. Sewer	Prov. app.
5/16/74	Salem (Willow Lake)	Hoyt Street South from Rex St. to Mountain View Dr. San. Sewer	Prov. app.
5/17/74	Salem (E. Salem Sewage & Drainage Dist. 1)	Crestdale Subdn San. Sewers	Prov. app.
5/17/74	Tualatin	Indian Meadows San. Sewers	Prov. app.
5/17/74	Gresham	El Camino No. 6	Prov. app.
5/21/74	Salem	Laguna Village South Sewers (formerly Pringle Cr. Estates)	Prov. app.
5/28/74	Gladstone	Sherwood Too, No. 3 San. Sewers	Prov. app.
5/30/74	Woodburn	Industrial Park Addition for Woodburn Dev. Co. San. Sewers	Prov. app.
5/30/74	USA (Beaverton-Aloha System)	Little Tree No. 3 San. Sewers	Prov. app.
5/30/74	USA (Beaverton-Aloha System)	Ladd and Reed Addition San. Sewers	Prov. app.
5/30/74	Gresham	Sanitary Sewer on NE 190th Ave. between NE Pacific St. and NE Glisan St.	Prov. app.
5/30/74	Keizer SD #1	Stratford Plaza San. Sewers on Orchard Court	Prov. app.
5/30/74	USA (Beaverton) Fanno System	The Denny Village Condominium Dev. Sanitary Sewers	Prov. app.

71 domestic sewerage, 2 industrial waste, 25 air quality control, and 10 solid waste management projects:

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5/3/74	Gresham	San. Sewer on SE 282nd Avenue, North from SE Powell Blvd.	Prov. app.
5/6/74	Sandy	San. Sewers for Miles Hts. Subdn.	Prov. app.
5/7/74	Salem (Willow Lake)	Pringle Cr. Estates San. Sewers	Prov. app.
5/8/74	Portland	SE Henderson St. and SE 87th Ave.	Prov. app.
5/8/74	Oak Lodge SD	San. Sewer between Rose Ave. and Portland Ave. in the "Doral" Subdn.	Prov. app.
5/8/74	Canby	Oak St. San. Sewer Extension	Prov. app.
5/9/74	Hillsboro	Rood Bridge Rd. San. Sewer Extension	Prov. app.
5/9/74	Salem	Lakewood Park Sewers	Prov. app.
5/13/74	CCSD #1	Highlands Subdn San. Sewer	Prov. app.
5/13/74	CCSD #1	Boyer Meadows Replat Subdn. San. Sewers	Prov. app.
5/13/74	Multnomah Co. (Inverness)	Revised Barkerbrook and Holcomb Hts. San. Sewer	Prov. app.
5/14/74	Hillsboro	Padgett Park No. 3 Subdn. San. Sewer	Prov. app.
5/14/74	USA (Somerset West)	Berger School Sanitary Sewer	Prov. app.
5/16/74	Hillsboro	Willow Oak Park Subdn 32nd Court San. Sewer	Prov. app.
5/16/74	Salem (Willow Lake)	Hoyt Street South from Rex St. to Mountain View Dr. San. Sewer	Prov. app.
5/17/74	Salem (E. Salem Sewage & Drainage Dist. 1)	Crestdale Subdn San. Sewers	Prov. app.
5/17/74	Tualatin	Indian Meadows San. Sewers	Prov. app.
5/17/74	Gresham	El Camino No. 6	Prov. app.
5/21/74	Salem	Laguna Village South Sewers (formerly Pringle Cr. Estates)	Prov. app.
5/28/74	Gladstone	Sherwood Too, No. 3 San. Sewers	Prov. app.
5/30/74	Woodburn	Industrial Park Addition for Woodburn Dev. Co. San. Sewers	Prov. app.
5/30/74	USA (Beaverton-Aloha System)	Little Tree No. 3 San. Sewers	Prov. app.
5/30/74	USA (Beaverton-Aloha System)	Ladd and Reed Addition San. Sewers	Prov. app.
5/30/74	Gresham	Sanitary Sewer on NE 190th Ave. between NE Pacific St. and NE Glisan St.	Prov. app.
5/30/74	Keizer SD #1	Stratford Plaza San. Sewers on Orchard Court	Prov. app.
5/30/74	USA (Beaverton) Fanno System	The Denny Village Condominium Dev. Sanitary Sewers	Prov. app.

Water Quality Control - Water Quality Division (42)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
5/2/74	Port Orford	Deady St. Sewer	Prov. app.
5/2/74	Eugene	Prospect Park Sewers	Prov. app.
5/2/74	Springfield	Laura and Q Streets Sewer	Prov. app.
5/6/74	BCVSA	Prelim. Plans--South Medford Trunk Sewer	Prov. app.
5/9/74	Eugene	Seven sewer projects	Prov. app.
5/10/74	USA (Aloha)	Tanasbourne Town Center Sewers	Prov. app.
5/13/74	Prairie City	Cozart Ave. Sewer	Prov. app.
5/14/74	Hines	John Wood Subdivision Sewer	Prov. app.
5/14/74	BCVSA	Clover Lane, Meadow Lane and Sunset Court Sewers	Prov. app.
5/15/74	Prineville	Auxiliary Power - Main Lift Station	Prov. app.
5/15/74	Douglas County	Tri-City Sewers - Phase 4	Prov. app.
5/15/74	Coos Bay	Modifications to Pump Sta. 1, 5-10, 12 and 13	Prov. app.
5/15/74	USA (Aloha)	STP Equipment Specifications - Aloha Expansion (Pumps)	Prov. app.
5/15/74	Ashland	C.O. #1 - STP Contract	Approved
5/15/74	USA (Aloha)	STP Equipment Specifications - Aloha Expansion (Process Equipment)	Prov. app.
5/20/74	Albany	Four sewer projects	Prov. app.
5/20/74	Albany	Septic tank sludge dumping station	Not Approved
5/20/74	Springfield	5th Addn. to Laksonen Park Sewers	Prov. app.
5/23/74	Warrenton	East Warrenton Int.	Prov. app.
5/28/74	Yachats	C.O. #6 STP and Sewers	Approved
5/28/74	Milwaukie	C.O. #1 - Milwaukie Interceptor	Approved
5/28/74	Roseburg	Rainbow End Subdn Sewers	Prov. app.
5/28/74	BCVSA	Schultz Road Sewer	Prov. app.
5/28/74	Springfield	Laksones Park 5th Add. Sewers	Prov. app.
5/28/74	The Dalles	Eastside Int. Sewer	Prov. app.
5/28/74	Hermiston	N. W. 7th St. Sewer	Prov. app.
5/28/74	St. Helens	C. O. No. C-4 STP Contract	Approved
5/28/74	Echo	C. O. B-2, sewer project	Approved
5/28/74	Arch Cape SD	Sewer System and 0.1 MGD Second- ary Sewage Treatment w/summer irrigation and effluent	Prov. app.
5/28/74	USA (Aloha)	Menlo West Sewers	Prov. app.
5/30/74	Sutherlin	Sutherlin Hts. Subdn	Prov. app.

Water Quality Control - Industrial Projects (2)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
5/9/74	Columbia County	<u>Chappell Quarry</u> rock quarry drainage control	Prov. app.
5/23/74	Linn County	<u>Joe Nickols Dairy</u> animal waste facilities	Prov. app.

Air Quality Control - Northwest Region (5)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
5/2/74	Multnomah County	<u>MJB--modification to coffee cooler to incinerate blue haze</u>	Approved
5/3/74	Multnomah County	<u>Ross Island Sand and Gravel Rock Crushing Plant--control of dust from mineral aggregate facility with water spray</u>	Approved
5/3/74	Clackamas County	<u>Oregon Portland Cement Company enlargement of an existing baghouse to control dust generated by the limestone and dolomite grinding mills</u>	Approved
5/14/74	Multnomah County	<u>Mayflower Farms--control of particle emissions from the air lift system cyclone that serves two roller mills by utilizing a wet vortex scrubber</u>	Approved
5/31/74	Wasco County	<u>Forest Fiber Products - Stimson Lumber Company--installation of a B & W wood-fired boiler</u>	Approved

Air Quality Control - Air Quality Division (20)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
5/2/74	Washington County	<u>Electro Scientific Industries 101-space parking facility expansion</u>	Cond. app.
5/3/74	Multnomah County	<u>Columbia Independent Refinery 80-space parking facility</u>	Req. add. info.
5/8/74	Multnomah County	<u>Pleasant Valley Community Baptist Church--50-space parking facility</u>	Approved
5/13/74	Multnomah County	<u>Freightliner Corporation 370-space parking facility</u>	Cond. app.
5/13/74	Multnomah County	<u>Reorganized Church of Jesus Christ 102-space parking facility</u>	Dept. action pending land use approval
5/14/74	Klamath County	<u>Weyerhaeuser Company review of oil-fired boiler compliance demonstration source test report</u>	Approved
5/17/74	Clackamas County	<u>Clackamas Industrial Park 77-space parking facility</u>	Req. add. info.
5/17/74	Washington County	<u>Lincoln International #2 204-space parking facility</u>	Req. add. info.
5/17/74	Washington County	<u>Oregon Office/Industrial Park Building 5 and 6 28-space parking facility</u>	Req. add. info.
5/20/74	Multnomah County	<u>Mountain Village Apartments 450-space parking facility</u>	Req. add. info.

Air Quality Control - Air Quality Division (cont)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
5/21/74	Jackson County	<u>Timber Products Company</u> review of compliance demonstration source test report for cyclones, boilers and sanderdust scrubbers	Req. add. info.
5/22/74	Marion County	<u>Kaiser Aetna, shopping center</u> 420-space parking facility	Cond. app.
5/22/74	Multnomah County	<u>Mill Park Baptist Church</u> 91-space parking facility	Cond. app.
5/22/74	Multnomah County	<u>Cooper Development Company</u> apartment--76-space parking facility	Cond. app.
5/22/74	Multnomah County	<u>State Office Facility, Department</u> <u>of Human Resources</u> 155-space parking facility	Req. add. info.
5/22/74	Malheur County	<u>Malheur Solid Waste Advisory</u> <u>Committee--reivew of compliance</u> demonstration source test report for municipal incinerator at Ogden, Utah	No action required
5/24/74	Washington County	<u>Portland Community College,</u> <u>Rock Creek Center</u> 449-space parking facility	EQC cond. app.
5/25/74	Washington County	<u>Randall Construction Company</u> mini-warehouse	Approved
5/24/74	Josephine County	<u>Cabax Mills</u> review of hog fuel boiler compli- ance demonstration source test report	Approved
5/29/74	Harney County	<u>Edward Hines Lumber Company</u> review of compliance demonstration source test report for plywood plant cyclones	Approved

Solid Waste Management - Northwest Region (1)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
5/17/74	Multnomah County	<u>Malarkey Roofing Company</u> existing industrial site, operational plan	Approved

Solid Waste Management - Solid Waste Management Division (9)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
5/1/74	Lane County	<u>Bethel-Danebo Sanitary Landfill</u> new domestic site, construction and operational plans	Prov. app.
5/2/74	Douglas County	<u>Round Prairie Lumber Company</u> new industrial site, letter authorization	Prov. app.

Solid Waste Management - Solid Waste Management Division (cont)

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
5/3/74	Curry County	<u>Brookings Plywood Corporation</u> new industrial site, construction and operational plans	Prov. app.
5/9/74	Lane County	<u>Oakridge Landfill</u> existing domestic site, operational plan	Req. add. info.
5/16/74	Lane County	<u>Bohemia, Inc., Dorena Mill Landfill</u> existing industrial site, operational plan	Approved
5/21/74	Lane County	<u>Bohemia, Inc., Saginaw Disposal</u> <u>Site--existing industrial site,</u> operational plan	Approved
5/28/74	Lane County	<u>Cottage Grove Landfill</u> existing domestic site, operational plan	Prov. app.
5/30/74	Multnomah and Morrow Counties	<u>Columbia Processors Co-op, Barge</u> <u>Loading and Unloading Sites</u> new domestic waste handling facili- ties; construction and operational plans	Approved
5/31/74	Morrow County	<u>Desert Magic, Inc.</u> sludge disposal site, new domestic site, operational plan	Approved

TAX CREDIT APPLICATIONS

Mr. Sawyer presented briefly the Department's evaluations and recommenda-
tions regarding the following 18 tax credit applications:

<u>Applicant</u>	<u>Appl.</u> <u>No.</u>	<u>Cost</u>	<u>% Allocable to</u> <u>Pollution Control</u>
Humphrey Dairy Farm, Independence	T-393	\$ 11,047.82	80% or more
International Paper Company, Gardiner Paper Mill--Northern Division, Gardiner	T-480	26,728.69	80% or more
Kaiser Gypsum Company, Inc., St. Helens	T-490R	278,124.00	80% or more
Willamette Industries, Inc.-- Duraflake Company, Portland	T-522	18,356.15	80% or more
Omark Properties, Inc., Omark Industrial Park, Waste Treatment Department, Portland	T-532	260,640.00	80% or more
Western Kraft, Division of Wil- lamette Industries--Albany Mill, Albany	T-535	98,777.00	80% or more
Lakeview Lumber Products Co., Lakeview	T-536	356,737.00	80% or more
Ore-Ida Foods, Inc., Ontario, Oregon Plant, Boise	T-543	749,254.60	80% or more
Portland Provision Company, Portland	T-548	8,527.00	80% or more

Tax Credit Applications (cont)

<u>Applicant</u>	<u>Appl. No.</u>	<u>Cost</u>	<u>% Allocable to Pollution Control</u>
Martin-Marietta Aluminum, Inc. Reduction Division, The Dalles	T-556	\$ 215,143.54	80% or more
Boise Cascade Corporation, Paper Division, Salem	T-539	665,779.00	80% or more
Cascade Construction Co., Inc., Portland	T-546	179,893.42	80% or more
Fred E. Moe, Hood River	T-549	11,186.16	80% or more
Oregon Portland Cement Company, Portland	T-553	11,826.74	80% or more
Oregon Portland Cement Company, Portland	T-554	11,269.61	80% or more
Sunset Crushed Rock, Astoria	T-555	83,500.00	80% or more
Boise Cascade Corporation, Paper Division, Salem	T-533	1,213,771.00	80% or more
Menasha Corporation, Paperboard Division, North Bend	T-557	249,284.17	80% or more

Regarding the tax credit application of Fred E. Moe, who owns and operates an apple and pear orchard, Mr. Somers questioned whether the Commission could consider an application from an unregulated source, particularly since the Department has no authority to monitor the operation of the system. Mr. Cannon said that he would request a legal opinion from Mr. Underwood.

Dr. Crothers asked for an explanation of the two Boise Cascade tax credit applications for air quality pollution control systems. Mr. Sawyer stated that a major emphasis of the Corporation's program was to control discharges into the Willamette River. These pollution control devices improved water quality in the river but significantly altered the air quality because of the chemical recovery system employed by the company. The two systems for which tax credit applications were submitted were for control of pollutants.

It was MOVED by Mr. Somers, seconded by Dr. Crothers and carried that as recommended by the Director, Pollution Control Facility Tax Credit Certificates be issued to the above-named applicants, with the exception of Fred E. Moe, for facilities claimed in the respective applications and with the costs and cost percentages listed being allocable to pollution control; and that the application of Fred E. Moe be placed on the agenda for the Commission meeting in July.

OREGON CUP AWARD NOMINATION

Mrs. Seymour presented the staff memorandum report dated June 10, 1974, regarding the unanimous vote of the Oregon CUP Awards Screening Committee to

recommend to the Commission that the Oregon CUP be awarded to Willamina Lumber Company. The recommendation was based on the company's extremely cooperative attitude and its willingness not only to meet requirements but to do the best job possible in abating pollution problems. The Director concurred in the recommendation of the Screening Committee.

It was MOVED by Mr. Somers, seconded by Mrs. Hallock and carried to award the Oregon CUP to Willamina Lumber Company.

COOS BAY AREA COAL DEPOSITS

Mr. Cannon introduced Mr. Ralph Mason, Deputy Director of the Oregon Department of Geology and Mineral Resources, for a report on the history and potential development of the coal deposits in the Coos Bay Area. A summary of Mr. Mason's comments follows:

The coal deposits in Coos Bay, first mined in 1854, supplied the heating requirements of the City of San Francisco, residential heating for the local area, and the energy source for locomotives in the western division of the Southern Pacific Railroad. With the discovery of oil and natural gas in California shortly after the turn of the century, the need for coal declined and mining stopped. Approximately three million tons were produced from the field which has an estimated capacity of two billion tons. The coal is a low sulfur, high ash, high moisture resource, readily useful for its by-product content, gasification and allied petrochemicals. A cooperative study conducted by Coos County, the U. S. Bureau of Mines, the Department of Economic Development and the Department of Geology and Mineral Resources will determine whether or not it is economically feasible to make a full study of the coal resources in the area.

There is a possibility that the coal could be gasified in place rather than mined. It is also possible that the coal will be far more valuable for its by-product content than for direct energy production.

There is concern about the environmental impacts of any resumption of coal mining on the Bay and on the adjacent estuary and sanctuary proposed on South Slough. Any in-place mining from the surface would have no effect on the estuary and sanctuary since the coal there, as well as in the rest of the canoe-shaped field, is at a depth estimated in excess of 3,000 feet. Any subsidence would long be vitiated before it reached the surface. Approximately two acres of the field lie under the City of Coos Bay and would be left in place.

The Chairman thanked Mr. Mason for an informative and timely presentation.

LOG HANDLING IN PUBLIC WATERS

Mr. Carter presented the status report and proposed program on log handling in public waters, a copy of which has been made a part of the permanent file.

A slide presentation illustrating log handling practices preceded the reading of the recommendations and proposed program.

The following witnesses responded to the Chairman's invitation to comment on the staff report and proposed program:

Cliff Shaw, Coos Bay, Chairman of the Bay Area Council on Environment and Trade (BACET), affiliated with the Western Environmental Trade Association. (A copy of his prepared statement has been made a part of the permanent file.)

Ted W. Nelson, North Bend, Raw Materials Manager for the Southwest Oregon Region of Weyerhaeuser Company.

Miles Munson, General Manager of Al Peirce Lumber Company, Coos Bay.

All voiced objections to the grounding of logs, both because of the economic impact on the companies which rely almost exclusively on water for storage, sorting and transporting of logs to their mills, and because of the limited area available for land storage. Mr. Nelson and Mr. Munson urged the Commission not to adopt the proposed program at this meeting but allow time for the industry to study and evaluate the proposed program and comment at a later date in a public hearing.

It was MOVED by Dr. Crothers, seconded by Mr. Somers and carried that the proposed program be set for public hearing.

PUBLIC FORUM

Both State Senator Jack Ripper and State Representative Ed "Doc" Stevenson criticized the administration of the Department's subsurface sewage disposal program. The Director and Commissioners commented on the issues of permits, alternate systems, and geographical differences, and assured Senator Ripper and Representative Stevenson that the proper and equitable administration of the program is of the highest priority to the Department.

CONSIDERATION OF VARIANCE REQUESTS, SULFUR CONTENT OF RESIDUAL FUEL OIL

Mr. McPhillips relinquished the chair to Vice Chairman Crothers for this portion of the agenda. Since Mr. McPhillips is currently employed as an operating officer of a petroleum distributorship in Oregon whose supplier is Texaco, he felt he should abstain from comment or participation in these proceedings.

Mr. Hanson presented the staff report which has been made a part of the permanent file. The report contained a summary of each variance request received by the Department and other pertinent information related to this matter. The Department recommended the granting of a conditional variance to Union Oil Company of California, its distributors and customers as follows:

1. Union Oil be required to submit to the Department the sulfur analysis and quantity on each shipment sold or distributed in the State of Oregon.
2. The maximum sulfur content of the residual oil to be sold, distributed or used should be limited to 2.5 percent by weight.
3. Appropriate representatives of Union Oil should be required to meet and/or prepare for the Department, details of their long range programs that outline the sulfur content of residual oil that Union will make available in the State of Oregon by specific dates.
4. The time period of the variance should be limited to 90 days (1 October 1974).
5. The variance should be specifically for Union Oil, its distributors and customers, including Crown Zellerbach and Hanna Nickel, for the sale, distribution and use of Union residual oil in the State of Oregon.

The Department concluded that the Atlantic Richfield Company did not submit sufficient information in its letter to justify the granting of a variance. If, however, ARCO representatives supplied sufficient additional information to the Commission at this meeting, the Department would recommend the conditions of the variance concerning maximum sulfur content, length of time, submission of reports and long range program consistent with the program of other oil companies.

Commissioner Somers and Mr. Hanson discussed the possibility of requiring suppliers to meet the 1.75 percent sulfur by weight regulation by averaging over a six-month to one-year period the sulfur content of residual fuel oil supplied in Oregon.

The meeting was interrupted by a request from the floor for information on Agenda Item No. G, Weyerhaeuser Company, Springfield, Status Report on NPDES Permit Application. It was MOVED by Mr. Somers, seconded by Mr. McPhillips and carried that the Weyerhaeuser report be postponed until the July 19th Commission meeting in Salem.

Dr. Crothers called for public testimony on the agenda item under discussion.

Mr. J. W. Hughes, consultant with Jack B. Robertson, Regional Administrator of the Federal Energy Office, Region X, Seattle, submitted a prepared statement,

a copy of which has been made a part of the permanent file. Mr. Hughes' statement clarified the role of the Federal Energy Office, which is to provide for the equitable allocation and pricing of petroleum products, and explained the FEO's regulation dealing with sulfur content of residual fuels.

Mr. Thomas Donaca, General Counsel for Associated Oregon Industries, discussed the impact on industrial users of projected increased natural gas curtailment beginning in September. He requested that the 90-day variance requested by Oregon Oil Heat Institute for all distributors and users be granted, and that the Commission provide assurance of variances for suppliers.

Mr. Pete Schnell, Publishers Paper Company, Oregon City, whose company is supplied primarily by Texaco, requested a variance from the 1.75 percent weight regulation on the basis that low sulfur residual fuel might not be available for use when natural gas, the company's prime fuel, is interrupted. He further stated that while he would not want Oregon's air quality standards lowered, maintaining the 2.5 percent weight regulation would not harm air quality.

Mr. Ted Metcalf, Shell Oil Company, Houston, Texas, stated that Shell could meet the 1.75 weight regulation for a short period of time. Commenting on questions regarding residual desulfurization, he said that very few plants in the United States have this capability although the technology for desulfurization has been developed. He distributed a summary sheet on refinery operations of residual fuel oil production, a copy of which has been made a part of the permanent file.

No representatives from Standard Oil, Mobil, Texaco or ARCO were present.

Mr. Jerry Tyhurst of Eugene, Area Manager for Southern Oregon, Union Oil Company of California, presented company representatives from Los Angeles for comment on Union's variance request:

Mr. E. R. Friess, Manager of Marketing Distribution, stated that Union could meet a yearly average if the standard was high enough. Much of the company's supply is Arabian crude which is high in sulfur and which cannot be mixed with low-sulfur Alaskan crude.

Mr. Ron Runge, Manager of Planning for West Coast Refining, concurred with Mr. Friess on the company's ability to meet a yearly average.

There were no other witnesses.

It was MOVED by Mrs. Hallock, seconded by Mr. Somers and carried that the recommended variance for Union Oil Company of California be granted.

Mr. Marv Shelby, General Foods, Woodburn, requested a variance for the company's plants at Woodburn and Hillsboro. General Foods is an ARCO end-user whose distributor is Valley Oil. The plants operate on natural gas during the summer.

It was MOVED by Mr. Somers, seconded by Mrs. Hallock and carried to postpone action on the request of Atlantic Richfield Company for a variance because of insufficient information presented to the Department.

Mr. John Myers, Project Engineer, Permaneer Corporation, Dillard, had previously submitted a prepared statement for the record. As a representative of several customers of Union Oil, he asked for clarification for the record of those covered by the variance granted Union Oil. He was told everyone was covered--the supplier, the distributors and the end users.

ALDERWOOD MANUFACTURING COMPANY (PHILOMATH), VARIANCE REQUEST

Mr. Hanson summarized the staff memorandum report regarding the request of Alderwood Manufacturing Company (Philomath) for a variance to open burn a pile of slab logs existing on the mill site at the time it was purchased by Alderwood in 1969, to which was added other material resulting from the dismantling of the mill and construction of a new mill. All waste from the new mill is chipped and sold. The variance request was approved by the Mid-Willamette Valley Air Pollution Authority and the Director recommended Commission approval.

It was MOVED by Mr. Somers, seconded by Mrs. Hallock and carried to approve the variance request.

OPEN BURNING, VARIANCE REQUEST

Mr. Hanson summarized the staff memorandum report regarding the request of Multnomah, Clackamas, Washington and Columbia Counties for an extension of the July 1, 1974 cut-off date for open burning of domestic rubbish, previously

permitted under the former Columbia-Willamette Air Pollution Authority rules for certain areas within the four counties.

It was MOVED by Dr. Crothers, seconded by Mrs. Hallock and carried to grant the variance request for 120 days, as recommended.

It was MOVED by Mr. Somers, seconded by Dr. Crothers and carried that the staff reports and attachments for Agenda Items No. L and No. R (the variance requests summarized above) be made a part of the permanent record.

PUBLIC HEARING ON NOISE RULES FOR MOTOR VEHICLES

Proper notice having been given as required by state law and administrative rules, the public hearing scheduled on this date of June 21, 1974, in the matter of statewide rules and procedure manuals relating to noise pollution for new and in-use motor vehicles including off-road recreational vehicles and motor-cycles was opened by the Chairman with all members of the Commission in attendance.

Mr. Hector presented the staff memorandum report dated June 10, 1974, regarding the procedure manuals submitted to the Commission at the May 24, 1974 meeting, and two minor revisions to the proposed motor vehicle noise rules:

1. Add the words "devised by the manufacturer and" after the phrase "noise sampling techniques shall be" in Section (2) (a) of the New Vehicle standard. (This places the responsibility for noise testing on the manufacturer.)
2. In section (1) (d) of the In-Use Vehicle rules add the words "which is" after the phrase "entering or leaving property" in the first sentence after Table E.

It was the Director's recommendation that after public testimony, the Commission approve and adopt the noise procedure manuals NPCS-1, 2 and 21, and the submitted rules for new and in-use motor vehicles to be effective on July 26, 1974.

Mr. Ken Mutch, Service Consultant to the Oregon Automobile Dealers Association, Portland, and Mr. Rich Keister, Assistant Manager of the Association, submitted prepared testimony in opposition to proposed section 35-025(2) (a) and (b) and 35-025(3), which provides for dealer testing of new motor vehicles and reporting procedures. A copy has been made a part of the permanent file.

Dr. David Charlton of Portland expressed concern with the general problem of noise abatement, primarily traffic noise.

Mr. Dennis David, Technical Standards Engineer, Motorcycle Industry Council, Inc., Washington, D. C., submitted prepared testimony concerning four objections to the proposed standards, a copy of which has been made a part of the permanent file.

The Council's objections were divided into four categories:

1. "The standards and regulations applicable to the sale of new motor vehicles do not differentiate between road vehicles and off-road recreational vehicles."

Mr. David said he believes it impossible to bring the pure off-road vehicles down to 86 decibels and recommended that the regulation be amended to establish separate regulations for pure off-road motorcycles at 86 decibels for January 1, 1975 and beyond.

2. "The noise standards applicable to the sale of new motorcycles for model years 1976 and beyond are unnecessarily restrictive and would seriously damage the entire motorcycle industry in the State of Oregon."

Mr. David said that the limit of 80 decibels would eliminate about 35 percent of the motorcycle industry in Oregon in 1976, and proposed that "noise limits below the level of 83 dBA as specified for the year 1975, not be adopted until such time as both the desirability and technological feasibility of lower levels is determined."

3. "The exemption allowed for racing vehicles is ambiguous and could lead to unnecessary complications for the manufacturers and the state itself."

Mr. David said the proposed regulation would require the manufacturer to make the impossible guarantee that racing vehicles would be used exclusively for that purpose. The Council suggested that "the exemption for racing vehicles be allowed for those machines which are specifically designated and adequately labeled by their manufacturer as being intended solely for racing purposes."

4. "The administrative procedure for monitoring and reporting new motor vehicle noise data is an unnecessary burden for the State as well as for each individual manufacturer."

Mr. David made the additional point that the industry would prefer basing the regulations on date of manufacturer rather than model year. He also said that the regulations do not really address the problem of vehicle modifications. He said the only way to attack this problem is through a firm on-road enforcement program or through a certification program for muffler installation.

Discussion followed concerning the proposed decible requirements, types of motorcycles and enforcement procedures.

Mr. Roger Hagie, representing Kawasaki Motors Corporation, Santa Monica, California, which manufacturers the Kawasaki motorcycles, submitted prepared testimony expressing objections similar to those presented by Mr. David. A copy has been made a part of the permanent file.

Mrs. Marguerite N. Watkins, Coos Bay, formally presented the written testimony of the Oregon Environmental Council which had previously been mailed to the Commission. A copy has been made a part of the permanent file. The OEC testimony offered the following changes in the proposed rules:

1. prohibit vehicle modifications, particularly of the exhaust systems and the sale of "noisy" exhaust systems.
2. strengthen the standard for trucks and buses manufactured before 1976 (EPA regulations for motor carriers will require all trucks and buses moving at speeds of 35 mph or less to meet a standard of dBA at 50 feet; DEQ has proposed a standard of 88 dBA).
3. suggested a weight cutoff at 10,000 pounds for trucks (rather than the proposed 6,000 pounds).
4. suggested Oregon require more stringent regulations for buses and gasoline-powered trucks.
5. recommended the proposed September 1973 level for automobiles in a moving test be reinserted in Table C.
6. recommended against exemption from the moving vehicle test of Table C of a motor vehicle equipped with snowtires (suggested a "bumping" upward instead).
7. recommended establishment of a separate standard for watercraft similar to the Seattle standard of 76 dBA.
8. suggested that nighttime hours begin at 8 p.m. rather than 10 p.m.

Mr. McPhillips said that a letter had been received from Freightliner Corp., Portland, a copy of which has been made a part of the permanent file. In summary, Freightliner fully favored an "aggressive vehicle noise control program and supported the proposed noise control regulations subject to their suggested modifications.

Mr. Ed Hughes, Oregon Motorcycle Dealers Association, Portland, supported Mr. David's comments and asked that the regulations be amended by substituting the word "distributor" for "dealer" in section 35-025, subsections (2) through (4).

There were no further witnesses.

The Chairman said the hearing record would remain open for 10 days for the submission of other testimony.

It was MOVED by Dr. Crothers, seconded by Dr. Phinney and carried that the hearing be closed but the record kept open for 10 days, and that the matter be placed on the agenda for the July 19th meeting of the Commission, to be held in Salem.

FISCAL YEAR 1975 ANNUAL WATER STRATEGY

Mr. Sawyer summarized the key elements of the staff memorandum report, explaining that this was the second annual water strategy prepared by the Department. He said the two major points were:

1. The Water Quality Program is concentrating manpower in four priority areas:
 - a. NPDES permits
 - b. construction of waste treatment facilities, specifically the construction grant program
 - c. completion and adoption of river basin water quality management plans
 - d. compliance monitoring.
2. The Construction Grant Priority List for Fiscal Year 1975, contained in the second annual water strategy, is basically a modification of the List adopted by the Commission last fall, which was for FY 1974 and 1975.

Mr. Sawyer read the Director's recommendation that following receipt and consideration of public comments, the Commission approve the FY 1975 Annual State Water Strategy and adopt the revised FY 1975 priority list and project list for construction grants.

No one wished to comment on the staff report.

It was MOVED by Dr. Crothers, seconded by Dr. Phinney and carried to approve the Director's recommendation.

PUBLIC HEARING ON ADOPTION OF PERMANENT RULES PERTAINING TO SUBSURFACE SEWAGE DISPOSAL--FEES FOR PERMITS AND LICENSES, FEES AND PROCEDURES FOR EVALUATIONS REPORTS, AND APPEALS BOARDS

Proper notice having been given as required by state law and administrative rules, the public hearing scheduled on this date of June 21, 1974, in the matter of the permanent adoption of the subject rules was opened by the Chairman with all members of the Commission in attendance.

Mr. Spies presented the staff memorandum report dated June 10, 1974, which recommended permanent adoption of the temporary rules pertaining to the above subjects adopted by the Commission on March 22, 1974. The proposed permanent rules contained one change from the temporary rules, that is, that the \$5 portion of each evaluation report fee per lot for subdivision plots and real estate evaluations to be remitted by agreement counties to the Department be deleted. This change was recommended by the Citizens' Task Force which concluded that it would be more appropriate to cover this matter in the agreement with each county rather than to specify it in the rules.

It was the Director's recommendation that the proposed rules pertaining to Fees for Permits, Licenses and Evaluation Reports and to Subsurface Sewage Disposal Permit Appeals Boards be adopted as permanent rules, that they be added as Subdivisions 2 and 3, respectively, to Division 7 of Oregon Administrative Rules, Chapter 340, and that they be filed promptly with the Secretary of State, and become effective 10 days after publication by that office.

Mr. James F. Peterson, Director of Operations, Palmain Construction Company, Culver, Oregon, stated that he would like to have a mandatory requirement for the establishment of appeals boards in each county. Jefferson County did not have one and therefore citizens who were denied permits had no recourse for appeal.

Discussion followed on appeal procedures available to citizens. Mr. Cannon pointed out that Senate Bill 107 (1974 Special Session) which provided for appeals boards contained permissive rather than mandatory language. He added that an applicant for a permit denied by an agreement county which did not have an appeals board could ask for review by the Department's regional office.

Mr. Peterson expressed concern about subdivision plots given blanket approval by the county in which there are lots now deemed unsuited for septic

tank or drainage field installation. Even with the adoption of the proposed rule on prior approvals, owners of such lots will not be able to qualify for a subsurface sewage disposal system permit. Mr. Peterson agreed that septic tanks and drainage fields were not suitable for the area but argued in support of provisions for special systems which were allowed by the Health Division when that agency administered the subsurface sewage disposal program but which were deleted by the Department's rules.

Mr. Spies explained that the Health Division had observed so many failures by modified systems that that agency placed a moratorium on their use and through rule change subsequently eliminated their use. He said the Department has a statutory requirement to set regulations pertaining to alternate systems and that the staff was investigating several types.

Dr. Crothers requested a staff recommendation on package treatment plants as soon as possible.

Mr. Cannon informed the Commission that Mr. Peterson's case, which involves subdivision plots which cannot presently be developed, is under review by the Department's Central Region.

It was MOVED by Dr. Crothers, seconded by Dr. Phinney and carried to adopt the rules as proposed. A copy is made a part of the permanent file.

Mr. George Hanson, an attorney from Oregon City, concurred with Mr. Peterson's comments. He said that evidence had been submitted to the Department from registered engineers supporting alternate systems, but none had yet received Department approval. He asked for a reinstatement of the alternate system rule. Mr. Somers informed Mr. Hanson of the Commission's administrative procedures concerning rule changes and invited him to submit a petition on the matter which would then require a public hearing.

Mr. Ray Huff, Chief Sanitarian for Malheur County, objected to the \$50 permit fee. He said it was too high and would hinder the administration of the program in his county. He requested that agreement counties be allowed to set their own fees up to \$50. Judge Roy T. Hirai of Malheur County concurred with Mr. Huff's comments.

Mr. Spies explained that the fee was set by rule for uniformity throughout the state. Mr. McPhillips said that the county could petition the Commission for a reduction of the fee, in which case a public hearing on the matter would be scheduled.

AUTHORIZATION FOR PUBLIC HEARING ON COMMERCIAL AND INDUSTRIAL NOISE STANDARDS

Mr. Hector presented the Director's recommendation that on July 19th in Salem the Environmental Quality Commission hold a public hearing for the adoption of the additions to the noise procedure manuals NPC-1 and 2, and the noise rules for industry and commerce.

It was MOVED by Dr. Crothers, seconded by Dr. Phinney and carried that the Director's recommendation be approved.

PETITION TO AMEND SUBSURFACE SEWAGE DISPOSAL RULES

Mr. Spies presented the staff memorandum report dated June 11, 1974, regarding the petition of Mr. Jim Christopherson of Jacksonville, Oregon, to amend the Commission rules pertaining to slope requirements for subsurface sewage disposal systems. It was the Director's recommendation that unless the petitioner would waive the 30-day requirement of ORS 183.390, the petition submitted by Mr. Christopherson be denied, but that the requested amendment be submitted to the Citizens' Task Force for consideration and recommendation before a decision on the merits of the request is made by the Commission.

Mr. Christopherson asserted that the Department had without justification changed the slope requirements used by the Health Division. He offered the example of a couple in Jackson County who had purchased a lot, prepared it for construction of a residence, received an offer substantially in excess of its initial cost, and who were denied a permit on the basis of the slope. He asked that the former requirements be substituted.

Mr. Osborne commented that the present slope requirements were based on expert testimony, particularly that received from soil scientists. He discussed the efforts of the Citizens' Task Force which includes a subcommittee to study the rules in general and controversial sections in particular. Slope requirements will be discussed by the subcommittee on June 28 in Tillamook, and expert testimony was invited.

Mr. Christopherson asked the Commission for an immediate decision on his petitioned request.

Dr. Crothers stated that the evidence submitted by Mr. Christopherson was insufficient to warrant a rule change and MOVED to deny the petition but to submit the subject to the Citizens' Task Force for review; seconded by Dr. Phinney and carried.

PROPOSED TEMPORARY RULES PERTAINING TO PRIOR PERMITS OR APPROVALS FOR CONSTRUCTION OF SUBSURFACE SEWAGE DISPOSAL SYSTEMS

Mr. Somers MOVED that the staff memorandum report dated June 17, 1974, be made a part of the permanent record, that the Director's recommendation be accepted, and the proposed rule adopted; seconded by Dr. Phinney. Discussion followed.

Mr. James Peterson, Culver, praised the rule proposal but still asked for blanket approval to cover unspecified lots.

Mr. Ed Shipsey, Klamath County, opposed the July 1, 1976 construction deadline, stating that once a permit was issued by a registered sanitarian it should be honored indefinitely.

Mr. Cecil Shaw of North Bend said that he bought 17 acres approved by the county but could not get a permit. Mr. Cannon said that the prior approval rule if adopted would apply if Mr. Shaw had written approval.

Mr. Al Bateman of Klamath Falls, representing Southern Oregon Defense, said that the Soil Conservation Service estimated that only 15-16 percent of Klamath County land was suitable for subsurface sewage systems. He submitted a copy of approvals granted by Klamath County in the last three years, contending that many lots were approved on the basis of submitted information only. He asked that prior approvals meet the rules that were applicable at the time approval was given. He circulated copies of pictures illustrating the unsuitability of the land for subsurface sewage disposal systems.

Mr. Ray Huff, Vale, stated that he would prefer a \$25 charge since the evaluation reports had been prepared and need not be repeated.

Mr. George Hanson, Oregon City, again asked for prior approval of plots as well as specific lots.

Hon. Ray E. Doerner, Chairman of the Board of Commissioners for Douglas County, distributed copies of a prepared statement. He expressed the hope that the Department would seek legislative change to permit payment for services of appeals board members. He also objected to the July 1, 1976 deadline for completion of construction and said that "more work needs to be done with slope requirements."

Mr. Bob Dortsch of Klamath Falls also objected to the construction deadline and slope requirements. He submitted a copy of a study, "Demonstration Trenches on Slopes" by John Timothy Winneberger, Ph.D., Berkeley, California.

Mrs. Nancy Lecklider of Klamath Falls, wife of a developer, distributed copies of an article from the Klamath Falls Herald and News, dated April 21, 1974, which the Chairman said would be made a part of the permanent record. She also objected to the construction deadline.

Mr. John Schoonover, Klamath Falls, criticized the Southern Defense League and discussed the administration of the Department's subsurface sewage disposal program in Klamath County.

A realtor from Roseburg also objected to the construction deadline.

Mr. McPhillips closed the public hearing. The vote on the motion was unanimous (Mrs. Hallock was absent).

PUBLIC HEARING TO CONSIDER PROPOSED REGULATIONS FOR STATE FINANCIAL ASSISTANCE TO PUBLIC AGENCIES FOR POLLUTION CONTROL FACILITIES FOR THE DISPOSAL OF SOLID WASTE

Mr. Schmidt presented the Director's recommendation that public testimony pertaining to the proposed rules for State Financial Assistance to Public Agencies for Pollution Control Facilities for the Disposal of Solid Waste be received at this time; that the record remain open for 10 days following this hearing to receive any additional written comment; and that a final draft of the proposed rules be prepared after the 10-day period, with consideration of the testimony and comments received, for adoption by the Commission at its regular meeting scheduled for July 19, 1974.

It was MOVED by Dr. Crothers, seconded by Dr. Phinney and carried that the Director's recommendation be approved.

AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER ADOPTION OF RULES PERTAINING TO CIVIL PENALTIES AND ADMINISTRATIVE PROCEDURES.

It was the Director's recommendation that the Commission authorize public testimony to be heard to consider repealing existing rules on civil penalties, oil spill violations, and certain rules on the Commission's practices and procedures, and adopting new civil penalty rules and making amendments to its rules of practice and procedure, at their meeting in Salem on July 19, 1974, and that appropriate action be taken on these changes and proposed new rules after giving consideration to the testimony received and presented.

It was MOVED by Dr. Phinney, seconded by Mr. Somers and carried that the Director's recommendation be approved.

The meeting was adjourned at 7 p.m.

Shirley G. Shay, Secretary
Environmental Quality Commission



ENVIRONMENTAL QUALITY COMMISSION

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The Dalles

KESSLER R. CANNON
Director

MEMORANDUM

To : Environmental Quality Commission
From : Director
Subject: Agenda Item No. B, July 19, 1974 EQC Meeting
June 1974 Program Activity Report

During the month of June, staff action was taken relative to the list of project plans which follows:

Water Quality

1. Fifty-three (53) domestic sewage projects were reviewed:
 - a. Northwest Region - 30 (itemized list attached)
Provisional approval was given to 30 plans for sewer projects.
 - b. Water Quality Control Division - 23 (itemized list attached)
Approval was given to
 - 1) one (1) change order for interceptor sewer contract
 - 2) one (1) pump stations
 - 3) three (3) addenda for sewage treatment plant projects

Provisional approval was given to

- 1) one (1) pump station
- 2) two (2) sewage treatment plant projects
- 3) fifteen (15) plans for sewer projects

2. Fifteen (15) industrial waste treatment plans were reviewed by the Northwest Region and approved:

Forest Fiber Products Company, Washington County
wastewater control facilities

John L. Love, Tillamook County
holding tank for animal waste disposal system

Blundell Kanning Kitchen, Marion County
wastewater drain



Contains
Recycled
Materials

McCall Oil, Multnomah County
wastewater treatment facility for oil storage tank farm

Joe Rohne, Clatsop County
holding tank for animal waste disposal system

Charles J. Kadell, Yamhill County
holding tank for animal waste disposal system

Hollis Slater, Yamhill County
holding tank for animal waste disposal system

Portland General Electric Beaver Turbine Plant, Columbia County
wastewater facilities

Ernest Lowrance, Tillamook County
holding tank for animal waste disposal system

John Hurlimen, Tillamook County
holding tank for animal waste disposal system

Victor Shreve, Tillamook County
holding tank for animal waste disposal system

Robert Chatelaine, Tillamook County
holding tank for animal waste disposal system

James Ward, Tillamook County
holding tank for animal waste disposal system

Roger Olson, Clatsop County
holding tank for animal waste disposal system

Norman Rasmussen, Yamhill County
holding tank for animal waste disposal system

Air Quality

Nineteen (19) project plans and proposals were reviewed:

1. Northwest Region - 6

Approval was given to the following six (6) projects:

General Electric Service Shop, Multnomah County
installation of a burnout oven for electrical parts

Star Machinery, Multnomah County
installation of a paint spray booth for demonstration
purposes only

Omark Industries, Inc., Clackamas County
venting exhaust fumes from silk screen tables

Pennwalt Corporation, Multnomah County
installation of a caustic absorption tank and scrubber
to control chlorine waste gas

Albers Milling Company, Multnomah County
control of grain and feed dust emissions from transfer
conveying and elevator discharge points

Forest Fiber Products, Washington County
control of hardboard tempering oven emissions utilizing
dry filter media

2. Air Quality Control Division - 13

Approval was given to one (1) project plan and two (2)
parking space facilities:

International Paper Company (Gardiner), Douglas County
steam boiler modification, plan review (N/C 246)

Heritage Estates, Inc., Clackamas County
bread distributor; 10-space parking facility,
McLaughlin Boulevard

Beaverton Park & Ride Station, Washington County
206-space parking facility

Conditional approval was given to nine (9) parking space facilities:

Safeway Stores, Inc., Marion County
172-space parking facility

Holly Farms Shopping Center, Clackamas County
501-space parking facility

Kaiser Foundation Central Facilities, Clackamas County
245-space parking facility

Equitable Towers, Marion County
office and parking facilities--154 spaces

Sunset Volkswagen, Washington County
171-space parking facility

Denny Village Condominiums, Washington County
174-space parking facility

Bess Kaiser Hospital, Multnomah County
203-space parking expansion

Central Plaza South, Multnomah County
485-space parking facility

Rustler Steak House, Multnomah County
78-space parking facility

The following project was reviewed and additional information requested:

Brooks-Willamette, Deschutes County
boiler stack test

Land Quality

Thirteen (13) solid waste management project plans were reviewed:

1. Northwest Region - 6

Approval was given to two (2) project plans:

St. Johns Landfill, Multnomah County
existing garbage site, operational plan for tire processing

Mickey's Landfill, Columbia County
existing garbage site, amendment to operational plan

Provisional approval was given to three (3) project plans:

Columbia Land Reclamation, Inc., Multnomah County
new domestic site, construction and operational plans

Fishback Hill Landfill, Polk County
existing garbage site, operational plan

Woodburn Sanitary Landfill
new domestic site, construction plans

One (1) Solid Waste Management Plan for the Metropolitan Service District is under review.

2. Solid Waste Management Division - 7

Approval was given to one (1) project plan:

Modoc Lumber Company, Klamath County
existing industrial site, operational plan

Provisional approval was given to five (5) project plans:

John T. Clark, Lincoln County
sludge drying site, new domestic site (letter authorization)

Crescent Landfill, Klamath County
new domestic site, construction and operational plans

Autzen Stadium Demolition Site, Lane County
new domestic site (letter authorization)

John Ousterhout Landfill, Jackson County
new industrial site (letter authorization)

Crater Log Salvage, Jackson County
existing industrial site (letter authorization)

Additional information was requested from:

Bohemia, Inc., Coos County
Wilkin's Corner Landfill--new industrial site,
construction and operational plans

Agenda Item No. B,
July 19, 1974 EQC Meeting
page five

Director's Recommendation

It is the Director's recommendation that the Commission give its confirming approval to staff action on project plans and proposals for the month of June 1974.



KESSLER R. CANNON
Director

ss

7/12/74

attachments - 2

PROJECT PLANS

Northwest Region

During the Month of June, 1974, the following project plans and specifications and/or reports were reviewed by the staff. The disposition of each project is shown, pending ratification by the Environmental Quality Commission.

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
<u>Municipal Projects - 30</u>			
6-5-74	Gresham	Sanitary sewer on NE 176th Ave. from NE Glisan St. to 440 ft. south	Prov.Approval
6-6-74	Canby	Sanitary sewer system for Candelight Shopping Center	Prov.Approval
6-6-74	Oak Lodge SD	Sanitary sewer lateral C-A-7A & C-10-5-5F	Prov.Approval
6-11-74	Lake Oswego	Bryant Woods sanitary sewer	Prov.Approval
6-11-74	Lake Oswego	Bryant Woods Plat #3 sanitary sewers	Prov.Approval
6-11-74	Lake Oswego	Bryant Woods Plat #4 sanitary sewers	Prov.Approval
6-12-74	Warrenton	Warrenton sanitary sewer extension	Prov.Approval
6-13-74	Hillsboro (Rock Creek)	Golden Acres #2 sanitary sewer	Prov.Approval
6-13-74	Hillsboro (Rock Creek)	Azalea East #2 sanitary sewers	Prov.Approval
6-13-74	Hillsboro (Rock Creek)	Singing Woods #2 sanitary sewers	Prov.Approval
6-13-74	Salem (Willow Lake)	Sanitary sewer relocation for Elderly Housing Site Mill and Church St.	Prov.Approval
6-13-74	West Linn (Bolton)	Lamplighter Square Subdivision sanitary sewers	Prov.Approval
6-13-74	Tualatin	Apache Bluff #13 sanitary sewers	Prov.Approval
6-17-74	Gresham	McCall Oil Co. sanitary sewer at SE Burnside and Hogan Rd.	Prov.Approval
6-19-74	St. Helens	Assembly of God sanitary sewer	Prov.Approval
6-19-74	Dallas (Rickreall Crk)	Prune Ridge Subdivision sanitary sewers	Prov.Approval
6-20-74	Clackamas County S.D. #1	Assessment District 74-1 sanitary sewers	Prov.Approval

PROJECT PLANS

Northwest Region

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-20-74	Portland (Columbia)	Sanitary sewer in SW 18th Pl. and private property north of SW Seymour St.	Prov.Approval
6-20-74	Gresham	Sanitary sewers to serve the Burnside Animal Hospital	Prov.Approval
6-20-74	Salem (Willow)	Sanitary sewers to serve the Sprague Heights #1 Subdivision	Prov.Approval
6-24-74	Portland	John Landing Housing - Phase I sanitary sewers	Prov.Approval
6-24-74	Newberg	Sanitary sewer extension #9224.35 N	Prov.Approval
6-24-74	Oregon City	Joyce Court sanitary sewers	Prov.Approval
6-25-74	West Linn	Jeffrey Lane sanitary sewers	Prov.Approval
6-25-74	USA (Aloha)	Lee Zumwalt sanitary sewer	Prov.Approval
6-26-74	Hillsboro (Rock Creek)	Sanitary sewer extension on NE 21st Ave. from NE Cornell Rd. to Sunrise Ln.	Prov.Approval
6-26-74	Oak Lodge S.D.	Sanitary sewer line 2 A 10-9 second phase of Oakridge #2	Prov.Approval
6-27-74	Clackamas County S.D.#1	Scott Mountain Subdivision sanitary sewers	Prov.Approval
6-28-74	Clackamas County S.D.#1	Cascade Greens Phase 2 sanitary sewers	Prov.Approval
6-28-74	Salem (Willow Lake)	Liberty Rd. SE sanitary sewers	Prov.Approval

30 sewer plan projects

PROJECT PLANS

Water Quality Division

During the Month of June, 1974, the following project plans and specifications and/or reports were reviewed by the staff. The disposition of each project is shown; pending ratification by the Environmental Quality Commission.

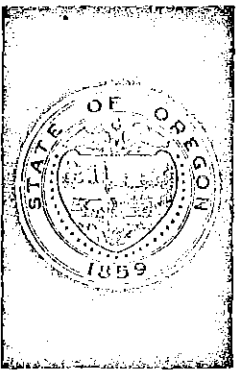
<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
<u>Municipal Projects - 23</u>			
6-4-74	Rufus	Sewerage system & 4.5 acre sewage treatment lagoon with land irrigation	Prov.Approval
6-7-74	Eugene	Calvin St. & Sleepy Hollow Subdivision sewers	Prov.Approval
6-7-74	Roseburg	Umpqua West Estates sewers	Prov.Approval
6-7-74	Medford	Ramada Hills Subdivision sewer	Prov.Approval
6-10-74	Salem (Willow Lake)	Addendum #1 - STP construction	Approved
6-10-74	Brownsville	Scoville Estates Subdivision sewers	Prov.Approval
6-10-74	Heppner	Valleyview Estates Subdivision sewers	Prov.Approval
6-10-74	Rogue River	Rogue River High School sewer extension	Prov.Approval
6-11-74	Lebanon	Pletzer's Green 1st Addn.	Prov.Approval
6-12-74	Toledo	L.I.D. #19 sewer	Prov.Approval
6-12-74	Lynnbrook	Lynnbrook Subdivision-Phase II sewers	Prov.Approval
6-13-74	Corvallis	Wake Robin Subdivision sewer	Prov.Approval
6-13-74	USA (Beav.-Aloha)	144th St. P. Sta. Improvements	Prov.Approval
6-14-74	Coos Bay #2	Pump Sta. No. 14	Prov.Approval
6-14-74	Eagle Point	Butte Crest Subdivision sewers	Prov.Approval
6-14-74	Harrisburg	D & G Shelter Products sewer	Prov.Approval
6-17-74	Bend	East Pilot Butte Int.	Prov.Approval
6-18-74	Coos Bay	Add. No. 1 - Multiple P.S. project	Approved
6-19-74	Lafayette	0.30 MGD activated sludge STP with polishing ponds & disinfection.	Prov.Approval

PROJECT PLANS

Water Quality Division

<u>Date</u>	<u>Location</u>	<u>Project</u>	<u>Action</u>
6-20-74	Clackamas County SD #1	C.O. #2 Int. sewer contract	Approved
6-25-74	Salem (Willow Lake)	Addendum #2 STP contract documents	Approved
6-25-74	Arch Cape SD	Addendum No. 2 - STP contract documents	Approved
6-28-74	Boardman	Port of Morrow Industrial Park STP 0.01 MGD package plant with holding pond & irrigation disposal	Prov.Approval

15 sewer plans
5 STP
2 pump stations
1 change order
23 Projects



ENVIRONMENTAL QUALITY COMMISSION

1234 S.W. MORRISON STREET • PORTLAND, ORE. 97205 • Telephone (503) 229-5696

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The Dalles

KESSLER R. CANNON
Director

To: Environmental Quality Commission
From: Director
Subject: Agenda Item C, July 19, 1974, EQC Meeting
Tax Credit Applications

Attached are review reports on 8 Tax Credit Applications. These applications and the recommendations of the Director are summarized on the attached table.

KESSLER R. CANNON

ahe

July 11, 1974

Attachments

Tax Credit Summary
Tax Credit REview Reports (8)



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TAX CREDIT APPLICATIONS

<u>Applicant</u>	<u>Appl. No.</u>	<u>Facility</u>	<u>Claimed Cost</u>	<u>% Allocable to Pollution Control</u>	<u>Director's Recommendation</u>
Chevron Asphalt Company	T-527	Thermal oxidizer system	\$84,076.00	80% or more	Issue
Omark Industries, Waste Treatment Department	T-532R	Plating waste chemical recovery and reuse system	260,640.00	80% or more	Issue
Marvin L. Markman	T-540	Diversion dam for flush water	10,940.00	80% or more	Issue
Union Pacific Railroad Co.	T-544	Devices for chemical and water recovery	176,653.00	80% or more	Issue
Permaneer Corporation White City Division	T-558	Sanderdust collection and metering system	25,997.75	80% or more	Issue
Permaneer Corporation White City Division	T-559	Two sanderdust collection and conveying systems	28,042.00	80% or more	Issue
Permaneer Corporation Dillard Division	T-564	Sanderdust storage sile and air conveying system	21,154.71	80% or more	Issue
Fred E. Moe	T-549	Pressurized diesel fueled orchard heating system	11,186.16	80% or more	Issue

Date July 8, 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron Asphalt Company
5501 N. W. Front Avenue
Portland, Oregon 97210

The applicant owns and operates a manufacturing facility and sales outlet for liquid asphalt products, paving asphalts, cutbacks, Bitumuls and roofing asphalt at the above address.

2. Description of Claimed Facility

The facility claimed in this application is described to be a thermal oxidizer system for the air still consisting of a burner plenum, oxidizer chamber, combustion air blower and controls.

The facility was completed and placed in operation in May 1972.

Certification is requested under the 1969 Act with 100% of the cost being claimed as allocable to pollution control.

Facility cost: \$84,076.00 (Accountant's certification was provided).

3. Evaluation of Application

The claimed facility was installed in accordance with detailed plans and specifications reviewed and approved by the Columbia-Willamette Air Pollution Authority.

The claimed facility serves to oxidize hydrocarbon materials thereby eliminating a white opaque plume and odiferous substances. An inspection of the facility indicated that the unit is in compliance with applicable emission regulations.

Some heat is recovered from the oxidizing process. This heat comes from the burning of both hydrocarbon fumes and auxiliary fuel. The estimated value of reclaimed heat is about \$20,000 per year. The annual operating expenses including labor, fuel, maintenance and depreciation are about \$26,360.00. Thus, the facility operates at an annual loss of about \$6,000+.

It is concluded that the claimed facility was installed and is operated to control air pollution and that 100% of the cost is allocable to pollution control.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$84,076.00 with 80% or more allocable to pollution control, be issued for this facility claimed in Tax Application T-527.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Omark Industries, Inc.
Waste Treatment Department
2100 S. E. Milport Road
Portland, Oregon 97222

The applicant leases production facilities and pollution control equipment from Omark Properties, Inc.

2. Description of Claimed Facility

Refer to attached Review Report presented to the Environmental Quality Commission at its June 21, 1974 meeting.

3. Explanation and Evaluation

Omark Properties, Inc., as owner, was granted a certificate for specific water pollution control facilities at the June 21, 1974 EQC meeting.

Omark Properties, Inc. as owner and lessor desires that Omark Industries, Inc. as lessee receive the credit and therefore has applied for a change in name on the certificate.

The certificate issued on June 21, 1974 is still in the possession of the Department at the request of Omark Properties, Inc. pending approval of the name change.

4. Director's Recommendation

It is recommended that the certificate issued to Omark Properties, Inc. on June 21, 1974 based on Application T-532 be amended to show issuance to Omark Industries, Inc. as lessee.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Omark Properties, Inc.
Omark Industrial Park
Waste Treatment Department
2100 S.W. Milport Road
Portland, Oregon 97222

2. Description of Claimed Facility

The claimed facility, a plating waste chemical recovery and reuse system, consists of Chrome Recovery, Chrome Waste Treatment, Zinc Recovery and Acid/Alkali Neutralization. The major equipment of each system is as follows:

A. Chrome Recovery

1. Cation Exchanger
2. Anion Exchanger

B. Chrome Waste Treatment

1. Treatment Tank, 650 gallon
2. Automatic Chemical Monitoring and Control
3. Chemical Feed

C. Zinc Recovery

1. Boiler
2. Heat Exchanger
3. Separator
4. Condenser
5. Condensate Cooling Tank
6. Electronic/Pneumatic Control

D. Acid/Alkali Neutralization

1. Treatment Tank
2. Automatic Chemical Monitoring and Control
3. Chemical Feed
4. Precipitator, 2800 gallon
5. Polyelectrolyte Feed
6. Centrifuge

Piping, electrical wiring and controls, buildings and land required are included.

The claimed facility was placed in operation in November 1973. Certification is claimed under the 1969 Act with 100% of the cost allocated to pollution control.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Marvin L. Markman
Rt. 3 Box 82
The Dalles, Oregon 97058

The applicant owns a hog operation, The Dalles, Oregon, on Fifteen Mile Creek.

2. Description of Claimed Facility

The claimed facility consists of a diversion dam for flush water, several hundred feet of PVC transmission line, two lagoon cells totaling 1.29 acre-feet storage, and land for effluent disposal.

The animal waste control facility was placed in operation in November 1973.

Facility Cost: \$10,940 (Includes \$2000 owner labor).

3. Evaluation of Application

This facility was installed to alleviate an existing manure discharge to Fifteen Mile Creek and to accommodate additional manure loads resulting from new hog operations.

The main function of the pollution control system is to collect liquid manure wastes and impound them in lagoons. The non-overflow ponds are used alternately so that liquid evaporation and seepage leave a solids residue which can be separated, collected and dispersed on nearby fields. Any excess liquid can be sprinkle irrigated on cropland.

A recent flood has temporarily taken the diversion dam out of service; however, repairs are underway. The facility is performing as designed.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facilities claimed in Application T-540, such certificate to bear the actual cost of \$10,940 with 80% or more of the cost allocable to pollution control.

Facility Cost: \$260,640.00 (accountant's certification was attached to the application).

3. Evaluation of Application

Installation of the claimed facilities removes and recovers for reuse 99% of the chemicals in the Chrome waste water chemicals, 99% of the Zinc Chloride waste water chemicals, 99% of the acid alkali waste from the effluent previously discharged to Milwaukie Sanitary Sewer.

Although there is value in the reclaimed chemicals, Omark Properties claims, in the application, that total annual operating expenses exceed that value.

4. It is recommended that a Pollution Control Facility Certificate be issued for the facilities claimed in application T532 such certificate to bear the actual cost of \$260,640.00 with 80% or more of the cost allocable to pollution control.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Union Pacific Railroad Company
726 Pittock Block
Portland, Oregon 97205

The applicant owns and operates a timber treating plant in The Dalles, Oregon. The principal product is treated railroad ties.

2. Description of Claimed Facility

The claimed facility consists of various devices for chemical and water recovery including 9 pumps, a decantation tank and recovery tank for pentachlorophenol, a decantation tank and recovery tank for creosote, a decantation tank and recovery tank for a 50/50 mixture of the two preservatives, a high condensate recovery tank, a high chemonite holding tank and a high oil recovery tank.

The facility was placed in operation in January, 1971.

Facility Cost: \$176,653.41

3. Evaluation of Application

The facility was constructed as a result of conditions set forth in DEQ Waste Discharge Permit No. 711. The installation recirculates all phenols, COD and BOD. Suspended solids are disposed on land. No discharge enters public waters.

The claimed facility's main function is to prevent contamination of public waters. The secondary function is to recover wood preservatives for use at the plant. Union Pacific estimates that recovery is valued at \$2,700 per year. Due to operating costs no profit is realized from these facilities.

The facility is performing as designed.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facilities claimed in Application T-544, such certificate to bear the actual cost of \$176,653 with 80% of the cost allocable to pollution control.

Date July 9, 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Permaneer Corporation
White City Division
1790 Avenue "G"
White City, Oregon 97501

The applicant operates a particleboard plant at White City, Oregon.

2. Description of Facility

The facility claimed in this application is described to be a sanderdust collection and metering system and consists of the following:

1. Storage silo.
2. Silo discharge bin.
3. Explosion relief hatches.
4. Fire protection equipment.
5. Necessary foundations, electrical components, etc.

The facility was completed and put into operation in November, 1969.

Certification is claimed under the 1969 Act and the percentage claimed for pollution control is 100%.

Facility cost: \$25,997.75 (Accountant's certification was provided.)

3. Evaluation of Application

This facility enables the plant to contain sanderdust collected by the baghouse filter, until the dust is burned as fuel in the particleboard dryer furnace.

Prior to the installation of this facility, sanderdust would intermittently overflow an existing collection silo, resulting in a sanderdust waste pile with attendant wind blown fugitive emissions.

It is concluded that this installation does operate satisfactorily and does reduce sanderdust windblown fugitive emissions.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$25,997.75 with 80% or more of the costs allocated to pollution control be issued for the facility claimed in Tax Application T-558.

Date July 9, 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Permaneer Corporation
White City Division
1790 Avenue "G"
White City, Oregon 97501

The applicant operates a particleboard plant at White City, Oregon.

2. Description of Facility

The facility claimed in this application is described to be two (2) sanderdust collection and conveying systems and each system consists of the following items:

1. Air fan, with 40 H. P. motor
2. Carter Day baghouse filter
3. Conveying duct
4. Necessary supports, controls, etc.

The facility was completed and put into operation in December, 1970.

Certification is claimed under the 1969 Act and the percentage claimed for pollution control is 100%.

Facility cost: \$28,042 (Accountant's certification was provided).

3. Evaluation of Application

Materials handling system No. 1 enables sanderdust to be conveyed from the sander collectors to a sanderdust storage silo. From this silo, which acts as a surge bin, sanderdust is conveyed by a second materials handling system, No. 2, to a small silo from which sanderdust is fed to a furnace supplying heat to a particleboard dryer.

Prior to the installation of the storage silo, sanderdust would intermittently overflow the small silo, resulting in piles of waste sanderdust with attendant wind-blown fugitive emissions.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$28,042 with 80% or more of the cost allocated to pollution control be issued for the facility claimed in Tax Application T-559.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Permaneer Corporation
Dillard Division
PO Box 178
Dillard, OR 97423

The applicant operates a particleboard plant at Dillard, Oregon.

2. Description of Facility

The facility claimed in this application is described to be a sanderdust storage silo and air conveying system and consists of the following:

1. Storage silo (National).
2. Silo discharge bin (Ersham).
3. Explosion relief hatches.
4. Fire protection equipment.
5. High pressure air conveying system.
6. Necessary foundations, electrical components, etc.

The facility was completed and put into operation in November, 1969.

Certification is claimed under the 1969 Act and the percentage claimed for pollution control is 100%.

Facility cost: \$21,154.71 (Accountant's certification was provided.)

3. Evaluation of Application

This facility enables the plant to store and contain collected sanderdust, until the dust is burned as fuel in the particleboard dryer furnace.

Prior to the installation of this facility, sanderdust was stored in a wooden shed structure. Leaks in the shed resulted in wind blown fugitive emissions.

It is concluded that this installation does operate satisfactorily and does reduce sanderdust windblown fugitive emissions.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$21,154.71 with 80% or more of the costs allocated to pollution control be issued for the facility claimed in Tax Application T-564.

Date June 12, 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Fred E. Moe
Route 2, Box 1590
Hood River, OR 97031

The applicant owns and operates an apple and pear orchard near Hood River, Oregon.

2. Description of Claimed Facility

The facility claimed in this application is described to be a pressurized diesel fueled orchard heating system consisting of a 10,000 gallon diesel storage tank; fuel pump, motor, regulator, gauge and filter; 800 heaters and associated PVC pipe and valves.

The facility was completed and placed in operation in March, 1973.

Certification is requested under the 1969 Act with 100% of the cost being claimed as allocable to pollution control.

Facility cost: \$11,187.16 (Accountant's certification was provided).

3. Evaluation of Application

The claimed facility was installed as a replacement for about 800 class II pot type heaters in 30 acres of orchard. The new system emits very little smoke compared to the smudge pots. The claimed facility is not used for any other purpose than orchard heating.

Since the claimed facility replaced an existing orchard heating system, operates at much lower emissions than the previous method and serves no function other than orchard heating, it is concluded that the claimed facility was installed and is operated to a substantial extent for reducing atmospheric emissions and that the portion of the cost allocable to pollution control is 80% or more.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$11,186.16 with 80% or more allocable to pollution control, be issued for the facility claimed in Tax Application T-549.



DEPARTMENT OF JUSTICE
PORTLAND DIVISION
555 STATE OFFICE BUILDING
PORTLAND, OREGON 97201
TELEPHONE: (503) 229-5725

Tax Credits Section
Appl. No. T-549
Received JUL 11 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

July 9, 1974

Mr. Kessler Cannon, Director
Department of Environmental Quality
Terminal Sales Building
1234 S.W. Morrison
Portland, Oregon 97205

Re: Tax Relief Application No. T-549 - Fred E. Moe, Hood
River, Oregon

Dear Mr. Cannon:

You have inquired whether the tax relief sought by Mr. Fred E. Moe under Tax Application No. T-549 is legally available in view of ORS 468.290, which excepts from most of Oregon's air pollution control laws all agricultural operations (excepting field burning), the use of agricultural equipment, the growing or harvesting of crops and the raising of fowls or animals. In my opinion, the answer is affirmative.

There is no language in ORS 468.155 to 468.190, governing pollution control facilities tax relief, which specifically excepts such facilities when used for agricultural operations or equipment from the benefits of these statutes. Further, ORS 468.155 defines "pollution control facility" or "facility" broadly enough to include the facility which is the subject of this tax relief application. And the legislative policy of these statutes, as set forth in ORS 468.160, is unqualifiedly "to assist in the prevention, control and reduction of air and water pollution in this state by providing tax relief with respect to Oregon facilities constructed to accomplish such prevention, control and reduction."

Statutes must, whenever possible, be construed together and in such manner as to be consistent rather than in conflict, thus giving effect to both statutes. McClain v. Lafferty, 257 Or 553. There is no irreconcilable conflict between

Mr. Kessler Cannon

-2-

July 9, 1974

the broadly inclusive legislative policy expressed in ORS 468.160 and the air pollution control exceptions for agriculture in ORS 468.290. Full effect can be given to both. The disposal or elimination of air pollution by a facility in an agricultural operation may be rewarded in the form of a tax credit under one statute though the control of such air pollution is denied by another statute. The legislature may implement a policy by the use of a carrot instead of, as well as in addition to, a stick.

Further, I have been advised that the Commission has approved seven quite similar tax relief applications by agriculturists between October 29, 1971, and October 12, 1973, which constitutes a course of administrative interpretation entitled to careful consideration by any court, particularly since the legislature took no action at its 1973 session to modify or reverse such administrative interpretation. Gouge v. David, 185 Or 437.

Please let me know if we can be of further assistance in this matter.

Sincerely,



RAYMOND P. UNDERWOOD
Chief Counsel
Portland Office

ej



ENVIRONMENTAL QUALITY COMMISSION

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KESSLER R. CANNON
Director

MEMORANDUM

To : Environmental Quality Commission
From : Director
Subject: Agenda Item No. D, 1974 EQC Meeting

Staff Report - Adoption of Statewide Rules and Procedure
Manuals Relating to Noise Pollution for New and In-Use
Motor Vehicles Including Off-Road Recreational Vehicles
and Motorcycles

Background

A public hearing was held by the Commission on June 21 in Coos Bay to consider adoption of the new and in-use motor vehicle noise regulations and three procedure manuals. After oral and written testimony was presented at the hearing the Commission voted unanimously that the hearing be closed but the record remain open for ten days, and that the matter be placed on the agenda for the July 19 EQC meeting.

Procedure Manuals

No significant testimony was submitted that affected the three procedure manuals NPC-1, 2 and 21. Two corrections were found to be necessary in the Motor Vehicle Sound Measurement Manual, NPC-21. In section 4.5.4 c.2 which describes the acceleration test for motorcycles a correction was made that requires the throttle to be "rapidly and fully opened". In section 4.5.6 (1)(B) a typographical error was corrected in which the word "beyond" was changed to the word "before".

New Motor Vehicle Noise Rules

Testimony has been submitted by motor vehicle manufacturers strenuously objecting to the lower dBA limits set for models in future years, particularly 1979 and beyond. The noise staff realizes that these standards will be difficult to meet, but such levels are necessary if we are to reduce the annoyance created by motor vehicles.



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Clearly the standards for future years will have to be adjusted if the lower dBA levels set for these years prove to be technically unfeasible. However, noise control technology for model years 1979 and beyond will not be frozen until 1977, and therefore the interim period can be used to develop vehicles which can achieve lower dBA levels at reasonable cost.

The technology is now available to meet the post-1978 truck standard of 80 dBA. This technology was developed in the Department of Transportation's "Quiet Truck" study in which Freightliner Corp. participated by building a truck that produced noise levels of about 74 dBA.

Some testimony referred to the fact that tire noise becomes predominant at higher road speeds, but this testimony failed to take into account that many complaints are registered on vehicles in urban areas where the vehicle speeds are relatively low. It should also be noted that a development program is now in progress by the Dept. of Transportation to develop quiet tires, and it appears that Federal standards for tire noise will be promulgated in the future.

The motorcycle industry stated that some manufacturers and some models of motorcycles may not be able to meet the proposed noise standards. The Department believes that all manufacturers should be treated equally, and that the technology to meet the near-term noise standards is available for most models of motorcycles. The motorcycle industry does not agree that road and off-road recreational motorcycles should meet the same level, but the Department believes that both types should conform to the same regulation. The reasoning behind this is that since road and off-road cycles have essentially the same propulsion systems, and since the same muffling technology is available for each, and since cycles operating off-road are the major source of our motorcycle complaints, the noise standards for off-road cycles should be identical to those for road cycles.

Some questions have been submitted regarding the test procedures defined in the Motor Vehicle Sound Measurement Procedure Manual (NPCS41). The test methods in the manual are identical to those used in the state of California and are very similar to the Society of Automotive Engineers (SAE) standards. Section 35-025(2)(a) of the regulations allows the Department to accept other approved standard test methods and the SAE test procedures would be acceptable.

Some confusion has arisen as to whom the Department expects to devise vehicle sampling techniques and conduct noise tests. Section 35-025(2)(a) of the rules has been modified such that the manufacturer is directed to devise a certification program based on a sample of prototype or production vehicles and submit the program to the Department for approval. Thus this section of the regulations has eliminated any requirement for the vehicle dealer to submit information explaining the noise

sampling technique used by the manufacturer. Part (b) of section 35-025(2) has been modified to include the manufacturer with the dealer in cooperating to test additional classes of vehicles when requested by the Department.

Section 35-025(3) has been deleted and replaced by the requirements for the manufacturer's certification. This change eliminates the requirement for the dealer to submit test data to the Department except under special cases when there are grounds to believe that a class of vehicles is not in conformance with the noise limits. The certification method of control over the sale of new motor vehicles is consistent with the methods used in other states and should provide adequate control of the dealers through the manufacturer. The Exceptions section 35-025(4) has been modified to include the manufacturer.

These changes to the proposed new motor vehicle regulations were made after an evaluation of testimony presented at the EQC hearing in Coos Bay and submitted within the 10 subsequent days the record was held open.

In-Use Motor Vehicle Noise Rules

One modification is proposed for the noise regulations for in-use motor vehicles. To conform to the interstate motor carrier noise emission regulations proposed by the Environmental Protection Agency the noise limits in Table C for trucks and buses of model years before 1975 is changed from 88 dBA to 86 dBA in the 35 mph or less column. Thus when the EPA regulation is adopted the Oregon noise standards will not be pre-empted by the lower standard.

Director's Recommendation

It is the Director's recommendation that the Commission approve and adopt the noise procedure manuals, NPC-1, 2 and 21 and the submitted rules for new and in-use motor vehicles to be effective 10 days after publication by the office of the Secretary of State.



KESSLER R. CANNON
Director



ENVIRONMENTAL QUALITY COMMISSION

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RONALD M. SOMERS
The Dalles

KESSLER R. CANNON
Director

TO: Environmental Quality Commission
FROM: Director
SUBJECT: Addendum to Staff Report on Adoption of Proposed Motor Vehicle Noise Rules; Agenda Item D.

In previous staff reports on the proposed motor vehicle rules, the Department clearly stated its intent to follow the control pattern set down by the California legislation in 1971. To this end, the Department proposed noise limits for motorcycles identical to California's standards for road motorcycles. However, to facilitate enforcement, the Department's rules varied from California's in that they designated limits by model year, not manufacturing year as was done in California. It was believed that this would not put us out of step with California because model years for most motor vehicles overlap into two calendar years and a manufacturer will generally not re-tool in the middle of a model year. The Department has recently learned, however, that unlike most vehicle manufacturers the motorcycle industry has condensed model production periods. This means that the motorcycle industry can produce entire model lines in 1974 meeting a California standard of 86 dBA, but exceeding an 83 dBA limit for Oregon. This idiosyncrasy in the manufacturing process puts us out of step with the California standards which have served as the industry target since 1971. Because of this, the proposed regulations would prohibit the sale of some road motorcycles produced in good faith to meet the most stringent noise regulations in the nation.

Since this was not the intent of the Department and since the proposed regulations do not have adequate lead-time for adjustment by the motorcycle industry to a new target noise level (the 1975 model year is only 2 to 3 months off), the Director recommends that for motorcycles Table A of the proposed rules be amended to read:

Motorcycles	<u>Model Year</u>	<u>Max. Noise Level</u>
	1975	86
	1976	83
	1977-1978	80
	after 1978	75



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In Tables B, C, and D the following word changes in the motorcycle limits are necessary for consistency:

- (1) Change all references to "1975" to "1976"
- (2) Change all references to "1976" to "1977"

In essence, the above changes represent a one year delay in the proposed noise limits for motorcycles.



KESSLER R. CANNON
Director

PMS:kok

July 15, 1974

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY CONTROL DIVISION

JUNE, 1974

PROPOSED

NOISE CONTROL REGULATIONS

6/28/74

PROPOSED NOISE CONTROL REGULATIONS

GENERAL

35-005 POLICY. In the interest of public health and welfare, and in accordance with ORS 467.010, it is declared to be the public policy of the State of Oregon:

(1) to provide a coordinated state-wide program of noise control to protect the health, safety, and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions.

(2) to facilitate cooperation among units of state and local governments in establishing and supporting noise control programs and to encourage the enforcement of viable local noise control regulations by the appropriate local jurisdiction.

(3) to develop a program for the control of excessive noise sources which shall be undertaken in a progressive manner, and each of its objectives shall be accomplished by cooperation among all parties concerned.

35-010 EXCEPTIONS. Upon written request from the owner or controller of a noise source, the Department may authorize exceptions as specifically listed in these rules.

In establishing exceptions, the Department shall consider the protection of health, safety and welfare of Oregon citizens as well as the feasibility and cost of noise abatement; the past, present and future patterns of land use; the relative timing of land use changes and other legal constraints. For those exceptions which it authorizes the Department shall specify the hours during which the noise rules can be exceeded and the quantity and quality of the noise generated, and when appropriate shall specify the increments of progress of the noise source toward meeting the noise rules.

35-015 DEFINITIONS. As used in this Subdivision,

(1) "Ambient Noise" means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far. Separate ambient noise measurements both including and excluding a noise source are often required on particular NOISE SENSITIVE PROPERTY to provide an index of the environmental impact of that noise source on the people residing on that property.

- (2) "Commission" means the Environmental Quality Commission.
- (3) "Department" means the Department of Environmental Quality.
- (4) "Director" means the Director of the DEPARTMENT.
- (5) "Farm Tractor" means any MOTOR VEHICLE designed primarily for use in agricultural operations for drawing or operating plows, mowing machines or other implements of husbandry.
- (6) "In-Use Motor Vehicle" means any MOTOR VEHICLE which is not a NEW MOTOR VEHICLE.
- (7) "Motorcycle" means any MOTOR VEHICLE, except FARM TRACTORS, designed to travel on not more than three wheels which are in contact with the ground.
- (8) "Motor Vehicle" means any vehicle which is, or is designed to be self-propelled or is designed or used for transporting persons or property. This definition excludes airplanes, but includes water craft.
- (9) "New Motor Vehicle" means a MOTOR VEHICLE whose equitable or legal title has never been transferred to a PERSON who in good faith purchases the NEW MOTOR VEHICLE for purposes other than resale.
- (10) "Noise Level" means weighted SOUND PRESSURE LEVEL measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA.
- (11) "Noise Sensitive Property" means real property on which people normally sleep, attend schools, churches and public libraries. Property used in industrial, commercial or agricultural activities is not defined to be NOISE SENSITIVE PROPERTY unless it meets the above criteria in more than an incidental manner.
- (12) "Off-Road Recreational Vehicle" means any MOTOR VEHICLE used off PUBLIC ROADS for recreational purposes. When a ROAD VEHICLE is operated off-road the vehicle shall be considered an OFF-ROAD RECREATIONAL VEHICLE if it is being operated for recreational purposes.
- (13) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatever.
- (14) "Propulsion Noise" means that noise created in the propulsion of a MOTOR VEHICLE. This includes, but is not limited to, exhaust system noise, induction system noise, tire noise, cooling system noise, aerodynamic noise and where appropriate in the test procedure, braking system noise. This does not include noise created by ROAD VEHICLE AUXILIARY EQUIPMENT such as power take-offs and compressors.
- (15) "Public Roads" means any street, alley, road highway, freeway, thoroughfare or section thereof in this state used by the public or dedicated or appropriated to public use.
- (16) "Racing Events" means any competition using MOTOR VEHICLES, conducted under a permit issued by the governmental authority having jurisdiction or, if such permit is not required, then under the auspices of a recognized sanctioning body. This definition includes, but is not limited to, events on the surface of land and water.
- (17) "Racing Vehicle" means any MOTOR VEHICLE that is designed to be used exclusively in RACING EVENTS.
- (18) "Road Vehicle" means any MOTOR VEHICLE registered for use on PUBLIC ROADS, including any attached trailing vehicles.

(19) "Road Vehicle Auxiliary Equipment" means those mechanical devices which are built in or attached to a ROAD VEHICLE and are used primarily for the handling or storage of products in that MOTOR VEHICLE. This includes, but is not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, blowers, and other mechanical devices.

(20) "Sound Pressure Level" (SPL) means 20 times the logarithm to the base 10 of the ratio of the root-mean-square pressure of the sound to the reference pressure. SPL is given in decibels (dB). The reference pressure is 20 micronewtons per square meter.

(21) "Warning Device" means any device which signals an unsafe or potentially dangerous situation.

35-025 NOISE CONTROL REGULATIONS FOR THE SALE OF NEW MOTOR VEHICLES.

(1) Standards and Regulations. No PERSON shall sell or offer for sale any NEW MOTOR VEHICLE designated in this section which produces a PROPULSION NOISE exceeding the noise limits specified in Table A, except as otherwise provided in these rules.

TABLE A

Moving Test At 50 Feet

<u>Vehicle Type</u>	<u>Model Year</u>	<u>Maximum Noise Level, dBA</u>
Motorcycles	1975	83
	1976-1978	80
	after 1978	75
Snowmobiles as defined in ORS 481.048	1975	82
	1976-1978	78
	after 1978	75
Truck and bus as defined under ORS 481.030 and 481.035.	1975	86
	1976-1978	83
	after 1978	80
Automobiles, light trucks and all other ROAD VEHICLES	1975	83
	1976-1978	80
	after 1978	75

If no model year is defined for the New Motor Vehicle, then the model year shall be that calendar year in which the New Motor Vehicle is manufactured.

RACING VEHICLES will be exempt from the noise levels in Table A if it can be adequately demonstrated to the DEPARTMENT that these vehicles are used exclusively in sanctioned RACING EVENTS

(2) Measurement

(a) Sound measurements shall conform to test procedures adopted by the COMMISSION in Motor Vehicle Sound Measurement Procedures Manual (NPCS-21), or to standard methods approved in writing by the DEPARTMENT. These measurements will generally be carried out by the motor vehicle manufacturer on a sample of either prototype or production vehicles. A certification program shall be devised by the manufacturer and submitted to the Department for approval within 60 days after the adoption of this rule.

(b) Nothing in this Section shall preclude the Department from conducting separate or additional noise level tests and measurements on new motor vehicles being offered for sale. Therefore, when requested by the Department a new motor vehicle dealer or manufacturer shall cooperate in the reasonable noise testing of a specific class of motor vehicle being offered for sale.

(3) Manufacturer's Certification.

(a) Prior to the sale of any new motor vehicle designated in Table A, the manufacturer or a designated representative shall certify in writing to the Department that vehicles listed in Table A made by that manufacturer and offered for sale in the State of Oregon meet applicable noise limits. Such certification will include a statement by the manufacturer that:

(i) The manufacturer has tested sample or prototype vehicles.

(ii) That such samples or prototypes met applicable noise limits when tested in accordance with the procedures specified.

(iii) That vehicles offered for sale in Oregon are substantially identical in construction to such samples or prototypes.

(b) Nothing in this Section shall preclude the Department from obtaining specific noise measurement data gathered by the manufacturer on prototype or production vehicles for a class of vehicles for which the Department has reasonable grounds to believe that it is not in conformity with the applicable noise limits.

(4) Exceptions. Upon prior written request from the manufacturer or designated representative, the Department may authorize an exception to this noise rule for a class of motor vehicles, if it can be demonstrated to the Department that for that specific class a vehicle manufacturer has not had adequate lead-time or does not have the technical capability to either bring the motor vehicle noise into compliance or to conduct new motor vehicle noise tests. It is recognized that noise data for 1975 model year vehicles may not be available prior to sale if manufacturers are not now engaged in noise tests.

35-030 NOISE CONTROL REGULATIONS FOR IN-USE MOTOR VEHICLES.

(1) Standards and Regulations.

(a) Road Vehicles - No PERSON shall operate any ROAD VEHICLE which exceeds the NOISE LEVEL limits specified in Table B or C, except as otherwise provided in these rules.

TABLE B

Stationary Test At 25 Feet or Greater

<u>Vehicle Type</u>	<u>Model Year</u>	<u>Maximum Noise Level, dBA</u>
Truck and bus as defined under ORS 481.030 and 481.035.	before 1976	94
	1976 - 1978	91
	after 1978	88
MOTORCYCLES	before 1975	94
	1975	91
	1976 - 1978	88
	after 1978	83
Automobiles, light trucks and all other ROAD VEHICLES	before 1976	92
	1976 - 1978	88
	after 1978	83

TABLE C

Moving Test at 50 Feet Or Greater At Vehicle Speed

<u>Vehicle Type</u>	<u>Model Year</u>	<u>Maximum Noise Level, dBA</u>	
		<u>35 mph or less</u>	<u>Greater than 35 mph</u>
Truck and bus as defined under ORS 481.030 and 481.035.	before 1976	86	90
	1976-1978	85	87
	after 1978	82	84
Motorcycles	before 1975	84	88
	1975	81	85
	1976-1978	78	82
	after 1978	73	77
Automobiles, light trucks and all other ROAD VEHICLES	before 1976	81	85
	1976-1978	78	82
	after 1978	73	77

Upon application to the DEPARTMENT non-conforming "classic" and other "special interest" vehicles shall be considered for an exception for the purpose of maintaining authentic equipment.

(b) Off-Road Recreational Vehicles - No person shall operate any OFF-ROAD RECREATIONAL VEHICLE which exceeds the noise limits specified in Table D.

TABLE D

Allowable Noise Limits

<u>Model Year</u>	<u>Maximum Noise Level, dBA</u>	
	<u>Stationary Test (25 feet or greater)</u>	<u>Moving Test (50 feet or greater)</u>
Before 1975	94	88
1975	91	85
1976-1978	88	82
After 1978	83	77

(c) Exhaust Systems - No person shall operate any road vehicle or off-road recreational vehicle with a defective exhaust system. This rule is limited to exhaust systems with the following defects:

- (A) no muffler
- (B) leaks in the exhaust system
- (C) pinched outlet pipe

(d) Ambient Noise Limits - No person shall cause, allow, permit or fail to control the use of MOTOR VEHICLES, which includes motorcycles, on property which he owns or controls within 1000 feet of the nearest NOISE SENSITIVE PROPERTY such that the noise levels specified in Table E are exceeded as measured 25 feet from the NOISE SENSITIVE PROPERTY toward the noise source.

TABLE E

Allowable Noise Limits

<u>Time</u>	<u>Maximum Noise Level, dBA</u>
7 a.m. - 10 p.m.	60
10 p.m. - 7 a.m.	55

Not included in this subsection are motor vehicles operating in RACING EVENTS, motor vehicles initially entering or leaving property which is more than 1000 feet from the nearest NOISE SENSITIVE PROPERTY, motor vehicles operating on PUBLIC ROADS, and motor vehicles operating off-road for non-recreational purposes.

(e) Auxiliary Equipment Noise Limits - (A) No person shall operate any ROAD VEHICLE AUXILIARY EQUIPMENT powered by the road vehicle's primary power source which exceeds the noise limits specified in Table F, except as otherwise provided in these rules.

TABLE F

Stationary Test At 50 Feet Or Greater

<u>Model Year</u>	<u>Maximum Noise Level, dBA</u>
Before 1976	88
1976-1978	85
After 1978	82

(B) As of June 1974, the Department does not have sufficient information to determine the maximum noise levels for ROAD VEHICLE AUXILIARY EQUIPMENT powered by a secondary source. Research on this noise source will be carried out with the goal of setting noise level limits by 1/1/75.

(2) Measurement - Sound measurement shall conform to test procedures adopted by the Department in Sound Measurement Procedures Manual (NPCS-1) and Motor Vehicle Sound Measurement Procedures Manual (NPCS-21) or to standard methods approved in writing by the Department.

(3) Exemptions - (a) Motor Vehicles registered as antique or historical motor vehicles licensed in accordance with ORS 481.205(4) are exempt from these regulations.

(b) Motor vehicle WARNING DEVICES are exempt from these regulations.

(c) Vehicles equipped with at least two snowtread tires are exempt from the noise limits of Table C.

35-100 VARIANCES. (1) Conditions for Granting. The Commission may grant specific variances from the particular requirements of any rule, regulation or order to such specific persons or class of persons or such specific noise source upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulation or order is inappropriate because of conditions beyond the control of the persons granted such variance or because of special circumstances which would render strict compliance unreasonable, or impractical due to special physical conditions or cause, or because strict compliance would result in substantial curtailment or closing down of a business, plant or operation, or because no other alternative facility or method of handling is yet available. Such variances may be limited in time.

(2) Procedure for Requesting. Any person requesting a variance shall make his request in writing to the Department for consideration by the Commission and shall state in a concise manner the facts to show cause why such variance should be granted.

(3) Revocation or Modification. A variance granted may be revoked or modified by the Commission after a public hearing held upon not less than 20 days notice. Such notice shall be served upon the holder of the variance by certified mail and all persons who have filed with the Commission a written request for such notification.



ENVIRONMENTAL QUALITY COMMISSION

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KESSLER R. CANNON
Director

MEMORANDUM

To : Environmental Quality Commission
From : Director
Subject: Agenda Item No. E, July 19, EQC Meeting

Staff Report - Public Hearing to Consider Adoption of
Statewide Rules Relating to Noise Pollution from
Industrial and Commercial Sources and to Changes to the
Sound Measurement Procedures Manual NPC-1,2

Background

In the last nine months the Department has held two sets of public hearings and has worked with an advisory noise committee in formulating noise rules for industry and commerce. Public input has led to numerous changes in the proposed rules, but as with most rules, these are still not universally accepted by all of the parties concerned.

Measurement Point

The noise limits established in these rules were set at a level designed to protect speech and sleep, generally on residential property. The noise level measurement point designated in the proposed rules will usually fall 25 feet from the residential building closest to the noise source being monitored. In general then, these rules are designed to protect people where they live.

Some have argued that the measurement point should fall on the residential property line rather than 25 feet from the residence. Such an approach, it is argued, would assure protection of all residential property and would permit one to purchase land as a noise buffer zone if one wanted to lower his noise exposure below those levels set forth in the noise rules.

Others have argued that the noise levels should be measured at the industrial property line with different noise limits for different types of industry.



Contains
Recycled
Materials

Although the other concepts have merit, the noise staff has chosen to proceed with the proposed measurement location because:

- (1) it provides a given point of reference from which to set meaningful noise standards which protect speech and sleep;
- (2) it is a relatively simple point to find and does not require the development of a complex matrix of noise limits by industrial activity; and
- (3) it treats all individuals as equals.

Noise Limits (dBA)

The noise limits measured on the "A" scale (dBA) were set at levels judged by the noise staff to be adequately protective of speech and sleep on residential property. Because of the immediate local impact of noise from any source, the proposed rules set forth the same ultimate dBA limits for both new and existing industry and commerce. A 3 year interim standard for existing industry is provided to permit an adequate period of transition for both industry and the noise staff to bring the noise levels of what will certainly be a large number of noise sources to acceptable noise levels.

In general the noise staff has received little testimony which would indicate that the noise goals set forth in these rules are not protective. However, public interest groups have expressed their concern over the length of time the interim noise standards for existing industry would be effective.

Increases in Noise

The noise rules also control the increases in noise levels to which a residential community can be exposed by the introduction of any industrial or commercial noise source. The proposed rules limit the rise in noise levels to 10 dBA. The nature of urban and suburban/country background noise levels is such that this rule will be applicable primarily in the less urbanized areas of Oregon.

Octave Band and Discrete Pure Tones

Although the dBA noise limits described above should eliminate most noise problems, there may be instances where the characteristics of the noise being emitted by a particular source are such that those noises should be controlled so as to eliminate annoying frequency components. To this end the noise rules prescribe octave band and discrete tone limits for noise sources found to be annoying at dBA levels below those discussed above.

Enforcement

Because noise is generally a local pollution problem and because there are manpower constraints on the Department and the noise control staff, the proposed rules for existing noise sources will be enforced primarily on a complaint basis. There is nothing in the rules which prevents the noise staff from initiating a noise level investigation, but the noise staff does intend to rely on complaints as the primary tool for identifying sources operating in excess of the proposed noise limits.

There has been very little disagreement that the Department's enforcement for existing facilities should rely on complaints, at least in the short-run. However, objections have been raised about the wording in the rules which gives the impression that the Department cannot act without a written complaint.

Monitoring

The monitoring of industrial and commercial noise levels will necessarily be carried out by both the Department and the noise source in question. Because of the specialized nature of the monitoring equipment for octave band, discrete pure tones and impulse noise, this type of monitoring will generally be carried out directly by the Department's noise staff.

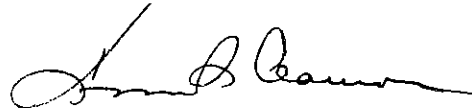
Additions to Procedure Manuals

Additions to manual NPC-1 were made which add section 2.6 and 2.7. These sections define the instrumentation used for one-third octave band measurements and impulse measurements. Section 4.5.9 and 4.5.10 were also added to explain how to take and record one-third octave band and impulse measurements. Form NPC-4 was modified to include impulse measurements and Form NPC-29 was added for the recording of one-third octave band data.

Additions to manual NPC-2 were made which incorporated specifications for one-third octave band filter sets and impulse sound measuring equipment.

Director's Recommendation

It is the Director's recommendation that the Commission adopt the proposed industry and commerce noise standards and the procedure manuals, NPC-1 and 2 as amended.



KESSLER R. CANNON
Director

INDUSTRIAL AND COMMERCIAL NOISE REGULATIONS

EXHIBIT LIST

1. "Public Health and Welfare Criteria for Noise" by U.S. Environmental Protection Agency dated July 27, 1973, Report Number 550/9--73-002.
2. James D. Miller, "Effects of Noise on People" U.S. Environmental Protection Agency dated December 31, 1971, Report No. NTID 300.7.
3. "Specification for Sound Level Meters" American National Standard Institute, Inc. approved April 27, 1971, Standard No. ANSI SI. 4-1971.
4. "American Standard Specification for Octave, Half-Octave, and Third-Octave Band Filter Sets" American National Standard Institute, Inc., approved May 4, 1966, Standard No. SI.II-1966.
5. "Method for the Physical Measurement of Sound" American National Standards Institute Inc., approved August 20, 1962, Report No. ANSI SI.2-1962, reaffirmed 1971.
6. "SAE Recommended Practice - Qualifying A Sound Data Acquisition System - SAE J184" 1973 SAE Handbook Society of Automotive Engineers, Inc., New York, N.Y.
7. "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare With an Adequate Margin of Safety", U.S. Environmental Protection Agency, March 1974 Report No. 550/9-74-004.
8. "Report to the President and Congress on Noise" Report of the Administrator of the Environmental Protection Agency, February 1972, 92nd Congress 2nd Session, Senate, Document No. 92-63.
9. Oregon DEQ - Bar Chart of Relative Ranking of Noise Problems from State-Wide Public Information Meeting and Questionnaire Mail Response.
10. Oregon DEQ - Bar Chart of Relative Ranking of Noise Problems from Telephoned Complaints.
11. Oregon DEQ - Memo - "Noise Reductions Inside a House".
12. Oregon DEQ - Memo - "Weather Conditions Effects on Noise Propagation".
13. Oregon Revised Statutes - Public Health, Safety and Morals, Chapter 467 Noise Control.

14. "Laws and Regulatory Schemes for Noise Abatement" U.S. Environmental Protection Agency dated December 31, 1971, Report NTID 300.4.
15. L. S. Goodfriend Associates, "Noise From Industrial Plants" U.S. Environmental Protection Agency dated December 31, 1971, Report NITD 300.2.
16. "Fundamentals of Noise Measurement, Rating Schemes, and Standards" U.S. Environmental Protection Agency dated December 31, 1971, Report NITD 300.15.
17. Robert Hoover "The Low Frequency Sound of Gas-Turbine Electric Utility Installations" Bolt Beranek and Newman Inc. Dec. 1972.
18. Robert Hoover "The Sound of Gas-Turbine Installations" AMSE Publication 70-WA/GT-6 November 1970.
19. Robert Hoover "Beware Low-frequency Gas-turbine Noise" Power May, 1973.
20. David Crighton "Silencing the Sources of Jet Noise" Scientist 27 July 1972.

DEPARTMENT OF ENVIRONMENTAL QUALITY
PROPOSED NOISE CONTROL REGULATIONS
FOR
INDUSTRY AND COMMERCE

June 21, 1974

PROPOSED NOISE CONTROL REGULATIONS FOR INDUSTRY AND COMMERCE

ERRATA SHEET

1. Change the definition 35-015(18) to read:

(18) "New Industrial or Commercial Noise Source" means any INDUSTRIAL OR COMMERCIAL NOISE SOURCE installed or constructed after January 1, 1975 on a site not previously occupied by the industrial or commercial noise source in question.

2. To be inserted in section 35-035(1)(b) immediately below Table H:

Notwithstanding the allowable levels in Table H, no person shall cause or permit the operation of a new industrial or commercial noise source on property previously unoccupied by an industrial or commercial noise source, if the noise levels generated by that new industrial or commercial noise source increase the ambient statistical noise levels, L_{10} or L_{50} , in any one hour by more than 10 dBA as measured at the appropriate measurement point.

3. Change 35-035(5)(a) to read:

(a) the rules in section 35-035(1) shall not apply to:

4. Change 35-035(5)(a)(xii) to read:

(xii) All construction blasting noise.

5. Change 35-035(5)(b) to read:

(b) Upon written request from the owner or controller of the industrial or commercial noise source the Department may also authorize exceptions to the rules in section 35-035(1) for:

6. Change 35-035(5)(b)(iii) to read:

Those industrial or commercial noise sources whose statistical noise levels at the appropriate measurement point are exceeded by any noise source external to the industrial or commercial noise source in question.

PROPOSED NOISE CONTROL REGULATIONS

GENERAL

35-005 POLICY. In the interest of public health and welfare, and in accordance with ORS 467.010, it is declared to be the public policy of the State of Oregon:

(1) to provide a coordinated state-wide program of noise control to protect the health, safety, and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions.

(2) to facilitate cooperation among units of state and local governments in establishing and supporting noise control programs and to encourage the enforcement of viable local noise control regulations by the appropriate local jurisdiction.

(3) to develop a program for the control of excessive noise sources which shall be undertaken in a progressive manner, and each of its objectives shall be accomplished by cooperation among all parties concerned.

35-010 EXCEPTIONS. Upon written request from the owner or controller of a noise source, the Department may authorize exceptions as specifically listed in these rules.

In establishing exceptions, the Department shall consider the protection of health, safety and welfare of Oregon citizens as well as the feasibility and cost of noise abatement; the past, present and future patterns of land use; the relative timing of land use changes and other legal constraints. For those exceptions which it authorizes the Department shall specify the hours during which the noise rules can be exceeded and the quantity and quality of the noise generated, and when appropriate shall specify the increments of progress of the noise source toward meeting the noise rules.

- 35-015 DEFINITIONS. As used in this Subdivision,
- (1) "Ambient Noise" means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.
 - (2) "Any one hour" means any period of 60 consecutive minutes during the 24-hour day.
 - (3) "Commission" means the Environmental Quality Commission.
 - (4) "Complainant" means an individual residing on property cited in a COMPLAINT.
 - (5) "Complaint" means a written statement to the DEPARTMENT from the property owner, renter or lessee alleging that at his property he is being exposed to excessive noise levels from a particular noise source, or a written statement from the DEPARTMENT to the owner or controller of a noise source indicating that that source is operating in violation of the noise rules.
 - (6) "Construction" shall mean building or demolition work and shall include all related activities such as clearing of land, earthmoving and landscaping.
 - (7) "Department" means the Department of Environmental Quality.
 - (8) "Director" means the Director of the DEPARTMENT.
 - (9) "Emergency Equipment" means noise emitting devices required to avoid or reduce the severity of accidents. Such equipment includes, but is not limited to, safety valves and other pressure relief devices.
 - (10) "Existing Industrial or Commercial Noise Source" means any Industrial or Commercial Noise Source in operation on or before January 1, 1975.
 - (11) "Farm Tractor" means any MOTOR VEHICLE designed primarily for use in agricultural operations for drawing or operating plows, mowing machines or other implements of husbandry.
 - (12) "Impulse Sound" means either a single pressure peak or a single burst (multiple pressure peaks) for a duration of less than one second as measured on a peak unweighted sound pressure measuring instrument.
 - (13) "In-Use Motor Vehicle" means any MOTOR VEHICLE which is not a NEW MOTOR VEHICLE.
 - (14) "Industrial or Commercial Noise Source" means that source of noise which generates INDUSTRIAL OR COMMERCIAL NOISE LEVELS.
 - (15) "Industrial or Commercial Noise Levels" means those noises generated by a combination of equipment, facilities, operations or activities employed in the production, storage, handling, sale, purchase, exchange, or maintenance of a product, commodity or service and those noise levels generated in the storage or disposal of waste products. Noise levels generated in the construction or maintenance of capital equipment are not included in this definition.
 - (16) "Motorcycle" means any MOTOR VEHICLE, except FARM TRACTORS, designed to travel on not more than three wheels which are in contact with the ground.
 - (17) "Motor Vehicle" means any vehicle which is, or is designed to be self-propelled or is designed or used for transporting persons or property. This definition excludes airplanes, but includes water craft.
 - (18) "New Industrial or Commercial Noise Source" means any INDUSTRIAL OR COMMERCIAL NOISE SOURCE installed or constructed on a previously unoccupied site after January 1, 1975.

(19) "New Motor Vehicle" means a MOTOR VEHICLE whose equitable or legal title has never been transferred to a PERSON who in good faith purchases the NEW MOTOR VEHICLE for purposes other than resale.

(20) "Noise Level" means weighted SOUND PRESSURE LEVEL measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA.

(21) "Noise Sensitive Property" means real property on which people normally sleep, attend schools, churches and public libraries. Property used in industrial or agricultural activities is not defined to be NOISE SENSITIVE PROPERTY unless it meets the above criteria in more than an incidental manner.

(22) "Octave Band Sound Pressure Level" means the sound pressure level for the sound being measured within the specified octave band. The reference pressure is 20 micronewtons per square meter.

(23) "Off-Road Recreational Vehicle" means any MOTOR VEHICLE used off PUBLIC ROADS for recreational purposes. When a ROAD VEHICLE is operated off-road the vehicle shall be considered an OFF-ROAD RECREATIONAL VEHICLE if it is being operated for recreational purposes.

(24) "One-third Octave Band Sound Pressure Level" means the sound pressure level for the sound being measured within the specified one-third octave band at the PREFERRED FREQUENCIES. The reference pressure is 20 micronewtons per square meter.

(25) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatever.

(26) "Preferred Frequencies" means those frequencies in Hertz preferred for acoustical measurements which for this purpose shall consist of the following set of values: 20, 25, 31.5, 40, 50, 63, 80, 100, 125, 160, 200, 250, 315, 400, 500, 630, 800, 1000, 1250, 1600, 2000, 2500, 3150, 4000, 5000, 6300, 8000, 10,000, 12,500.

(27) "Propulsion Noise" means that noise created in the propulsion of a MOTOR VEHICLE. This includes, but is not limited to, exhaust system noise, induction system noise, tire noise, cooling system noise, aerodynamic noise and, where appropriate in the test procedure, braking system noise. This does not include noise created by ROAD VEHICLE AUXILIARY EQUIPMENT such as power take-offs and compressors.

(28) "Public Roads" means any street, alley, road highway, freeway, thoroughfare or section thereof in this state used by the public or dedicated or appropriated to public use.

(29) "Quiet Area" means any land or facility such as a wilderness area, national park, state park, game reserve, wildlife breeding area, amphitheater or any other area designated by the Commission as an area where the qualities of serenity, tranquility and quiet are of extraordinary significance and serve an important public need. The DEPARTMENT will submit recommended areas to the COMMISSION for designation as Quiet Areas.

(30) "Racing Events" means any competition using MOTOR VEHICLES, conducted under a permit issued by the governmental authority having jurisdiction or, if such permit is not required, under the auspices of a recognized sanctioning body. This definition includes, but is not limited to, events on the surface of land and water.

(31) "Racing Vehicle" means any MOTOR VEHICLE that is designed to be used exclusively in RACING EVENTS.

(32) "Road Vehicle" means any MOTOR VEHICLE registered for use on PUBLIC ROADS, including any attached trailing vehicles.

(33) "Road Vehicle Auxiliary Equipment" means those mechanical devices which are built in or attached to a ROAD VEHICLE and are used primarily for the handling or storage of products in that MOTOR VEHICLE. This includes, but is not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, blowers, and other mechanical devices.

(34) "Sound Pressure Level" (SPL) means 20 times the logarithm to the base 10 of the ratio of the root-mean-square pressure of the sound to the reference pressure. SPL is given in decibels (dB). The reference pressure is 20 micronewtons per square meter.

(35) "Statistical Noise Level" means the noise level which is equal or is exceeded a stated percentage of the time. An $L_{10} = 65$ dBA implies that in any hour of the day 65 dBA can be equalled or exceeded only 10% of the time, or for 6 minutes.

(36) "Warning Device" means any device which signals an unsafe or potentially dangerous situation.

35-035 NOISE CONTROL REGULATIONS FOR INDUSTRY AND COMMERCE.

(1) Noise Standards.

(a) Existing Noise Sources - If a COMPLAINT on an EXISTING INDUSTRIAL OR COMMERCIAL NOISE SOURCE is filed with the DEPARTMENT, no PERSON owning or controlling that noise source shall cause or permit the operation of that noise source if the STATISTICAL NOISE LEVELS generated by that source and measured at the appropriate measurement point exceed those levels specified in Table G, except as otherwise provided in these rules.

TABLE G

Allowable Statistical Noise Levels in Any One Hour

<u>Pre - 1978</u>		<u>Post 1977</u>	
<u>7 a.m. - 10 p.m.</u>	<u>10 p.m. - 7 a.m.</u>	<u>7 a.m. - 10 p.m.</u>	<u>10 p.m. - 7 a.m.</u>
L ₅₀ - 60 dBA	L ₅₀ - 55 dBA	L ₅₀ - 55 dBA	L ₅₀ - 50 dBA
L ₁₀ - 65 dBA	L ₁₀ - 60 dBA	L ₁₀ - 60 dBA	L ₁₀ - 55 dBA
L ₁ - 80 dBA	L ₁ - 65 dBA	L ₁ - 75 dBA	L ₁ - 60 dBA

(b) New Noise Sources - After January 1, 1975 no person owning or controlling a NEW INDUSTRIAL OR COMMERCIAL NOISE SOURCE shall cause or permit the operation of that noise source, if the noise levels generated by that new source and measured at the appropriate point exceed the noise levels in Table H, except as otherwise provided in these rules.

TABLE H

Allowable Statistical Noise Levels in Any One Hour

<u>7 a.m. - 10 p.m.</u>	<u>10 p.m. - 7 a.m.</u>
L ₅₀ - 55 dBA	L ₅₀ - 50 dBA
L ₁₀ - 60 dBA	L ₁₀ - 55 dBA
L ₁ - 75 dBA	L ₁ - 60 dBA

(c) Modified Noise Sources - After January 1, 1975 and before January 1, 1978 no person owning or controlling an existing industrial or commercial noise source shall modify that noise source so as to violate the following rules:

(i) If prior to modification any INDUSTRIAL OR COMMERCIAL NOISE SOURCE does not exceed the noise levels in Table H, the modified industrial or commercial noise source shall not exceed the noise levels in Table H, except as otherwise provided in these rules.

(ii) If prior to modification an existing industrial or commercial noise source exceeds the noise levels in Table H, but does not exceed the noise levels in Table G, then the modification shall not cause an increase in the existing statistical noise levels, except as otherwise provided in these rules.

(d) Quiet Areas - No person shall cause or permit INDUSTRIAL OR COMMERCIAL NOISE LEVELS to exceed the statistical noise levels specified in Table I as measured at the boundary of any area designated a QUIET AREA.

TABLE I

Allowable Statistical Noise Levels in Any One Hour

<u>7 a.m. - 10 p.m.</u>	<u>10 p.m. - 7 a.m.</u>
L ₅₀ - 50 dBA	L ₅₀ - 45 dBA
L ₁₀ - 55 dBA	L ₁₀ - 50 dBA
L ₁ - 60 dBA	L ₁ - 55 dBA

If the noise source lies within the boundaries of a Quiet Area, the levels detailed in Table I shall not be exceeded at 400 feet from the noise source.

(e) Octave Bands and Audible Discrete Tones -If the Department receives a noise complaint for an industrial or commercial noise source complying with the appropriate levels detailed in Tables G, H, or I, the Department shall determine the validity of the complaint. If there exists in the opinion of the DIRECTOR reasonable cause for the complaint, as supported by appropriate measurements made by the Department, the Department may require the noise source to meet the following rules:

(i) No person shall cause or permit the operation of an industrial or commercial noise source for more than 6 minutes in any one hour as measured at the appropriate measurement point if such operation generates OCTAVE BAND SOUND PRESSURE LEVELS which exceed those specified in Table J.

TABLE J

Allowable Octave Band Sound Pressure Levels

<u>Octave Band Center Frequency, Hz</u>	<u>7 a.m. - 10 p.m.</u>	<u>10 p.m. - 7 a.m.</u>
31.5	68	65
63	65	62
125	61	56
250	55	50
500	52	46
1000	49	43
2000	46	40
4000	43	37
8000	40	34

(ii) No person shall cause or permit the operation of an industrial or commercial noise source for more than 6 minutes in any one hour as measured at the appropriate measurement point if such operation generates an audible ONE-THIRD OCTAVE BAND SOUND PRESSURE LEVEL which, when measured in a one-third octave band at the PREFERRED FREQUENCIES exceeds the arithmetic average of the sound pressure levels of the two adjacent one-third octave bands on either side of such one-third octave band by:

(A) 5 dB for such one-third octave band with a center frequency from 500 Hertz to 10,000 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band, or;

(B) 8 dB for such one-third octave band with a center frequency from 160 Hertz to 400 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band, or;

(C) 15 dB for such one-third octave band with a center frequency from 25 Hertz to 125 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band.

This rule shall not apply to audible discrete tones having a one-third octave band sound pressure below the allowable sound pressure levels specified in Table J.

(f) Impulse Sound - Notwithstanding the noise rules in Tables G through J, no person shall cause or permit the operation of an industrial or commercial noise source which emits an IMPULSIVE SOUND in air, as measured at the appropriate measurement point, which has a peak sound pressure level in excess of 100 dB during the hours 7 a.m. to 10 p.m. and 80 dB between the hours of 10 p.m. and 7 a.m., except as otherwise provided in these rules.

(2) Compliance. Following a complaint and upon written notification from the Director, the owner or controller of an industrial or commercial noise source operating in violation of the adopted rules shall submit an acceptable compliance schedule to the Department. The schedule will set forth the dates, terms and conditions by which the person responsible for the noise source shall comply with the adopted rules.

(3) Measurement.

(a) Sound measurements shall conform to test procedures adopted by the Commission in NOISE POLLUTION CONTROL SECTION - 1, or to methods approved in writing by the Department.

(b) The measurement point used shall be that point on the NOISE SENSITIVE PROPERTY i) or ii) whichever is further from the noise source:

(i) 25 feet toward the noise source from that point on the complainant's dwelling nearest the noise source

(ii) At that point on the complainant's noise sensitive property line nearest the noise source.

(4) Monitoring and Reporting.

(a) Following a complaint and upon written notification from the Department, persons owning or controlling an industrial or commercial noise source shall monitor and record the STATISTICAL NOISE LEVELS and operating times of equipment, facilities, operations and activities, and shall submit such data to the Department in the form and on the schedule requested by the Department. Such measurements shall conform to the test procedures adopted by the Commission in NOISE POLLUTION CONTROL SECTION - 1.

(b) Nothing in this section shall preclude the Department from conducting separate or additional noise tests and measurements. Therefore, when requested by the Department, the owner or operator of an industrial or commercial noise source shall provide the following:

- (i) access to the site,
- (ii) reasonable facilities, where available, including but not limited to electric power and ladders adequate to perform the testing,
- (iii) cooperation in the reasonable operation, manipulation, or shutdown of various equipment or operations as needed to ascertain the source of sound and measure its emission.

(5) Exemptions:

(a) The rules in section A shall not apply to:

- (i) EMERGENCY EQUIPMENT not operated on a regular or scheduled basis.
- (ii) WARNING DEVICES not operating continuously for more than 5 minutes.
- (iii) Sounds created by the tires or motor used to propel any ROAD VEHICLE complying with the noise standards for road vehicles.
- (iv) Sounds created by railroad trains. This exception applies only when such railroad train is either in motion or idling during loading, unloading, coupling, uncoupling, refueling or other similar operations, provided that the total idling time for such operations does not exceed 60 minutes.
- (v) Sounds created by bells, chimes or carillons.
- (vi) Electronically unamplified sounds created by sporting, amusement, and entertainment events, except as controlled under other noise standards.
- (vii) Sounds that originate on CONSTRUCTION sites.
- (viii) Sounds created in maintaining the capital equipment of a public utility distribution system.
- (ix) Sounds created by lawn care maintenance and snow removal equipment.
- (x) Sounds that originate at airports that are directly related to aircraft flight operations, (i.e., taxiing, landing, take-off and flight). This exception does not apply to aircraft engine testing or any other activity conducted at the airport that is not directly related to flight operations.
- (xi) Sounds created by the operation of ROAD VEHICLE AUXILIARY EQUIPMENT complying with the noise rules for such equipment.
- (xii) All blasting noise.
- (xiii) Sounds created by agricultural activities.

(b) Upon written request from the owner or controller of the industrial or commercial noise source the Department may also authorize exceptions to the rules in section A for:

- (i) Unusual and/or infrequent events.
- (ii) Industrial or commercial facilities previously established in areas of new development of noise sensitive property.
- (iii) Those industrial or commercial noise sources whose noise levels at a designated monitoring point on noise sensitive property are exceeded by any noise sources external to the industrial or commercial noise source in question.
- (iv) Noise sensitive property owned or controlled by the person who controls or owns the noise source or noise sensitive property located on land zoned exclusively for industrial or commercial use.

35-100 VARIANCES. (1) Conditions for Granting. The Commission may grant specific variances from the particular requirements of any rule, regulation or order to such specific persons or class of persons or such specific noise source upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulation or order is inappropriate because of conditions beyond the control of the persons granted such variance or because of special circumstances which would render strict compliance unreasonable, or impractical due to special physical conditions or cause, or because strict compliance would result in substantial curtailment or closing down of a business, plant or operation, or because no other alternative facility or method of handling is yet available. Such variances may be limited in time.

(2) Procedure for Requesting. Any person requesting a variance shall make his request in writing to the Department for consideration by the Commission and shall state in a concise manner the facts to show cause why such variance should be granted.

(3) Revocation or Modification. A variance granted may be revoked or modified by the Commission after a public hearing held upon not less than 20 days notice. Such notice shall be served upon the holder of the variance by certified mail and all persons who have filed with the Commission a written request for such notification.

June 13, 1974

Mr. John Hector
Department of Environmental Quality
1234 S. W. Morrison
Portland, Oregon

Re: Noise Pollution by Gage Industries

Dear Mr. Hector:

We, the undersigned residential property owners in the immediate vicinity of Gage Industries, Inc. (6710 S. W. McEwan Road, Lake Oswego, Phone: 639-2177), hereby petition the Department of Environmental Quality for assistance in abating noise pollution.

Gage Industries, Inc. has an industrial plant located in Washington County directly adjacent to a residential community in Clackamas County. Over the past month, Gage Industries has escalated its activities to the point where it is now in operation 7 days a week, 24 hours a day. It is our understanding that the factory in question is equipped with noise pollution abatement equipment. However, the proper functioning of this equipment requires that Gage keep its doors closed.

In fact, Gage's method of operation consists of having all doors and openings on the side of the building facing the residential community in question wide open at all hours of the day and night, every day of the week. This has caused a persistent and annoying noise problem which detracts from the property value of the residences in question, and greatly interferes with the amenities of residential living.

Numerous efforts have been made by residents of the area to persuade Gage Industries to modify its methods of operation. To date, these efforts have been rebuffed.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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We suggest the following limitations be placed upon Gage Industries' operation:

1. Noise emitting operations should be restricted to normal business hours. Gage should be forbidden from creating noise pollution after 5:00 p.m. in the evenings and before 8:00 in the mornings. Furthermore, operations should be curtailed or eliminated on weekends.
2. When in operation, Gage Industries should be required to utilize all existing noise pollution control devices. Especially, it should be required to keep all doors closed.
3. If practical and feasible, Gage should be required to redesign the factory layout. As presently laid out, all noise producing activities occur on the side of the factory facing residential units. The side of the factory facing nonresidential areas ironically emits no noise pollution.

In addition to the noise pollution caused directly by the internal operations of the Gage factory, Gage's operations involve large trucks loading and unloading no more than 100 yards from the residential community. Some controls must be placed on this activity.

Since most of the effected residences are within Clackamas County, and Gage Industries is located in Washington County, the Department of Environmental Quality is the only governmental unit, apart from the courts, that can be of assistance. We hereby entreat the Department of Environmental Quality to exercise whatever persuasiveness or authority it might have to protect the rights of the undersigned residential homeowners.

Name Mark H Wagner

Address: 6472 SW Dawn
Lake Oswego, Ore.

Name Janis E Wagner

Address: 6492 SW Dawn
Lake Oswego,

Oregon 97034

Name Daniel L. Meyers

Address: 6448 S.W. Dawn
Lake Oswego, Oregon

Name Becky Meyers

Address: 6448 S.W. Dawn St.
Lake Oswego, Ore.

Name Ronald L. Hansen

Address: 6414 SW Dawn St
Lake Oswego, Ore.

Name Marianne L. Haala

Address: 6414 S.W. Dawn
Lake Oswego, Ore.

Name Marabe Bertelsen

Address: 6451 S.W. Dawn
Lake Oswego

Name JT Bertelsen

Address: 6451 S.W. Dawn
Lake Oswego Ore

Name Stanley Williamson

Address: 19225 SW Meridian Rd.
Lake Oswego Ore.

Name James Williamson

Address: 19225 S.W. Meridian Rd.
Lake Oswego Ore.

Name Fred H. Feather

Address: 6765 SW Child Rd
Lake Oswego Oregon

Name Regina M. Feather

Address: 6765 SW Child Rd
Lake Oswego, Oregon

10436 S.E. Reedway
Portland, Oregon 97266
8 July 1974

Environmental Quality Commission
Department of Environmental Quality
1234 S.W. Morrison
Portland, Oregon 97205

Dear Sirs:

I am strongly in favor of stringent, enforceable State regulations on noise control and support the adoption of such rules.

It is regrettable that additional regulations must be imposed on the activities of people's lives. However, because industry has not taken the initiative to eliminate or reduce industrial noise or has not exhibited much consideration for residents of homes adjacent to industry, the recourse seems to have the State create noise control regulations.

Our family dwelling is opposite a manufacturing company (Reedway Manufacturing Co.) which produces wood pallets and wood plugs for ends of paper rolls. The various industrial noises heard have been from hammering, fork lift vehicle, spindle-shaper machine and electrical saws. This company operates from 6:00 a.m. to midnight, six days a week, 52 weeks/yr. Saturday evenings to Monday morning is the only extended period of quietness in this neighborhood.

After having lived in an area where industrial noise has been an irritating and daily occurrence for the past several decades, prohibiting any extended peace and quiet to be enjoyed inside the home as well as outside in the yard, creating strain on the nerves and interfering with a person's sleep in the evenings, adoption of such noise control rules seems to be the only alternative and hope for residents who have had to tolerate and endure the noises created by industry or traffic. It seems a small demand that everyone should have a right to expect a little peace and quiet within their homes.

Sincerely

Marilyn Lum
Marilyn Lum

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
JUL 9 1974
AIR QUALITY CONTROL

K.R. Corliss Sr.
1564 MYERS LANE
MEDFORD, OREG
97501

Noise Control Section
KESSLER R. Cannon DIRECTOR
DEPT. ENVIRONMENTAL QUALITY
1234 S.W. MORRISON ST.
Portland, OREG 97205

Dear Mr. Cannon:

In reply to your bulletin: - notice of Public Hearing for the adoption of Noise Pollution Rules and Procedures.

For a person not schooled in the science of psychoacoustics, some of the data contained in your proposed regulations is difficult to understand. Needless to say, however, any step in the direction of noise control is a welcome step. The proposed regulation seems to encompass not only the qualitative aspects of the noise problem, but also the quantitative. It's one thing to know what noise is objectionable, but equally important to have some manner of determining when noise is objectionable within reasonable guidelines.

There are many sacred cows whenever public regulations such as the proposed noise rules are set forth. I submit that in one, the lumber industry is as sacredly bovine as other industry - oil - coal - steel etc. Screeching conveyors - blowing whistles - power chainsaws - unruffled equipment -

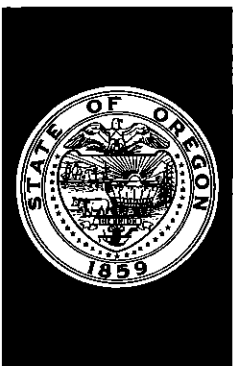
- SCREAMING SAWS, all running all hours of the day and night-time have been a way of life for any Oregonian living within a one-half mile range of a saw or veneer mill.

Requests for consideration are usually met with stoic indifference because there are no laws.

PLEASE HURRY - give Oregon some laws such as proposed. Noise is truly the ultimate insult.

Kenneth R. Geiss Sr.

DEPARTMENT OF ENVIRONMENTAL QUALITY
State of Oregon
RECEIVED
JUL 15 1974
AIR QUALITY CONTROL



ENVIRONMENTAL QUALITY COMMISSION

1234 S.W. MORRISON STREET • PORTLAND, ORE. 97205 • Telephone (503) 229-5696

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GOVERNOR

MEMORANDUM

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Portland

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Salem

RONALD M. SOMERS
The Dalles

KESSLER R. CANNON
Director

To: Environmental Quality Commission

From: Director

Subject: Agenda Item F1, July 19, 1974, EQC Meeting

I-205, A 9.2 Mile Freeway With 8 Lanes From the State of
Washington to the S. E. Foster Area - Request for Approval

Background:

On December 14, 1972, the Department received an application and draft environmental impact statement from the Oregon State Highway Division to construct an eight-lane freeway from the Lewis and Clark Highway in Washington State to the existing section of I-205 in Oregon.

On January 12, 1973, staff members of DEQ, CWAPA, and OSHD met to discuss the adequacy of the draft EIS. The Department summarized its comments on the draft EIS by letter to OSHD dated January 31, 1973. The OSHD subsequently undertook further studies to respond to the Department's comments and the Department received a revised air quality section for the draft EIS on April 17, 1974.

The Department reviewed the revised air quality section and responded to the OSHD by letter dated May 31, 1974. The letter stated that the Department's comments were extensive and that a meeting between the staffs of DEQ, OSHD, and FHWA would be the most desirable way to communicate these comments. Subsequent meetings were held June 13, 1974 and June 20, 1974. Most of the Department's comments were answered at these meetings. The OSHD submitted a letter dated July 3, 1974 to the Department with the additional air quality information requested by the Department at these meetings.



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Discussion:

The proposed project is a 9.2 mile connecting link beginning at the northern end of the proposed Columbia River Bridge, approximately one-half mile north of the Oregon-Washington state line, and extending southward to S. E. Foster Road in east Portland. Plates 1 and 2 from the EIS illustrate the location of the proposed project.

This eight-lane section of I-205 and its eight interchanges requires a right-of-way width which varies from 300 to 650 feet. Also included in this section is a 7,700 foot bridge which traverses the Columbia River via Government Island, overcrossing the Burlington Northern Railroad, Marine Drive, Evergreen Highway, and the Lewis and Clark Highway in Washington.

This section of I-205 is designed for an average daily traffic (ADT) volume of 110,000 vehicles at a service level of "C". (Service level "C" provides for stable flow with significant but acceptable delays.) Proposed traffic volumes for the proposed section were provided by the OSHD.

Air Quality:

Systems, Science and Software (S³) under contract to OSHD developed the projected ambient air quality levels along the 9.2 mile section of I-205. The air quality was modelled for the years 1978, 1985 and 1990 to predict the concentrations of carbon monoxide (CO), total hydrocarbons (THC), and lead (Pb) under typical and adverse meteorological conditions. S³ used its existing computerized mathematical models EXPLOR (Examination of Pollution Levels Of Roadways) and NEXUS (Numerical Examination of Urban Smog) to predict future air quality. Input data for the diffusion models was supplied to S³ by the following: National Weather Service (meteorological data; the United States Geological Survey (topographic data); and the Oregon State Highway Division (topographic data, traffic flow data, and vehicle emission factors).

The Department has reviewed the S³ I-205 Highway Impact Study SSS-R-73-1982, and all additional air quality information submitted by the OSHD. Based on the information submitted, the Department finds that the operation of the proposed I-205 will raise the ambient air concentrations of all motor vehicle related air pollutants in the vicinity of the freeway. The projected increase will not be enough to cause ambient air standards to be exceeded on a regular basis. In isolated areas, carbon monoxide and hydrocarbon standards are predicted to be exceeded approximately four percent of the year and the proposed lead standard exceeded approximately twenty percent of the year. The worst case conditions will occur during the year the freeway commences operation, currently scheduled for 1980. Air pollution resulting from the operation of I-205 is projected to decrease beyond 1980.

The original air quality predictions were based on 1978 data. However, the scheduled completion date has been moved back two years to 1980. Also, EPA has delayed the motor vehicle standards two years. Therefore, the projections originally made for 1978 are valid for 1980.

The Department finds that the ambient air carbon monoxide (CO) standard, the proposed lead (Pb) standard, and the hydrocarbon (HC) standard will be exceeded, based on worst case conditions, beyond the right-of-way at some locations along the proposed section, which will be discussed below:

Carbon Monoxide

The carbon monoxide level is projected to exceed the 8-hour ambient air standard (8.7 ppm, max. 8-hr. average) at the following locations when the proposed section commences operation.

1. The area between Stark Street and Division Street on the east side of the freeway could be exposed to carbon monoxide levels of 10.0 to 11.0 ppm at the edge of right-of-way. In this area, the standard will be met at distances varying from 490-540 feet from centerline. This section includes the far west edge of both Mall 205 and Portland Union Academy and some private residences that have property abutting S. E. 96th Avenue.
2. The highest carbon monoxide concentrations in the Rocky Butte area occur in the valley between the two freeways, I-205 and Banfield. Concentrations of 8.0 to 12.0 ppm were estimated for the area in the vicinity of the Multnomah County jail.

Lead

Ambient air lead levels are expected to exceed the proposed 3-month ambient air standard ($2.0 \mu\text{g}/\text{m}^3$, max. 3-month average) at the following points along the proposed section upon commencement of operation.

1. In the area of Rocky Butte jail, the proposed 3-month standard is projected to be exceeded. An approximate method developed to correlate the predicted worst-case 8-hour average to the proposed 3-month average standard indicates that the lead level may approach $4 \mu\text{g}/\text{m}^3$ for a 3-month average.
2. Using the same method as for lead at Rocky Butte jail, the standard of $2.0 \mu\text{g}/\text{m}^3$, 3-month average may be slightly exceeded at the edge of right-of-way, 200 feet from centerline, in the Maywood Park area. However, due to the conservative nature of the method used in conversion of data and the fact that the use of no lead gasoline is not taken into account, the proposed lead standard will, in all likelihood, not be exceeded in Maywood Park.

Hydrocarbons

Hydrocarbon concentrations are predicted to exceed the ambient air standard (0.24 ppm max. 3-hour concentration measured from 0600 to 0900) in two areas beyond the right-of-way.

1. At the north end of the project in the area of Marine Drive, the ambient air standard is predicted to be exceeded.
2. The section from north of Mall 205 to the south end of the project is predicted to exceed the ambient air standard.

The Department concludes that the OSHD made two assumptions, listed below, which result in a high predicted value of ambient air hydrocarbon concentrations.

1. The methane portion of the total hydrocarbons is fifty percent.
2. The maximum eight hour concentration will be equal to the three-hour morning traffic concentration.

Even considering an allowance for these two assumptions, it is likely that the standard may be exceeded up to 4% of the time at the two locations. The Department, however, further feels that since the standard is related to prevention of photochemical oxidant (which occurs away from the freeway area) that the incorporation of a required monitoring program as a condition of approval as related to oxidants is considered reasonable.

Photochemical Oxidant

The Department concurs with the OSHD that the magnitude and frequency by which the ambient air photochemical oxidant standard will be exceeded is impossible to determine from currently available data and methods. However, oxidant levels relative to those measured in the area of Oaks Park - Oak Grove, resulting from hydrocarbon emissions in Portland's Central Business District, were estimated by OSHD for the Gladstone-Oregon City area resulting from motor vehicle related emissions at the south end of the proposed project. This prediction indicated that the ambient air photochemical oxidant standard will be exceeded in the Gladstone-Oregon City area.

The Department concludes that an ongoing monitoring program in the area of the suspected photochemical oxidant violations must be undertaken upon opening of I-205 to determine the magnitude of the problem, if any.

Noise

Although the Department has not adopted specific noise standards for freeways or public roads, we have briefly analyzed the potential noise impact of I-205 as submitted by the Highway Division.

The noise analysis submitted to the Department evaluates the noise impact of I-205 as related to the design criteria of BBN (consulting firm Bolt, Beranek and Newman, Inc.) and the FHWA guidelines for traffic noise as shown in Table 10b (attached). It should be noted that the maximum allowable noise levels in the guidelines used vary according to the adjacent land use. The environmental assessment for noise as submitted to the Department primarily addresses the expected noise levels at specific locations along I-205 such as Maywood Park, Lee Neighborhood, Lents Neighborhood and near schools and institutions. Measurements of existing noise levels have been taken at a number of locations, and it has been assumed for regions where actual measurements were not made existing noise levels are similar to those measured for the same amount of human activity.

As stated in the report submitted by the Highway Division "It can be seen that even when the roadway is depressed and barriers constructed, a number of residences will be exposed to noise levels above the existing noise level and the design criteria suggested by BBN." Considering the magnitude and potential environmental effect of the proposed project, the Department believes the Highway Division should clearly enunciate for the public the projected noise levels along the entire length of I-205 through the metropolitan Portland area in relation to the FHWA guideline noise levels. The Department staff is prepared to submit to the Highway Division areas where the Department is concerned and review any additional noise reduction measures that may be taken.

As with any projected project assumptions are made based on existing data and techniques. However, actual measurements may differ from those projected when the project is completed. This is particularly true where considerable time may elapse from the original design to final completion of a project such as is the case of I-205. Therefore, the Department believes it is imperative that the Highway Division be prepared to conduct an extensive noise monitoring program upon completion of the project to evaluate the effectiveness of the noise reduction techniques used and determine any areas where further noise reductions are necessary.

Overall although the Department believes the noise impact from the projected freeway should be less than freeways constructed in the past there will be an increase in noise levels over existing levels particularly during periods of heavy traffic and possibly from truck traffic at night. However, the Department believes technology does exist and will become available so noise reductions can be made in problem areas, if any.

Director's Recommendation

The Director recommends that the Commission approve the construction of the proposed 9.2 mile section of I-205 subject to the following conditions:

1. The OSHD shall initiate changes in design acceptable to the DEQ to reduce the carbon monoxide levels beyond the right-of-way in the area between Stark Street and Division Street on the east side of I-205.
2. The OSHD shall initiate changes in design acceptable to the DEQ to reduce the adverse impact on Rocky Butte jail resulting from high ambient air levels of carbon monoxide and lead.
3. The Highway Division shall submit to the Department for review and approval including a time schedule for implementation a detailed noise monitoring program to be implemented upon completion of the project. The result of the noise monitoring program shall be submitted to the Department including actual measurements taken and an assessment of the noise impact of the project.
4. The OSHD shall initiate an ongoing ambient air monitoring program acceptable to the DEQ to be designed to monitor the actual impact of I-205 on a "real time" basis along the right-of-way of the proposed freeway. Control measures acceptable to the DEQ shall be implemented to minimize adverse effects identified by this monitoring program.



KESSLER R. CANNON
Director

TABLE 10b

Design Noise Level/Land Use Relationships

Land Use Category	Design Noise Level - L10	Description of Land Use Category
A	60 dBA (Exterior)	Tracts of lands in which serenity and quiet are of extraordinary significance and serve an important public need, and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose. Such areas could include amphitheatres, particular parks or portions of parks, or open spaces which are dedicated or recognized by appropriate local officials for activities requiring special qualities of serenity and quiet.
B	70 dBA (Exterior)	Residences, motels, hotels, public meeting rooms, schools, churches, libraries, hospitals, picnic areas, recreation areas, playgrounds, active sports areas, and parks.
C	75 dBA	Developed lands, properties or activities not included in categories A or B.
D	---	For requirements on undeveloped lands see paragraphs 5.a (5) and (6) of PPM 90-2.
E	55 dBA (Interior)	Residences, motels, hotels, public meeting rooms, schools, churches, libraries, hospitals, and auditoriums.

These noise levels are desired goals which apply only to areas of normal human use. The values do not apply to the entire site, but only to the area where activity occurs.

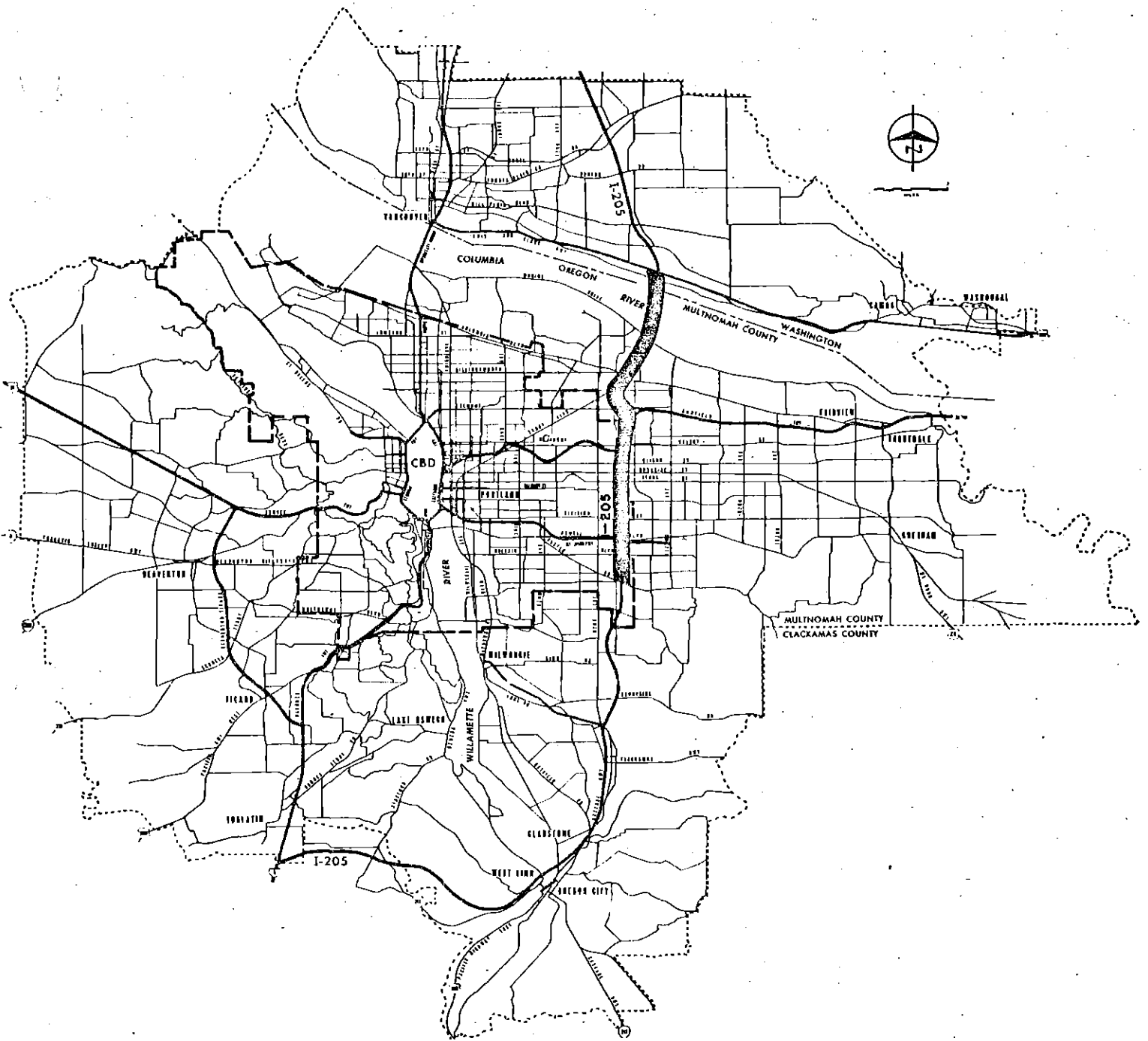
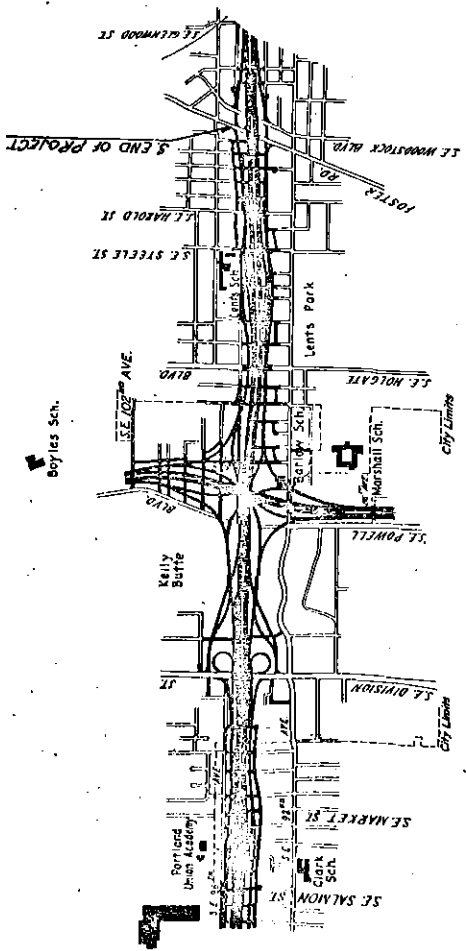
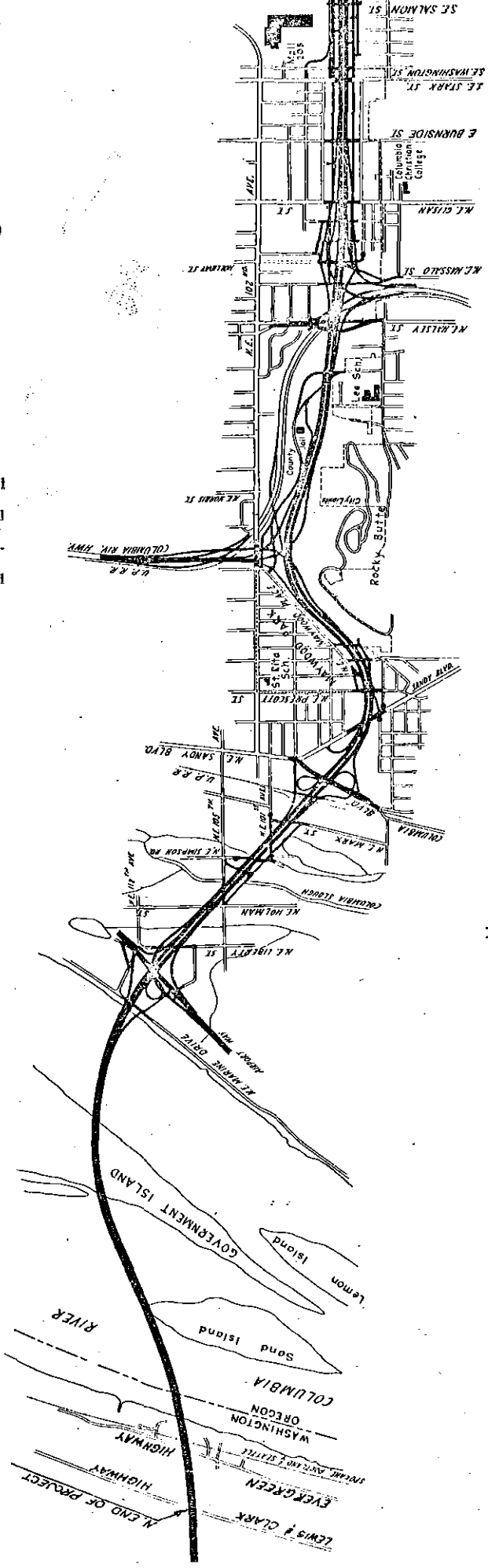
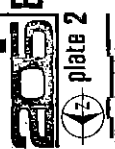


plate 1
Vicinity Map

Oregon state highway division
ENVIRONMENTAL IMPACT STATEMENT
 I-205 Alignment





DEPARTMENT OF ENVIRONMENTAL QUALITY

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TOM McCALL
GOVERNOR

MEMORANDUM

KESSLER R. CANNON
Director

To: Environmental Quality Commission

From: Director

Subject: Agenda Item F(2), July 19, 1974

Satellite Long-Term Parking Facilities Serving Portland, International Airport

Background

On June 20, 1974, the Department received an application for construction of a 190 - space parking facility to be located at the intersection of N. E. 82nd Avenue and Sandy Blvd. The developers, Goss Bros. Construction Co., stated that the facility was to be built to provide long-term parking for airline passengers, with a shuttle service to Portland International Airport. A review of the information submitted with the application showed that the applicant had justified this facility on the basis of projected inadequate parking during and after the construction currently in progress at this airport.

Discussion

As a result of conferences between the Department and the Port of Portland it was determined that a long range parking plan for Port of Portland property at Portland International Airport had not yet been completed. However, based upon current information, any shortage of parking at the airport will be temporary in nature and will occur only during the construction period. The airport management anticipates that the current construction will result in a surplus of long-term parking except during times of peak airport usage, primarily around Christmas and at the start and close of school vacation periods. The Port of Portland is currently working to develop an overall parking plan for the airport which includes moving some parking facilities presently outside airport boundaries onto Port property. Although this facility by itself would not cause levels of air contaminants in excess of State and Federal Standards, the Department is concerned that approval of the proposed Goss parking facility is not consistent with an overall parking plan related to Portland International Airport and the 82nd Avenue corridor. Consequently the Department contacted Multnomah County Planning Department which in turn has requested that the Commission defer action on this application until their Commission has had an opportunity to evaluate the overall situation relating to this facility or similar facilities.



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Conclusions

The Department has determined that there is no overall long range parking facility plan established for Portland International Airport and vicinity by the Port of Portland or Multnomah County. The Department is concerned that this facility and similar facilities may not be consistent with an overall parking plan for the airport and vicinity, and that a proliferation of parking facilities in and around the airport may contribute to degradation of air quality and noise levels in the area. The Port of Portland has indicated long range plans will be developed for Port property at P. I. A. and Multnomah County has requested a delay until they can evaluate the project.

Recommendation

It is the recommendation of the Director that the Commission defer approval of the 190 - space Goss Bros. Construction Co. facility and direct the Department not to approve this facility or similar facilities until the Port of Portland has completed an overall plan and or Multnomah County has indicated the proposal or similar proposals for projects are consistent with Multnomah County plans for the area.



KESSLER R. CANNON
Director

RMJ:df

Attachments

July 19, 1974



ENVIRONMENTAL QUALITY COMMISSION

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MEMORANDUM

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Salem

RONALD M. SOMERS
The Dalles

KESSLER R. CANNON
Director

To: Environmental Quality Commission
From: Director
Subject: Agenda Item G, July 19, 1974 EQC Meeting

Proposed Ambient Air Standard for Lead Request for Deferral of Action

Background:

On June 24, 1974, a public hearing was held at the Public Service Building, Portland, to consider testimony presented concerning a proposed Ambient Air Standard for Lead. The hearings Officer's report for this hearing has been presented to the Commission.

Discussion:

Testimony presented at the public hearing has shown a need to re-evaluate certain data used by the Department in recommending a proposed standard for lead particulate. Specifically, the latest Environmental Protection Agency report, Health Implications of Lead, was not available to the Department prior to the public hearing. The Department therefore requests that the Commission defer action on the proposed Ambient Air Standard for Lead Particulate until the August 23, 1974 Commission meeting.

Director's Recommendation:

It is the recommendation of the Director that the Commission defer action on the Proposed Ambient Air Standard for Lead until the August 23, 1974 meeting of the Commission.

KESSLER R. CANNON
Director



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KESSLER R. CANNON
Director

TO: Environmental Quality Commission

FROM: Hearings Officer

SUBJECT: Agenda Item No. G, July 19, 1974, EQC Meeting
Proposed New Ambient Air Standard for Lead

Background

In May, 1973, a group calling itself the Committee to End Needless Urban Freeways (ENUF), together with four environmental groups and ten private persons, petitioned the Environmental Quality Commission for the commencement of rule-making proceedings on lead concentrations in ambient air, directed particularly toward the area above and alongside newly-constructed urban roadways. Proposed rule 11. 2. of that petition was phrased:

"The ambient air concentration of lead at any point within 1000 feet of the edge of [any roadway or segment thereof constructed after January 1, 1974, in any urban area of this state] shall not exceed two micrograms per cubic meter averaged on a monthly basis."

In May, 1974, the Air Quality Control Division proposed, along with sampling and analytical methods, an ambient air standard for lead. The proposed standard in its entirety reads:

"The lead concentration measured at any sampling station, using sampling and analytical methods on file with the Department, shall not exceed $2.0 \mu\text{g}/\text{m}^3$ [micrograms per cubic meter] as an arithmetic average concentration of all samples collected during any three calendar month period."

A hearing was scheduled and conducted in Portland on June 24, 1974, to receive public testimony on the proposed rule change. The record was left open for written additional comments until July 3, 1974, closing at the close of business that day.



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Summary of Oral Testimony

Mrs. Louis Brent, herself one of the ten individual petitioners for the rule change and representing ENUF, one of the organizations which petitioned for the rule change, testified in general support of the proposed standard. She noted that on page 2.8 of the staff report accompanying the proposed standard, the DEQ staff has predicted that the I-205 freeway will be in violation of the proposed standard within 200 feet of at least two points along the route based upon the impact statement. She recommended that DEQ require that I-205 be constructed in a manner which would assure compliance with the proposed rule so that the lead problem will be removed rather than merely moved.

Gregg Fritts, representing the Oregon Environmental Council, another of the original petitioners, summarized his review of scientific findings relating to lead to date. He noted that California has enacted an ambient air standard of a maximum 30-day average of 1.5 micrograms per cubic meter and suggested that Oregon's standard should be at least as stringent.

Tom Rocks, Oregon coordinator of the Columbia Group of the Sierra Club, another of the original petitioners, testified that he supports the proposed standard as a minimum. He, like Charles Merten (see below), found difficulty with the "arithmetic average concentration of all samples". Does it mean an average of samples from one point or an average of different sampling stations? He expressed concern about enforcement of the standard since, as a practical matter, a roadway is unlikely to be closed once constructed. He therefore wants a mechanism to review the likelihood of violation before a roadway is constructed. He testified that DEQ should look beyond unleaded gasoline or wider rights-of-way as alternatives for lead. He suggests transit alternatives and the consideration of not building roadways.

Helen M. Virnig, another of the individual petitioners, supports the proposed standard but suggests that it be supplemented to protect the users of highways, as well as those people living near highways.

Charles Merten, attorney for the petitioners, introduced into the record by reference several documents, which include the two EPA documents on lead issued in April and November, 1972, respectively, pages 3-27, 3-30, 3-32, and 3-33, and Appendix C-24 of the I-205 environmental impact statement, Mr. Merten's letter dated May 10, 1973 to the Commission, the Air Quality Control Division's report to the Commission for its May 1974, meeting in Portland, and an article from the London Times of March 10, 1974. Since only the newspaper article is new material not previously brought to the Commission's attention, I will excerpt from that article only in this report:

"The level of lead in the bloodstream of families living on the edge of Birmingham's 'Spaghetti Junction' has more than doubled since the Gravelly Hill motorway interchange opened two years ago.

"The figures were reported to a meeting of the Birmingham City Council's health committee last Friday. One hundred residents were first tested in April, 1972, just before Spaghetti Junction opened. The average lead content in their blood was then 12.2 micrograms per 100 millilitres. By March last year the figure for the same residents had risen to 16.6 micrograms and by January this year it was 26.3."

Mr. Merten noted that the major difference between the proposed DEQ standard and the petitioners' proposed rule is that the DEQ rule does not protect roadway users, as opposed to residents alongside the roadway. He requested that the EQC instruct the DEQ to continue its investigation. Mr. Merten also cited the ambiguity in the averaging phrase summarized above in Mr. Rock's testimony. In light of California's having adopted a one-month average, Mr. Merten objected to Oregon's proposed three-month averaging. Since inversion periods rarely would last for three consecutive months, the proposed DEQ standard would allow one month with low lead readings to bring two months with high readings into compliance. Mr. Merten advised caution in the drafting of complex source rules that they not be seen to amend or modify the lead standard. Finally, in light of the fact that lead is a hazard to health, that the State Board of Health has failed to act with regard to airborne lead, and that the Environmental Quality Commission and Department of Environmental Quality have taken over a year even to bring the matter to hearing, he urged quick action to protect the public health.

Betty Ream, herself a victim of lead poisoning, is the president of the Foster-Powell Neighborhood Association. She testified that that association has voted to support the proposed standard. She further testified on a personal level as to the effects of lead poisoning: pain in her elbows and feet, five years of anemia, with low iron and calcium counts. She said that the lead detoxification process itself is unpleasant.

There were two witnesses generally opposed to the proposed lead standard. James F. Cole, Deputy Director of the International Lead Zinc Research Organization, Inc., and Director of Environmental Health for the Lead Industries Association, came from New York City to testify at the hearing. Mr. Cole noted that the two micrograms per cubic meter standard, originally recommended by the EPA in April 1972, was heavily criticized in public hearings in 1972 causing EPA to back away from the recommendation. Mr. Cole cast doubt on the references used by the EPA and, later, the National Academy of Sciences to justify the two microgram figure, supporting his statement with references to the literature. Citing the so-called Seven Cities Study, Mr. Cole conceded that the blood lead levels of urban women are consistently slightly higher than those for suburban women but asserted that airborne lead was not a significant contributor to blood lead concentrations. Mr. Cole also questioned whether lead-containing dust and dirt near roadways constituted any significant portion of ingested lead in children when compared to lead-based paint.

Mr. Cole stated that the rationale for a two-microgram standard is scientifically unsupportable and recommended against the proposed standard for that reason. Noting that Pennsylvania and Montana have five-microgram standards (averaged over thirty days) and New Mexico has a ten-microgram standard (for all heavy metals combined averaged over thirty days), Mr. Cole recommended a five-microgram standard for Oregon (averaged over ninety days).

Mr. Cole also submitted an extensive and bewildering array of written technical documents. See the section on written testimony below.

Dr. Leonard J. Goldwater, a member of the faculty of Community Health Sciences of Duke University, accompanied Mr. Cole as a consultant. Dr. Goldwater emphasized at the outset that he will receive no fee for the consultation culminating in his testimony nor does he have a continuing relationship with the International Lead Zinc Research Organization nor the Lead Industries Association, Inc.

Dr. Goldwater testified that EPA has changed its position since the two reports on lead relied upon by the DEQ staff in preparing its report and setting its standard. He said that the November 28, 1973 EPA document, "EPA's Position on the Health Implications of Airborne Lead," repudiates many points of the November 29, 1972 EPA document, "EPA's Position on the Health Effects of Airborne Lead," relied upon by the DEQ. He suggested that the Commission and Department build mechanisms into the rule to allow review of the scientific validity of the standard from time to time without the need of going through a rule-making procedure.

Dr. Goldwater challenged the assertion that lead is a "highly toxic material." Compared to organo-phosphate pesticides, for instance, it is not, he said. He urged the EQC and DEQ to base their actions upon reasonably strong scientific bases lest the whole standard fail to withstand challenge in the courts. He would find a four-microgram standard (averaged over ninety days) less objectionable than the two-microgram standard, he said. Finally, he noted that other substances added to motor fuels in place of lead might be more harmful to man than lead. Dr. Goldwater also submitted written documentation of his position.

Summary of Written Testimony

State Senators George Wingard and Ted Hallock and University of Oregon law professor Frank Barry each submitted short letters and Valerie A. Cobb of Portland submitted a considerably longer one supporting the proposed standard of two micrograms per cubic meter averaged over a three-month period. Gary Michael, chairman of Sensible Transportation Options for People (STOP), submitted a letter supporting "strict standards" to assure that lead near roadways will not exceed "reasonable levels."

Multnomah County Commissioner Donald Clark submitted a written statement supporting the proposed two-microgram level as a reasonable starting point, recognizing that as more scientific data is accumulated, the standard can be revised upward or downward. He noted the danger of previously undetected subclinical effects of lead poisoning and urged the wisdom of guarding against such poisoning.

Jerome F. Cole, who also gave oral testimony, submitted several documents for the record. These include "A Survey of Air and Population Lead Levels in Selected American Communities" by Lloyd B. Tepper and Linda S. Levin of the Department of Environmental Health, Kettering Laboratory, University of Cincinnati (December, 1972, 72 pages); "EPA's Position on the Health Implications of Airborne Lead" (November, 1973, 116 pages plus tables); "A Critique of EPA's Position on the Health Implications of Airborne Lead" prepared by Jerome F. Cole, Sc.D. and Donald R. Lynam, Ph. D. (submitted to the Panel on Environmental Science and Technology of the Subcommittee on Environmental Pollution of the U. S. Senate Public Works Committee, May, 1974, 27 pages); "Children and Lead," an editorial in the February, 1974, issue of American Journal of Diseases of Children by Donald Barltrop, M.D., a British physician (two pages); a submission of March 9, 1973, by the International Lead Zinc Research Organization, Inc. to the Environmental Protection Agency in response to proposed rule making, with additions dated June 29, 1973, and July 30, 1973 (61 pages); and a written critique of the staff report of the DEQ supporting the proposed standard (3 pages) containing an attachment of a study report by James L. McNeil, M.D., and J. A. Ptasnik, Ph.D., entitled "Evaluation of Long-Term Effects of Elevated Blood Lead Concentrations in Asymptomatic Children" (11 pages).

Dr. Leonard Goldwater, who also gave oral testimony, submitted a copy of a letter he wrote to the Environmental Protection Agency on February 13, 1973, in response to proposed regulation of fuels and fuel additives (13 pages), an article titled "An Assessment of the Scientific Justification for Establishing 2 $\mu\text{g}/\text{m}^3$ as the Maximum Safe Level for Airborne Lead" by Dr. Goldwater and published in the July, 1972, issue of Industrial Medicine (6 pages), and his critique of the DEQ staff report supporting the proposed standard (2 pages).

Analysis

The hearings officer has read, with difficulty and less than total comprehension, the 314 pages of written testimony submitted by Drs. Cole and Goldwater. There are several propositions which the studies tend to establish and several, no less important, which they fail to establish.

It appears to the hearings officer that the link between airborne lead concentrations (with the possible exception of the heavy concentrations encountered in some industrial workers' locations--see Cole & Lynam "A Critique of EPA's Position on the Health Implications of Airborne Lead," page 12)- and blood lead levels has yet to be established with rigor. However, there is no lack of circumstantial evidence, such as that reported in the excerpt from the London Times article in the summary of Mr. Merten's oral testimony, suggesting that it is possibly only a matter of time before such a link is proven to exist. An analogy might be made between airborne lead and health effects and smoking and lung cancer, i.e., while the definitive study has yet to be made, the probability that a link exists becomes stronger with each new study.

Second, there is no study which intimates in any way that the reduction of airborne lead, in itself and ceteris paribus, is harmful. There are some suggestions that substitutes for lead in motor fuels may cause more harmful effects than the lead causes. However, there is no substantiation of these suggestions in the documents submitted for the record, and until such harmful effects are shown, the possibility of harm from substances unknown stands as a weak argument against the probability of harm from a known substance. Further, the reduction of lead in motor fuels may be pre-empted by the Federal Government in any event. See page 3.2 of the staff report accompanying the proposed standard.

Third, if airborne lead is harmful and if the reduction of airborne lead is not harmful, then the greater the reduction in airborne lead, the greater margin of safety exists against possible health effects. The statement by Jerome Cole that "[i]gnorance...is a justifiable reason for conducting research but not for enacting restrictive regulations" (in "A Critique of EPA's Position on the Health Implications of Airborne Lead," page 5) seems false in light of the statement in the very same paragraph that "[o]bviously, there exists the possibility that we may be ignorant of some detrimental effect of lead."

Fourth, the scientific justification for establishing a standard at precisely two micrograms per cubic meter apparently does not exist at the present time. However, neither Dr. Cole, who has suggested a five-microgram standard, nor Dr. Goldwater, who suggested a four-microgram standard, have made a convincing case for the numbers they have put forth either. The two-microgram

standard appears to this scientifically naive observer, the hearings officer, to be equally as well supported by the literature as either a four- or five-microgram standard would be, and more consistent with allowing a margin for safety.

Fifth, the three-calendar-month averaging proposed by the DEQ staff appears out of step with the other four states who have adopted lead standards; California, Pennsylvania, Montana, and New Mexico, all of which require averaging over a thirty-day period.

Sixth, none of the studies addresses the question of enforcement of any standard. The staff report addresses this to some extent in part three but only Charles Merten and Tom Rocks addressed the question in testimony and those two witnesses only in passing.

Finally, as both Mr. Merten and Mr. Rocks observed in oral testimony, the proposed standard is ambiguously worded as to what data can be combined to derive an arithmetic average. In this respect, the standard clearly needs to be re-drafted to eliminate the possible source of confusion.

Submitted this tenth day of July, 1974.

A handwritten signature in cursive script, reading "Thomas Guilbert", is written over a horizontal line.

Thomas Guilbert
Hearings Officer

TG:bm



ENVIRONMENTAL QUALITY COMMISSION

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MEMORANDUM

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KESSLER R. CANNON
Director

To: Environmental Quality Commission

From: Director

Subject: Agenda Item H, July 19, 1974 EQC Meeting

Proposed Rules Revision, Complex Source Rules Request for Deferral of Action

Background:

On June 24, 1974, a public hearing was held to consider the adoption of revised rules for Complex Sources and Maintenance of Air Quality Standards. The hearings officer's report for this public hearing has been presented to the Commission.

Discussion:

A substantial amount of public comment and a number of requests for changes in the proposed rules were obtained at the public hearing. The Department concludes that additional time should be spent in evaluation of the testimony presented and in the revision of the proposed rules. It is requested that the Commission defer action on the adoption of these rules until the necessary evaluation and revisions can be accomplished by the Department.

Director's Recommendation:

It is the recommendation of the Director that the Commission defer action on the proposed rules for Complex Sources and Maintenance of Air Quality Standards until such time as the Department has completed an evaluation of testimony presented and a revision of the proposed rules.

KESSLER R. CANNON
Director



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KESSLER R. CANNON
Director

TO: Environmental Quality Commission

FROM: Hearings Officer

SUBJECT: Agenda Item No. H, July 19, 1974, EQC Meeting
Proposed Revision of Rules Governing Complex Sources
of Air Pollution

Background

Complex sources of air pollution are those sources where the air contaminants do not emit from a single point or collection of fixed points. Complex sources include principally structures or areas which attract moving sources of pollution, such as highways, airports, parking lots, and parking structures. At the time the EQC adopted Oregon's Clean Air Act Implementation Plan in 1972, it adopted OAR, chapter 340, sections 20-050 through 20-070, regulating parking facilities and highways in urban areas. The Environmental Protection Agency subsequently found that those rules fail to meet the requirements of federal regulations since they

"do not set forth legally enforceable procedures for preventing construction or modification of an indirect source if such construction or modification will result in a violation of applicable portions of the control strategy or will interfere with attainment or maintenance of a national standard." 40 CFR 52.1982, 39 Fed. Reg. 7283 (February 25, 1974).

This statement by the EPA particularized the application of 40 CFR 51.18 (38 Fed. Reg. 15834, June 18, 1973) to Oregon. That section requires that all state implementation plans contain adequate legal authority to conduct review of air contaminant sources which may indirectly result in an increase in the ambient air of air contaminants emitted by motor vehicles and aircraft.

The Department prepared new rules which would require a permit, lasting five years, for the construction or operation of: parking lots with more than 1,000 spaces, 500 spaces, or 50 spaces, depending upon geographical location in or out of a city or in or out of certain named counties; highway segments with an anticipated load of greater than 50,000 vehicles per day or 15,000 vehicles per day, again depending upon location; airports with paved runways; and freeways and expressways within the City of Portland or within five miles of Portland's municipal boundaries. Additionally, the rules provide for Commission approval of regional plans consistent with air pollution and noise guidelines.



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A hearing on the proposed new rules was held in the Public Service Building in Portland on Monday, June 24. The record was held open for written comments for a full two weeks following the hearing.

Summary of Oral Testimony

From a numerical standpoint, those who generally supported the proposed rules in oral testimony and those who were generally opposed were evenly divided, four for and four against. Richard F. White of the EPA testified that "the proposed DEQ complex source regulation, with minor modifications, will provide an adequate replacement for the federal indirect source review and approval procedures contained in 40 CFR 52.1982, 39 Fed. Reg. 7283 ... We would like to point out that generally the provisions of the DEQ regulation were given considerable praise by many of the EPA reviewers." Mr. White submitted the "minor modifications" in three typewritten pages of fine detail.

Michael D. Roach, Director of the Mid-Willamette Valley Air Pollution Authority, testified on behalf of his organization through staff member Linda D. Willis. He stated that the Authority has reviewed the proposed regulations with care; it concurs with the Department on the need for complex source regulations and aims to cooperate with the Department to the highest level in making the regulations workable. He cited a resolution adopted by the Board of Directors of the Authority, MWR 34-010, declaring "it to be contrary to the public policy of the region for parking facilities and highways to be constructed in urban areas without full recognition being given to the environmental impact of such facilities." Mr. Roach, like the EPA, suggested several minor modifications to the proposed rules in two single-spaced typewritten pages of fine detail.

Commissioner Donald Clark of Multnomah County, speaking through staff member Roger Mellem, favored the proposed rules which would, in his view, first, minimize further degradation of the environment by air and noise pollution by regulating for the first time the high volume parts of the auto system, favoring greater use of mass transit, and sparking development of a more comprehensive plan for transportation; second, discourage unfettered use of the automobile and expansion of the automobile-based transportation system; and third, with regard to any further capital development of the automobile-based system, require comprehensive public review of major proposals and develop and account for the social and environmental costs of those developments. He recommended one change in the rules, however. The rules should apply only to the construction of major new highways or improvements in highways, not to the operation of present roads or minor improvements thereon, such as the installation of left-turn lanes. Similarly, he felt that the application to existing airports should be dealt with separately.

The Oregon Environmental Council, represented by Gregg Fritts, testified in favor of the proposed rules, particularly section 20-130 (3) (g) which requires complex source operators to promote alternative modes of transportation and appeal indirectly for decreases in auto trips. Mr. Fritts testified that the 50,000-person or greater population cutoff point for municipalities in which parking lots of fifty or greater spaces must obtain permits does not adequately protect Corvallis, Medford, or Springfield. He further questioned the lack of enforcement provisions in the rules to assure compliance by permittees.

Effat Mansour, Planning Manager of the Port of Portland, testified through staff member Walter Hitchcock neither in favor of nor opposed to the proposed

rules. Rather, he submitted a list of thirteen questions requesting an answer from the Department staff. The hearings officer has been informed that the staff has replied to those questions; however, the reply has not been made a part of the hearings record.

The State of Oregon members of the International Council of Shopping Centers were represented in oral testimony by attorney Bruce H. Anderson. Mr. Anderson commenced his testimony with the opinion that shopping centers are not "air contamination sources" within the meaning of ORS 468.275. He testified that all reference to operation of a complex source should be deleted from the rules, leaving coverage only of complex sources to be constructed. Mr. Anderson suggested a new subsection 20-125 (7) which would make the application of the rules to only new complex sources explicit.

Mr. Anderson testified that shopping centers, once given DEQ permission to be constructed, should not thereafter be subject to any new conditions in subsequent permits. He suggested a new definition of "construct" or "construction" in section 20-100 (4) to allow for the kind of phased construction which characterizes many shopping center developments. He alleged the regulations are ultra vires in their attempt to regulate noise and recommended deletion of all references to noise. He found the fifty-car capacity for parking lots within metropolitan areas too restrictive in light of the one thousand-car suggestion in federal regulations.

Mr. Anderson recommended several changes in proposed section 20-130, two to add specificity to the word "vicinity," deleting concern for water quality from the rules, absolving complex source constructors for responsibility for violation of national ambient air standards caused in part by other sources, and deleting the requirements for park-and-ride and fare reimbursement because the latter are alleged to be unconstitutional. He further testified that existing permits should be modified when conditions have changed rather than when they are "changing," a term he finds vague. Finally, he testified that the owner of a complex source should have the right of rebuttal of public testimony submitted up to the date of close of the record.

Herbert Althouse, manager of Mall 205 in Portland, affirmed Mr. Anderson's statement. Additionally, he questioned if DEQ would give technical assistance on parking lot design, gate responsibility, and intersection control. He testified he finds the use of "shall" in section 20-130 (3) (g) confiscatory with regard to subsections 5, 6, 7, 9, and 10. He thought the rules showed a bias against shopping centers accessible by private automobile which failed to reflect the average shopper's distaste for public transit.

Jack R. Kalinoski, representing the Associated General Contractors of America, Inc., requested no action be taken on the proposed rule for at least thirty days in order to allow time for detailed written comment (see the section on written testimony below) and DEQ staff response to such comment. He asked how permits to construct or operate fit into other permits required by law and why are freeways and expressways singled out as against clogged arterials? He asked the meaning of "otherwise" in proposed rule 20-105's phrase "by permit and otherwise." He also wanted to know whether the construction industry was included in the first sentence of 20-120 in the phrase "contract for the construction"? He said the inclusion of all airports with paved runways could lead to the absurdity of Lake of the Woods Airport having to construct exclusive mass transit ways and reserve parking spaces for car pools. He suggested that "shall" in section 20-130 (3) (g) be changed to "may."

Fred VanNatta, representing the Oregon State Homebuilders Association, testified against adoption of the proposed rules. He noted that the rules fail to define what is a "parking facility," but regulate such facilities within standard metropolitan statistical areas when they are one twentieth the minimum size recommended by federal regulations. He testified that obtaining permits as required by the proposed rules would add cost to the ultimate consumers. Mr. VanNatta questioned whether the five-year permit duration meant that apartment complexes would be subject to cancellation of tenant parking structures every five years. He stated that, in light of the 1973 Legislature's rejection of a "little NEPA" law for Oregon, he doubted DEQ's authority to require an environmental impact statement, particularly one requiring alternative designs. He also opposed the requirement in section 20-130 (3) (f) that DEQ be the final agency to review a proposal.

Mr. VanNatta disagreed with the mandatory language of section 20-130(3)(g) since not each of the subheadings is appropriate to each complex source. Finally, he recommended that the example of the federal regulations be followed in setting a time limit within which a determination of approval or rejection of a permit must be made by the DEQ.

Summary of Written Testimony

L. Edwin Coate, Acting Regional Administrator of the Environmental Protection Agency, submitted a written statement which is in all essential respects identical to that submitted orally by Richard F. White of his staff.

Hugh McKinley, City Manager of Eugene, submitted a letter requesting that a task force be established to work with the DEQ staff in redrafting the proposed rules. He proposed that the task force comprise members of the League of Oregon Cities, Association of Oregon Counties, regional air pollution control authorities, and three major urban centers.

Gary M. Carlson of the League of Oregon Cities also suggested that city and county officials meet with the DEQ staff prior to final adoption of the proposed rules. He also requested re-evaluation of two specifics in which the DEQ proposed rules are more stringent than federal regulations, i.e. requirement of a permit for 50- rather than 1000-space parking facilities in cities of over 50,000 population and requirement of a permit for highway sections with anticipated 15,000/day rather than 20,000/day vehicle loads. Mr. Carlson further testified that noise considerations should not enter into air quality regulations and noted that the proposed rules fail to implement a provision of the federal regulations requiring consultation with the appropriate state or local land use planning agency.

Jack Kalinoski, of Associated General Contractors, who also gave oral testimony, drafted a complete draft of proposed rules which that organization's Environment Committee recommended. Compared to the DEQ staff's proposal, these rules would: (1) remove all reference to noise; (2) eliminate authority to issue "operation" permits; (3) remove specific references to freeways and expressways; (4) define "complex sources" in the same manner as EPA defines "indirect sources," thus eliminating urban-rural distinctions; (5) remove the requirement for payment of fees and the five-year term on permits; (6) not require environmental impact statements, except as required by statute; (7) remove the requirement that the applicant must supply proof that violations of standards will not occur; and (8) allow variation of traffic control measures appropriate for each complex source.

Steve Hawes, Legislative Director for the Oregon Association of Realtors, submitted a letter on behalf of his association. He noted that "parking facilities" is not defined, that "construct" is not defined precisely enough, and that the definitions of "regional authority" and "regional planning agency" seem to allow delegation of administration of complex sources to regional land use planning agencies. He testified that proposed section 20-105 is too broad. He objected to "operation" permits and five-year terms of permits, suggesting that the rules apply only to construction commenced after they are in effect.

As with many others who oppose the proposed rules, Mr. Hawes objected to proposed section 20-130(3)(g). He suggested the "shall" be changed to "may", that the DEQ be allowed to select from the list sections appropriate to the proposed complex source, and that the application of the rule be preconditioned upon a finding that the proposed complex source, cumulating with other sources, would cause a violation of ambient air standards if the measures were not applied. He also added that responsibility should be as much on the mass transit agency to serve the proposed complex source as on the constructor to aid mass transit.

Like Mr. VanNatta, Mr. Hawes requested a determinate time period within which a permit application must be approved or denied. He also objected to obtaining of all other permits being a precondition to submission of an application for a complex source air permit.

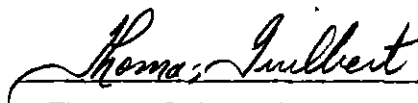
Hugh Bannister, President of the Western Environmental Trade Association, submitted testimony which asked, first, that the questions of the Port of Portland be answered (see oral testimony of Walt Hitchcock). Additionally, he testified that Oregon should control motor vehicle emissions more strictly than it presently does, that review of the complex source permit application should take into account the probable mix of type and vintage of automobile likely to use the complex source, and that expansion of the complex source be automatically allowed in proportion to tightening of automobile emissions standards. He testified that a facility which is rebuilt following damage or destruction should not need to apply for a new permit if the capacity or flow characteristics do not exceed those of the original structure. He stated his association's belief that if all other permits are obtained (as required by the proposed DEQ rules) and these documents are submitted to DEQ, then the DEQ should have no further review of the matter. For phased construction projects, Mr. Bannister testified that a single permit should be granted based upon the projected traffic and capacity of the final phase. Finally, he, too, recommended deletion of all reference to noise in the rules.

Mary Ann Donnell, past chairman of the Washington/Oregon chapter of the Coalition for Clean Air and a member of the Citizens Advisory Council of the Mid-Willamette Valley Air Pollution Authority, submitted written testimony generally supporting the proposed rules but making some specific recommendations for amendment. She noted that section 20-130(1) requires issuance be in accord with procedures of the Department but found nowhere mention or review or monitoring to determine ongoing compliance. She requested that section 20-130(2) be amended to insure that an environmental impact statement shall be filed "if there is any question of environmental deterioration." Mrs. Donnell commended the DEQ staff on subsections 20-130(2)(d) and (e), but suggested that as to (f) language be added to include the water table as well as other bodies of water. As to section 20-130(3)(g), which bore the greatest brunt of criticism from opponents of the proposed rules, Mrs. Donnell commended especially parts (5) through (11) but noted that the general preamble should read "no deterioration" rather than "least possible deterioration" if it is to be consistent with the non-degradation aspects of the Oregon Implementation Plan. Finally, she questioned how the review procedure upon expiration of the five-year permit would work.

Analysis

Since even the strongest proponents of the proposed rules recommended rather detailed textual amendments, the hearings officer has submitted the entire hearings file to the air quality staff for analysis.

Submitted this sixteenth day of July, 1974.

A handwritten signature in cursive script that reads "Thomas Gilbert". The signature is written in black ink and is positioned above a horizontal line.

Thomas Gilbert
Hearings Officer

TG:bm



ENVIRONMENTAL QUALITY COMMISSION

1234 S.W. MORRISON STREET • PORTLAND, ORE. 97205 • Telephone (503) 229-5696

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KESSLER R. CANNON
Director

MEMORANDUM

To : Environmental Quality Commission
From : Director
Subject: Agenda Item No. I, July 19, 1974 EQC Meeting
Variance Request (Arco), Sulfur Content of
Residual Fuel Oil

Background

At the June 21, 1974 Commission meeting the Commission deferred action on the attached variance request submitted by the Atlantic Richfield Company until the July 19, 1974 Commission meeting because no representatives of Arco were present in Coos Bay to supply needed additional information.

In a letter dated July 5, 1974 to the Department, Atlantic Richfield stated "As we now see the balance of 1974, it should be possible to supply the normal sales volume of heavy fuel to Oregon and meet the new sulfur specifications."

In subsequent meetings and conversation with Mr. Fitzpatrick of Arco it is our understanding the Atlantic Richfield Company letter dated July 5, 1974 was intended not only to supply information to the Department but also was intended as a request to withdraw their variance request of June 17, 1974. The Department has requested such clarification in writing from Arco and it is expected Arco will formally withdraw their variance request of June 17, 1974 prior to the Commission meeting.



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Director's Recommendation

If the Atlantic Richfield Company formally withdraws their variance request no action is required by the Commission. However, if such notification is not received by the Department prior to the meeting it is the Director's recommendation the Environmental Quality Commission deny the Atlantic Richfield Company variance of June 17, 1974, because strict compliance of the Department rules is not unreasonable or inappropriate based on the information submitted by Arco on July 5, 1974.

Based on Arco's letter of July 5, 1974 the variance requests previously submitted by the distributors and users of Arco residual fuel oil in the state of Oregon should also be denied.



KESSLER R. CANNON
Director

7/16/74

Attached

AtlanticRichfieldCompany

Products Division
55 Hawthorne Street
Mailing Address: Box 3522, Rincon Annex
San Francisco, California 94119
Telephone 415 392 3010

R. S. Webb
Zone Manager

July 5, 1974

Department of Environmental Quality
1234 S. W. Morrison Street
Portland, Oregon 97205

Attention: Mr. Kessler R. Cannon
Director

Gentlemen:

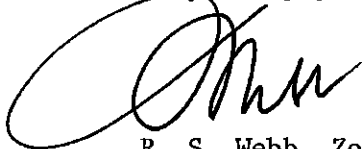
In response to your request concerning our ability to supply heavy fuels meeting the new 1.75% sulfur limit to the Oregon market.

As we now see the balance of 1974, it should be possible to supply the normal sales volume of heavy fuel to Oregon and meet the new sulfur specification.

Our ability to supply is, of course, dependent upon the crude slate and on low sulfur fuel commitments. So long as the immediate position prevails, there will be little if any problem in producing and supplying the 1.75% sulfur fuel, however, if low sulfur fuel begins to move at contract volumes and/or our crude slate increases in sulfur content, special blending and handling will be required to produce the Oregon specified fuel.

At this point in time, it is not possible to predict our true situation for the next year, 1975, and it is a distinct possibility that we will be unable to meet our losul fuel commitment and the Oregon type fuel volume. If that should occur, we will be in contact with the Department of Environmental Quality.

Very truly yours,



R. S. Webb, Zone Manager
Commercial & Distributor Sales
Pacific - Northwest Zone

cc: Messrs. M. E. Fitzpatrick
R. M. McKee
E. G. Reilly

W. M. Marcussen
J. R. Williams
J. Pendergraft



State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
R E C E I V E D
JUL 8 1974

OFFICE OF THE DIRECTOR

AtlanticRichfieldCompany Products Division
1900 S.W. First Avenue
Mailing Address: Box 1571
Portland, Oregon 97207
Telephone 503 224 2150



June 17, 1974

The Department of Environmental Quality
1234 S. W. Morrison Street
Portland, Oregon 97205

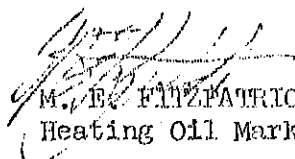
Attention: Mr. Kessler R. Cannon, Director

Gentlemen:

Please accept our apology for the delay in responding to your letter of May 17, 1974.

At the present time, we are not certain that we can comply with Section 22-010, limiting the sulfur content of residual fuels to not more than 1.75% by weight. We, therefore, request a variance for a period of ninety days from the effective date of the regulations.

Very truly yours,


M. B. FITZPATRICK, Manager
Heating Oil Marketing

MEF:pj

cc: Mr. J. L. Keyser
Mr. R. M. McKee
Mr. J. Pendergraft
Mr. D. L. Peterson
Mr. J. W. Raffety
Mr. R. S. Webb
Mr. J. R. Williams



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Salem

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The Dalles

KESSLER R. CANNON
Director

MEMORANDUM

To : Environmental Quality Commission
From : Shirley Shay
Subject: Agenda Item No. J, July 19, 1974 EQC Meeting
Weyerhaeuser Company, Springfield--Status Report on
NPDES Permit Application

This item appeared on the June 21, 1974 EQC meeting agenda as No. G, and was deferred until the July 19th Commission meeting.

In order to maintain the continuity of agenda items by program area, it will appear as No. J on the cover sheet only. The report has been duplicated as prepared for the June 21st meeting.



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The Dalles

KESSLER R. CANNON
Director

MEMORANDUM

To Environmental Quality Commission

From Director

Subject: Agenda Item No. G, June 21, 1974 EQC Meeting
Weyerhaeuser Company, Springfield: Status Report on
NPDES Permit Application

Background

Weyerhaeuser Company has applied for a National Pollutant Discharge Elimination System (NPDES) permit for their existing wood products complex at Springfield. The complex consists of a kraft pulp and paperboard operation, plywood plant, particleboard plant and sawmill. This complex has been under a waste discharge permit from the Department of Environmental Quality since December 28, 1967, and the proposed NPDES permit is essentially a renewal of Weyerhaeuser's previous permits although it is much more detailed than the previous permits.

All of Weyerhaeuser's existing wastewater control facilities have been reviewed and approved by the Department of Environmental Quality. The process wastewaters are presently settled in a series of two primary settling ponds and then are treated in an extended aeration lagoon system prior to discharge to the McKenzie River. Weyerhaeuser is in the process of designing a mechanical primary clarifier which should help improve their effluent quality. Log pond overflow is aerated to reduce the Biochemical Oxygen Demand (BOD) prior to being pumped to the main effluent line. Evaporator condensate is spray irrigated on land near the mill during the low flow summer months in order to reduce the waste load to the aeration facilities and the resulting discharge to the river. This source is treated in the aerated lagoon during the winter months. Once-through condenser cooling water is discharged to a secondary channel of the McKenzie River.

In the early 1960's, and prior to the production expansion which was approved in 1964, satisfactory water quality had been maintained during summer months with BOD discharges less than 4,000 lbs/day. Comparable levels were to be maintained after the expansion. In



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order to reduce BOD discharge levels to less than 4,000 lbs/day, after the expansion the company proceeded to design and install the present treatment facilities. The aerated lagoon which was completed in 1966 was the first of its kind and has been a proving ground for new technology.

In December 1967, when the first waste discharge permit was issued, a BOD limit of 3,000 lbs/day summer and 4,000 lbs/day winter was established based on limited available data. The permit required the company to monitor and report on the operation of facilities and magnitude of discharges.

During the period between 1967 and the present, significant information has been obtained regarding the operation as a result of company monitoring.

1. Nutrients must be fed to the aerated lagoon to obtain optimum BOD removal.
2. Biological cells produced in the process of removing BOD settle and accumulate in the pond, thus reducing detention time and pond efficiency and necessitating dredging.
3. BOD removal efficiency decreases in winter with colder temperatures.

The company has dredged the pond twice since 1972. They have also conducted substantial studies to determine nutrient balance. They have continued to work toward improved efficiency by installation of additional aerators and recycling of some pond effluent.

The company has reported spills, malfunctions and discharges in excess of limits to the Department since the first permit was issued. The Department has observed sampling procedures and has on occasion split samples with the company. The Department has worked with the company to secure correction of operational problems and reduction of discharges when limits are exceeded.

It became apparent in 1972 with better data that the 4,000 lbs/day winter discharge limit was not achievable and that adjustment of the limitation may be necessary when the permit was renewed.

NPDES Proceedings

The Department drafted its first proposed NPDES permit for Weyerhaeuser in early 1973. The company did not agree to this permit, hence it was not issued during the interim authority period (March 1973). A major problem centered around specification of analytical procedures. The procedures used by the company, while relatively standard for the industry, were different from those specified. They expected the revised procedures to yield greater numerical values for the same discharge levels and thus requested an increase in discharge limitation numbers. The Department would not increase the summer limit but did concur that increase of the winter limit from 4,000 to 5,700 lbs/day would be reasonable based on this and other factors previously mentioned.

Suspended solids limits were incorporated into the permit. Such limits were not in the previous permit.

Recently revised water quality standards require the Department to define an allowable mixing zone in each permit. The purpose of the definition is to facilitate determination of water quality standards compliance. The Department thus proposed a definition and in addition required a special study to develop data to serve as a basis for later revision if necessary. The Department does not have all the desired data available and cannot delay permit issuance until it is obtained. Therefore, we are proceeding based on best available information and expect to improve it in the next cycle of issuance.

On February 19, 1974, public notice of intent to issue a permit was given. As a result of this notice, a hearing was requested by several interested persons.

Public Hearing

On April 9, 1974, notice was given for a hearing on May 13, 1974. This hearing was held before Hearings Officer Thomas Guilbert. His report, as filed with the Director, is attached.

The staff of the Department has reviewed this report and concurs with the summary of testimony. The staff does not concur, however, with the conclusions drawn from the testimony. The hearing was not a contested case hearing. There was no cross-examination of witnesses or rebuttal testimony. The record of the hearing does not contain all of the facts which must be considered in the issuance of a permit. The purpose of the hearing was to seek additional information and public views regarding the Department's proposal prior to making a final determination to issue a permit.

The staff has evaluated the testimony with this purpose in mind, and comments as follows on major points:

1. Opposition to 5,700 lbs BOD/day winter discharge: This has already been discussed and is considered to be an adjustment in an earlier number based on inadequate information rather than an increase in the discharge.
2. Alleged inadequacy of self-monitoring and requests for automatic monitoring: DEQ is required to include self-monitoring and reporting requirements in permits. Most automatic monitoring equipment has not proven to be effective, reliable or accurate in such installations. The Department would like to expand its program for verification monitoring of dischargers but cannot do so without legislative approval of additional manpower. It is interesting to note that Weyerhaeuser has not been hesitant to report violations based on self-monitoring data to DEQ.

3. Objection to mixing zone size and study details: This has already been discussed. The Department recognizes the need for more data and thus has required the study. In the interim, a mixing zone has been defined based on the best information available to the Department.
4. Deteriorating water quality and "slugging": The Department has chemically and biologically sampled the river above and below the discharge at various times of the year. This monitoring does not indicate any significant deterioration in water quality over that observed in the last few years. Biological monitoring, which can detect the after-effects of slug discharges does not indicate the presence of this problem.
5. Request for Zero Discharge: The 1985 zero discharge goal in the Federal Act is an idealistic goal rather than a requirement. Weyerhaeuser currently provides summer control which is better than the EPA-defined best available technology which must be achieved by 1983.
6. Request for limits stricter than EPA limits to protect McKenzie River: The proposed limits are more stringent than EPA limits and are based on meeting Oregon's Special Water Quality Standards for the McKenzie, established after full public hearings.
7. Temperature and effects of heated discharges: This item will be further evaluated in the mixing zone study.
8. Suggestions to issue a one-year permit: Present procedures require four to six months for issuance of a permit. A four-year permit was proposed to even-out work loads for future renewals. The Department can institute modification of any permit at any time based on a demonstrated need.

Summary

After careful evaluation of the information available to the Department, it is concluded that issuance of the proposed permit to place Weyerhaeuser Company under the enforceable provisions of this more detailed permit is the best course of action. Accordingly, the Director intends to issue the permit and proceed as necessary to secure compliance with its provisions.



KESSLER R. CANNON
Director

PRELIMINARY DRAFT

FOR A

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

TO BE ISSUED BY

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

Pursuant to ORS 449.083 and P.L. 92-500

<p>ISSUED TO:</p> <p>Weyerhaeuser Company Post Office Box 275 Springfield, Oregon 97477</p> <p>PLANT SITE:</p> <p>Springfield Operations</p> <p>ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY</p> <hr/> <p>Diarmuid F. O'Scannlain Date Director</p>	<p>REFERENCE INFORMATION</p> <p>File Number: <u>96244</u></p> <p>Appl. No.: <u>1763</u> Received <u>11-16-72</u> <u>071-OYA-2-000148</u></p> <p>Major Basin: <u>Willamette</u></p> <p>Minor Basin: <u>McKenzie</u></p> <p>Receiving Stream: <u>McKenzie River</u></p> <p>River Mile: <u>14.7</u></p> <p>County: <u>Lane</u></p>
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PERMITTED ACTIVITIES

Until such time as this permit expires or is modified or revoked, Weyerhaeuser Company, Springfield Operations, is herewith permitted to:

- a. Operate waste treatment and control facilities.
- b. Discharge adequately treated waste waters to the McKenzie River.
- c. Construct and operate inplant waste water reduction/control facilities.
- d. Discharge uncontaminated cooling water to the McKenzie River via the slough.

All of the above activities must be carried out in conformance with the requirements, limitations and conditions which follow.

All other waste discharges are prohibited.

SPECIAL CONDITIONS

- S1. The permittee shall reduce the Settleable Solids discharged to the McKenzie River to levels specified in the discharge limitations of condition S8 of this permit in accordance with the following time schedule:
- a. Submit a program and time schedule by October 1, 1974.
 - b. Report on progress - July 1, 1975.
 - c. Report on progress - January 1, 1976.
 - d. Meet required limitations by June 1, 1976.
- S2. The permittee shall survey and evaluate the temperature plume below each outfall in sufficient detail to ascertain plume boundaries during the next low stream flow period. It is also suggested that additional background temperature data be gathered during the next regular plant shutdown which occurs during low stream flow periods. The surveys shall provide both a horizontal and vertical temperature profile and shall indicate, where practicable, the location of the boundary of the area where the plant discharges increase the background temperature of the river by 0.5° F. The conclusions of the study shall be submitted to the Department by November 1, 1974. After evaluating the study the Department may find it necessary to either re-define the allowable mixing zones or require additional thermal control or both.
- S3. As soon as practicable, but not later than April 1, 1974, the permittee shall submit for review and approval an operational plan for the irrigation area outlining procedures for efficiently utilizing all available areas in a manner which will preclude runoff and odor nuisances. The plan shall include detailed plans and specifications for control facilities which may be necessary to prevent contaminated runoff. The approved plan shall be implemented by June 1, 1974.
- S4. The permittee is expected to meet the compliance schedules and interim dates which have been established in conditions S1, S2 and S3 of this permit. Either prior to or no later than 14 days following any lapsed compliance date the permittee shall submit to the Department a notice of compliance or non-compliance with the established schedule.
- S5. Prior to constructing or modifying any waste water control facilities, detailed plans and specifications shall be approved in writing by the Department.
- S6. The quantity and quality of uncontaminated cooling water discharged directly or indirectly to the McKenzie River from outfall 002 shall be limited as follows:

<u>Parameter</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Flow	15 MGD	25 MGD
Temperature	97° F.	115° F.
pH	Within the range 6.0 - 9.0	

PERMIT CONDITIONS

- S7. Beginning on the date of issuance of this permit and ending May 31, 1976, the quantity and quality of effluent discharged directly or indirectly to the McKenzie River from outfall 001 shall be limited as follows:

June 1 to October 31

<u>Parameter</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>
BOD (5-day)	3,000 lbs/day	4,500 lbs
Suspended Solids (above background)	10,000 lbs/day	20,000 lbs
pH	Within the range 6.0 - 8.5	

November 1 to May 31

<u>Parameter</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
BOD (5-day)	5,700 lbs/day	10,000 lbs
Suspended Solids (above background)	11,960 lbs/day	28,000 lbs
pH	Within the range 6.0 - 8.5	

- S8. After May 31, 1976 the quality and quantity of effluent discharged directly or indirectly to the McKenzie River from outfall 001 shall be limited as follows:

June 1 to October 31

<u>Parameter</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>
BOD (5-day)	3,000 lbs/day	4,500 lbs
Suspended Solids (above background)	10,000 lbs/day	20,000 lbs
pH	Within the range 6.0 - 8.5	
Settleable Solids	Not to exceed 0.1 ml/l	

November 1 to May 31

<u>Parameter</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
BOD (5-day)	5,700 lbs/day	10,000 lbs
Suspended Solids (above background)	11,960 lbs/day	28,000 lbs
pH	Within the range 6.0 - 8.5	
Settleable Solids	Not to exceed 0.1 ml/l	

- S9. The total discharge shall be controlled to maintain a reasonably constant flow rate throughout each 24-hour operating period.

- S10. Notwithstanding the effluent limitations established by this permit, no wastes shall be discharged and no activities shall be conducted which will violate Water Quality Standards as adopted in OAR 340-41-100 except in the following defined mixing zones:

PERMIT CONDITIONS

The allowable mixing zone for the process water discharge (001) shall not exceed a segment of the McKenzie River 100 feet wide as measured from the water line along the south bank and extending from 5 feet upstream of the point of discharge to 5,000 feet downstream of the point of discharge.

The allowable mixing zone for the uncontaminated cooling water (002) shall not extend beyond the secondary river channel receiving the discharge plus one-half the width of the main river channel from the point of confluence to the Hayden Bridge.

- S11. No petroleum-base products (or other substances) which might cause the Water Quality Standards of the State of Oregon to be violated shall be discharged or otherwise allowed to reach any of the waters of the state.
- S12. Sanitary wastes shall be disposed of to the City of Springfield municipal sewerage system.
- S13. Filter backwash, solids, sludges, dirt, sand, silt or other pollutants separated from or resulting from the treatment of intake or supply water shall not be discharged to state waters without first receiving adequate treatment (which has been approved by the Department) for removal of the pollutants.
- S14. Unless approved otherwise in writing by the Department the permittee shall observe and inspect all waste handling, treatment and disposal facilities and the receiving stream above and below each point of discharge at least daily to insure compliance with the conditions of this permit. A written record of all such observations shall be maintained at the plant and shall be made available to the Department of Environmental Quality staff for inspection and review upon request.
- S15. The permittee shall monitor the operation and efficiency of all treatment and control facilities and the quantity and quality of the wastes discharged. A record of all such data shall be maintained and submitted to the Department of Environmental Quality at the end of each calendar month during the period November 1 to May 31. Reports shall be submitted at weekly intervals during the period June 1 to October 31. Unless otherwise agreed to in writing by the Department of Environmental Quality, data collected and submitted shall include but not necessarily be limited to the following parameters and minimum frequencies:

<u>Parameter</u>	<u>Minimum Frequency</u>
Discharge to River	
Flow (001 and 002)	Daily - continuous
BOD (5-day) (001)	3 24-hr composite samples/week
Suspended Solids (001)	3 24-hr composite samples/week
Settleable Solids (001)	3 grab samples/week
pH (001 and 002)	Continuous or daily grab samples
Color (001)	3 grab samples/week
Turbidity (001)	3 grab samples/week
Temperature (001 and 002)	3 grab samples/week

State of Oregon
Department of Environmental Quality
PERMIT CONDITIONS

Permit Number: _____
Expiration Date: 3-31-78
Page 5 of 9

<u>Parameter</u>	<u>Minimum Frequency</u>
Discharge to Irrigation	
Flow	Daily - continuous
BOD (5-day)	3 grab samples/week
Land Application (gallons/acre)	Each rotation or setting
Other	
Mixing zone visual observations for color, foam, floating solids, slime accumulations, odors and anything unusual at each discharge	Daily
Production	
Pulp	Average tons/day for reporting period
paper	Average tons/day for reporting period

Monitoring procedures:

- a. Monitoring shall begin on the first day of the month following issuance of this permit.
- b. Monitoring reports shall be submitted by the 15th day of each following month during the monthly reporting period and within 10 days of the end of the reporting period during the weekly reporting period.
- c. Monitoring data shall also be submitted on approved NPDES report forms monthly.
- d. All records of monitoring activities and results required pursuant to this permit, including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records, shall be retained by the permittee for a minimum of three years. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Director.
- e. The permittee shall record for each measurement or sample taken pursuant to the requirements of this permit the following information: (1) the date, exact place and time of sampling; (2) the dates the analyses were performed; (3) who performed the analyses; (4) the analytical techniques or methods used and (5) the results of all required analyses.
- f. Samples and measurements taken to meet the requirements of this condition shall be representative of the volume and nature of the monitored discharge.
- g. All sampling and analytical methods used to meet the monitoring requirements specified in this permit shall, unless approved otherwise in writing by the Department, conform to the latest edition of the following references:

- 1) American Public Health Association, Standard Methods for the Examination of Water and Wastewaters (13th ed. 1971).
 - 2) American Society for Testing and Materials, A.S.T.M. Standards, Part 23, Water, Atmospheric Analysis (1970).
 - 3) Environmental Protection Agency, Water Quality Office, Analytical Control Laboratory, Methods for Chemical Analysis of Water and Wastes (April, 1971).
- S16. Within 30 days of the issuance of this permit the permittee shall submit a detailed description of the sampling procedures used, sample analysis techniques and exact location of sampling stations.
- S17. Unless otherwise agreed to in writing by the Department all hydraulic barker water shall be screened and discharged to the aeration basin.
- S18. Unless otherwise agreed to in writing by the Department, evaporator condensate shall be irrigated on land between June 1 and October 31 as much as it is practicable. Discharge of evaporator condensate to the aerated lagoon shall be kept to a minimum.
- S19. All waste solids, including dredgings and sludges, shall be utilized or disposed of in a manner which will prevent their entry, or the entry of contaminated drainage or leachate therefrom, into the waters of the state and such that health hazards and nuisance conditions are not created.
- S20. Prior to July 1, 1974 the permittee shall provide an alternative power source sufficient to operate all facilities utilized by the permittee to maintain compliance with the terms and conditions of this permit. In lieu of this requirement the permittee may certify in writing to the Department within 30 days of the issuance of the permit that in the event of a reduction, loss, or failure of a power source the permittee shall halt, reduce or otherwise control production and/or all discharges in order to maintain compliance with the terms and conditions of this permit.
- S21. The permittee shall prepare, submit to the Department and implement a suggested spill prevention and contingency plan for the facility covered by this permit within 90 days of the date of its issuance. Such plan shall include at least the following information and procedures relative to the prevention and handling of spills and unplanned discharges of oil, chemicals and other hazardous substances:
- a. A description of the reporting system which will be used to alert responsible facility management and appropriate legal authorities;
 - b. A description of the facilities which prevent, contain or treat spills and unplanned discharges;
 - c. A list of all oil and hazardous materials used, processed or stored at the facility which may be spilled and could conceivably be discharged to state waters;

- d. A brief description of recent spills and changes made to prevent their occurrence; and
- e. An implementation schedule for additional facilities which may be required to prevent the spillage of oil, chemicals and other hazardous materials and subsequent discharge to state waters.
- S22. Waste waters discharged to biological secondary treatment facilities shall contain adequate nutrients at all times. An automatic flow-regulated mechanical nutrient feeding facility is recommended for maintenance of an adequate influent balance at all times.
- S23. An environmental supervisor shall be provided to coordinate and carry out all necessary functions related to maintenance and operation of waste collection, treatment and disposal facilities. This person must have access to all information pertaining to the generation of wastes in the various processing areas.
- S24. A continuing program shall be initiated to reduce total fresh water consumption by increased utilization of soiled water.
- S25. No waste streams subject to contamination with fiber, process chemicals, cleaning compounds, oils, leachates etc. shall be permitted to enter the discharge stream without passage through adequate waste treatment facilities.
- S26. All surface drainage channels subject to contamination in the mill area shall be adequately controlled and monitored to insure that the spilled or accumulated fiber, process chemicals, cleaning compounds, oils, leachates etc. are not carried away from the plant site. Data collected from such monitoring shall be kept on file and made available to Department of Environmental Quality staff for review upon request.
- S27. The diversion or bypass of any discharge from facilities utilized by the permittee to maintain compliance with the terms and conditions of this permit is prohibited, except (a) where unavoidable to prevent loss of life or severe property damage or (b) where excessive storm drainage or runoff would damage any facilities necessary for compliance with the terms and conditions of this permit. The permittee shall immediately notify the Department in writing of each such diversion or bypass in accordance with the procedure specified in Condition G9.
- S28. The log pond and aeration basin shall not be drained or dredged without prior written approval from the Department.
- S29. All glue waste water shall be recirculated or otherwise controlled so that it does not enter public waters.

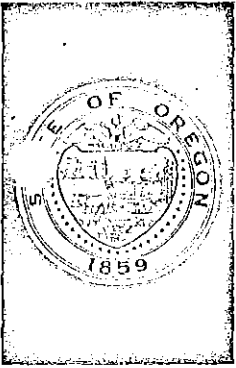
GENERAL CONDITIONS

- G1. All discharges and activities authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit.
- G2. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- G3. Whenever a facility expansion, production increase or process modification is anticipated which will result in a change in the character of pollutants to be discharged or which will result in a new or increased discharge that will exceed the conditions of this permit, a new application must be submitted together with the necessary reports, plans and specifications for the proposed changes. No change shall be made until plans have been approved and a new permit or permit modification has been issued.
- G4. After notice and opportunity for a hearing this permit may be modified, suspended or revoked in whole or in part during its term for cause including but not limited to the following:
- a. Violation of any terms or conditions of this permit or any applicable rule, standard, or order of the Commission;
 - b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
 - c. A change in the condition of the receiving waters or any other condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- G5. If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Federal Act for a toxic pollutant which is present in the discharge authorized herein and such standard or prohibition is more stringent than any limitation upon such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee shall be so notified.
- G6. The permittee shall, at all reasonable times, allow authorized representatives of the Department of Environmental Quality:
- a. To enter upon the permittee's premises where an effluent source or disposal system is located or in which any records are required to be kept under the terms and conditions of this permit;

PERMIT CONDITIONS

- b. To have access to and copy any records required to be kept under the terms and conditions of this permit;
 - c. To inspect any monitoring equipment or monitoring method required by this permit; or
 - d. To sample any discharge of pollutants.
67. The permittee shall maintain in good working order and operate as efficiently as practicable all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit.
68. The Department of Environmental Quality, its officers, agents and employees shall not sustain any liability on account of the issuance of this permit or on account of the construction or maintenance of facilities because of this permit.
69. In the event the permittee is unable to comply with all of the conditions of this permit because of a breakdown of equipment or facilities, an accident caused by human error or negligence, or any other cause such as an act of nature, the permittee shall:
- a. Immediately take action to stop, contain and clean up the unauthorized discharges and correct the problem.
 - b. Immediately notify the Department of Environmental Quality so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.
 - c. Submit a detailed written report describing the breakdown, the actual quantity and quality of resulting waste discharges, corrective action taken, steps taken to prevent a recurrence and any other pertinent information.

Compliance with these requirements does not relieve the permittee from responsibility to maintain continuous compliance with the conditions of this permit or the resulting liability for failure to comply.



DEPARTMENT OF ENVIRONMENTAL QUALITY

1234 S.W. MORRISON STREET • PORTLAND, ORE. 97205 • Telephone (503) 229- 6296

TOM McCALL
GOVERNOR

KESS CANNON
Director

MEMORANDUM TO: Director

FROM: Hearings Officer

SUBJECT: Weyerhaeuser Company, Springfield:
Application for NPDES Permit

Background

Weyerhaeuser Company has applied for a National Pollutant Discharge Elimination System (NPDES) permit for its existing wood products complex at Springfield. This complex has been under a waste discharge permit from the DEQ since 28 December 1967, and the proposed permit is essentially a much more detailed renewal of the company's previous permits, with a few significant changes which will be detailed below. It is a matter of public record that Weyerhaeuser Company has repeatedly exceeded winter discharge levels for biochemical oxygen demand (BOD) established by the existing permit.

A public hearing was held on Monday, May 13, in Harris Hall, Eugene, Oregon, to take public testimony on the proposed permit. In addition to the hearings officer, representatives of governmental agencies present included Craig Starr of the Midwest Region of DEQ, Verner Adkison, Regional Administrator of the Midwest Region of DEQ, Glenn Carter of the DEQ Water Quality Division, and James Sweeney of the United States Environmental Protection Agency (EPA).

Applicable Statutes and Rules

In determining whether an NPDES permit should be granted to Weyerhaeuser Company, and what the terms of the permit should be, several statutory provisions and rules must be reviewed. Because the precise language is significant, several sections are herewith excerpted at length.

Section 316 (c) of the Federal Water Pollution Control Amendments of 1972, (FWPCA), 33 U.S.C. Section 1326 (c), is particularly important for a determination of whether this permit should be granted. It reads in part:

"Notwithstanding any other provision of this chapter, any point source of a discharge having a thermal component, the modification of which is commenced after October 18, 1972, and which, as modified, meets



Contains
Recycled
Materials

effluent limitations established under section 1311 [section 301] of this title or, if more stringent, effluent limitations established under section 1313 [section 303] of this title and which effluent limitations will assure protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in or on the water into which the discharge is made, shall not be subject to any more stringent effluent limitation with respect to the thermal component of its discharge during a ten-year period beginning on the date of completion of such modification..." (emphasis added).

Sections 301 and 303 of the FWPCA, referred to in the passage above, are quoted in relevant part, following:

Section 301(b) of the FWPCA, 33 U.S.C. Section 1311 (b) reads in part:

"...[T]here shall be achieved...not later than July 1, 1977, effluent limitations for point sources...which shall require the application of the best practicable control technology currently available...or...any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any state law or regulations."

Section 303 of the FWPCA, 33 U.S.C. Section 1313, is a long and complex section dealing with water quality standards and implementation plans. Sub-section (d) thereof reads, in part:

"Each State shall identify those waters within its boundaries for which the effluent limitations required by section 1311 (b) [section 301(b)]...of this title are not stringent enough to implement any water quality standard applicable to such waters... and for which controls on thermal discharges under section 1311 [section 301] of this title are not stringent enough to assure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife. Each state shall establish for the waters so identified... the total maximum daily load for those pollutants... and the total maximum daily thermal load required to assure protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality and shall take into account the normal water temperatures, flow rates,... existing sources of heat input, and the dissipative capacity of the identified waters or parts thereof. Such estimates...shall include a margin of safety which takes into account any lack of knowledge concerning the development of thermal water quality criteria for such protection and propagation in the identified waters or parts thereof."

Two other sections of the FWPCA are relevant to this case. First, section 101(a), 33 U.S.C. Section 1251 (a), states, in part:

"The objective of this chapter is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters...[I]t is the national goal that the discharge of pollutants into the navigable be eliminated by 1985..."

Section 308 of the FWPCA, 33 U.S.C. Section 1318, reads, in part:

"Whenever required to carry out the objective of this chapter,... the Administrator shall require the operator of any point source to...install, use, and maintain such monitoring equipment or methods [and] sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe)... If the Administrator finds that the procedures and the law of any State relating to...monitoring...are applicable to at least the same extent as those required by this section, such State is authorized to apply and enforce its procedures for...monitoring...with respect to point sources located in such State..."

Oregon Administrative Rules (OAR) chapter 340, Division 4, applies to water pollution. The most significant provision thereof for the present determination is 41-023:

"MIXING ZONES. (1) The Department may suspend the applicability of all or part of the water quality standards set forth in this subdivision, except those standards relating to aesthetic conditions, within a defined immediate mixing zone of very limited size adjacent to or surrounding the point of waste water discharge.

(2) The sole method of establishing such a mixing zone shall be by the Department defining same in a waste discharge permit.

(3) In establishing a mixing zone in a waste discharge permit the Department:

(a) may define the limits of the mixing zone in terms of distance from the point of the waste water discharge or the area or volume of the receiving water or any combination thereof;

(b) may set other less restrictive water quality standards to be applicable in the mixing zone in lieu of the suspended standards; and

(c) shall limit the mixing zone to that which in all probability will

(A) not interfere with any biological community or population of any important species to a degree which is damaging to the ecosystem; and

(B) not adversely affect any other beneficial use disproportionately.

Other provisions of OAR chapter 340 of immediate relevance are 41-022, 41-025, and 41-100, selected portions of which are set out following:

- 41-022: "In developing treatment requirements and implementation schedules for existing installations or activities, consideration shall be given to the impact upon the overall environmental quality including air, water, land use, and aesthetics."
- 41-025: "No wastes shall be discharged...which...will cause: ...[t]he development of fungi or other growths... the formation of appreciable bottom or sludge deposits, or the formation of any organic or inorganic deposits deleterious to fish or other aquatic life or injurious to public health, recreation or industry."
- 41-100: "No wastes shall be discharged and no activities shall be conducted which...will cause in the waters of the McKenzie River Basin...any measurable increases [in temperature] when stream temperatures are 58° F. or greater; or more than 0.5° F. increase due to a single-source discharge when receiving water temperatures are 57.5° F. or less..."

Summary of Testimony

Craig Starr presented the DEQ's report on the proposed permit. He noted that Weyerhaeuser is in the process of designing a mechanical primary clarifier which should help to improve the quality of its effluent. The new permit requires Weyerhaeuser to survey and evaluate the thermal plume from the process waste water discharge and the cooling water discharge and submit a report to the Department by the first of November, 1974. Mr. Starr stated that the Department may find it necessary, after evaluating the report, to modify the permit to redefine the mixing zones or require thermal controls.

Mr. Starr testified that the new permit will require Weyerhaeuser to reduce the quantity of settleable solids being discharged into the McKenzie River to below 0.1 ml/l by 1 June 1976. The winter BOD discharge level is set at 5,700 pounds per day compared to the existing permit's level of 4,000 pounds per day. Upon examination by the hearings officer, Mr. Starr testified that this increase in allowable discharge will not allow Weyerhaeuser to discharge more pollutants into the river than it does in fact now discharge: the previous permit limitation was established by estimating the probable performance of the highest and best practicable treatment, which estimate has proven to be over-optimistic. Whereas the Weyerhaeuser system met the 1967 permit requirements for a period after the permit was issued, the long-term effectiveness of the system was subject to deterioration.

Mr. Starr explained that the mixing zones described in the permit were established on the large side because the Department presently lacks sufficient data to adequately describe the actual area within which the thermal requirements for the McKenzie River are not met during various river stages. However, no certain detrimental effects of Weyerhaeuser's thermal discharges have yet been documented.

Jerry L. Harper presented Weyerhaeuser Company's testimony. He testified that his company desires that the permit be issued for the full five years allowed under the NPDES program, rather than the less than four years of the proposed permit. He requested permission to conduct a demonstration of thermal effects under section 316 (a) of the FWPCA [33 U.S.C. Section 1326 (a)] (not reproduced above) for purposes of showing that compliance with OAR Chapter 340, section 41-100 (2) (e), reproduced above, is unnecessary. Mr. Harper repeatedly emphasized the adverse air pollution or land use effects which would be a probable concomitant of more stringent effluent or thermal limitations. Cf. OAR Chapter 340, section 41-022, reproduced above.

Mr. Harper stated that his company objects in principle to several of the conditions of the permit which restrict how Weyerhaeuser manages its internal waste flow and disposal systems. Several of the objected to conditions, however, appear to fall squarely within section 308 of the FWPCA, reproduced above.

With regard to suspended solids, Mr. Harper requested that the summertime limitation be increased to that of the 1977 EPA interim effluent guidelines: that is, from 10,000 pounds to 11,960 pounds per day, and modified to reflect final EPA guidelines if those guidelines prove to differ from the interim guidelines. He noted that compliance with the permit conditions will be met by modification of the plant. He defended the shape and size of the proposed mixing zones.

Mr. Harper objected to the vagueness of term "S22" of the permit which requires that "adequate" nutrients be added to biological treatment facilities, since overabundant nutrients would themselves be a source of harm to the river.

Statement of Proponent

Only one statement was offered in support of the proposed permit. Edward L. Ramsay, president of the Springfield Area Chamber of Commerce, strongly supported the extension of the waste discharge permit on behalf of his organization. The prime basis for the support was stated to be the jobs, payroll, and taxes Weyerhaeuser provides.

Statements of Opponents

Many witnesses directed their testimony primarily or exclusively to the increase in allowable winter BOD discharge to 5,700 pounds per day, as opposed to 4,000 pounds per day of the existing permit. This was the primary thrust of the statement of the League of Women Voters of Central Lane County ("We oppose any degradation of standards for present high quality rivers.") presented by Mary Sherriffs. Robin Jaqua also opposed an increase, stating that present standards could be met with stronger controls. Glen A. Love, Willard B. Bohrer, and Bayard H. McConnaughey all opposed an increase. John C. Sihler of McKenzie Fly Fishers suggested that the company's performance will deteriorate according to the relaxed demands being made upon them. In written testimony, Louise Smith, Mr. and Mrs. Walter H. Hebert, and Robert G. Bumstead objected to any increase in Weyerhaeuser's discharge.

The question of monitoring to assure compliance with the terms of the permit drew much testimony. Robin Jaqua, a long-time resident of the area, alleged 25 years of Weyerhaeuser concealment, and requested a meeting with DEQ officials to document this statement under oath, if desired. She asserted the company would do a better job if monitored from outside, and suggested DEQ hire a person to check thrice daily. Her son, Jon Jaqua, also questioned if self-monitoring would lead to compliance. Bayard H. McConnaughey questioned the efficacy of self-monitoring, as did William Wilson. Ronald L. Cole, Oregon State Director of Northwest Steelheaders, repeated Prof. McConnaughey's suggestion that an automatic electronic monitoring system be required to be installed as a condition of the permit. Mr. Cole recommended that Weyerhaeuser buy the devices, then give them to the DEQ. Lloyd Dolby testified that automated monitoring equipment could measure COD (chemical oxygen demand) more readily than BOD (biochemical oxygen demand), and suggested rewriting the permit in COD terms, comparing BOD and COD levels over a period of time, if necessary, to assure comparability of permit requirements. He also noted that there can be variations in data taken from monitoring stations relative to the size of suspended particles. John C. Sihler also called for independent monitoring. John L. Pilafian called for automatic monitoring devices. In written testimony, Malcolm Burke questioned the efficacy of self-monitoring.

The size and shape of the mixing zones, i.e., the area within which the permittee will be exempt from all ambient water quality standards, was the subject of a great deal of well-thought-out testimony. Christopher Kittell, representing the Northwest Environmental Defense Center, testified that he believed that the Department is violating its own conditions for the definition and restriction of mixing zones to a "very limited size," as contained in OAR, Chapter 340, section 41-023, reproduced above. He recommended that, as part of the study required by condition S2 of the proposed permit, Weyerhaeuser should be required to perform a cost-benefit analysis of measures to reduce the size of the mixing zone to various sizes, ranging from the size in the proposed permit to no mixing zone (i.e., zero discharge). Thomas Pogson testified that the language of 41-023 (3) (c) (A) refers to "the ecosystem" which a mixing zone is required "in all probability" not to interfere with to a damaging degree. He suggests that this ecosystem should be specified in the permit condition which defines the mixing zone so that the question (of whether the mixing zone so defined satisfies 41-023) becomes an ascertainable question of fact. John B. Overton testified that he believes the DEQ had an inadequate data base with which to define a mixing zone in accordance with the criteria of 41-023, and his views were echoed in written testimony submitted by Robert G. Bumstead. John Neilson, representing the Oregon Environmental Council, also testified that the DEQ lacks sufficient information upon which to define a mixing zone as large as that defined in the permit.

Closely related to the data base needed to establish a mixing zone is the testimony of several witnesses who have been observing and monitoring the river the last several years. Robin Jaqua testified that, following an improvement when Weyerhaeuser installed its present controls, the winter algal growth and presence of slime and sludge in the river has deteriorated noticeably in the last two years. Jon Jaqua testified as to slime in his cattle-watering sloughs $2\frac{1}{2}$ miles below the outfall. Don Dugdale, who owns property downstream from the outfall, testified that the river water quality has deteriorated in recent months, and he can see what appear to be paper fibers trailing from gravel bars. He testified that Weyerhaeuser apparently practices night

"slugging," and cuts back during the hours DEQ employees might inspect and monitor. Willard B. Bohrer, who owns land 400 yards downstream from the outfall, testified as to foam coming down the river. Bayard H. McConnaughey, a professor of biology at the University of Oregon, testified that the altered character of the algal-diatom growths on the rocks below the outfall compared to above shows that the discharge seriously affects the river. He also noted a decline in various aquatic insects and other benthic invertebrates in the affected stretches of the river. Ronald L. Cole asked that the DEQ give prime consideration to the impact on fisheries. Michael Starr noted that Mr. Harper had attributed the decline in the effectiveness in Weyerhaeuser's control system to sludge buildup in its lagoons. Mr. Starr asked if the lagoons get plugged, would not the river, too? He asked that the DEQ consider the cumulative effect of pollution continuing for several years. Leon Earl Henderson testified that conditions below outlets are much poorer than those above. Tom R. Bowerman read a letter from his ecologist brother, Jay, which stated that in two studies between 1965 and 1969 populations of stone fly larvae, a chief food of trout, were significantly lower below the outfall. Thomas Pogson testified at length on the biological implications of data within the DEQ files. In written testimony Robert G. Bumstead testified that there is an algae mat extending downstream from the outfall which does not exist upstream from the outfall. This mat extends, he writes, to the mouth of the McKenzie. John C. Sihler testified as to large chunks of material coming out of the outfall.

Whether alluding to section 101 (a) of the FWPCA, reproduced above, or not, several witnesses protested against any pollution of the McKenzie River. Robin Jaqua wants all discharges eliminated. Quoting from ORS 468.710 (not reproduced above), the policy section of Oregon's water pollution statute, William Wilson, a licensed river guide, argued for zero discharge. He particularly objects to the proposed permit's allowance of 28,000 pounds per day of suspended solids during winter months. Terry Esvelt of the University of Oregon Survival Center noted that the FWPCA sets a goal of zero discharge by 1985, and this permit fails to move in the direction of that goal. Ronald L. Cole noted the thrust of the law is to improve water quality, not merely maintain it at its present degraded level. He suggests comparing the quality of water at Weyerhaeuser's intake with that at the outfall.

Some witnesses noted that the Environmental Quality Commission has, by its rules (cf. 41-100, reproduced above), recognized a higher level of purity for the McKenzie River than for some other waters of the state. Robin Jaqua testified that she believed that the permit should recognize the higher standards applicable to the McKenzie. Bayard H. McConnaughey and John Overton jointly submitted a chart, noting the coldness of McKenzie River waters, the levels set in 41-100 for allowable temperature increases, and the heat of Weyerhaeuser's two discharges. Terry Esvelt noted that Oregon need not follow EPA if it wishes to impose stricter limitations, and that the special ecological system within the McKenzie River is peculiarly subject to damage from discharges such as Weyerhaeuser's. John Neilson also noted the importance of the McKenzie as a salmon fishery and its uniqueness for recreational activities, and felt the permit was inadequate to protect these values.

The temperature of the effluent was a source of particular concern. Terry Esvelt noted that the proposed permit restricted the temperature of only the cooling water, and not the process water. Moreover, quoting from

the Public Notice and Fact Sheet, he noted that the cooling water is hotter in the summer than in the winter, so that the river receives more thermal load when the water level is at its lowest, and when the receiving water is already warmer than in winter. John Neilson requested evaluation of the effect of the thermal discharges before issuance of a permit. He suggested that an interim permit be issued until Weyerhaeuser has completed the study required in the proposed permit. He asked how often the 115-degree maximum discharge occurs, and is that type of discharge coincident with migratory fish runs or hot weather?

The procedures and timetable for granting of a permit were the subject of several witnesses' testimony. Concern about the data base underlying the proposed mixing zone has already been mentioned. Bayard H. McConnaughey suggested that a cost-benefit analysis of the costs of cleanup versus allowing degradation of the river be done prior to granting a permit. Ronald L. Cole requested that the findings of Weyerhaeuser's study (required by the proposed permit) of thermal effects of the cooling water plume be made public. Michael Starr requested a deferral of the granting of the permit until after the public could read and respond to this hearings officer's report. Christopher Kittell requested that a public hearing follow an evaluation of alternate methods of reducing the size of the mixing zone. Patricia Anderson requested public participation in the permit-issuing process. John C. Sihler testified that the proposed effective length of the permit is too long, and proposed periodic hearings to call Weyerhaeuser into account. He, too, requested a delay before granting the permit. Tom R. Bowerman requested that the DEQ run a controlled environmental impact study before granting the permit. He and John L. Pilafian felt that DEQ acted as an apologist for Weyerhaeuser in defending the permittee's right to dump.

Leon Earl Henderson and Tom R. Bowerman questioned why DEQ's enforcement powers have not been brought against Weyerhaeuser for past violations, with Mr. Bowerman noting that compliance followed the only letter of reprimand sent in June 1973. Frank Barry noted that statutes prescribe heavy penalties for violation of water quality standards and suggested that DEQ impose some fines to stimulate invention on Weyerhaeuser's part.

Both Christopher Kittell and William D. Mitchell emphasized that the permit should take into account river flow levels in a more detailed manner than the proposed permit does. Mr. Kittell suggested that a larger mixing zone in summer than in winter is justified in light of the smaller quantity of receiving water to dilute the discharge. Mr. Mitchell noted that the higher allowable BOD discharge from November to June may not reflect the actual low winter water levels which sometimes prevail.

Several points were mentioned by only one witness. Robin Jaqua suggested that Weyerhaeuser was not using "highest and best practicable" technology in light of the performance of American Can Company's Halsey plant's efficient sludge removal and internal recycling. Jon Jaqua proposed that Weyerhaeuser operate below capacity to reduce its discharges until it can prove no health hazard to downstream cattle. Bayard H. McConnaughey testified that he supported regulation by the DEQ of Weyerhaeuser's internal processes. Michael Starr testified that the public should not have to choose between water quality and air and land quality. Lloyd Dolby advocated activated carbon technology for treating the process water. Patricia Anderson thought settleable solids should be regulated before the proposed permit's 1976 date. John C. Sihler raised the possibility of tax credits being given to Weyerhaeuser for buying

automatic monitoring equipment. John L. Pilafian noted Weyerhaeuser's net worth and recent profits and suggested the permittee could pay for any level of treatment DEQ required of it. Finally, Malcolm Burke suggested that if the DEQ and public ceased polluting the blood vessels which bring life to our brains by the food we eat, we will be able to think and see clearly the answers to Weyerhaeuser's pollution of the river which brings life to the earth.

Evaluation of Testimony and Recommendations

Pursuant to section 303 of the FWPCA, reproduced in part above, the State of Oregon has identified the McKenzie River as among "those waters within its boundaries...for which controls on thermal discharges under [section 301 of the FWPCA] are not stringent enough to assure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife." Again, pursuant to that section, the Environmental Quality Commission has enacted OAR Chapter 340, section 41-100, reproduced in part above. In special condition S2 of the permit, the Department has required Weyerhaeuser Company to survey and evaluate the temperature plume below the two outfalls from the Springfield plant. Uncontroverted testimony received at the hearing established a prima facie case that the temperature from the discharges, by itself or in combination with the pollutants in the process water discharge, has altered the ecology of the river below the outfalls.

Weyerhaeuser Company, in its testimony, indicated that it intends to modify its point source of discharge by addition of a primary clarifier to reduce settleable solids as required by the proposed permit. Your hearings officer has consulted with Ray Underwood, counsel for the Department, who has advised me that there is a possibility that this modification may bring Weyerhaeuser Company within section 316 (c) of the FWPCA, reproduced above. If this is the case (Mr. Underwood's conclusion when I addressed the question to him was merely preliminary), the DEQ would be precluded from imposing any more stringent effluent limitation on the thermal component of the discharge for more than ten years hence.

Section 316 (c) of the FWPCA applies only if the point source of discharge meets "effluent limitations [which] will assure protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife." While, presumptively, a permittee meeting all conditions of his permit and the EQC rules will meet effluent limitations which will so assure, the hearings officer recommends that the Director ask counsel what effect OAR Chapter 340, section 41-023, creating mixing zones, has upon this section of the FWPCA. Since that part of the river within a mixing zone is exempt from all water quality standards established by EQC rules, the applicability of "effluent limitations which will assure, etc." within mixing zones is problematical.

Aside from 41-023's interaction with the FWPCA, testimony received tended to cast doubt upon whether the Department possessed a sufficient data base prior to drafting the proposed permit to make the determinations impliedly required by the EQC's rule 41-023. Your hearings officer recommends that the permit not be issued until the Director is fully satisfied that condition S10 of the proposed permit has been drafted in accord with both the letter and the apparent intent of 41-023.

Your hearings officer found little merit in the testimony opposing the change of allowable wintertime BOD discharge (from 4,000 pounds in the present permit to 5,700 pounds in the proposed permit) on the basis that the DEQ is allowing an "increase" in pollution. The preponderance of the evidence is that the 5,700 pound limit reflects a realistic estimate of the long-term capability of this control technology at Weyerhaeuser's present operating levels. However, those witnesses who opposed this part of the proposed permit on the basis that it represents no progress toward the national goal of zero discharge by 1985 raised a telling point, in your hearings officer's opinion. If the present set of controls represented the highest and best practicable control technology in 1967, is it not reasonable to ask if this particular form of pollution can be more effectively controlled in 1974, particularly for purposes of a permit not due to expire until 1978?


Several detailed and well-thought-out suggestions were received for detailing the permittee's work program under the survey required by condition S2. Your hearings officer recommends that the Director ask his staff to review these suggestions with a view to making condition S2 more specific as to what is required from the permittee.

Past bad faith on the part of the permittee was alleged by enough witnesses to reopen the issue of whether monitoring of the permittee's performance by independent means is desirable. While several witnesses testified as to the capability of new automatic recording devices which could evaluate each aspect of permit compliance, your hearings officer lacks the requisite technical expertise to weigh this testimony.

However, the nature of the bad faith alleged tended to center around "slugging" when DEQ personnel were likely to be off-duty. Since this type of violation involves less a change of chemical nature of the effluent than an unevenness of quantity of flow, it would seem that a very simple electronic monitor which records merely quantity of flow or downstream water temperature could provide the Department with sufficient independent data to corroborate the data the Department requires the permittee to furnish. Your hearings officer recommends that the Director ask his staff for recommendations regarding such a requirement.

In light of the nature and quantity of unresolved questions regarding this discharge and its effects, your hearings officer finally recommends that a permit issued now be effective for only one year. After the permittee has completed studies such as those required under condition S2 of the proposed permit, I recommend that a new permit be proposed, with opportunity, as required by the FWPCA, for another public hearing if it appears necessary.

Submitted this fifth day of June, 1974.


Thomas G. P. Guilbert
Hearings Officer



ENVIRONMENTAL QUALITY COMMISSION

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KESSLER R. CANNON
Director

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. K, July 19, 1974 EQC Meeting

Chem-Nuclear Systems, Inc., Environmentally Hazardous Waste
Disposal Site License - Authorization for Public Hearing

BACKGROUND

At the November 26, 1973 commission meeting, the Department presented a staff report outlining the Department's evaluation and recommendations concerning the proposed Chem-Nuclear Systems, Inc. environmentally hazardous waste disposal site near Arlington. The November 26 staff report recommended that the Department be authorized to process Chem-Nuclear's application as follows:

1. Draft a proposed license which would specify the types and volumes of low-level radioactive and chemical wastes (consistent with site economics), disposal methods to be permitted and the necessary safeguards to be provided at the disposal facility. Drafting of the proposed license would be contingent upon findings of the financial advisory committee and upon receipt of additional detailed information and acceptable engineering plans proposing suitable waste disposal methods, waste volumes, safeguards and other necessary facilities at the site.
2. Make any finally proposed license available to the public and schedule a public hearing no less than 30 days thereafter for the purpose of receiving public and expert comment upon these specific conditions of the proposed license prior to its issue.
3. Condition said license to require formal application and public hearing to amend the initial license before disposing of any additional waste or constructing new disposal facilities which are not included as part of the initial license.



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4. In the event a license is issued, periodically evaluate the company's license, performance, site economics and other related factors and revise the license conditions as may be warranted to protect the environment, public health and welfare.

The Commission adopted these recommendations with the following revisions:

1. A requirement was added to the first recommendation that a formula be developed for limiting the amount of radwaste to be handled but insuring the profitability of the operation.
2. The third recommendation was revised to require formal application and public hearing only as the Director deemed necessary.

FACTUAL ANALYSIS

Subsequent to the November 26 meeting the Chem-Nuclear Financial Advisory Committee, which had been established to evaluate the financial history and prospects of Chem-Nuclear and the amount of cash bond which should be required for a license, completed its evaluation and submitted its report and recommendations to the Director on March 13, 1974. The Committee's report recommended that a license be issued to Chem-Nuclear to operate a disposal site for environmentally hazardous wastes near Arlington subject to the following conditions:

1. A cash bond in the amount of \$201,200.00 should be required to provide for closure and perpetual monitoring of the site.
2. Terms of the license and the amount of cash bond and fees should be reviewed annually for the purpose of their adjustment or continuation.
3. Chem-Nuclear Systems, Inc. should submit annually audited financial statements regarding the Arlington site and such other operating data as the DEQ may require.

Following the completion of the Advisory Committee report, Chem-Nuclear proceeded to develop engineering plans for the site and the completed plans were submitted to the Department on June 24, 1974.

Pursuant to the November 26 directives of the Commission, the Department has drafted a proposed license for the Chem-Nuclear disposal site. This preliminary draft is currently under review by the State Health Division, Nuclear and Thermal Energy Council, our legal counsel and Chem-Nuclear.

After review by those agencies and Chem-Nuclear, and any necessary revisions are made, the final draft of the proposed license would be completed by August 1, 1974.

CONCLUSIONS

With the above steps having been taken, the Department concludes that a public hearing should be held in the near future to receive public and expert comment upon the specific conditions of the proposed license.

DIRECTOR'S RECOMMENDATIONS

The Director recommends that the Commission authorize and direct the Department to:

1. Schedule a public hearing on the proposed Chem-Nuclear Arlington site license to be held on August 26, 1974, in The Dalles, Oregon.
2. Issue appropriate notices of public hearing and advise interested parties of the scheduled hearing.
3. Make the final draft of the proposed license available to the public by not later than August 1, 1974.



Director

PHW:mmm
7/8/74



ENVIRONMENTAL QUALITY COMMISSION

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KESSLER R. CANNON
Director

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. L, July 19, 1974 EQC Meeting

Adoption of Proposed Regulations for State Financial Assistance to Public Agencies for Pollution Control Facilities for the Disposal of Solid Waste

BACKGROUND

A public hearing was held at the June 21, 1974 meeting of the Environmental Quality Commission to receive testimony pertaining to the proposed rules for State Financial Assistance to Public Agencies for Pollution Control Facilities for the Disposal of Solid Waste. At that time one set of written comments from Malheur County was entered in the record and no oral testimony was presented. The record was to remain open to receive any additional written testimony for 10 days following the hearing.

DISCUSSION

The proposed rules for financial assistance were advertised in the Secretary of State's Bulletin dated June 1, 1974. Copies of the proposed rules in preliminary draft form were mailed to all known interested parties in early May and again in final proposed form on June 3. Those receiving copies included all County Courts and Commissions, all COG's and Solid Waste Planning Grantees, OSSI, AOI, LOC, AOC and others.

The letter from Malheur County is attached as the only comment received by the Department regarding the final proposed draft. In summary, the county questioned the requirement that a project proposed for state financial assistance should necessarily:

1. Be part of a DEQ approved Solid Waste Management Plan.
2. Have proven or demonstrated technical feasibility.



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3. Is shown to be within local economic constraints.
4. Provide a sinking fund for equipment replacement.

The Department is deeply involved in development of regional solid waste management plans and will continue to support their implementation. There are insufficient Pollution Control Bond Funds available to finance most research and development type projects. Without items 3 and 4 above being met, a project could very well collapse financially before complete payback of any loan.

DIRECTOR'S RECOMMENDATION

It is recommended that the attached proposed rules for State Financial Assistance to Public Agencies for Pollution Control Facilities with the following minor modifications be adopted as permanent rules, that they be filed promptly with the Office of the Secretary of State and become effective 10 days after publication by that office:

82-015 (1) a and d Delete "of Environmental Quality"

82-020 (1) to read "Land acquisition limited to that minimum amount of land [~~minimum~~] necessary to the project.



KESSLER R. CANNON
Director

EAS:mm
7/9/74

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 8

STATE FINANCIAL ASSISTANCE

Subdivision 2

STATE FINANCIAL ASSISTANCE

TO PUBLIC AGENCIES FOR
POLLUTION CONTROL FACILITIES FOR THE
DISPOSAL OF SOLID WASTE

82-005 PURPOSE. The purpose of these regulations is to prescribe requirements and procedures for obtaining state financial assistance for planning and construction of pollution control facilities for the disposal of solid waste pursuant to Article XI-H of the Oregon constitution.

82-010 DEFINITIONS. As used in these regulations unless otherwise required by context:

(1) "Department" means Department of Environmental Quality. Department actions shall be taken by the Director as defined herein.

(2) "Commission" means Environmental Quality Commission.

(3) "Director" means Director of the Department of Environmental Quality or his authorized deputies or officers.

(4) "Agency" means municipal corporation, city, county or agency of the State of Oregon, or combination thereof, applying or contracting for state financial assistance under these regulations.

(5) "EPA" means U. S. Environmental Protection Agency.

SOLID WASTE DISPOSAL

POLLUTION CONTROL FACILITIES

82-015 ELIGIBLE PROJECTS AND PROJECT PRIORITIES. Projects eligible for state financial assistance under ORS 468.220 and priority ranking of such eligible projects will be based on the following criteria approved by the Commission.

(1) Projects eligible for state financial assistance for pollution control facilities for the disposal of solid waste as authorized in ORS 468.220 shall meet the following criteria

(a) The project or facility is part or parcel of or complementary to a Department of Environmental Quality approved and locally adopted Solid Waste Management Plan.

(b) The project or facility has proven or demonstrated technical feasibility.

(c) The project or facility is within local economic constraints and abilities to administer.

(d) The project or facility must be approved by the Department of Environmental Quality.

(2) Priority of eligible projects for state assistance for planning and construction of pollution control facilities for the disposal of solid waste shall be based upon the following criteria:

(a) The project or facility is replacing existing inadequate or unacceptable methods of solid waste disposal and thereby results in improved environmental quality.

(b) The project or facility recovers resources from solid wastes.

(c) The projected facility will establish improved solid waste management practices.

(d) The need for state assistance is demonstrated.

82-020 ELIGIBLE COSTS. Eligible costs for state assistance for planning and construction of pollution control facilities for the disposal of solid wastes shall include but not necessarily be limited to:

(1) Land acquisition

Limited to that amount of land minimum necessary to project.

(2) Engineering costs for design and supervision

(3) Legal assistance directly related to project

(4) Construction

(a) Site development

(b) Structures (including earth structures

(c) Fixed utilities

(5) Major equipment (initial purchase only)

(a) Solid waste processing and handling equipment

(b) Landfill operation equipment

(c) Rolling stock

(d) Miscellaneous equipment under \$1500

82-025 SPECIAL CONSIDERATIONS ON ELIGIBLE COSTS FOR EQUIPMENT. Equipment purchases for solid waste disposal facilities with state assistance shall be given special consideration. Intended equipment purchases shall be itemized in the grant loan application and

the applicability of each individual piece of equipment to the project or facility clearly outlined for Department review. The following criteria shall be applied by the Department to equipment purchases:

(1) Equipment purchases shall be limited to initial purchases only and eligibility restricted to only that equipment necessary to sustain the performance of the project or facility.

(2) Equipment required, whether for processing or landfilling of solid wastes, that has an expected useful or mechanical life less than the anticipated life of the project, will require a sinking fund or equivalent replacement fund in the submitted project budget for such equipment replacement throughout the life of the project.

(3) All major equipment purchases shall be done through open bidding on specified types or equivalents of equipment. Specifications on major equipment needs shall be reviewed by the Department prior to purchase.

(4) Equipment purchases less than \$1500. (small tools, office equipment, etc.) do not require specifications but must be reviewed and approved by the Department.

82-030 APPLICATION DOCUMENTS. The representative of an agency wishing to apply for state financial assistance under these regulations shall submit to the Department three signed copies of each of the following completed documents:

(1) Department Solid Waste Management Projects Grant-Loan application form currently in use by the Department at the time of the application for state financial assistance. This form will be provided by the Department upon request.

(2) All applications for federal financial assistance to the solid waste projects for which state financial assistance is being requested.

(3) Resolution of the Agency's governing body authorizing an official of the agency to apply for state and federal financial assistance and to act in behalf of the agency in all matters pertaining to any agreements which may be consummated with the Department or with EPA or other federal agencies.

(4) Five year projection of the agency's estimated revenues and expenses related to the project (on forms provided by the Department).

(5) An ordinance or resolution of the agency's governing body establishing solid waste disposal user rates, and other charges for the facilities to be constructed.

(6) A legal opinion of the agency's attorney establishing the legal authority of the agency to enter into a financial assistance agreement together with copies of applicable agency ordinance and charter sections.

An application is not deemed to be completed until any additional information requested by the Department is submitted by the agency.

Applications for financial assistance for planning under ORS 468.220 (1)(e) shall be on special forms provided by the Department and shall be accompanied by a resolution of the agency's governing body.

82-035 APPLICATION REVIEW. Application documents will be reviewed by the Department staff to determine that: the proposed facilities for which state funds are requested are eligible under these regulations and applicable Oregon statutes; the proposed sources of local revenue to be pledged to the retirement of state loans are acceptable and adequate under the statutes; the facilities for which state financing is requested will be not less than 70% self-supporting and self-liquidating from approved revenues, gifts, user charges, assessments and other fees; and federal or state assistance funds are assured, or local funds are available, for the completion of the project.

82-040 LOAN OR OBLIGATION PURCHASE AGREEMENT.

(1) Following review and approval of the application documents and final construction plans and specifications by the Department and legal authorization by the governing body of the agency or its electorate, if necessary, to enter into a loan agreement with the state or an agreement to sell its general obligation bonds or other obligations to the State, the Department may enter into such loan or purchase agreement in a principle amount not to exceed 70% of the eligible project cost including the construction bid accepted, estimated engineering and inspection costs, eligible legal and fiscal costs and a contingency allowance to be established by the Department.

(2) The loan or purchase agreement shall identify sources and amounts of revenue, to be dedicated to loan or obligation retirement

sufficient to demonstrate that the facilities to be constructed will be not less than 70% self-supporting and self-liquidating. The agency will be required to furnish an annual audit report to the Department to show that adequate and acceptable revenues continue to be available for loan obligation retirement.

(3) The Department must be assured that at least 30% federal or state grant funds, other funds or combinations thereof are available to complete the total project.

(4) When the state is requested to purchase local obligations and obligation purchase agreement is entered into, the local obligations will be purchased at par to an even multiple of \$5,000, in an amount not to exceed 70% of the total eligible project cost as determined in subsection 1 of this section; except that when the amount of local obligations to be purchased by the state is less than \$100,000 they may be purchased at par to a multiple of \$1,000 in an amount not to exceed 70% of the total eligible project cost.

(5) The loan or obligation interest rate to be paid by the agency shall be equal to the interest rate on the state bonds from which the project is funded, except as provided in subsection 6 of this section.

(6) The loan or obligation retirement schedule of the agency must retire its debt obligation to the state at least as rapidly as the state bonds from which the loan funds are derived are scheduled to be retired except that when a debt retirement schedule longer than the state's

bond repayment schedule is legally required, special debt service requirements on the agency's loan or obligation purchase will be established by the Department.

(7) Loan or obligation interest and principle payments shall be due at least thirty days prior to the interest and principal payment dates established for the state bonds from which the loan or obligation purchase is advanced.

82-045 CONSTRUCTION BID DOCUMENTS REQUIRED. Following receipt of construction bids, the agency shall submit three copies each of the following documents to the Department for review and approval of contract award: tabulation of all bids received; engineer's analysis of bids; engineer's recommendations; low bidder's proposal; publisher's affidavits of advertising; and a current project cost estimate summary including an estimate of funds available for the project.

82-050 ADVANCEMENT OF LOAN OR OBLIGATION PURCHASE FUNDS.

(1) Upon receipt of three copies of the executed construction contract and the loan or obligation purchase agreement, the Department will approve the final loan amount and authorize the Treasury Department to advance the full amount of the loan or obligation purchase price to the agency.

(2) If the funds are advanced under the terms of a previously executed obligation purchase agreement, the agreement will specify a period of time, not to exceed six months, following the advancement of funds by the state during which the agency agrees to offer its obligations for public sale. The terms and conditions of the Department's bid offer

for the agency's obligations will be made available to other prospective bidders when the notice of sale of the agency's obligations is published. If the state is the successful bidder for the agency's obligations, the state will receive the obligation and the obligations will be retired under the terms of the obligation purchase agreement. If a private purchaser is the successful bidder, the state will receive reimbursement of the loan or obligation purchase funds previously advanced plus interest at the interest rate on the state bonds from which the project would have been funded if the state had been the successful bidder.

(3) Any excess loan or obligation purchase funds held by the agency following completion of the project must be used for the payment of loan or obligation principal and interest.

82-055 ADVANCEMENT OF STATE GRANT FUNDS. Depending on priority ranking as determined by the Department and the current availability of EPA or other federal grant funds, a project may receive a state grant in an amount not to exceed 30% of the total eligible project cost under the terms of a separate grant agreement. Grant payments will be advanced during construction, if requested by the agency, in increments of approximately 25% of the total eligible grant project costs as the work is completed. Each payment will be based on the consulting engineer's latest cost estimate of the completed work in place, plus materials

purchased and delivered at the time the payment request is submitted to the Department, and expenditures for engineering, legal and fiscal services that have been documented by the agency to date.

The



County of Malheur

OFFICE OF
COUNTY HEALTH DEPARTMENT

VALE, OREGON 97918

Ray Huff R.S., Chief Sanitarian

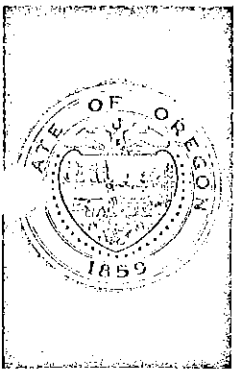
Malheur County would comment as follows regarding proposed Administrative Rules for financial assistance.

- 82-015 (1) (a) A locally adopted plan may not meet D.E.Q. approval. In our case the economics of our presently planned system has been questioned by representatives of the Department. We don't feel that these representatives were qualified to review our program economically or feasibly except for air pollution control factors. OUR plan ceased to be our plan when reviewed by D.E.Q. representatives. It became their plan.
- 82-015 (1) (b) To ask for demonstrated technical feasibility completely rules out development of new and improved methods and makes a financing program extremely inflexible. Portions of these funds should develop new approaches to problems rather than be used to stir land that is already polluted.
- 82-015 (1) (d) We suggest that the project be approved by D.E.Q. from pollution control stand point only. Not economic feasibilities.
- 82-015 (2) (a) A need to replace existing adequate facilities may arise and by virtue of the number of people or amount of waste involved may need high priority funding.
- ✓ 82-025 (2) How many governmental agencies have a sinking fund for equipment replacement. Such a fund is similar to depreciation costs. Counties with lack of adequate income might have difficulty in maintaining such a fund.
- ✓ 82-030 (5) If construction of a solid waste facility depended on the receiving of a state grant it would seem unnecessary to make ordinances when such ordinances depended upon whether or not state money were received. The ordinance should be passed after indication of state funding is received.
- 82-035 A time limit should be set on the review. We recommend ninety days maximum.
- 82-040 (1) A maximum contingency allowance, which would limit D.E.Q. should be stated in the rules by percent of eligible project costs.

Page 2

Administrative Rules

We would comment generally that property in all counties of the state secure state pollution control bonds and hopefully all of the citizens of the state will have access to use of such funds without the terrific amount of red tape that accompanies most funding of this type.



ENVIRONMENTAL QUALITY COMMISSION

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KESSLER R. CANNON
Director

MEMORANDUM

To : Environmental Quality Commission

From : Director

Subject: Agenda Item No. M, July 19, 1974 EQC Meeting

Public Hearing to Consider Repealing Existing Civil
Penalty Rules and Adopting New Rules Pertaining to
a Schedule for Civil Penalties, and Amendments to
Rules Pertaining to Practices and Procedures

Background

In 1971, Oregon law made it possible for the Commission and the Department to adopt rules on assessing civil penalties where violations occurred in air, water and solid waste management. The Department did adopt rules pertaining to this and as the staff of the Department became familiar with practice and procedure of using civil penalties, it became a very useful tool in making the violator comply with existing rules or state statutes. The 1973 Legislature revised the law on civil penalties including additional jurisdiction for penalties in oil spills and subsurface sewage disposal.

Evaluation

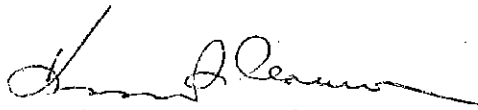
The Department's staff, with legal guidance, reviewed these changes in Oregon law and the existing rules, and a public hearing is being held before the Commission to consider the following:

- 1) repealing the existing rules on civil penalties, its existing rule on violations pertaining to oil spills into public waters and certain rules of practice and procedure relative to civil penalty hearings, and
- 2) adopting new civil penalty rules and additional amendments to the Commission's rules of practice and procedure for civil penalty proceedings.

Agenda Item No. 4,
July 19, 1974 EQC Meeting
page 2

Recommendation

Following a staff analysis of these proposed rules, it is recommended that public testimony pertaining to the proposed rules be received at this time. If there is not considerable amount of testimony and/or comments received, it is recommended that the Commission adopt these proposed rules at this meeting. If there is sufficient testimony and/or comments received, it would be recommended that the staff review this information and make a recommendation for adoption of the proposed rules at the Commission's next regularly scheduled meeting.



KESSLER R. CANNON
Director

FMB:ss

July 10, 1974

attachments: 1) proposed rules
2) public hearing notice

ENVIRONMENTAL QUALITY COMMISSION

AMENDMENT OF CHAPTER 340,

OREGON ADMINISTRATIVE RULES

Proposal to repeal existing civil
penalty rules and adopt new rules
pertaining to a schedule for civil
penalties and amendments to rules
pertaining to practices and procedures.

June 15, 1974

DEPARTMENT OF ENVIRONMENTAL QUALITY

1234 S. W. Morrison Street

Portland, Oregon 97205

(PROPOSED)

ENVIRONMENTAL QUALITY COMMISSION

AMENDMENT OF CHAPTER 340, OREGON ADMINISTRATIVE RULES

June 15, 1974

Sections 12-005 through 12-025, "Civil Penalties Schedule and Classification, Air and Water Pollution and Solid Waste Management," and section 47-030, "Regulations Pertaining to Oil Spills into Public Waters: Violations," are hereby repealed and the following rules adopted in lieu thereof:

Division 1

RULES OF GENERAL APPLICABILITY AND ORGANIZATION

Subdivision 2

CIVIL PENALTIES

12-030 DEFINITIONS. Unless otherwise required by context, as used in this subdivision:

- (1) "Commission" means the Environmental Quality Commission.
- (2) "Director" means the Director of the Department or his authorized deputies or officers.
- (3) "Department" means the Department of Environmental Quality.
- (4) "Order" means any action so designated by statute.
- (5) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.
- (6) "Respondent" means the person against whom a civil penalty is assessed.
- (7) "Violation" means a transgression of any statute, rule, standard, order, license, permit, compliance schedule, or any part thereof and includes both acts and omissions.

12-035 CONSOLIDATION OF PROCEEDINGS. Notwithstanding that each and every violation is a separate and distinct offense, and in cases of continuing violation, each day's continuance is a separate and distinct violation, proceedings for the assessment of multiple civil penalties for multiple violations may be consolidated into a single proceeding.

12-040 NOTICE OF VIOLATION. (1) Except as provided in subsection (3) of this section, prior to the assessment of any civil penalty the Department shall serve a written notice of violation upon the respondent. Service shall be in accordance with section 11-097.

(2) A notice of violation shall specify the violation and state that the Department will assess a civil penalty if the violation continues or occurs after five days following service of the notice.

(3) (a) Written notice shall not be required where the respondent has otherwise received actual notice of the violation not less than five days prior to the violation for which a penalty is assessed.

(b) No advance notice shall be required where the water pollution, air pollution, or air contamination source would normally not be in existence for five days, or where the water pollution, air pollution, or air contamination source might leave or be removed from the jurisdiction of the Department.

12-045 MITIGATING AND AGGRAVATING FACTORS. (1) In establishing the amount of a civil penalty to be assessed, the Director may consider and cite as factors:

(a) Whether the respondent has committed any prior violation, regardless of whether or not any administrative, civil, or criminal proceeding was commenced therefor;

(b) The history of the respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(c) The economic and financial conditions of the respondent;

(d) The gravity and magnitude of the violation;

(e) Whether the violation was repeated or continuous;

(f) Whether a cause of the violation was negligence or an intentional act of the respondent;

(g) The opportunity and degree of difficulty to correct the violation;

(h) The respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed;

(i) The cost to the Department of investigation and correction of the violation prior to the time the Department receives respondent's answer to the written notice of assessment of civil penalty; or

(j) Any other relevant factor.

(2) In imposing a penalty subsequent to a hearing, the Commission shall consider factors (a), (b), and (c), of subsection (1) of this section, and each other factor cited by the Director. The Commission may consider any other relevant factor.

(3) Unless the issue is raised in respondent's answer to the written notice of assessment of civil penalty, the Commission may conclusively presume that the economic and financial conditions of respondent would allow imposition of the maximum penalty. At the hearing, the burden of proof and the burden of coming forward with evidence regarding the respondent's economic and financial conditions shall be upon the respondent.

12-050 AIR QUALITY SCHEDULE OF CIVIL PENALTIES. In addition to any liability, duty, or other penalty provided by law, the Director, or the director of a regional air quality control authority, may assess a civil penalty for any violation pertaining to air quality by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for violation of an order of the Commission, Department, or regional air quality control authority.

(2) Not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for any violation which causes, contributes to, or threatens the emission of an air contaminant into the outdoor atmosphere.

(3) Not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300) for any other violation.

12-055 WATER POLLUTION SCHEDULE OF CIVIL PENALTIES. In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation relating to water pollution by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than fifty dollars (\$50) nor more than ten thousand dollars (\$10,000) for:

(a) a violation of an order of the Commission or Department;

(b) a violation of a State Waste Discharge Permit or National Pollutant Discharge Elimination System (NPDES) permit;

(c) any violation which causes, contributes to, or threatens the discharge of a waste into any waters of the state.

(2) Not less than twenty-five dollars (\$25) nor more than seven thousand five hundred dollars (\$7,500) for any other violation.

(3)(a) In addition to any penalty which may be assessed pursuant to subsections (1) and (2) of this section, any person who intentionally causes or permits the discharge of oil into the waters of the state shall incur a civil penalty not less than one thousand dollars (\$1,000) nor more than twenty thousand dollars (\$20,000) for each violation.

(b) In addition to any penalty which may be assessed pursuant to subsections (1) and (2) of this section, any person who negligently causes or permits the discharge of oil into the waters of the state shall incur a civil penalty of not less than five hundred dollars (\$500) nor more than fifteen thousand dollars (\$15,000) for each violation.

12-060 SUBSURFACE SEWAGE DISPOSAL AND NONWATER-CARRIED SEWAGE DISPOSAL FACILITIES SCHEDULE OF CIVIL PENALTIES. In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to subsurface disposal of sewage or nonwater-carried sewage disposal facilities by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) upon any person who:

(a) Violates a final order of the Commission requiring remedial action;

(b) Violates an order of the Commission limiting or prohibiting construction of subsurface sewage disposal systems or nonwater-carried sewage disposal facilities in an area;

(c) Performs, or advertises or represents himself as being in the business of performing, sewage disposal services, without obtaining and maintaining a current license from the Department, except as provided by statute or rule; or

(d) Operates or uses a subsurface sewage disposal system without first obtaining a certificate of satisfactory completion from the Department, except as provided by statute or rule.

(2) Not less than ten dollars (\$10) nor more than four hundred dollars (\$400) upon any person who:

(a) Constructs or causes to be constructed a subsurface sewage disposal system or nonwater-carried sewage facility or part thereof without first obtaining a permit from the Department therefor;

(b) Constructs or causes to be constructed a subsurface sewage disposal system or nonwater-carried sewage disposal facility which fails to meet the minimum requirements for design and construction prescribed by the Commission therefor;

(c) Commits any other violation in the course of performing sewage disposal services; or

(d) Fails to obtain a permit from the Department within three days after beginning emergency repairs on a subsurface sewage disposal system.

(3) Not less than five dollars (\$5) nor more than three hundred dollars (\$300) upon any person who commits any other violation pertaining to the subsurface disposal of sewage or nonwater-carried sewage disposal facilities.

12-065 SOLID WASTE MANAGEMENT SCHEDULE OF CIVIL PENALTIES. In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to solid waste management by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for violation of an order of the Commission or Department.

(2) Not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for any violation of a rule which causes, contributes to, or threatens;

(a) A hazard to the public health or safety;

(b) Damage to a natural resource, including aesthetic damage and irradiation;

(c) Air contamination;

(d) Vector production;

(e) Exposure of any part of an ecosystem to environmentally hazardous wastes; or

(f) A public nuisance.

(3) Not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300) for any other violation.

12-070 WRITTEN NOTICE OF ASSESSMENT OF CIVIL PENALTY; WHEN PENALTY PAYABLE.

(1) A civil penalty shall be due and payable when the respondent is served a written notice of assessment of civil penalty signed by the Director. Service shall be in accordance with section 11-097.

(2) The written notice of assessment of civil penalty shall be in the form prescribed by section 11-100 for a notice of opportunity for a hearing in a contested case, and shall state the amount of the penalty or penalties assessed.

(3) The rules prescribing procedure in contested case proceedings contained in subdivision 1 of this division shall apply thereafter.

12-075 COMPROMISE OR SETTLEMENT OF CIVIL PENALTY BY DIRECTOR. At any time subsequent to service of the written notice of assessment of civil penalty, the Director is authorized to seek to compromise or settle any unpaid civil penalty which he deems appropriate. Any compromise or settlement executed by the Director shall not be final until approved by the Commission.

ENVIRONMENTAL QUALITY COMMISSION

AMENDMENT TO CHAPTER 340, OREGON ADMINISTRATIVE RULES

June 15, 1974

I. Sections 11-105, 11-110 and 11-130 of chapter 340 of Oregon Administrative Rules are hereby repealed.

II. Division 1

"RULES OF GENERAL APPLICABILITY AND ORGANIZATION,"

Subdivision 1,

"RULES OF PRACTICE AND PROCEDURE" are hereby amended as follows (new material is indicated by underlining; material deleted is indicated by brackets; sections which are unchanged are omitted):

[Rule Making]

11-005 DEFINITIONS. Unless otherwise required by context, as used in this subdivision:

- (1) "Commission" means the Environmental Quality Commission.
- (2) "Department" means the Department of Environmental Quality.
- (3) "Director" means the Director of the Department [of Environmental Quality] or any of his authorized delegates.
- (4) "License" includes the whole or part of any Department permit, certificate, approval, registration or similar form of permission required by law to pursue any commercial activity, trade, occupation or profession.
- (5) "Order" has the same meaning as given in ORS 183.310.

(6) "Party" has the same meaning as given in ORS 183.310 and includes the Department in all contested case hearings before the Commission and before the Department or any of their presiding officers.

(7) [(6)] "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

(8) [(7)] "Rule" has the same meaning as given in ORS 183.310.

11-007 PUBLIC INFORMATIONAL HEARINGS. Whenever there is held a public hearing which is not a contested case hearing or a rule making hearing, as defined in Chapter 183 of Oregon Revised Statutes, the procedures set forth in section 11-025 shall be followed.

11-008 HEARINGS ON VARIANCES. Whenever a hearing is held regarding an application for any variance authorized to be issued by the Commission or the Department, it shall be a public informational hearing pursuant to section 11-007.

Rule Making

11-010 NOTICE OF RULE MAKING. * * * *

11-095 IMMEDIATE SUSPENSION OR REFUSAL TO RENEW A LICENSE.

If the Commission or Department, as applicable, finds a serious danger to the public health or safety and sets forth the specific reasons for such findings, the Commission or Department, as applicable, may suspend or refuse to renew a license without hearing. If the licensee demands a hearing within ninety (90) days after the date of notice to the licensee of such suspension or refusal to renew, a hearing as provided in sections 11-110 through 11-135 shall be granted to the licensee as soon as practicable after such demand, and the Commission or Department, as applicable, shall issue an order pursuant to such hearing confirming, altering or revoking its earlier order. Such a hearing need not be held where the order of suspension or refusal to renew is accompanied by or is pursuant to, a citation for violation which is subject to judicial determination in any court of this state, and the order by its terms will terminate in case of final judgment in favor of the licensee.

11-097 SERVICE OF WRITTEN NOTICE. (1) Whenever a statute or rule requires that the Commission or Department serve a written notice upon a party, the notice shall be

personally delivered or sent by registered or certified mail.

(2) An employee of the Department or any other competent person over the age of 18 years may serve a written notice.

(3) The Commission or Department perfects service of a written notice when the notice is posted addressed to or personally delivered to:

(a) The party; or

(b) Any person designated by law as competent to receive service of a summons or notice for the party; or

(c) Following appearance of counsel for the party, the party's counsel.

(4) A party holding a license or permit issued by the Department, or an applicant therefor, shall be conclusively presumed able to be served at the address given in his application, as it may be amended from time to time, until the expiration date of the license or permit.

(5) Service of written notice may be proven by a certificate executed by the person effecting service.

11-100 WRITTEN NOTICE OF OPPORTUNITY FOR A HEARING.

(1) Except as otherwise provided in section 11-095, before the Commission or Department shall by order suspend, revoke, refuse to renew or issue a license or enter [an] a final order in any other contested case as defined in ORS chapter 183, it shall afford the licensee, the license applicant or other party to the

contested case an opportunity for hearing after reasonable written notice [, served personally or by registered or certified mail].

(2) Written notice [Notice] of opportunity for a hearing shall include:

- (a) A statement of the party's right to request a hearing or a designation of the time and place of the hearing.
- (b) A statement of the authority and jurisdiction under which the hearing would be held.
- (c) A reference to the particular sections of the statutes and rules involved.
- (d) A short and plain statement of the matters asserted or charged.
- (e) [A statement that if the party desires a hearing, the agency must be notified within twenty (20) days of the date of mailing of the notice.] A statement that an answer will or will not be required if the party requests a hearing, and, if, so the consequence of failure to answer. A statement of the consequences of failure to answer may be satisfied by serving a copy of section 11-107 upon the party.

11-107 ANSWER REQUIRED: CONSEQUENCES OF FAILURE TO ANSWER. (1) Unless waived in writing by the Director, and except as otherwise provided by statute or rule, a party who

has been served written notice of opportunity for a hearing shall have 20 days from the date of mailing or personal delivery of the notice in which to file with the Director a written answer and application for hearing.

(2) In the answer the party shall admit or deny all factual matters and shall affirmatively allege any and all affirmative defenses the party may have and the reasoning in support thereof. Except for good cause shown:

(a) Factual matters not controverted shall be presumed admitted;

(b) Failure to raise a defense shall be presumed to be a waiver of such defense;

(c) New matters alleged in the answer shall be presumed to be denied; and

(d) Evidence shall not be taken on any issue not raised in the notice and the answer.

(3) In the absence of a timely answer, the Director on behalf of the Commission or Department may issue a default order and judgment/for the relief sought in the notice based upon a prima facie case made on the record.

11-120 CONDUCT OF HEARING. (1) (a) [The hearing shall be conducted] Contested case hearings before the Commission[,] shall be held under the control of the chairman as presiding officer, or [before] any Commission member or other person designated by the Commission or Director to be presiding officer.

(b) Contested case hearings before the Department shall be held under the control of the Director as presiding

officer or other person designated by the Director to be presiding officer.

(2) The presiding officer may schedule and hear any preliminary matter, including a pre-hearing conference, and shall schedule the hearing on the merits. Reasonable written notice of the date, time and place of such hearings and conferences shall be given to all parties. Except for good cause shown, failure to appear at a duly scheduled pre-hearing conference or the hearing on the merits shall be presumed to be:

- (a) A waiver of right to proceed any further;
- (b) A withdrawal of the answer;
- (c) An admission of all the facts alleged in the notice of opportunity for a hearing; and
- (d) A consent to the entry of a default order and based upon a prima facie case made on the record judgment/ for the relief sought in the notice of opportunity for a hearing.

(3) [(2)] At the discretion of the presiding officer, the hearing shall be conducted in the following manner:

- (a) Statement and evidence of the Commission or Department in support of its proposed action.
- (b) Statement and evidence of affected persons in support of, requesting modification of or disputing the Commission's or the Department's proposed action.
- (c) Rebuttal testimony, if any.

(4) Except for good cause shown, evidence shall not be taken on any issue not raised in the notice and the answer.

(5) [(3)] All testimony shall be taken upon oath or affirmation of the witness from whom received. The officer presiding at the hearing shall administer oaths or affirmations to witnesses.

(6) [(4)] The following persons shall have the right to question, examine or cross-examine any witness:

(a) The presiding officer.

(b) Where the hearing is conducted before the full Commission, any member of the Commission.

(c) Counsel for the Commission or the Department.

(d) Where the Commission or the Department is not represented by counsel, a person designated by the Commission or the Director.

(e) Any party to the contested case or such party's counsel.

(7) [(5)] The hearing may be continued with recesses as determined by the presiding officer.

(8) [(6)] The presiding officer may set reasonable time limits for oral presentation and shall exclude or limit cumulative, repetitious or immaterial matter.

(9) [(7)] The presiding officer shall, where appropriate and practicable, receive all physical and documentary evidence presented by parties and witnesses. Exhibits shall be marked,

and the markings shall identify the person offering the exhibits. The exhibits shall be preserved by the Department as part of the record of the proceedings. Copies of all documents offered in evidence shall be provided to all other parties, if not previously supplied.

(10) [(8)] A verbatim oral, written, or mechanical record shall be made of all motions, evidentiary objections, rulings and testimony.

(11) Upon request of the presiding officer or upon a party's own motion, a party may submit a pre-hearing brief, or a post-brief, or both.

(12) Following a hearing on the merits before a presiding officer, the presiding officer shall certify the exhibits and transcript.

11-132 PRESIDING OFFICER'S PROPOSED ORDER IN HEARING BEFORE THE COMMISSION. In a contested case before the Commission, if a majority of the members of the Commission have not heard the case or considered the record, the presiding officer shall prepare a written proposed order and judgment including findings of fact and conclusions of law. Copies of the proposed order and judgment shall be filed with the Commission and be served by the presiding officer upon the parties in accordance with section 11-097 (regarding service of written notice).

(2) The parties shall have 14 days from the date of mailing or personal service in which to file with the Commission

and serve upon the other parties a request that the Commission review the proposed order and judgment.

(3) Unless a timely request for Commission review is filed with the Commission, or unless within the same time limit the Commission, upon the motion of its Chairman or a majority of the members, decides to review it, the proposed order and judgment of the presiding officer shall become the final order and judgment of the Commission.

(4) If Commission review is invoked then the parties shall be given 30 days from the date of mailing or personal service of the presiding officer's proposed order and judgment, or such further time as the Director or a Commissioner may allow, to file with the Commission and serve upon the other parties written exceptions and arguments to the proposed order and judgment. Such exceptions and arguments shall include proposed alternative findings of fact, conclusions of law, order and judgment and shall include specific references to those portions of the record upon which the party relies. As to any finding of fact made by the presiding officer to which no exception, or an inadequate exception, is taken, the Commission may make an identical finding without any further consideration of the record.

(5) Following the expiration of the time allowed the parties to present exceptions and arguments, the Chairman may in his discretion schedule the matter for oral argument before the Commission.

(6) Notwithstanding whether the procedures set out in subsections (1) through (5) of this section have been completed, a majority of the members of the Commission may at any time personally

consider the whole record and issue a final order and judgment based thereon.

(7) In reviewing a proposed order and judgment prepared by a presiding officer, the Commission may, based upon the record made before the presiding officer, substitute its judgment for that of the presiding officer in making any particular finding of fact, conclusion of law, order or judgment.

(8) In reviewing a proposed order and judgment prepared by a presiding officer the Commission shall not take any additional evidence unless it is shown to the satisfaction of the Commission that the additional evidence is material and that there were good and substantial reasons for failure to present it in the hearing before the presiding officer. Requests to present additional evidence shall be submitted by motion and shall be supported by an affidavit specifying the reasons for the failure to present it at the hearing before the presiding officer. If the Commission grants the motion it may hear the additional evidence itself or remand to a presiding officer upon such conditions as it deems just.

11-133 PRESIDING OFFICER'S PROPOSED ORDER IN HEARING BEFORE THE DEPARTMENT. (1) In a contested case before the Department, if the Director has not heard the case or considered the record, the presiding officer shall prepare a proposed order and judgment including findings of fact and conclusions of law. Copies of the proposed order and judgment shall be filed with the Director and be served by the presiding officer upon the parties in accordance with section 11-097 (regarding service of written notice).

(2) The parties shall have 14 days from the date of mailing or personal service in which to file with the Director and serve upon the other parties a request that the Director review the proposed order and judgment.

(3) Unless a timely request for Director review is filed with the Director, or unless within the same time limits the Director decides to review it, the proposed order and judgment of the presiding officer shall become the final order and judgment of the Department.

(4) If Director review is invoked then the parties shall be given 30 days from the date of mailing or personal service of the presiding officer's proposed order and judgment, or such further time as the Director may allow, to file with the Director and serve upon the other parties written exceptions and arguments to the proposed order and judgment. Such exceptions and arguments shall include proposed alternative findings of fact, conclusions of law, order and judgment and shall include specific references to those portions of the record upon which the party relies. As to any finding of fact made by the presiding officer to which no exception, or an inadequate exception, is taken, the Director may make an identical finding without any further consideration of the record.

(5) Following the expiration of the time allowed the parties to present exceptions and arguments, the Director may in his discretion schedule the matter for oral argument before himself.

(6) Notwithstanding whether the procedures set out in subsections (1) through (5) of this section have been completed, the Director may at any time personally consider the whole record and issue a final order and judgment based thereon.

(7) In reviewing a proposed order and judgment prepared by a presiding officer, the Director may, based upon the record made before the presiding officer, substitute his judgment for that of the presiding officer in making any particular finding of fact, conclusion of law, order or judgment.

(8) In reviewing a proposed order and judgment prepared by a presiding officer the Director shall not take any additional evidence unless it is shown to the satisfaction of the Director that the additional evidence is material and that there were good and substantial reasons for failure to present it in the hearing before the presiding officer. Requests to present additional evidence shall be submitted by motion and shall be supported by an affidavit specifying the reasons for the failure to present it at the hearing before the presiding officer. If the Director grants the motion he may hear the additional evidence himself or remand to a presiding officer upon such conditions as he deems just.

NOTICE OF PUBLIC HEARING
ENVIRONMENTAL QUALITY COMMISSION
STATE OF OREGON

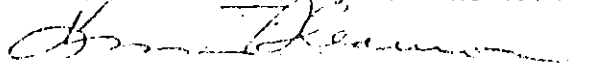
NOTICE IS HEREBY GIVEN that the Environmental Quality Commission will consider (1) repealing its existing rules on civil penalties, its existing rule on violations pertaining to oil spills into public waters, and certain of its rules of practice and procedure, and (2) adopting new civil penalty rules, and additional amendments to its rules of practice and procedure, at a public hearing commencing at 9:00 o'clock a.m. on the 19th day of July, 1974, in room 20 of the State Capitol Building in Salem, Oregon, 97310.

The Commission presently has a schedule for civil penalties, but because of law revisions during the 1973 legislature, including the addition of jurisdiction over subsurface sewage disposal, new rules are proposed to be adopted to implement these changes. The changes and amendments to present rules of practice and procedure are proposed to apply to civil penalties proceedings and all other proceedings before the Department and Commission and include, among other things, provision for an answer in contested case proceedings.

Copies of the proposed rules and amendments are available for public inspection, or may be obtained by request from the Department of Environmental Quality, Enforcement Program, 1234 S. W. Morrison Street, Portland, Oregon 97205.

Any interested person desiring to submit written testimony concerning the issues of fact, law, or policy on these matters may do so by forwarding them to the office of the Department of Environmental Quality, Enforcement Program, 1234 S. W. Morrison Street, Portland, Oregon 97205, prior to the hearing.

Dated this 4th day of June 1974



Kessler R. Cannon, Director

Subdivision 2

CIVIL PENALTIES SCHEDULE
AND CLASSIFICATION,
AIR AND WATER POLLUTION AND
SOLID WASTE MANAGEMENT

[ED. NOTE: Unless otherwise specified, sections 12-005 through 12-025 of this chapter of the Oregon Administrative Rules Compilation were adopted by the Department of Environmental Quality December 6, 1971 and filed with the Secretary of State December 17, 1971 as DEQ 33].

12-005 INTRODUCTION. Under Chapter 420, Oregon Laws 1971, any person who violates certain statutes administered by either the Department of Environmental Quality or Regional Air Quality Authorities, or violates rules or permits adopted or issued by these agencies pertaining to the control of air or water pollution or solid waste management shall, in accordance with conditions prescribed by the Department of Environmental Quality, incur a civil penalty not to exceed \$500 a day for each violation. Each and every violation is a separate and distinct offense and in case of continuing violations, every day's continuance is a separate and distinct violation. The Act provides that after considering three factors set forth therein, the Environmental Quality Commission is authorized to classify violations and adopt a schedule establishing the amount of civil penalty due for the particular violation. These three factors are: (1) the past his-

tory of a person incurring a penalty in taking steps to correct waste control deficiencies and abate pollution; (2) prior violations of law or permits pertaining to pollution control; (3) the economic and financial conditions of the person incurring a penalty. Additionally, the Department of Environmental Quality and Regional Authorities will attempt to consider these same factors in assessing the amount of a civil penalty for a particular violation within the framework of the schedule adopted by the Environmental Quality Commission.

Oregon Revised Statutes Chapter 449 require that the Department of Environmental Quality endeavor to encourage and develop the voluntary cooperation of individuals, local governments, agriculture and industry in restoring and maintaining the quality of the environment. Therefore, the schedule of civil penalties established by this regulation shall be imposed in those cases in which a violator is determined by the Department to be unresponsive and uncooperative in preventing, abating or controlling pollution or where repeated or continuing violations occur due to willful acts or failure to act, negligence or lack of adequate controls or surveillance.

12-010 NOTICE PROVISIONS. All written notices required by the Act will be served by certified mail upon these persons designated by Oregon Revised Statutes 15.080 and Oregon Revised Statutes Chapter 57, or as otherwise provided by law.

12-015 CLASSIFICATION AND SCHEDULE FOR VIOLATION OF AIR QUALITY

STATUTES, RULES, PERMITS, AND ORDERS.

Type of Violation

Schedule of Civil Penalties

(1) Non-compliance with procedural or other requirements of ORS 449.702, 449.707 and 449.712 or of rules and regulations promulgated under 449.702, 449.707, 449.712, 449.785, 449.790, 449.800, or ORS 449.875, where damage to public resource or hazard to public health and safety is not directly involved, such as but not limited to:

(1) \$25 to \$100 per day, after 5 days notice, the actual amount dependent upon:

(a) Failure to establish testing facilities or to submit samplings and testing data when requested as provided by ORS 449.702 or provided by rules adopted pursuant to ORS 449.702.

(a) Past history of pollution control efforts.

(b) Failure to register or re-register a source of air contaminant as provided by ORS 449.707 or as provided by rules adopted pursuant to ORS 449.707.

(b) Prior violations.

(c) Failure to submit notice of construction as provided by ORS 449.712 or provided by rules adopted pursuant to ORS 449.712.

(c) Economic and financial conditions of person incurring a penalty.

(d) Opportunity and degree of difficulty to comply.

(e) Magnitude and seriousness of violation.

(2) Continuing emission or a practice in violation of emission standards and/or rules adopted pursuant to ORS 449.785, ORS 449.800, ORS 449.890 or ORS 449.895, including but not limited to:

(2) The penalties for the types of violation listed are subject to 5 days notice except for 2(a), 2 (b) 2 (c), and 2 (g), the actual amount dependent upon (a) to (c) in schedule 1 preceeding:

(a) Violation of open burning rules pertaining to residential units serving four families or less.

(a) \$25 to \$250

(b) Violation of open burning rules pertaining to residential units serving more than four families.

(b) \$25 to \$500

(c) Violation of open burning rules pertaining to non-residential sources.

(c) \$25 to \$500

(d) Violation of rules pertaining to visible emissions (except ships).

(d) \$25 to \$500

(e) Violation of rules pertaining to visible emissions from ships.

(e) \$50 to \$500

(f) Violation of rules pertaining to non-visible emission standards including but not limited to particulate matter weight standards, particulate size standard, particulate matter emission standards, sulfur dioxide, and odors.

(f) \$25 to \$500

(g) Violation of rules pertaining to emissions from portable hot mix asphalt plants or other sources which might leave or be removed from jurisdiction.

(g) \$50 to \$500

(h) Violation of a rule or permit condition not otherwise classified in this schedule.

(h) \$25 to \$500

(3) Violation of a Final Order of the Environmental Quality Commission or Regional Authority issued pursuant to ORS 449.815 and ORS 449.895.

(3) \$100 to \$500 per day, without prior notice, the actual amount dependent upon (a) to (e) in schedule 1 preceeding.

12-020 CLASSIFICATION AND SCHEDULE FOR VIOLATION OF WATERQUAL-

ITY CONTROL STATUTES, RULES, PERMITS AND ORDERS.

Type of Violation

Schedule of Civil Penalties

(1) Non-compliance with procedural or other requirements of ORS 449.079, 449.083, 449.103, 449.105, 449.107, 449.109, 449.150, 449.320, 449.395 and 449.400; or of rules and regulations promulgated under 449.081, 449.086 and 449.111; or of waste discharge permits issued under authority of ORS 449.083, where damage to a public resource or hazard to public health and safety is not directly involved, such as but not limited to:

(1) \$25 to \$100 per day, after 5 days notice, actual amount dependent upon:

(a) Past history of pollution control efforts.

(b) Prior violations.

(c) Economic and financial conditions of person incurring a penalty.

(d) Opportunity and degree of difficulty to comply.

(e) Magnitude and seriousness of violation.

(a) Failure to obtain a waste discharge permit in violation of ORS 449.083.

(b) Failure to submit plans and specifications in violation of ORS 449.395.

(c) Failure to post and maintain a bond in violation of ORS 449.400.

(d) Failure to submit data, reports or other information or failure to comply with implementation schedules in violation of specific rules and regulations or specific conditions of a waste discharge permit.

(e) Violation of specific discharge limits or waste control requirements of a waste discharge permit.

(2) Continuing discharges or activities in violation of ORS 449.079, 449.083, 449.103, 449.105, 449.107, 449.109, 449.150, 449.320, or OAR Chapter 340, Division 4 or specific conditions of a waste discharge permit where:

(a) Water quality standards are violated or are directly threatened.

(b) Damage to a resource occurs or is directly threatened.

(c) Hazard to public health or safety occurs or is directly threatened.

(3) Violation of a Final Order of the Environmental Quality Commission:

(2) \$100 to \$500 per day, after 5 days notice, the actual amount dependent upon:

(a) Past history of pollution control efforts.

(b) Prior violations.

(c) Economic and financial conditions of person incurring a penalty.

(d) Opportunity and degree of difficulty to comply.

(e) Magnitude and seriousness of violation.

(3) \$100 to \$500 per day, without prior notice, the actual amount dependent upon:

(a) Past history of pollution control efforts.

(b) Prior violations.

(c) Economic and financial conditions of person incurring a penalty.

(d) Opportunity and degree of difficulty to comply.

(e) Magnitude and seriousness of violation.

12-025 CLASSIFICATION AND SCHEDULE FOR VIOLATION OF SOLID WASTE

MANAGEMENT STATUTES, RULES, PERMITS AND ORDERS.

Type of Violation

Schedule of Civil Penalties

(1) Non-compliance with procedural or other requirements of Chapters 648 and 699, Oregon Laws 1971 or rules and regulations promulgated or solid waste disposal permits or environmentally hazardous waste licenses issued thereunder; where damage to a public resource or hazard to public health and safety is not directly involved, such as but not limited to:

(1) \$25 to \$100 per day, after 5 days notice the actual amount dependent upon:

(a) Past history of pollution control efforts.

(b) Prior violations.

(c) Economic and financial conditions of person incurring a penalty.

(a) Failure to obtain a solid waste disposal permit or environmentally hazardous waste license.

(b) Violation of specific operational or waste disposal requirements of a solid waste disposal permit or environmentally hazardous waste license.

(c) Failure to submit data, reports, plans and specifications or other information or failure to comply with implementation schedules in violation of specific rules and regulations or specific conditions of a solid waste disposal permit or an environmentally hazardous waste license.

(d) Failure to post and maintain a bond or liability insurance in violation of Chapter 699, Oregon Laws, 1971.

(2) Continuing non-compliance activities in violation of Chapter 648 and 699, Oregon Laws 1971 or OAR Chapter 340, Division 6 and 7 or specific conditions of a solid waste disposal permit or environmentally hazardous waste license where:

(a) Water quality or air quality standards are violated or are directly threatened.

(b) Damage to a resource occurs or is directly threatened.

(c) Hazard to public health or safety occurs or is directly threatened.

(3) Violation of a Final Order of the Environmental Quality Commission.

(d) Opportunity and degree of difficulty to comply.

(e) Magnitude and seriousness of violation.

(2) \$100 to \$500 per day, after 5 days notice, the actual amount dependent upon:

(a) Past history of pollution control efforts.

(b) Prior violations.

(c) Economic and financial conditions of person incurring a penalty.

(d) Opportunity and degree of difficulty to comply.

(e) Magnitude and seriousness of violation.

(3) \$100 to \$500 per day, without prior notice the actual amount dependent upon:

(a) Past history of pollution control efforts.

(b) Prior violations.

(c) Economic and financial conditions of person incurring a penalty.

(d) Opportunity and degree of difficulty to comply.

(e) Magnitude and seriousness of violation.

Subdivision 7

REGULATIONS PERTAINING TO
OIL SPILLS INTO
PUBLIC WATERS

[ED. NOTE: Unless otherwise specified, sections 47-005 through 47-030 of this chapter of the Oregon Administrative Rules Compilation were adopted by the Department of Environmental Quality June 15, 1972 and filed with the Secretary of State June 15, 1972, as DEQ 45. Effective July 1, 1972.]

47-005 PURPOSE. The purpose of these regulations is to prescribe procedures for reporting and controlling oil spills into public waters, and for regulating the removal and disposal of spilled oil and rehabilitating and restoring any public resource damaged thereby, pursuant to ORS 449.155 to 449.175.

47-010 DEFINITIONS. As used in these regulations unless otherwise required by context:

(1) "Oils" or "oil" shall mean oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse and any other petroleum related product.

(2) "Having control over oil" shall include but shall not be limited to any person using, storing or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

(3) "Public waters" or "waters of the state" includes lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or

partially within or bordering the state or within its jurisdiction.

(4) "Spill" shall mean any unlawful discharge or entry of oil into public waters or waters of the state including but not limited to quantities of spilled oils that would produce a visible oily slick, oily solids or coat aquatic life, habitat or property with oil, but excluding normal discharges from properly operating marine engines.

(5) "Department" shall mean the Department of Environmental Quality.

(6) "Director" shall mean the Director of the Department of Environmental Quality.

(7) "Person" shall mean the United States, and agencies thereof, any state, any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever.

47-015 NOTICE, CONTROL AND
CLEANUP OF OIL SPILLS REQUIRED.

(1) Any person owning or having control over oil that is spilled into public waters or on land such that there is a substantial likelihood it will enter public waters shall:

(a) Immediately stop the spilling;

(b) Immediately collect and remove the spilled oil unless not feasible in which case the person shall take all practicable actions to contain, treat and disperse the same in a manner acceptable to the department;

(c) Immediately proceed to correct the cause of the spill;

(d) Immediately notify the Department of the type, quantity, and location of the spill, corrective and cleanup actions taken and proposed to be taken (immediate notification to the U.S. Coast Guard of oil spills in marine estuaries and inland navigable waters will suffice as notification to the Department); and

(e) Within seven days following a spill, submit a complete and detailed written report to the Department describing all aspects of the spill and steps taken to prevent a recurrence.

(2) Cleanup of oil spills shall proceed in a timely and diligent manner until

written notice is obtained from the Department that satisfactory cleanup has been achieved.

(3) Compliance with the above requirements does not relieve the owner or person having control over oil from liability, damages or penalties resulting from spill and clean up of such oil.

47-020 APPROVAL REQUIRED FOR USE OF CHEMICALS. (1) No chemicals shall be used to disperse, coagulate or otherwise treat oil spills except inert absorbant materials that are completely removed in the clean up process or other materials as may be specifically approved by the Department.

(2) Physical removal of oil spills will ordinarily be required except where use of chemical dispersants is warranted by extreme fire danger or other unusually hazardous circumstances.

47-025 APPROVAL REQUIRED FOR DISPOSAL OF SPILLED OILS. (1) Spilled oils and oil contaminated materials resulting from control, treatment, and clean up shall be handled and disposed of in a manner approved by the Department.

(2) Disposal of oils and oily wastes resulting from clean up of an oil spill may be achieved by reclaiming and recycling, disposal at a disposal site operated under and in accordance with a permit issued pursuant to ORS Chapter 459 or treated and discharged in accordance with a permit obtained pursuant to ORS 449.083.

47-030 VIOLATIONS. In addition to liability for costs of removal and clean up of oil spills, liability for damages to resources resulting from oil spills and cleanup of oil spills and other penalties provided by law, any person who intentionally or negligently causes or permits the discharge of oil into the waters of the state shall incur a civil penalty of an amount up to \$20,000 for each violation, pursuant to ORS 449.995. In determining the amount of civil penalty the Director shall give consideration to the following:

(1) Gravity of the violation.

(2) Previous record of compliance or non-compliance.

(3) Timeliness of notice to the Department of an oil spill.

(4) Timeliness and effectiveness of cleanup efforts.

(5) Other appropriate considerations.

(4) Cases filed under the provisions of this section or any appeal therefrom shall be given preference on the docket over all other civil cases except those given an equal preference by statute.

(5) Actions at law or suits in equity instituted pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.315 to 454.365, 454.405 to 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter may be settled or compromised at the discretion of the department, with the approval of the Attorney General, as it considers advantageous to the state.

[See 449.820]

468.110 Appeal; power of court to stay enforcement. Any person adversely affected or aggrieved by any order of the commission may appeal from such order in accordance with the provisions of ORS chapter 183. However, notwithstanding subsection (3) of ORS 183.480, relating to a stay of enforcement of an agency order and the giving of bond or other undertaking related thereto, any reviewing court before it may stay an order of the commission shall give due consideration to the public interest in the continued enforcement of the commission's order, and may take testimony thereon.

[Formerly 449.050]

468.115 Enforcement in cases of emergency. (1) Whenever it appears to the department that water pollution or air pollution or air contamination is presenting an imminent and substantial endangerment to the health of persons, at the direction of the Governor the department shall, without the necessity of prior administrative procedures or hearing, enter an order against the person or persons responsible for the pollution or contamination requiring the person or persons to cease and desist from the action causing the pollution or contamination. Such order shall be effective for a period not to exceed 10 days and may be renewed thereafter by order of the Governor.

(2) The state and local police shall cooperate in the enforcement of any order issued pursuant to subsection (1) of this section and shall require no further authority or warrant in executing and enforcing such an order.

(3) If any person fails to comply with an order issued pursuant to subsection (1) of this section, the circuit court in which the source of water pollution or air pollution or

air contamination is located shall compel compliance with the order in the same manner as with an order of that court.

[Formerly 449.980]

468.120 Public hearings; subpoenas, oaths, depositions. (1) The commission, its members or a person designated by and acting for the commission may:

(a) Conduct public hearings.

(b) Issue subpoenas for the attendance of witnesses and the production of books, records and documents relating to matters before the commission.

(c) Administer oaths.

(d) Take or cause to be taken depositions and receive such pertinent and relevant proof as may be considered necessary or proper to carry out duties of the commission and department pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.315 to 454.365, 454.405 to 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter.

(2) Subpoenas authorized by this section may be served by any person authorized by the person issuing the subpoena. Witnesses who are subpoenaed shall receive the same fees and mileage as in civil actions in the circuit court.

[Formerly 449.048]

468.125 Notice of violation. (1) No civil penalty prescribed under ORS 468.140 shall be imposed until the person incurring the penalty has received five days' advance notice in writing from the department or the regional air quality control authority, specifying the violation and stating that a penalty will be imposed if a violation continues or occurs after the five-day period, or unless the person incurring the penalty shall otherwise have received actual notice of the violation not less than five days prior to the violation for which a penalty is imposed.

(2) No advance notice shall be required, however, where the water pollution, air pollution or air contamination source would normally not be in existence for five days, including but not limited to open burning or where the water pollution, air pollution or air contamination source might leave or be removed from the jurisdiction of the department or regional air quality control authority, including but not limited to ships.

[Formerly 449.967]

468.130 Schedule of civil penalties; factors to be considered in imposing civil penalties. (1) The commission shall adopt by rule a schedule or schedules establishing the

amount of civil penalty that may be imposed for a particular violation. Except as provided in subsection (3) of ORS 468.140, no civil penalty shall exceed \$500 per day. Where the classification involves air pollution, the commission shall consult with the regional air quality control authorities before adopting any classification or schedule.

(2) In imposing a penalty pursuant to the schedule or schedules authorized by this section, the commission and regional air quality control authorities shall consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations of statutes, rules, orders and permits pertaining to water or air pollution or air contamination or solid waste disposal.

(c) The economic and financial conditions of the person incurring a penalty.

(3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the commission or regional authority considers proper and consistent with the public health and safety. [Formerly 449.970]

468.125 Procedures to collect civil penalties. (1) Subject to the advance notice provisions of ORS 468.125, any civil penalty imposed under ORS 468.140 shall become due and payable when the person incurring the penalty receives a notice in writing from the director of the department, or from the director of a regional air quality control authority, if the violation occurs within its territory. The notice referred to in this section shall be sent by registered or certified mail and shall include:

(a) A reference to the particular sections of the statute, rule, standard, order or permit involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the party's right to request a hearing.

(2) The person to whom the notice is addressed shall have 20 days from the date of mailing of the notice in which to make written application for a hearing before the commission or before the board of directors of a regional air quality control authority.

(3) All hearings shall be conducted pursuant to the applicable provisions of ORS chapter 183.

(4) Unless the amount of the penalty is paid within 10 days after the order becomes final, the order shall constitute a judgment and may be filed in accordance with the provisions of ORS 18.320 to 18.370. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(5) All penalties recovered under ORS 468.140 shall be paid into the State Treasury and credited to the General Fund, or in the event the penalty is recovered by a regional air quality control authority, it shall be paid into the county treasury of the county in which the violation occurred.

[Formerly 449.973]

468.140 Civil penalties for specified violations. (1) In addition to any other penalty provided by law, any person who violates any of the following shall incur a civil penalty for each day of violation in the amount prescribed by the schedule adopted under ORS 468.150:

(a) The terms or conditions of any permit required or authorized by law and issued by the department or a regional air quality control authority.

(b) Any provision of ORS 448.205, 454.010 to 454.040, 454.205 to 454.235, 454.315 to 454.355, 454.405 to 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter.

(c) Any rule or standard or order of the commission adopted or issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.315 to 454.355, 454.405 to 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter.

(d) Any rule or standard or order of a regional authority adopted or issued under authority of subsection (1) of ORS 468.535.

(2) Each day of violation under subsection (1) of this section constitutes a separate offense.

(3) (a) In addition to any other penalty provided by law, any person who intentionally or negligently causes or permits the discharge of oil into the waters of the state shall incur a civil penalty not to exceed the amount of \$20,000 for each violation.

(b) In addition to any other penalty provided by law, any person who violates the terms or conditions of a permit authorizing waste discharge into the waters of the state or violates any law, rule, order or standard

ORS 448.305, 454.010 to 454.040, 454.205 to 454.265, 454.315 to 454.355, 454.405 to 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter relating to water pollution shall incur a civil penalty not to exceed the amount of \$10,000 for each day of violation.

(4) Paragraphs (c) and (d) of subsection (1) of this section do not apply to violations of motor vehicle emission standards.
[Formerly 449.933]

**POLLUTION CONTROL FACILITIES
TAX CREDITS**

468.155 Definitions for ORS 468.155 to 468.190. (1) As used in ORS 468.155 to 468.190, unless the context requires otherwise, "pollution control facility" or "facility" means any land, structure, building, installation, excavation, machinery, equipment or device, or any addition to, reconstruction of or improvement of, land or an existing structure, building, installation, excavation, machinery, equipment or device reasonably used, erected, constructed or installed by any person if a substantial purpose of such use, action, construction or installation is the prevention, control or reduction of air or water pollution by:

(a) The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468.700; or

(b) The disposal or elimination of or redesign to eliminate air contaminants or air pollution or air contamination sources and the use of air cleaning devices as defined in ORS 468.275.

(2) "Pollution control facility" or "facility" does not include air conditioners, septic tanks or other facilities for human waste, nor any property installed, constructed or used for the moving of sewage to the collecting facilities of a public or quasi-public sewerage system.
[Formerly 449.606]

468.160 Policy. In the interest of the public peace, health and safety, it is the policy of the State of Oregon to assist in the prevention, control and reduction of air and water pollution in this state by providing tax credit with respect to Oregon facilities constructed to accomplish such prevention, control and reduction.
[Formerly 449.015]

468.165 Application for certification of pollution control facilities. (1) Any person may apply to the commission for certification under ORS 468.170 of a pollution control facility or facilities or portion thereof erected, constructed or installed by him in Oregon if:

(a) The facility was erected, constructed or installed on or after January 1, 1967; or

(b) (A) The substantial purpose of the facility is to utilize by burning, mechanical process or chemical process material which would otherwise be solid waste as defined in ORS 459.005;

(B) The end product of the utilization is a usable source of power or other item of real economic value;

(C) The end product of the utilization, other than a usable source of power, is competitive with an end product produced in another state; and

(D) The Oregon law regulating solid waste imposes standards more stringent than the federal law requires.

(2) The application shall be made in writing in a form prescribed by the department and shall contain information on the actual cost of the facility or facilities, a description of the materials incorporated therein, all machinery and equipment made a part thereof, the existing or proposed operational procedure thereof, and a statement of the purpose of pollution prevention, control or reduction served or to be served by the facility or facilities and, for a facility qualifying under paragraph (a) of subsection (1) of this section, the portion of the actual cost properly allocable to the prevention, control or reduction of air or water pollution as set forth in subsection (2) of ORS 468.190.

(3) The director may require such further information as he considers necessary prior to issuance of a certificate.
[Formerly 449.625]

Note: 449.625, renumbered as 468.165, was amended by two 1973 Acts; chapters 831 and 835. Chapter 831 contained the language contained in paragraphs (a) and (b) of subsection (1) and, in subsection (2) the phrase "for a facility qualifying under paragraph (a) of subsection (1) of this section." Chapter 835 did not contain that material. Legislative Counsel has compiled both chapters.

468.170 Action on application; effect of rejection; appeal; issuance of certificate; effect of certification. (1) The commission shall act on an application for certification before the 120th day after the filing of the application under ORS 468.165. The action of the commission shall include certification of the



ENVIRONMENTAL QUALITY COMMISSION

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KESSLER R. CANNON
Director

TO: Environmental Quality Commission

FROM: Hearings Officer

SUBJECT: Agenda Item No. N, July 19, 1974, EQC Meeting
Manville J. Ginter, dba Mel Ginter Auto Salvage:
Assessment of Civil Penalty for Unauthorized Open Burning

Background

By letter dated 28 March 1974, the Director of the Department assessed a civil penalty of \$50.00 against Manville J. Ginter for an alleged violation of OAR chapter 340, section 23-010(2) (regulating commercial open burning). Mr. Ginter requested a formal contested case hearing before the Environmental Quality Commission.

A hearing before a designated hearings officer was scheduled and held on Wednesday, the twenty-sixth of June, 1974, at the Northwest Regional Office of the Department of Environmental Quality. The Department was represented by Robert L. Haskins, Assistant Attorney General. Mr. Ginter represented himself.

Summary of Testimony

There exists no dispute regarding the majority of the facts in the case. Therefore, the hearings officer makes the following findings of fact:

1. Manville J. Ginter owns and operates an auto wrecking yard in Multnomah County, outside of but within one mile of the city limits of Portland, on North Swift Boulevard. The property comprises approximately four acres in a neighborhood primarily occupied by junk and wrecking yards, and is approximately one and one-half miles from the Portland City Dump. Mr. Ginter receives wrecked automobiles exclusively.

2. There are four residences within 500 feet south of Mr. Ginter's wrecking yard, the closest within approximately 50 feet. More than two blocks west of the yard, there is another cluster of residences. Upon occasion the wind in that area blows from the north and from the east.

3. Mr. Ginter earns a meager living from his business. He has no supplemental income.



Contains
Recycled
Materials

4. In the auto salvage business, seats and upholstery have little or no value. Prior to approximately 1965, Mr. Ginter routinely burned out his wrecks.

5. Since 1965, Mr. Ginter has had approximately one accidental fire per month, caused, for the most part, by sparks from his cutting torch igniting the upholstery. The vast majority of these fires Mr. Ginter has successfully extinguished immediately. He maintains 33 fire extinguishers and 200 feet of fire hose at his place of business for this purpose.

6. In August, 1967, and again in late summer or early fall of 1968, fires began at Mr. Ginter's wrecking yard in the evening after the close of business. Mr. Ginter maintains no watchman at the yard in the evenings.

7. The date of the 1967 fire Mr. Ginter was contacted by the City of Portland and informed that open burning without a permit is illegal.

8. After the 1968 fire, the Columbia-Willamette Air Pollution Authority sent Mr. Ginter a letter again informing him that open burning is illegal.

9. Between the time Mr. Ginter closed his yard on the evening of February 26, 1974, and the time he opened his yard on the morning of February 27, 1974, a person or persons unknown deposited a pile of sawdust, scrap lumber, paper, and at least one large sheet of black plastic on his premises.

10. Sometime before 10:00 a.m. on the twenty-seventh, a fire commenced in the pile of sawdust, lumber, and paper. The fire was caused by the intentional or accidental act of Mr. Ginter. (See finding 16 also.)

11. The quantity of combustible material and rate of burning were such that the air contamination source would normally not be in existence for five days.

12. In response to a complaint about smoke, James Close and Charles Gray of the Northwest Region of the Department of Environmental Quality visited Mr. Ginter at his place of business and notified him that the fire was illegal.

13. The weather on that date was cloudy, overcast, with occasional light rain and a fairly constant wind.

14. Mr. Ginter owns a flatbed truck and it would have been possible for him to truck the deposited material the short distance to the city dump. However, due to the quantity and nature of the material, it would have taken approximately two hours of hand shoveling and carting to do so--hours that would have reduced the effective length of Mr. Ginter's business day.

15. On March 29, 1974, Kessler Cannon, Director of the Department, signed and on April 3, 1974, James Close delivered by hand a notice of assessment of civil penalty, which was offered and accepted as Department's exhibit A in this proceeding. A copy of the exhibit is attached to this report.

Several other facts are disputed. The Department alleges that Mr. Ginter had a fire in March, 1968. Mr. Ginter does not recall such a fire and disputes the existence of the episode. He admits, however, as stated above, that there were fires for which he received warnings on at least two separate occasions in late summer or early fall of 1967 and 1968, respectively. On its part, the Department admits to no record of any violations from September, 1968, until February, 1974.

More crucial is the testimony of James Close under oath that Mr. Ginter told him at the time Mr. Close and Mr. Gray visited on February 27 that he, Mr. Ginter, had started the fire in question in order to get rid of the illegally dumped material. Mr. Ginter testified under oath, however, that the fire was accidentally caused by a spark from his acetylene torch when that morning he was disassembling a wrecked car adjacent to the pile of dumped material. On this point the hearings officer makes the following finding of fact:

16. The fire of February 27, 1974, was caused either by Mr. Ginter's intentional act or by extreme negligence in operating an acetylene torch in such proximity to flammable materials such as those in the pile that the pile could become ignited by sparks from the torch.

Finally, Mr. Ginter alleges that he endeavored to extinguish the fire once it started and at one time believed he was successful. However, the fire re-ignited, after which Mr. Ginter again tried to extinguish it with dirt, water, and by "stomping" on it. While not directly disputing this fact, Mr. Close's testimony as to Mr. Ginter's statement that he intentionally ignited the fire to get rid of the material implicitly contradicts Mr. Ginter's sworn testimony. The hearings officer, in light of finding of fact 16, finds resolution of this conflict unnecessary, but has included the conflicting testimony in this report for the Commission's consideration.

Conclusions of Law

1. Mel Ginter Auto Salvage, being within three miles of the City of Portland, which has a population of more than 4,000, is within a special control area as defined by OAR chapter 340, section 23-005(5).

2. The fire of February 27, 1974, was a violation of OAR chapter 340, section 23-010(2), which states: "Open burning of waste from commercial and governmental establishments...is prohibited within the boundaries of Special Control Areas."

3. No advance notice of violation was required prior to imposition of a civil penalty under ORS 468.125(2), in light of finding of fact 11.

4. The civil penalty prescribable for a violation of open burning rules pertaining to non-residential sources is not less than \$25.00 nor more than \$500.00. OAR chapter 340, section 12-015(2)(c).

5. Mr. Ginter's past history shows that he has usually taken all feasible steps or procedures necessary or appropriate to correct any violation. ORS 468.130 (2)(a). See finding of fact 5.

6. Mr. Ginter has committed at least two prior violations of rules pertaining to air contamination. ORS 468.130 (2)(b). See findings of fact 6, 7, and 8. These repeated violations occurred due to negligence or lack of adequate controls or surveillance. OAR chapter 340, section 12-005.

7. Mr. Ginter's economic and financial conditions are poor to fair. ORS 468.130 (2)(c). See finding of fact 3.

8. While the opportunity and degree of difficulty to comply would tend to suggest that the penalty should be greater and the magnitude and seriousness of the violation would tend to suggest that the penalty should be mitigated, OAR chapter 340, section 12-015(2) (right column) allows consideration of only the factors cited in conclusions of law 5, 6, and 7.

Proposed Order and Judgment

For negligent or intentional violation of OAR chapter 340, section 23-015(2), Manville J. Ginter shall pay to the Treasurer, State of Oregon, \$50.00, to be credited to the General Fund as provided in ORS 468.135(5).

Submitted this second day of July, 1974.



Thomas Gilbert
Hearings Officer

NOTE TO MR. GINTER: Under ORS chapter 183 and OAR chapter 340, section 11-130, "In contested cases before the Commission, if a majority of the members of the Commission were not present at the hearing or have not considered the record, and the order is adverse to a party, a proposed order, including findings of fact and conclusions of law, shall be served upon the parties. The Commission shall not render a final order in the contested case until each party adversely affected has been given an opportunity to file exceptions and present arguments to the Commission."

Your opportunity to file exceptions will expire July 17, 1974, (Wednesday) and your opportunity to present arguments to the Commission will be at its meeting in Room 20 of the State Capitol which begins at 9:00 a.m. Friday, July 19, 1974.

TG:bm
Enclosure

Department's exhibit A

ROUTING	
By	Forward by
TRB	CC
TRB	JRC
LDP	LDP
JRC	JRC
TRB	
REG	CC
From:	
Action:	

March 28, 1974

CERTIFIED MAIL
Return Receipt Requested

Civil penalty letter hand delivered to Mr. Ginter by JRC on Ap. 3, 1974. His new home address is 5925 N. Haight, PHd.

Mr. Marville J. Ginter
dba Mel Ginter Auto Salvage
9582 N. Burr
Portland, Oregon

Re: Violation of Open Burning Rule,
Section 23-010 (2)
NWR-AQ-74-001-01
Mel Ginter Auto Salvage

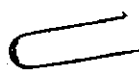
Dear Mr. Ginter:

On February 27, 1974, at 3:30 p.m. you, doing business as Mel Ginter Auto Salvage, conducted open burning of commercial wastes at your premises at 11919 N. Swift Boulevard, Portland, Oregon, which is within the boundaries of a Special Control Area. The fire covered an area of approximately 100 square feet. Said open burning by a commercial establishment violated Oregon Administrative Rules (hereinafter referred to as "OAR"), chapter 340, section 23-010 (2). Mr. James Close and Mr. Charles Gray of the Department of Environmental Quality observed the fire and Mr. Close issued you Notice of Violation No. 2140, a copy of which is enclosed.

Pursuant to OAR, chapter 340, section 12-005, I find your conduct to have been uncooperative in preventing, abating or controlling pollution.

I hereby impose a civil penalty of \$50 upon you for the above-described violation pursuant to Oregon Revised Statutes (hereinafter referred to as "ORS") 449.967 through 449.973 and 449.993, as amended by Oregon Laws 1973, chapter 835, sections 22 through 25, and OAR, chapter 340, section 12-015 Type of Violation (2) (c). In determining the precise amount of the company's penalty, pursuant to OAR, chapter 340, section 12-015 Schedule of Civil Penalties (1) (a) through (c) and (2) (a), I have considered your:

Handwritten note:
KTB -
hold payment
due date



Mr. Marville J. Ginter
Page 2
March 28, 1974

- a. History of pollution control efforts
- b. Prior violations
- c. Economic and financial conditions
- d. Opportunity and degree of difficulty to comply
- e. Magnitude and seriousness of violation

This penalty is being imposed without prior notice pursuant to ORS 449.967 (2) as amended by Oregon Laws 1973, chapter 835, section 22 and OAR, chapter 340, section 12-015 Schedule of Civil Penalties (2) (c) because the above-described open fire would not normally be in existence for five days.

This penalty is due and payable within ten (10) days after receipt of this notice. Your check in the above amount should be made out in the name of "State Treasurer, State of Oregon" and returned to this office.

You have the right, if you so request, to have a formal contested case hearing before the Environmental Quality Commission, as provided by ORS, chapter 183 and ORS 449.973 (2). The request must be made in writing to me, must be received by me within 20 days from the mailing of this notice, must specify the particular matters which you do and do not contest, and must specify any affirmative defenses you may have. Following receipt of such a request you will be notified of the date, time, and place of the hearing, at which you may be represented by counsel.

Sincerely,

Original Signed By
Kessler R. Cannon, Dir.

MAR 29 1974

KESSLER R. CANNON
Director

RLH/kz

Enclosure

cc Mr. Raymond P. Underwood,
Department of Justice
Air Quality Division, DEQ
Enforcement Division, DEQ
Northwest Region, DEQ



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KESSLER R. CANNON
Director

MEMORANDUM

TO: Environmental Quality Commission
From: Director
Subject: Agenda Item O, July 19, 1974 EQC Meeting

Continuation of PGE Bethel Turbine Facility Noise Evaluation for Consideration at the EQC Meeting July 19, 1974

Background

A joint Environmental Quality Commission (EQC)/Mid Willamette Valley Air Pollution Authority (MWVAPA) Board hearing was held in Salem on June 17, 1974, regarding noise and air quality evaluation of the Portland General Electric Company's Bethel Turbine generating facility.

The MWVAPA staff presented a report evaluating the operation of the PGE turbines and recommended among other things that if a renewal permit is issued, operation be limited to no more than 500 hours and that the plant not be allowed to operate at the Bethel site after September 1, 1975.

PGE testified concerning the need for the Bethel turbines as back-up generating facilities to assist in meeting public power needs. They also maintained that the turbines are legally located; that all reasonable air emission standards are being met and that no significant impact on air quality is being caused.

Mr. Roy L. Richards of R. M. Towne Associates, Noise Consultants, reported on the results of their noise studies and concluded in essence that:

- 1) There appears to be basis for complaints because of noise from the PGE Bethel turbines.

- 2) A reduction of 8 dB in the 31.5H_Z octave band should meet DEQ standards and reduce the complaint potential.
- 3) There does not appear to be any basis for physiological damage to humans because of noise from the Bethel turbines including noise in the infrasonic range (below 20 H_Z). There is insufficient evidence from the Bethel data and from the literature to conclude how infrasonic noise should be limited to preclude annoyance.
- 4) Vibration data gathered in the study are inconclusive to determine whether or not the turbines contribute to "architectural" damage in Bethel area homes.

Approximately 20 citizens testified. Some lived close to the Bethel turbines and claimed no problem; most objected vigorously to the location and operation of the PGE turbines near their homes. Their claimed problems ranged from simple annoyance to physiological damage to themselves and their animals and "architectural" damage to their homes. Public testimony continued until 12:15 a.m. at which time Chairman Harry Carson adjourned the hearing without either the EQC or MWVAPA Board taking formal action.

The MWVAPA Board is scheduled to continue its consideration of the PGE Bethel turbines at its meeting on July 16, 1974.

The DEQ staff presented a report on its evaluation of the PGE Bethel turbine matter and the conclusions and recommendations of that report are repeated here below.

Conclusions

As a result of its studies and evaluations, the Department's staff has drawn the following conclusions:

1. Operation of the Bethel turbines with present mufflers at the 100 MW power level produces noise levels which exceed presently imposed limits, proposed DEQ industrial noise standards, and which are readily audible in some houses up to 2,300 feet from the turbines.
2. Operation at 55 MW power level with present mufflers produces noise levels which meet presently imposed limits, comply with proposed DEQ daytime standards, exceed proposed night-time standards and are barely audible in nearest privately owned residences.
3. Proposed additional muffling equipment should readily enable the PGE Bethel facility to comply with proposed DEQ daytime and night-time standards.

4. Proposed DEQ standards should be protective against speech interference during daytime hours and against sleep interference during night-time hours (also against general annoyance), except possibly for highly sensitive or sensitized persons. They do not require suppression of industrial noises to inaudible levels.

Director's Recommendation

Based upon the information available to date, it is the recommendation of the Director that the Commission approve the following requirements to be met by PGE:

1. Installation of the proposed noise suppression equipment be approved to be installed in accordance with the following timetable:
 - a. By no later than July 15, 1974, commence construction.
 - b. By no later than October 1, 1974, complete all construction.
 - c. By no later than October 15, 1974, demonstrate compliance with the Department's industrial day/night noise standard.
2. Until the noise suppression equipment is installed, operation of the facility shall be limited to daylight hours (7:00 a.m.- 8:30 p.m.) and to one generating twin-pack at a power level not to exceed 55 megawatts.
3. After noise suppression equipment is installed, PGE shall operate the Bethel facility so as to continuously comply with the Department's day and night noise standards.
4. The Department shall, in cooperation with PGE, evaluate the effectiveness and adequacy of the installed noise suppression equipment and resultant noise level impact on the Bethel community, and report the results of its evaluation to the Commission no later than December 31, 1974.



KESSLER R. CANNON
Director

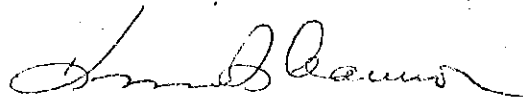
7/11/74

4. Proposed DEQ standards should be protective against speech interference during daytime hours and against sleep interference during night-time hours (also against general annoyance), except possibly for highly sensitive or sensitized persons. They do not require suppression of industrial noises to inaudible levels.

Director's Recommendation :

Based upon the information available to date, it is the recommendation of the Director that the Commission approve the following requirements to be met by PGE:

1. Installation of the proposed noise suppression equipment be approved to be installed in accordance with the following timetable:
 - a. By no later than ^{Aug 15} ~~July 15~~, 1974, commence construction.
 - b. By no later than October 1, 1974, complete all construction.
 - c. By no later than October 15, 1974, demonstrate compliance with the Department's industrial day/night noise standard.
2. Until the noise suppression equipment is installed, operation of the facility shall be limited to daylight hours (7:00 a.m.-3:30 p.m.) and to one generating twin-pack at a power level not to exceed 55 megawatts.
3. After noise suppression equipment is installed, PGE shall operate the Bethel facility so as to continuously comply with the Department's day and night noise standards.
4. The Department shall, in cooperation with PGE, evaluate the effectiveness and adequacy of the installed noise suppression equipment and resultant noise level impact on the Bethel community, and report the results of its evaluation to the Commission no later than December 31, 1974.



KESSLER R. CANNON
Director

7/11/74
5. No later than 31 Dec. emit a noise level no greater than 45DBA at any residence over 45DBA. (This is a precedent &)



ENVIRONMENTAL QUALITY COMMISSION

1234 S.W. MORRISON STREET • PORTLAND, ORE. 97205 • Telephone (503) 229-5696

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GOVERNOR

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Portland

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Salem

RONALD M. SOMERS
The Dalles

KESSLER R. CANNON
Director

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item P, July 19, 1974, EQC Meeting

Boise Cascade Corporation, Salem Pulp and Paper Plant

STATUS REPORT

Amendment of Permit Authorizing Expansion of Pulping Capacity
and Improvements to Wastewater Control Facilities

Background

At the June 27, 1974, Public Hearing in Salem, the Environmental Quality Commission approved Boise Cascade's request to increase pulping capacity subject to conditions contained in Attachment A of the Department's staff report with the exception of Condition 2a which was modified by the Commission from 400 ppm to a 200 ppm hourly average SO₂ limit. This modification was made by the EQC based on need for highly stringent control in a sensitive area which has experienced severe air quality impact from plant emissions and public, staff, and Boise Cascade testimony that SO₂ emission rates of less than 200 ppm have been attained on similar installations and may conceivably be attained with the addition of a mist eliminator at Boise Cascade Salem Plant. The EQC further stated that if 200 ppm SO₂ hourly average proved unattainable in the opinion of the Department staff after a 6 month trial period, then recommendation would be made to the EQC to modify SO₂ limits to an appropriate level.

The Department has modified Attachment A accordingly and has submitted the proposed permit amendment to Boise Cascade which will become effective July 29, 1974, unless Boise Cascade requests a hearing by that date.



Contains
Recycled
Materials

The changes made in permit amendment condition 2 are as follows:

- 1) The hourly SO₂ emission rate was reduced from 400 ppm to 200 ppm as per Commission direction.
- 2) The yearly average, monthly average, and maximum daily SO₂ emission limits were reduced to be consistent with the 200 ppm hourly average limit and to eliminate contradictory limits in the permit.
- 3) The lbs of SO₂ allowed per ton of pulp produced was reduced from 15.8 lbs/ton to 9.0 lbs/ton to reflect the lowered hourly average SO₂ emission rate and to relate allowable SO₂ emissions to actual pulp production.
- 4) Provisions were included to make the originally proposed (less stringent) SO₂ limits apply if, based on actual operating experience and after public hearing, the Department concludes that the emissions limits based on an hourly average SO₂ emission rate of 200 ppm cannot practicably be met.

It should be mentioned that although SO₂ emission rates from similar mills with mist eliminators and even Boise Cascade's Salem mill's pilot mist eliminator have reached SO₂ emission rates on an hourly basis of 50 ppm, this low SO₂ emission level has been achieved at the expense of a high generation of particulate which has caused plugging of mist eliminators. Latest information indicates SO₂ levels should be maintained at a level somewhere in the order of 150 to 200 ppm (or perhaps higher) over a long term average to minimize particulate generation and chances of mist eliminator plugging. Mist eliminator plugging would, of course, result in excessive emission for a several hour upset period while the mist eliminator is washed in order to unplug the filter media.

The Department proposes to enforce the revised permit as follows:

1. Every effort will be made to ensure that the more stringent limits are met.
2. If the limits based on the 200 ppm hourly SO₂ rate are exceeded, the staff will immediately investigate to determine the cause. If the Department determines that the Company is at fault, appropriate corrective or enforcement action will be taken.

3. Following the six-month compliance evaluation period (or sooner) but prior to expanded production, the Department will submit its report and recommendations to the Commission which will evaluate the Company's compliance or non-compliance with permit conditions and reasons therefor, the status of the ambient air impact, possible further control equipment or procedures to be effected by the Company and proposed future emission limits based on actual operating experience.

Conclusions

1. It is not known conclusively at this time whether Boise Cascade will be able to comply with the stringent 200 ppm hourly SO₂ average imposed by the EQC and whether this standard is practicable from a standpoint of preventing excessive particulate generation and subsequent mist eliminator plugging.
2. Strict Department enforcement of the revised SO₂ limits during the six-month evaluation period will be undertaken only if it appears that Boise Cascade is negligent in their application and/or operation of the recovery furnace emission control system. The Department will at all times enforce the permit condition that emissions be kept to the lowest practicable levels.
3. The Department will evaluate the practicality of the revised SO₂ emission standards and compliance with all other air permit conditions during the 6-month evaluation period and report back to the EQC with recommendations regarding compliance with permit conditions as related to proposed expansion and/or revisions in SO₂ limits if deemed appropriate.

DIRECTOR'S RECOMMENDATIONS

This report is intended to apprise the EQC of past and proposed Department action regarding permit conditions and enforcement as a result of action taken by the EQC at the June 27, 1974 hearing which was held to consider an expansion request by Boise Cascade, Salem. Since this is intended as a status report, no Commission action is required.



KESSLER R. CANNON

Attachments:

- Attachment A
- Permit as amended

ATTACHMENT A

Proposed Addition/Modifications to Boise Cascade Corporation Salem Mill Air Contaminant Discharge Permit (June 27, 1974)

1. The permittee shall be allowed to increase pulping capacity to 310 average AD tons/day by simultaneous operation of eight digesters only after adequately demonstrating compliance with all air contaminant discharge permit conditions for a six consecutive month period commencing when operation of the recovery furnace with new mist eliminator is stabilized.
2. After July 1, 1975, sulfur dioxide (SO₂) emissions from the sulfite pulp mill, excluding steam generating boiler facilities, shall be kept to the lowest practicable levels and shall not exceed the following:
 - a. 200 ppm as an hourly average;
 - b. 3075 lbs per day as a yearly average;
 - c. 3075 lbs per day as a monthly average;
 - d. Nine (9.0) lbs per unbleached air dried ton (ADT) or 3075 lbs per day as a maximum daily emission.

Except, if after operation of the recovery furnace with the new mist eliminator is stabilized, the Department determines, after public hearing, that the specific emission limitations set forth above cannot be met when the mill operates at the increased pulping capacity provided herein, the following limits shall apply:

Sulfur dioxide (SO₂) emission from the sulfite pulp mill, excluding steam generating boiler facilities, shall be kept at the lowest practicable levels but shall not exceed the following:

- a. 400 ppm as an hourly average;
 - b. 4100 lbs per day as a yearly average;
 - c. 4500 lbs per day as a monthly average;
 - d. Fifteen and eight-tenths (15.8) lbs per unbleached air dried ton (ADT) or 5400 lbs per day as a maximum daily emission.
3. Prior to increasing pulping capacity to 310 average ADT/day but not later than February 1, 1976, the permittee shall vent acid plant and counter current washer sulfur dioxide emissions to the recovery furnace control system or provide equivalent control acceptable to the Department.

AIR CONTAMINANT DISCHARGE PERMIT PROVISIONS
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Department of Environmental Quality for

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4. After installation and operation of the recovery furnace mist eliminator, the permittee shall undertake a program in conjunction with the Department which will determine to what extent, if any, emissions from the recovery furnace systems result in perceivable concentrations of sulfur dioxide off the plant site. The study shall be completed by not later than November 1, 1975. If results of the study indicate perceivable off site concentrations of SO₂ occur at a frequency determined by the Department to constitute a nuisance, the permittee shall submit a program to the Department by not later than January 1, 1976, for review and approval which should in the judgement of the Department eliminate this problem.

If a control program is required, consideration shall be given to increasing buoyance of the recovery furnace exhaust gas by injection of auxiliary heat and/or increasing the stack height.

5. The permittee shall utilize water sprays or equivalent control approved by the Department on the mechanical chip conveyor whenever the conveyor is operating to adequately pre-wet wood chips and fines prior to pneumatic transfer.
6. The permittee shall submit by September 1, 1974, to the Department for review and approval a proposed study and evaluation program to identify fugitive emissions which may be escaping or have the potential of escaping from the mill site in such a manner and such amount as to cause a nuisance as defined in OAR 21.050.
- a. The study shall include but not be limited to evaluation of the adequacy of the present pneumatic chip blowing operation, chip transfer cyclone, and knot storage bin.
- b. The permittee shall submit to the Department by November 1, 1974, a compliance schedule for remedial actions if any are required as a result of the study. The compliance schedule shall be developed with a compliance demonstration objective date of July 1, 1975.
7. By July 1, 1975, the permittee shall install an opacity monitor and recorder acceptable to the Department on the recovery furnace exhaust stack.

AIR CONTAMINANT DISCHARGE PERMIT

Department of Environmental Quality
1234 S.W. Morrison Street
Portland, Oregon 97205
Telephone: (503) 229-5696
Issued in accordance with the provisions of
ORS 449.727

<p>ISSUED TO: Boise Cascade Corporation Paper Group Salem, Oregon 97301</p> <p>PLANT SITE: Boise Cascade Corporation Paper Group Salem, Oregon 97301</p>	<p>REFERENCE INFORMATION</p> <p>Application No. 0012</p> <p>Date Received November 1, 1972</p>
---	--

Amendment No. II

In accordance with Oregon Administrative Rules 340-20-033.02 Air Contaminant Discharge Permit Number 24-4171 is modified as follows:

Condition 2, Section A, is replaced by the following new condition:

2. After July 1, 1975, sulfur dioxide (SO₂) emissions from the sulfite pulp mill, excluding steam generating boiler facilities, shall be kept to the lowest practicable levels and shall not exceed the following:
 - a. 200 ppm as an hourly average;
 - b. 3075 lbs per day as a yearly average;
 - c. 3075 lbs per day as a monthly average;
 - d. Nine (9.0) lbs per unbleached air dried ton (ADT)
or 3075 lbs per day as a maximum daily emission.

Except, if after operation of the recovery furnace with the new mist eliminator is stabilized, the Department determines, after public hearing, that the specific emission limitations set forth above cannot be met when the mill operates at the increased pulping capacity provided herein, the following limits shall apply;

AIR CONTAMINANT DISCHARGE PERMIT PROVISIONS
Issued by the
Department of Environmental Quality for

Expiration Date: 12/31/74
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Appl. No.: 0012
File No.: 24-4171

AMENDMENT NO. II

Sulfur dioxide (SO₂) emission from the sulfite pulp mill, excluding steam generating boiler facilities, shall be kept at the lowest practicable levels but shall not exceed the following:

- a. 400 ppm as an hourly average;
- b. 4100 lbs per day as a yearly average;
- c. 4500 lbs per day as a monthly average;
- d. Fifteen and eight-tenths (15.8) lbs per unbleached air dried ton (ADT) or 5400 lbs per day as a maximum daily emission.

The following new conditions are added to the "Performance Standards and Emission Limits" portion of Section A:

8. The permittee shall be allowed to increase pulping capacity to 310 average AD tons/day by simultaneous operation of eight digesters only after adequately demonstrating compliance with all air contaminant discharge permit conditions for a six-consecutive-month period commencing when operation of the recovery furnace with new mist eliminator is stabilized.
9. Prior to increasing pulping capacity to 310 average ADT/day but not later than February 1, 1976, the permittee shall vent acid plant and counter current washer sulfur dioxide emissions to the recovery furnace control system or provide equivalent control acceptable to the Department.
10. After installation and operation of the recovery furnace mist eliminator, the permittee shall undertake a program in conjunction with the Department which will determine to what extent, if any, emissions from the recovery furnace systems result in perceivable concentrations of sulfur dioxide off the plant site. The study shall be completed by not later than November 1, 1975. If results of the study indicate perceivable off site concentrations of SO₂ occur at a frequency determined by the Department to constitute a nuisance, the permittee shall submit a program to the Department by not later than January 1, 1976, for review and approval which should in the judgement of the Department eliminate this problem.

If a control program is required, consideration shall be given to increasing buoyance of the recovery furnace exhaust gas by injection of auxiliary heat and/or increasing the stack height.
11. The permittee shall utilize water sprays or equivalent control approved by the Department on the mechanical chip conveyor whenever the conveyor is operating to adequately pre-wet wood chips and fines prior to pneumatic transfer.

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AMENDMENT NO. II

12. The permittee shall submit by September 1, 1974, to the Department for review and approval a proposed study and evaluation program to identify fugitive emissions which may be escaping or have the potential of escaping from the mill site in such a manner and such amount as to cause a nuisance as defined in OAR 21.050.
- a. The study shall include but not be limited to evaluation of the adequacy of the present pneumatic chip blowing operation, chip transfer cyclone, and knot storage bin.
 - b. The permittee shall submit to the Department by November 1, 1974, a compliance schedule for remedial actions if any are required as a result of the study. The compliance schedule shall be developed with a compliance demonstration objective date of July 1, 1975.
13. By July 1, 1975, the permittee shall install an opacity monitor and recorder acceptable to the Department on the recovery furnace exhaust stack.

The remaining condition numbers in Section A of the permit are re-numbered as follows:

Condition	8.	is renumbered	condition	14.
"	9.	"	"	15.
"	10.	"	"	16.
"	11.	"	"	17.
"	12.	"	"	18.

This amendment shall be attached to and made part of Air Contaminant Discharge Permit Number 24-4171.

DEPARTMENT OF ENVIRONMENTAL QUALITY

By _____

Title _____

Date _____

AIR CONTAMINANT DISCHARGE PERMIT PROVISIONS

Issued by the
Department of Environmental Quality for
Boise Cascade Corporation

AMENDMENT I

Expiration Date: 12/31/74

Page 1 of 2

Appl. No.: 0012

File No.: 24-4171

Date Amended: 6/13/74

Delete: Condition 1, Section A.

Substitute: Condition 1, Section A

1. After July 1, 1974, sulfur dioxide (SO₂) emissions from the sulfite pulp mill excluding the steam generating boiler facilities shall not exceed the following:
 - a. 800 ppm as an hourly average,
 - b. 5,500 pounds per day as a monthly average, or
 - c. Twenty (20) pounds per unbleached, air-dried-ton (adt) or 6,200 pounds per day as a maximum daily emission.

Delete: Condition 4, Section A.

Substitute: Condition 4, Section A

4. a. As soon as practicable but not later than July 1, 1975, the recovery system particulate emissions shall not exceed the following:
 - 1) Four (4) pounds per adt of pulp produced, or
 - 2) An opacity equal to or greater than twenty percent (20%) for an aggregated time or more than three (3) minutes in any one (1) hour exclusive of uncombined moisture.
- b. The permittee shall install a mist eliminator to control recovery boiler emissions in accordance with the following schedule:
 - 1) By no later than July 1, 1974, submit plans and specifications to the Department for all necessary construction and/or modification work.
 - 2) By no later than August 1, 1974, obtain approval from the Department of engineering plans and specifications with any required amendments of the air contaminant control system.
 - 3) By no later than September 1, 1974, issue all purchase orders for components and control equipment.

AIR CONTAMINANT DISCHARGE PERMIT PROVISIONS

Issued by the
Department of Environmental Quality for

Boise Cascade Corporation

Expiration Date: 12/31/74

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Date Amended 6/13/74

AMENDMENT I

- 4) By no later than December 1, 1974, commence construction and/or modification work.
- 5) By no later than May 15, 1975, complete all construction and/or modification work.
- 6) By no later than July 1, 1975, demonstrate that the recovery boiler is operated in compliance with Condition 4.a.

AIR CONTAMINANT DISCHARGE PERMIT

Department of Environmental Quality
 1234 S.W. Morrison Street
 Portland, Oregon 97205
 Telephone: (503) 229-5696
 Issued in accordance with the provisions of
 ORS 449.727

<p>ISSUED TO: BOISE CASCADE CORPORATION Paper Group Salem, OR 97301</p> <p>PLANT SITE: BOISE CASCADE CORPORATION Paper Group Salem, OR 97301</p> <p>ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY</p> <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: right;"> <p>JUN 18 1973 Date</p> </div> </div> <p style="font-size: small;">Diarmuid F. O'Scannlain Director</p>	<p>REFERENCE INFORMATION</p> <p>Application No. <u>0012</u></p> <p>Date Received <u>November 1, 1972</u></p> <p>Other Air Contaminant Sources at this Site:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 20%; text-align: center;">Source</th> <th style="width: 10%; text-align: center;">SIC</th> <th style="width: 10%; text-align: center;">Permit No.</th> </tr> </thead> <tbody> <tr> <td>(1)</td> <td>_____</td> <td></td> <td></td> </tr> <tr> <td>(2)</td> <td>_____</td> <td></td> <td></td> </tr> </tbody> </table>		Source	SIC	Permit No.	(1)	_____			(2)	_____		
	Source	SIC	Permit No.										
(1)	_____												
(2)	_____												

SOURCE(S) PERMITTED TO DISCHARGE AIR CONTAMINANTS:

Name of Air Contaminant Source	Standard Industry Code as Listed
SULFITE PULP AND PAPER	2621
TORULA YEAST MANUFACTURE	2821

Permitted Activities

Until such time as this permit expires or is modified or revoked, BOISE CASCADE CORPORATION is herewith permitted to discharge treated exhaust gases containing air contaminants including emissions from those processes and activities directly related or associated thereto in conformance with the requirements, limitations, and conditions of Section A through C of this permit from its 310 ton per day (pulp capacity) sulfite pulp and paper mill consisting of pulp and paper making facilities, and steam generating boiler facilities, located at Salem, Oregon.

<u>Divisions of Permit Specifications</u>	<u>Page</u>
Section A - Sulfite Pulp and Paper	2
Section B - Torula Yeast Manufacture	5
Section C - General Requirements	7

Fee Paid: \$325.00

SECTION A - SULFITE PULP AND PAPER

Performance Standards and Emission Limits

The permittee shall at all times maintain and operate all air contaminant generating processes and all contaminant control equipment at full efficiency and effectiveness, such that the emission of air contaminants are kept at the lowest practicable levels, and in addition:

1. After July 1, 1974, sulfur dioxide (SO₂) emissions from the sulfite pulp mill (including the recovery system) shall not exceed the following:
 - a. 800 ppm as an hourly average,
 - b. 5,500 pounds per day as a monthly average, or
 - c. Twenty (20) pounds per unbleached, air-dried ton (adt) or 6,200 pounds per day as a maximum daily emission.
2. Until completion of this digester pump-out system the recovery furnace SO₂ emissions shall not exceed the following:
 - a. 800 ppm as an hourly average,
 - b. 400 ppm as a monthly average,
 - c. Eighteen (18) pounds per ton or 4,500 pounds per day as a monthly average, or
 - d. Eighteen (18) pounds per ton or 5,580 pounds per day.
3. Blow pit vent SO₂ emissions shall be kept to the lowest practicable levels at all times.
4. As soon as practicable but not later than July 1, 1974, the recovery system particulate emissions shall not exceed the following:
 - a. Four (4) pounds per adt of pulp produced, or
 - b. An opacity equal to or greater than twenty percent (20%) for an aggregated time or more than three (3) minutes in any one (1) hour exclusive of uncombined moisture.

AIR CONTAMINANT DISCHARGE PERMIT PROVISIONS
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5. Emissions from the steam-generating boilers, fired by natural gas and alternatively residual fuel oil, shall not exceed:

- a. Two-tenths (0.2) grain per standard cubic foot, at twelve percent (12%) carbon dioxide (CO₂) or at fifty percent (50%) excess air,
- b. An opacity equal to or greater than twenty percent (20%) for an aggregated time of more than three (3) minutes in any one (1) hour, or
- c. One thousand (1,000) ppm of sulfur dioxide (SO₂).

6. The use of residual fuel oil containing more than two and one-half percent (2.5%) sulfur by weight is prohibited.

7. The use of residual fuel oil containing more than one and three-quarters percent (1.75%) sulfur by weight is prohibited after July 1, 1974.

Compliance Demonstration Schedule

8. The permittee shall continue the installation of blow pit vent SO₂ emission controls, as approved by the Department of Environmental Quality, according to the following schedule:

- a. Purchase orders for remaining components and for all site preparation and erection work as issued, shall be confirmed in writing by no later than May 15, 1973,
- b. Construction shall be completed by no later than December 31, 1973,
- c. In the event that the company is unable to demonstrate compliance by December 31, 1973, the company shall submit reports to the Department on not less than a monthly basis relative to the problems encountered and the procedures and time schedules implemented to solve those problems,
- d. Compliance shall be demonstrated as soon as possible after the installation is completed, but in no case later than July 1, 1974, and
- e. The permittee shall notify the Department of Environmental Quality in writing within fourteen (14) days of the completion of each of these conditions, and further, shall submit an interim progress report by no later than August 1, 1973, describing the construction status for installing the components of the blow-pit vent control system.

AIR CONTAMINANT DISCHARGE PERMIT PROVISIONS

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9. The permittee shall determine and submit by no later than August 1, 1973, a report to the Department of Environmental Quality summarizing the mechanism and location of particulate formation in the recovery system, and the minimizing of emissions possible through operating-parameter optimization.

10. The permittee shall effectively monitor the operation and maintenance of the sulfur pulp and paper production and control facilities. A record of all such data shall be maintained and submitted to the Department of Environmental Quality within fifteen (15) days after the end of each calendar month unless requested in writing by the Department to submit this data at some other frequency. Unless otherwise agreed to in writing the information collected and submitted shall be in accordance with the testing, monitoring and reporting recognized applicable standard methods approved in advance by the Department, and shall include, but not necessarily be limited to, the following parameters and monitoring frequencies:

<u>Parameter</u>	<u>Minimum Monitoring Frequency</u>
a. Digester blow pit vent sulfur dioxide emissions	Once per week until completion of digester pump-out system
b. Recovery system sulfur dioxide emissions	Continually monitored
c. Recovery furnace particulate emissions	Three (3) times per month
d. Production of unbleached pulp	Summarized monthly from production records

11. The final monthly report required in condition 10. submitted during any calendar year shall also include quantities and types of fuels used during that calendar year.

12. The Department shall be promptly notified of any upset condition in accordance with OAR, Chapter 340, "Upset Conditions" which may cause or tend to cause any detectable increase in atmospheric emissions. Such notice shall include the reason for the upset and indicate the precautions taken to prevent a recurrence.

AIR CONTAMINANT DISCHARGE PERMIT PROVISIONS

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SECTION B - TORULA YEAST MANUFACTURING

Permitted Activities

Until such time as this permit expires or is modified or revoked, BOISE CASCADE CORPORATION is herewith permitted to discharge treated exhaust gases containing air contaminants in conformance with the requirements, limitations, and conditions of this permit from its 1,400 pound per hour (dry basis) Torula Yeast Plant (14,500 pound/hour spent sulfite liquor input) consisting of fermenters, separators, wash tanks, pasteurizer, spray dryer with exhaust cyclones and scrubber, and packing station exhaust baghouse collector located at Salem, Oregon.

Performance Standards and Emission Limits

The permittee shall at all times maintain and operate all air contaminant generating control equipment at full efficiency and effectiveness, such that the emission of air contaminants are kept at the lowest practicable levels, and in addition:

1. Particulate emissions from the plant shall not:
 - a. Exceed 0.1 grain per standard cubic foot of exhaust gas from any single source, or
 - b. Exceed 12.8 pounds per hour of particulates from all emission sources in the plant at a production rate of 1,400 pounds per hour.
2. Air contaminant emissions from any single source of emission shall not be as dark or darker in shade as that designated as number one (No. 1) on the Ringlemann Chart or equal to or greater than twenty (20%) percent opacity for a period of more than three (3) minutes in any one (1) hour.

Monitoring and Reporting

3. The permittee shall effectively monitor the operation and maintenance of the Torula Yeast production and control facilities. A record of all such data shall be maintained and made available upon request by the Department of Environmental Quality or the Mid-Willamette Valley Air Pollution Authority (Regional Authority). Unless otherwise agreed to in writing the information collected and submitted shall be in accordance with testing, monitoring and reporting procedures on file at the Department of Environmental Quality or Regional Authority, or in conformance with recognized applicable standard methods approved in advance by the Department and Regional Authority.

4. At the end of each calendar year a report shall be submitted including annual production and operating hours to both the Department of Environmental Quality and the Mid-Willamette Valley Air Pollution Authority (MWVAPA).

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5. Any schedule maintenance of operating or emission control equipment which would result in any violation of this permit shall be reported at least twenty-four (24) hours in advance to the Department of Environmental Quality and the Mid-Willamette Valley Air Pollution Authority (MWVAPA).

6. Any upsets or breakdowns which result in any violations of this permit shall be reported within one (1) hour to the Department of Environmental Quality and the Mid-Willamette Valley Air Pollution Authority (MWVAPA).

SECTION C - GENERAL REQUIREMENTS

Emergency Reduction Plan

1. The permittee shall establish and maintain a "Preplanned Abatement Strategy", filed with and approved by the Department of Environmental Quality, and implemented in response to Air Pollution Alerts, Warnings, and Emergencies as they are Declared and Terminated by the Department of Environmental Quality, or Mid-Willamette Air Pollution Authority (Regional Authority).

Prohibited Activities

2. The permittee is prohibited from conducting any open burning at the plant site.
3. The permittee is prohibited from causing or allowing discharges of air contaminants from sources not covered by this permit so as to cause the plant site to exceed the standards fixed by this permit or rules of the Department of Environmental Quality.

Special Conditions

4. (NOTICE CONDITION) The permittee shall dispose of all solid wastes or residues in manners and at locations approved by the Department of Environmental Quality.
5. The permittee shall provide adequate controls and safeguards to prevent the escapement of ammonia (NH_3) from all handling and process systems in such quantities that cause ammonia odors to be detected off the plant premises.
6. The permittee shall allow Department of Environmental Quality representatives access to the plant site and record storage areas at all reasonable times for the purposes of making inspections, surveys, collecting samples, obtaining data, reviewing and copying air contaminant emission discharge records and otherwise conducting all necessary functions related to this permit.
7. The permittee is prohibited from altering, modifying or expanding the subject sulfite pulp and paper production facilities which would have an effect on emissions to the atmosphere without prior notice to and approval by the Department of Environmental Quality.
8. The permittee shall be required to make application for a new permit if a substantial modification, alteration, addition or enlargement is proposed which would have a significant impact on air contaminant emission increases or reductions at the plant site.
9. The permittee shall submit the Annual Compliance Determination Fee to the Department of Environmental Quality according to the following schedule:

Amount Due

\$175.00

Date Due

December 1, 1973

AIR CONTAMINANT DISCHARGE PERMIT PROVISIONS
Issued by the
Department of Environmental Quality for
BOISE CASCADE CORPORATION

Expiration Date: 12/31/74
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10. This permit is subject to revocation for cause, as provided by law, including:
- a. Misrepresentation of any material fact or lack of full disclosure in the application including any exhibits thereto, or in any other additional information requested or supplied in conjunction therewith;
 - b. Violation of any of the requirements, limitations or conditions contained herein; or
 - c. Any material change in quantity or character of air contaminants emitted to the atmosphere.

TESTIMONY RECEIVED AT JULY 19, 1974 EQC MEETING:

1. telegram from Motorcycle Industry Council, Inc., dated July 18, 1974
2. letter from Kawasaki Motors Corp., U.S.A., dated July 16, 1974
- *3. Lynn Newbry, State Senator representing District 26
- *4. Thomas C. Donaca, representing Noise Committee of AOI
5. Ben Heald, representing Noise Committee of AOI
- *6. Mark Dodson, representing Pacific Gas Transmission Company
- *7. David A. Pahl, for Northwest Food Processors Association
- *8. Jeanette Egger for Oregon Environmental Council
- *9. Walter A. Hitchcock for Port of Portland
- *10. Roger Emmons for Oregon Sanitary Service Institute
- *11. Marlene M. Frady, Salem, Oregon
- *12. Gene Hopkins for Greater Medford Chamber of Commerce
13. James B. Lee, for Northwest Environmental Defense Center
14. Charles H. Frady, Salem, Oregon
15. Oregon Concrete and Aggregate Producers Association, Inc., Portland, Oregon
16. letter from Portland General Electric Company, dated July 19, 1974
- *17. Mel Gordon, Multnomah County Commissioner
18. letter from Daniel M. Uman, Multnomah County Dept. of Env. Services, 7/15/74
19. I. James Church, Port of Portland, dated July 18, 1974
- *20. letter from Hon. Tom McCall, dated July 8, 1974
- *21. statement of League of Women Voters of Central Lane County
- *22. letter from Tom Bowerman, Eugene, Oregon, dated July 19, 1974
23. statement of Jim Long, Springfield, Oregon
- *24. John Neilsen for Oregon Environmental Council
25. letter from McKenzie Flyfishers, Eugene, Oregon, dated July 17, 1974
26. letter from Western Environmental Trade Association, Inc., dated July 18, 1974
27. recommendations from AGC Environmental Committee
28. Roger Emmons, Oregon Sanitary Service Institute
29. Larry Williams, Oregon Environmental Council
30. Marlene Frady, Salem, Oregon, July 16, 1974

no. D

July 17, 1974

DEA
Noise Control Dept.
1234 S.W. Morrison
Portland, Oregon 97205

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
JUL 18 1974
AIR QUALITY CONTROL

Gentlemen,

I would like to voice my
support for the noise control
which you will be discussing
Friday

We have a family down the
street from us who have several
teenage with extremely noisy cars.
They roar down in front of our
house & slow down for a stop
sign at the corner and the noise
is unbearable.

I have three small children
who nap in the afternoon and

it is very frustrating to get them to sleep only to have them disturbed by this.

Our neighbors, Mr. & Mrs. Dick Thompson on Brookwood, have a situation with motor bikes riding for hours on end in a field which is almost driving them from their own home.

I do not feel that a very few people have the right to disturb anyone with something that is so unnecessary and annoying to the majority of the people.

Sincerely yours
Mrs. Richard S. Taylor
25320 SW Bentley Rd.
Hillsboro, Oregon 97123

Exhibit #1 No. 8



Telegram

PRC258(1810)(1-039800C199002)PD 07/18/74 1801

1974 JUL 18 PH 3:36

ICS IPMNAWC WSH

RECORD

03025 NWASHINGTON DC 647 07-18 447P EDT

7-19-74

PMS MR KESSLER R CANNON DIRECTOR

DEPARTMENT OF ENVIRONMENTAL QUALITY

1234 S W MORRISON ST

PORTLAND OR 97205

THE MOTORCYCLE INDUSTRY COUNCIL INC IS THE TRADE ASSOCIATION REPRESENTING THE MOTORCYCLE INDUSTRY IN THE UNITED STATES THE MIC WITH

THE SUPPORT OF ITS MEMBER MANUFACTURERS HAS BEEN ACTIVELY WORKING ON NOISE ABATEMENT FOR SEVERAL YEARS WE BELIVED THAT THE MANUFACTURERS HAVE AND WILL CONTINUE TO ACT RESPONSIBLY TO REDUCE EXCESSIVE MOTORCYCLE NOISE AND THAT THE FOLLOWING RECOMMENDATION BE GIVEN YOUR SERIOUS CNSIDERATION

SF-1201 (R5-69)

END ONE



Telegram

PRC258/2

1974 JUL 18 PH 3:36

THE NOISE CONTROL REGULATIONS PROPOSED BY THE DEQ THAT ARE CURRENTLY THE SUBJECT OF HEARINGS WOULD RE QUIRE MOTORCYCLE DESIGNATED AS 1975 MODELS TO MEET A MAXIMUM NOISE LEVEL LIMIT OF 83DBA

THE COUNCIL SUBMITS THAT THIS IS UNNECESSARILY RESTRICTIVE WILL HAVE NO APPRECIABLE EFFECT ON THE OVERALL MOTORCYCLE NOISE PROBLEM IF ONE EXISTSAND CREATES SEVERE AND UNREASONABLE HARDSHIPS FOR THE MOTORCYCLE

MANUFACTURING INDUSTRY AND THE INDEPENDENT DEALERS IN OREGON

WITH THE ABSENCE OF ANY ENGINEERING AND PRODUCT DEVELOPMENT LEND TIME FOR MANUFACTURER COMPLIANCE A SIGNIFICANT NUMBER OF 1975 MODEL ON-ROAD VEHICLES WILL BE AFFECTED AND VIRTUALLY NO 1975 OFF-ROAD

MODELS COULD BE MARKETED IN OREGON THE ENGINEERING ON THESE VEHICLES

SF-1201 (R5-69)

END 2

PRA255/3

1974 JUL 18 PH 3: 36

HAS BEEN FIXED AND A GREAT NUMBER HAVE COMPLETED THE MANUFACTURING AND DISTRIBUTION PROCESS AND ARE AWAITING INTRODUCTION DURING THE NEXT TWO MONTHS

TO IMPOSE STANDARDS WHICH CAN NOT BE ACHIEVED ON VEHICLES THAT ARE ALREADY MANUFACTURED CONSTITUTES RETROACTIVE LAWMAKING WHICH IN THE INSTANT CASE WOULD BE PUNITIVE IN NATURE AND CERTAINLY CAUSE FOR DAMAGE

IF THE PROPOSED REGULATIONS ARE ADOPTED IN THEIR PRESENT FORM THE MANUFACTURERS WILL HAVE NO CHOICE BUT TO DISCONTINUE THE SALE OF THOSE MODELS WHICH CANNOT POSSIBLY BE BROUGHT INTO COMPLIANCE DUE TO LEAD TIME CONSTRAINTS AS WELL AS THOSE MODELS WHICH CANNOT BE BROUGHT INTO COMPLIANCE ON AN ECONOMICALLY FEASIBLE BASIS

THE MOST SEVERELY IMPACTED GROUP WOULD BE OREGON'S 170 INDEPENDENT

END 3

SF-1201 (R5-69)

PRA258/4

1974 JUL 18 PH 3: 36

MOTORCYCLE DEALERS WHO EMPLOY APPROXIMATELY 1200 PEOPLE AND GENERATED SALES APPROACHING \$52 MILLION IN 1973

WE ESTIMATE THAT THIS WILL BE REDUCED BY SOME \$18-20 MILLION IN DIRECT LOSS OF SALES DUE TO LACK OF MARKETABLE UNITS WITH THE POTENTIAL

FOR SHARPLY INCREASING THIS TOTAL DUE TO DEALERSHIP FAILURES RESULTING FROM CASH FLOW REDUCTIONS THAT COULD APPROACH 30/

THE EXEMPTION FOR RACING VEHICLES IS ENCUMBERED BY PLACING THE BURDEN OF CONTROLLING CONSUMER USAGE UPON THE MANUFACTURER WHICH IS NOT VIABLE AND WOULD APPEAR TO BE AN UNUSUAL ABBROGATION OF STATE REGULATORY ENFORCEMENT POWER

THE MOTORCYCLE COMMUNITY IS A RESPONSIBLE ONE THAT IS AS INTERESTED IN A SANE ENVIRONMENT AS ANY OTHER WE DO HOWEVER ASK THAT REASON REPLACE DISCRIMINATION IN THE REGULATORY PROCESS

END 4

SF-1201 (R5-69)

PRG258/5

1974 JUL 18 PH 3:36

WE HAVE BEEN UNABLE TO FIND COMPLAINT DATA NOR HAS IT BEEN DEMONSTRATED BY THE DEPARTMENT THAT OREGON HAS A NOISE PROBLEM ASSOCIATED WITH NEWLY MANUFACTURED MOTORCYCLES

OUR INFORMATION INDICATES THAT IN ALMOST EVERY CASE AN EXCESSIVELY LOUD MOTORCYCLE HAS A MODIFIED OR DEFECTIVE EXHAUST MUFFLING SYSTEM TO REQUIE NEW MOTORCYCLES TO MEET SEVERE SOUND LEVEL LIMITS WITHOUT ADDRESSING THE ISSUE OF MODIFICATIONS OR OPERATIONAL ENFORCEMENT WILL DO LITTLE TO ALLEVIATE MOTORCYCLE NOISE

IN THE ABSENCE OF A DEMONSTRATED PROBLEM WE FAIL TO UNDERSTAND WHY THE DEPARTMENT WOULD EXPEND ITS RECOURSES IN WHAT AMOUNTS TO OVERKILL IN PURSUING REGULATION OF THE MOTORCYCLE INDUSTRY TO THE DETRIMENT OF ITS RESIDENTS WHO ARE MOTORCYCLE DEALERS AND EMPLOYEES

SF-1201 (RS-69)

END 5

PRG258/6

1974 JUL 18 PH 3:36

ON THE BASIS OF THE FOREGOING AND OUR PREVIOUS COMMUNICATIONS WE RECOMMEND THAT DATE OF MANUFACTURE BE USED IN LIEU OF MODEL YEAR THAT THE LEVEL FOR ON-ROAD MOTORCYCLES MANUFACTURED AFTER JAN 1 1975 OR 1976 MODEL BE 83DBA *OK*

THAT THE OFF-ROAD LEVEL BE ESTABLISHED AT 86DBA THAT THE EXEMPTION FOR

RACE VEHICLES BE STRAIGHT FORWARD AND THAT AN APPROPRIATE OPERATIONAL ENFORCEMENT PROGRAM BE PURSUED

THESE ACTIONS WILL GO FAR TOWARDS BRING ABOUT DESIRED REDUCTIONS IN MOTORCYCLE NOISE WITHOUT SACRIFICING A LARGE PORTION OF THE OREGON MOTORCYCLE INDUSTRY UNNECESSARILY OBJECTIVES WHICH SHOULD BE EQUALLY IMPORTANT TO BOTH THE INDUSTRY AND THE DEQ

YOUR SERIOUS CONSIDERATION OF THIS REPRESENTATION IS RESPECTFULLY REQUESTED

SF-1201 (RS-69)

END 6



Telegram

PRG258/7

1974 JUL 18 PM 3: 36

SIGNED MELVIN R STAHL
DIRECTOR OF GOVERNMENT RELATIONS

NNNN



Kawasaki Motors Corp., U.S.A.

1062 McGAW AVENUE
POST OFFICE BOX 11447
SANTA ANA, CALIFORNIA 92711
PHONE (714) 540-9980
TS 768 RH

July 16, 1974

Mr. Kessler R. Cannon, Director
State of Oregon
Department of Environmental Quality
1234 S.W. Morrison St.
Portland, Oregon 97205

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
JUL 18 1974

OFFICE OF THE DIRECTOR

Dear Mr. Cannon:

The apparent failure of the Oregon Department of Environmental Quality to re-consider portions of its proposed Noise Control Regulations in response to comments by Kawasaki Motors Corp. and others is a great disappointment to us.

We believe that the basic regulations are a very worthwhile step towards the reduction of noise from motor vehicles. We have already voiced some disagreement with those portions of the regulations which we feel are inequitable, but we will summarize them briefly:

1. We will not be able to guarantee that all of our 1976 models will meet 80dB(A).
2. Off-road motorcycles should not have to meet the same noise levels as on-road motorcycles.
3. The effective date of the regulations should be January 1 of the affected year, rather than the model year.

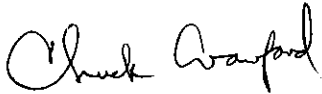
Recent developments in the state of California include legislation that will set the noise level for new, on-road motorcycles at 83dB(A) for motorcycles manufactured from January 1, 1975 through December 31, 1977. This legislation is expected to pass by the end of August. We respectfully suggest that the Department of Environmental Quality defer action on the proposed Noise Control Regulations until after the California legislature takes action on the bill now pending.

We also suggest that Oregon give serious consideration to the question of enforcement. Without an appropriate and effective method of enforcing existing or future noise regulations, Oregon will still have a noise problem. Whatever noise levels are set for new motor vehicles, the owner will still be free to modify it to make more noise if he so chooses. Unless the state can identify and prosecute the owner who does this, the continued reduction of noise from new vehicles will be of little avail. From a cost-effective standpoint, the best reduction in noise annoyance will be obtained by silencing the really noisy vehicles first. Kawasaki would be pleased to assist the Department of Environmental Quality in establishing a workable test procedure that can be used as an enforcement tool.

In summary, Kawasaki Motors Corp. urges the state of Oregon to postpone action on the Regulations until after the California Legislature has acted, and to establish enforcement methodology to deal with those vehicles which are actually too noisy.

Your consideration of these comments will be appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Crawford".

Chuck Crawford
Manager, Technical Communications

Prepared by: Roger Hagie

RH/fc

June 13, 1974

Mr. John Hector
Department of Environmental Quality
1234 S. W. Morrison
Portland, Oregon

Re: Noise Pollution by Gage Industries

Dear Mr. Hector:

We, the undersigned residential property owners in the immediate vicinity of Gage Industries, Inc. (6710 S. W. McEwan Road, Lake Oswego, Phone: 639-2177), hereby petition the Department of Environmental Quality for assistance in abating noise pollution.

Gage Industries, Inc. has an industrial plant located in Washington County directly adjacent to a residential community in Clackamas County. Over the past month, Gage Industries has escalated its activities to the point where it is now in operation 7 days a week, 24 hours a day. It is our understanding that the factory in question is equipped with noise pollution abatement equipment. However, the proper functioning of this equipment requires that Gage keep its doors closed.

In fact, Gage's method of operation consists of having all doors and openings on the side of the building facing the residential community in question wide open at all hours of the day and night, every day of the week. This has caused a persistent and annoying noise problem which detracts from the property value of the residences in question, and greatly interferes with the amenities of residential living.

Numerous efforts have been made by residents of the area to persuade Gage Industries to modify its methods of operation. To date, these efforts have been rebuffed.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
JUL 2 1974
AIR QUALITY CONTROL

We suggest the following limitations be placed upon Gage Industries' operation:

1. Noise emitting operations should be restricted to normal business hours. Gage should be forbidden from creating noise pollution after 5:00 p.m. in the evenings and before 8:00 in the mornings. Furthermore, operations should be curtailed or eliminated on weekends.

2. When in operation, Gage Industries should be required to utilize all existing noise pollution control devices. Especially, it should be required to keep all doors closed.

3. If practical and feasible, Gage should be required to redesign the factory layout. As presently laid out, all noise producing activities occur on the side of the factory facing residential units. The side of the factory facing nonresidential areas ironically emits no noise pollution.

In addition to the noise pollution caused directly by the internal operations of the Gage factory, Gage's operations involve large trucks loading and unloading no more than 100 yards from the residential community. Some controls must be placed on this activity.

Since most of the effected residences are within Clackamas County, and Gage Industries is located in Washington County, the Department of Environmental Quality is the only governmental unit, apart from the courts, that can be of assistance. We hereby entreat the Department of Environmental Quality to exercise whatever persuasiveness or authority it might have to protect the rights of the undersigned residential homeowners.

Name Mark H. Wagner

Address: 6472 SW Dawn
Lake Oswego, Ore.

Name Daniel E. Wagner

Address: 6492 SW Dawn
Lake Oswego,
Oregon 97034

Name Daniel L. Meyers

Address: 6448 S.W. Dawn
Lake Oswego, Oregon

Name Becky Meyers

Address: 6448 S.W. Dawn St.
Lake Oswego, Ore.

Name Ronald L. Hanlon

Address: 6414 SW Dawn St
Lake Oswego, Ore

Name Marianne L. Hanlon

Address: 6414 S.W. Dawn
Lake Oswego, Ore.

Name Marabee Bertelsen

Address: 6451 S.W. Dawn
Lake Oswego

Name J. Bertelsen

Address: 6451 S.W. Dawn
Lake Oswego - Ore

Name Stanley Williamson

Address: 18225 SW Meridian Rd.
Lake Oswego Ore.

Name James Williamson

Address: 18225 S.W. Meridian Rd.
Lake Oswego Ore

Name Fred H. Feather

Address: 6765 SW Child Rd
Lake Oswego Oregon

Name Virginia M. Feather

Address: 6765 SW Child Rd.
Lake Oswego, Oregon

10436 S.E. Reedway
Portland, Oregon 97266
8 July 1974

Environmental Quality Commission
Department of Environmental Quality
1234 S.W. Morrison
Portland, Oregon 97205

Dear Sirs:

I am strongly in favor of stringent, enforceable State regulations on noise control and support the adoption of such rules.

It is regrettable that additional regulations must be imposed on the activities of people's lives. However, because industry has not taken the initiative to eliminate or reduce industrial noise or has not exhibited much consideration for residents of homes adjacent to industry, the recourse seems to have the State create noise control regulations.

Our family dwelling is opposite a manufacturing company (Reedway Manufacturing Co.) which produces wood pallets and wood plugs for ends of paper rolls. The various industrial noises heard have been from hammering, fork lift vehicle, spindle-shaper machine and electrical saws. This company operates from 6:00 a.m. to midnight, six days a week, 52 weeks/yr. Saturday evenings to Monday morning is the only extended period of quietness in this neighborhood.

After having lived in an area where industrial noise has been an irritating and daily occurrence for the past several decades, prohibiting any extended peace and quiet to be enjoyed inside the home as well as outside in the yard, creating strain on the nerves and interfering with a person's sleep in the evenings, adoption of such noise control rules seems to be the only alternative and hope for residents who have had to tolerate and endure the noises created by industry or traffic. It seems a small demand that everyone should have a right to expect a little peace and quiet within their homes.

Sincerely

Marilyn Lum
Marilyn Lum

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
JUL 9 1974
AIR QUALITY CONTROL

K.R. Corliss SR.
1564 MYERS LANE
MEDFORD, OREG
97501

Noise Control Section
Kessler R. Cannon Director
Dept. Environmental Quality
1234 S.W. MORRISON ST.
Portland, OREG 97205

Dear Mr. Cannon:

In reply to your bulletin: - notice of Public Hearing for the adoption of Noise Pollution Rules and Procedures.

For a person not schooled in the science of psychoacoustics, some of the data contained in your proposed regulations is difficult to understand. Needless to say, however, any step in the direction of noise control is a welcome step. The proposed regulation seems to encompass not only the qualitative aspects of the noise problem, but also the quantitative. It's one thing to know what noise is objectionable, but equally important to have some manner of determining when noise is objectionable within reasonable guidelines.

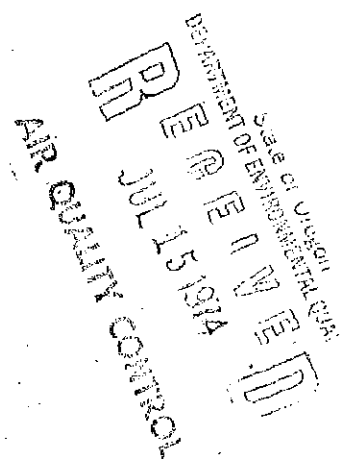
There are many sacred cows whenever public regulations such as the proposed noise rules are set forth. I submit that in one, the lumber industry is as sacredly bovine as other industry - oil - coal - steel etc. Screeching conveyors - blowing whistles - power chainsaws - unmuffled equipment -

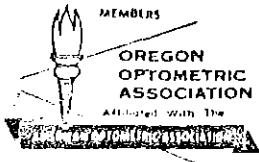
- SCREAMING SAWS, all running all hours of the day and night-time have been a way of life for any Oregonian living within a one-half mile range of a saw or veneer mill.

Requests for consideration are usually met with stoic indifference because there are no laws.

PLEASE HURRY - give Oregon some laws such as proposed. Noise is truly the ultimate insult.

Kenneth R. Coress Sr.





BEAVERTON VISION CLINIC

4655 S.W. WATSON BEAVERTON, OREGON 97005 PHONE 646-7194

ROBERT C. JACOBS, O.D.
FAMILY PRACTICE

ROGER L. TABB, O.D.
LIMITED TO CONTACT LENSES

CHARLES H. SAMUEL, O.D.
FAMILY PRACTICE

July 15, 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

R E C E I V E D

JUL 16 1974

OFFICE OF THE DIRECTOR

Mr. Kessler R. Cannon
Office of the Director
Department of Environmental Quality
1234 S.W. Morrison
Portland, Oregon 97205

Dear Mr. Cannon:

Thank you for your letter of June 24th. Our association will be quite interested in the final outcome of your industrial standards. I can appreciate your surprise and concern with the fact that Washington County allowed residences and quarries to have grown up adjacent to each other. We residents have also been surprised and concerned, but to date our requests for relief have not been answered. So that you may draw your own conclusions I would like to offer the following facts which are a matter of Washington County public record.

In 1969 our sub-division "Clark Hill Acres" was zoned residential and divided into parcels. Nine new homes in the \$50-100,000 class were built in the next few years. At the time we built there were two small quarries in the area. They were both classified by the county as "non-conforming land use". Since they were so classified we felt quite secure about any future noise for the county "non-conforming land use" law states that the purpose of such a classification is to allow a gradual phasing out of such industry and to prevent any expansion. Both quarries were operating daytime only and were not noisy enough to be objectionable.

During the past several years these quarries have grown dramatically adding new noisy equipment such as an asphalt plant and a larger crusher. In addition they have increased their operating hours until 11-12 p.m. Much heavy blasting has been going on which is quite disturbing and is causing cracks in foundations, loss of water in wells, etc.

Despite letters of complaint which have been signed by the local homeowners (32 people) the county claims inability to act citing the county's need for crushed rock and the vagueness of the zoning laws. In their recent staff report (July '73) they indicated that D.E.Q. would control this type of noise citing maximum figures proposed by your department.

Mr. Kessler R. Cannon

-2-

July 15, 1974

My reason for detailing the above is simply to point out that the county planning department has in fact allowed an area of heavy industrial blasting to intensify adjacent to a zoned residential area. We residents are entirely dependent on your agency for relief in the matter of blasting damage and noise pollution.

I would like to have this letter read at the public hearing July 19th. I appreciate the help your department has given us in the past quantitatively measuring this crushing noise and our ambient levels. It has helped establish the facts of the matter. I hope your new standards will include some provision to limit this industrial blasting and will give us some relief from other noise.

Sincerely,

Dr. R.C. Jacobs
Secretary
Clark Hill Homeowners Assn.

RCJ:kma

CC:

Pres. Rawlins

Mr. Adams-Legal Counsel

Rep. Les AuCoin

Rep. Wendall Wyatt

Sen. Ted Hallock

1868 Myers Lane
Medford, Oregon 97501
July 16, 1974

Department of Environmental Quality
Noise Control Section
1234 S.W. Morrison St.,
Portland, Oregon

Gentlemen:

Please submit the enclosed letter for written testimony concerning rules and procedures for Noise Control at the public meeting taking place at the State Capitol in Salem, Oregon on July 19, 1974.

Thank you.

Yours truly,

Lloyd Winkleby
Lloyd Winkleby

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
JUL 18 1974

AIR QUALITY CONTROL

1868 Myers Lane
Medford, Oregon 97501
July 16, 1974

Department of Environmental Quality
Noise Control Section
1234 S.W. Morrison St.,
Portland, Oregon 97205

Gentlemen:

I notice that the proposed noise control regulations submitted that they are effective only to new installations prior to January 1, 1975.

It is extremely important that any new regulations cover installations and any other sources of noise above a reasonable level prior to that date during an eight hour night time period.

I have attended the meetings the Department of Environmental Quality has held in Medford regarding the proposed noise control regulations. Many officers of manufacturing companies have attended those meetings and have been aware of the intent of the proposed regulations. They have not only speeded up new installations but have extended their operating hours to purposely avoid any new regulations.

Kogap Manufacturing Company specifically has installed new buildings and automated equipment and operates them over a 24 hour period and this has been done during the time that the Department of Environmental Quality first began their hearings.

They are the only heavy industrial operation in this area and have that zoning because of a long standing operation. Originally the plan was to faze out this operation to another location but they elected to try and isolate their operations by purchasing all contingent properties. This however does not lessen to any significant amount the quantity of noise.

This is especially true at night when other city noises are at a low level.

I know that night time noise levels can be reduced because after complaints to the company noise levels were reduced to a satisfactory level but now they have returned to the point where it is impossible to sleep with an open window in that direction or without being awakened by sudden loud noises.

General manufacturing noises can be tolerated during daytime hours but a person should be entitled to eight hours of rest during the night.

I ask your careful consideration of this problem and thank you for the opportunity to present my views.

Yours very truly,

Lloyd Winkleby
Lloyd Winkleby

July 16, 1974

Department of Environmental Equality
State of Oregon

Dear Sirs,

My husband and I have owned and lived in our home since 1945. We had a very pleasant environment until the Black Anvil Tavern was built directly in back of us during the summer of 1974. Since then our life has been made very unpleasant by noisy traffic, dust and noisy people, noisy compressor and noisy music until after one a. m. at night. Since legislature made it legal for taverns to have live music our life is almost unbearable on nights that there is live music at the Black Anvil Tavern as it was not built soundproof but the walls are thin. Live music is played too loud and frequently the juke box is turned on very loud. However, live music is not played every night.

This area is zoned commercial but is a "bedroom" area. The Black Anvil is completely surrounded by an apartment house, homes, and two motels. This music is annoying the entire neighborhood and is driving away patrons from the Greenwell Motel. ~~However, live music is not played every night.~~

I called Mr. Don Henry, the owner of the tavern, and asked him if he couldn't correct the situation. He told me

2
that he had received quite a few complaints and had even received a registered letter of complaint from a lawyer but that he was ignoring them all. He also said maybe I couldn't tell the difference between live music and juke box music. I can, but I feel that neither one should be too loud.

I then called Mr. Max Thompson, our city manager, and asked his help in reducing the live music and juke box noise. He said he had several complaints but that it isn't the city's jurisdiction although it is in the city but that it is the responsibility of the state because it licenses the tavern and allows it to have music. So he said he could do nothing about it.

My next step was to call Mr. Ferrin Woll, the liquor inspector, and told him my problem. He said he had talked to Mr. Henry but the noise still continued. He said he was in sympathy with me but could do nothing for me as there is now no law against taverns making noise since legislature had passed the law that taverns could have live music. He also said he had received some complaints about the music. He said it is the city's problem. I told him the city told me it isn't their responsibility. I also told him about my conversation with Mr. Don Henry, the tavern owner. Mr. Woll replied, "Yes, I know he is rather arrogant about it." Mr. Woll said he would talk to Mr. Henry again. But the noise has not abated. The live music on July 4th, July 5th and July 6th was

Mr. Chairman, Members of the Commission:

My name is Lynn Newbry, State Senator representing District 26.

My purpose in being here today is not to nit-pick at the proposed regulations nor to make technical criticisms or suggestions, but rather to discuss the regulations in a general way, particularly as to their economic effect and the variation in their application to various sources of sound emission.

As I understand the noise regulations as currently being considered by the Commission and its staff, the recommended noise level limits on motor vehicles coincide very close to the noise levels currently attributed to that source, with a phasing in of lower levels over a period of time, thus giving the owners, operators, and manufacturers opportunity to comply in an orderly manner. I believe this approach to be practical and a recognition of the economic impact involved.

I also understand that variances are being considered for motorcycles in the 1975 model year because of problems involved in meeting the initial regulations insofar as Japanese manufacturers are concerned. Again, this is a recognition of economic and compliance problems, which I understand and do not criticize.

In addition, certain noise emission sources have been exempted from the regulations entirely for reasons that are all justified even though some of them contribute materially to the ambient noise level.

But when it comes to the industry and commerce category, none of the above mentioned considerations appear to have been applied, which on the surface at least indicates that a separate set of standards has been used.

It is obvious that current noise emission levels were not considered and further that no consideration was given to need for time to meet requirements nor to the cost to industry in attaining compliance.

Industry has made a tremendous contribution to the "Livability of Oregon". Mr. Cannon told a group the other day that this Commission has approved over \$80,000,000 in tax credits to industry. This means that the total expenditure by this segment of our economy has far exceeded \$100 million in investment. To comply with these noise regulations will require additional investment the extent of which is totally unknown by industry or the D.E.Q. It is also doubtful that some individual concerns can ever comply no matter how much is spent on control equipment. There is a strong question in my mind as to whether industry and commerce should be called upon to make substantial additional investments to lower current noise levels when other segments of the economy are being regulated at existing levels or exempted entirely.

In my district, I personally know of three small plants which will either be forced to close or move their operations. They are located in areas zoned industrial and have been for a quarter century or more. Residential areas are contiguous to these sites. Compliance will be technically impossible, but even if it were

possible the economics would dictate closure. These are capital intensive companies and the cost of moving is prohibitive. It should be remembered by the Commission that in order for a small corporation, or any corporation for that matter, to invest a dollar it must earn before taxes at least two dollars.

Depressed markets for wood products and inflation make options for closure even more attractive. In my district, the unemployment rate is 8%, primarily due to layoffs in the timber industry. If further layoffs occur as a result of compliance problems, the total economic impact will be severe.

This leads to the basic question as to whether the advantages of noise reduction will be worth the total price that must be paid.

This brings to mind the House Appropriation Committee report which accompanied the E.P.A. appropriation bill. It stated in part: "The Committee also feels strongly that it is absolutely essential that the Agency consider the social and economic impact of its decisions. People without jobs or without adequate food or clothing will care little about environmental protection."

I am asking this Commission to carefully consider these same concerns when adopting noise pollution regulations.

Thank you.

TESTIMONY ON PROPOSED COMMERCIAL INDUSTRIAL
NOISE CONTROL REGULATIONS BEFORE THE
ENVIRONMENTAL QUALITY COMMISSION

July 19, 1974

My name is Thomas C. Donaca and I am here today representing the Noise Committee of Associated Oregon Industries.

Let me say at the outset that the proposed regulations to establish industrial commercial noise regulation are generally the most practical and possible of achievement that have been given consideration to date. The reason that they are in that form is due to the appointment by Mr. Cannon, following the second series of hearings on proposed regulations, of a technical advisory committee composed of both industry and environmental representatives. The Committee spent a great deal of time and from their deliberations came the Sound Measurement Procedures Manual (MPCS-1) and the Requirements For Sound Measuring Instruments and Personnel (MPCS-2) as well as these proposed regulations. We wish to express our appreciation for the opportunity to have direct input into the rule making process as well as the opportunity to discuss and to argue over certain aspects of the proposed regulations with our environmental friends.

We believe these deliberations were healthy for all concerned and did provide better insight into the concerns of all parties as they truly endeavored to achieve proper industrial commercial noise regulations.

However, notwithstanding our general belief that the rules as proposed are generally achievable, we must of necessity present certain reservations at this time. Our reservations divide themselves into two separate parts.

First, your legal authority to adopt standards as well as your authority to grant variances, exceptions, exemptions and compliance schedules; and second, certain specific concerns with the standards as proposed.

Attached to a copy of my testimony is a copy of the environmental noise law of the State of Oregon, ORS467.010 to 467.990. It may be helpful to have that in front of you as I undertake this part of the discussion.

The policy statement ORS467.010 contains the only standards to be found which are to guide you in determining the extent of your authority under this act. That standard seems to be that this act is to provide protection of the health, safety and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions. Inasmuch as this commission is the entity that is primarily responsible under this act, it seems to us that a determination should have been made as a matter of fact as to what are excessive noise emissions. To date your staff has carried on public hearings for determination of what the public considers to be excessive. They have held hearings on proposed noise regulations of various kinds, but to the best of our knowledge the determination of what is excessive is your staff's determination.

Our concern then is that the legislative standard provided you may not be an adequate standard to guide you in the adoption of as comprehensive rules and regulations as have been presented to you for the various classes of noise control regulation. This may well lead you into a situation in which you are, in fact,

exercising legislative power not conferred upon you by the Legislature, or, in the alternative, that the standard is so vague that it is not a standard which you are in fact able to follow. We raise this question because it is a question that you, the Commission, should be concerned. If you have in fact either an invalid standard, or you have exceeded your authority, then it is possible that all of the work put into these noise regulations may be nullified. Generally a law dealing solely with public health, safety and welfare needs less definite standards than one that affects property and the rights of individuals. As we see it, the proposed regulations, while proposed for the protection of the public health, safety and welfare also vitally affect the property rights of individuals and their privilege of engaging in their business. We think more careful attention should have been given the extent of your authority at the outset.

The second and more important problem is that the proposed industrial commercial noise regulations carry within it exceptions (Rule 3-010), compliance schedules, (Rule 35-035(2)), exemptions (Rule 35-035(5)), and variances (Rule 35-100). It concerns us that we find no clear authority for such exemptions and variances in your statutory authority. The only power that is found in the statute is contained in ORS467.040 at the end of the paragraph which says "to do any other thing necessary to carry out the policies of this state as set forth in this chapter". In general, this is referred to as drafting boiler plate intended to allow you to carry out the general administrative actions of an agency dealing with such things as the hiring and firing of people, the ordering of supplies and a host of administrative detail of that nature. However, the power to exempt or to vary adopted standards generally requires clear statutory authority. We grant that if this agency grants a variance, exception or exemption, that as between the agency and the person receiving the exemption or variance that the person receiving same has the right to rely on it and the agency could not revoke it. Our concern is that if a court of law in a proceeding either against your agency, or in a third party suit against an alleged violator, the question will be put "Under what authority did the agency grant such exemptions, variances, etc.?" We believe the Court may well find that you have no such authority. We are further concerned here because it is essential that we be able to rely and to plead our defense that we are operating in compliance with the law and rules of this state and this agency. We can rely on such exemptions, variances, etc. under our air and water quality laws because there is clear statutory authority for you to grant them. Here we are moving into an entirely new field of environmental activity with very little information, very few experts and reliance on your directives and orders is essential. The proposed regulations without the provisions for variances, exemptions, exceptions and compliance would be totally unworkable and incapable of achievement.

We think that you, the Commission, should review your powers under this statute, the legislative standards by which you are to be guided in adopting standards, and your authority to grant exceptions, variances and exemptions as suggested by these rules before any adoption of these rules is considered, in order to assure yourselves that subject industry will not be unduly prejudiced by their adoption, and that subject industry can rely fully, under all circumstances with your directives and orders.

On the proposed noise control regulations themselves we would now make specific comments on the proposed regulations.

Rule 35-005 policy contains in Subsection 2 the following: "To facilitate cooperation among units of state and local government in establishing and supporting

noise control programs and to encourage the enforcement of viable local noise control regulations by the appropriate local jurisdiction." We were under the impression that in implementing this law the Legislature by ORS467.010 intended this noise control regulation to be preemptive and statewide in application and that local jurisdictions were to be precluded from promulgating environmental noise standards generally. The statute states that it is the purpose "to centralize in the Environmental Quality Commission the authority to adopt reasonable statewide standards for noise emissions permitted within this state and to implement and enforce compliance with such standards." We believe that you should have examined your authority to determine whether or not this was intended to be preemptive statewide authority or whether there was some latitude left for local government. We are concerned that there may be created a multiplicity of local noise regulations in which there will be concurrent jurisdiction by both the state and local government. Further such standards and the methods used may vary from jurisdiction to jurisdiction. Under that set of circumstances, a single source of noise could be subject to two different standards, different sets of measurements and different sets of standards for measurement equipment used. We think this is a totally unacceptable approach to environmental noise control. The City of Portland is currently deeply involved in considering a proposed noise regulation which is modeled after the City of Seattle and which takes an entirely different approach than the proposal before you on industrial noise. If you should conclude that you do not have preemptive authority in the implementing statute, then we believe that the policy Section 35-005(2) should consider, along with the cooperation among units of state and local government, the establishment of "uniform" noise control programs. We ask the further consideration of this matter prior to the adoption of these rules and regulations.

Rule 35-035(1)(a) Existing Noise Sources. It is our recommendation that in Table G that the post 1977 regulations be deleted. We believe that the standard contained under pre 1978 is the proper standard and meets the policy standard contained in 35-005. We further believe that current information, including that of the Environmental Protection Agency, indicate that the standards proposed in the pre 1978 Table G are justifiable for the protection of the public health, safety and welfare.

We are very aware from the very many people who have partaken both in the public hearings and our own meetings that the pre 1978 proposed schedule, while achievable in many instances, would still provide great difficulty to large numbers of existing industry and will be achieved only at a great cost. The post 1977 table will be in many cases absolutely unachievable by many existing industries. We are therefore terribly concerned about the adoption of rules which will require an existing industry to achieve a first level of control prior to 1978 and then further engineering to provide a second level of control after 1978. We believe the pre 1978 schedule will achieve the result desired by the law. If at a later date, say prior to 1978, you decide that further reduction in noise levels is essential you may in any month hold a hearing and promulgate new regulations. We suggest this strongly as a wiser course of action because again we point out to you, that this is a new field of endeavor, that there is not a great deal of information, that Oregon is small state of small industry with even less than usual information, and that to move further at this time would create an undue hardship.

To line with our recommendation on Rule 35-035(1)(a) we would suggest that in Rule 35-035(1)(c) that the words "and before January 1, 1978" be deleted in order to concur with our prior recommendation.

Rule 35-035(1)(b) contains in the errata sheet an exception to Table H for new industrial or commercial noise sources which would in effect only allow a 10dba increase over the existing ambient statistical noise level. We find this addition entirely unjustified and again an undue hardship. We generally agree that new noise sources could engineer and achieve a higher control of noise which justifies the lower decibel ratings in Table H over Table G pre 1978. But to adopt the 10 decibel limitation over the ambient notwithstanding Table H creates the following problems:

1. If the theory of industrial dispersion is not to be stopped, then this rule is unacceptable because it would be impossible to operate many kinds of industrial commercial activities in many rural areas under such a restriction.
2. It has the effect of allowing the first plant in an area to enter under very restrictive control, but the second plant that locates in the area would not be subject to the same restriction.
3. Sleep and speech interference are the basis of all of the other regulations proposed but that is not the basis of the proposal. The failure to be consistent throughout the regulations means that these regulations are doing something more than controlling excessive noise.
4. The Department of Environmental Quality would be entering directly into the zoning process because notwithstanding how the land is zoned, if it has a low ambient reading you would not allow sound levels that would otherwise be allowed in such an industrial area. We question your authority in this matter.

We are somewhat concerned about the quiet areas contained in Rule 35-035(1)(d) Quiet Areas because it would appear to be a rule that should have general application rather than solely a restraint on industrial commercial activity. There are other regulations which you are adopting which will permit higher noise levels for other activities which would not be allowed for commercial industrial activity, nor would construction noise be prohibited. As written we believe there is a question of equal protection that ought to be examined.

On Rule 35-035(1)(e), Octave Bands and Audible ^{Discrete} ~~Discrete~~ Tones, I will, with your permission, turn the presentation over to Ben Heald, a member of Associated Oregon Industries Noise Advisory Committee, who is knowledgeable on this subject matter and can discuss with you some of the problems and difficulties that are occasioned by Table J. With your permission then, Mr. Heald.

Rule 35-035(2) Compliance. A concern we voice here is that it appears that a compliance schedule is required only following a complaint and upon written notification by the Director. We assume that the Director would not issue a written notification to a source upon just any complaint but only if he had ascertained the validity of that complaint. Since many people will read these rules, we think it would make it clearer for people subject to the application of the rule if the first sentence would read in part as follows: "Following a complaint, and upon determination by the Department of the validity of the complaint, and upon

written notification from the Director, the owner or controller....." We believe that this would be helpful not because it would change the effect of the rule, but in understanding the regulation.

We had suggested in Rule 35-035(5)(a)(XII) that "all blasting noise" should be excluded because there are a number of industrial commercial applications such as quarrying not related to construction which are in fact subject to these rules. There is no way that they could continue such operations without a variance. Unless you wish to process each and every variance application, we would request that the exception read "all blasting noise".

If you intend to adopt these rules today we ask your very serious consideration of the changes we have requested because we simply suggest to you that the studies done by your own staff indicated that the primary concern of the public was vehicular traffic and road noise and that industrial commercial activity was a relatively minor incidence of complaints. Yet you have before you for consideration and adoption the most complete set of regulations that you have yet had before you for adoption. You have done nothing yet on road noise. The road vehicle regulations are based upon a great deal of study and test data which was not available for these regulations; your racing regulations have allowed a lessened standard to be applied initially, and you have currently excluded such things as construction activity. We humbly suggest that in the light of public expression on this issue, commercial industrial activity should not be saddled with the heaviest burden of compliance of all the classes of persons contributing to the environmental noise problems in this state.

467.010 Legislative findings and policy. The Legislative Assembly finds that the increasing incidence of noise emissions in this state at unreasonable levels is as much a threat to the environmental quality of life in this state and the health, safety and welfare of the people of this state as is pollution of the air and waters of this state. To provide protection of the health, safety and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions, it is hereby declared that the State of Oregon has an interest in the control of such pollution, and that a program of protection should be initiated. To carry out this purpose, it is desirable to centralize in the Environmental Quality Commission the authority to adopt reasonable state-wide standards for noise emissions permitted within this state and to implement and enforce compliance with such standards. [1971 c.452 §1]

467.020 Emission of noise in excess of prescribed levels prohibited. No person may emit, cause the emission of, or permit the emission of noise in excess of the levels fixed therefor by the Environmental Quality Commission pursuant to ORS 467.030. [1971 c.452 §3]

467.030 Adoption of noise control rules, levels and standards. (1) In accordance with the applicable provisions of ORS chapter 183, the Environmental Quality Commission shall adopt rules relating to the control of levels of noise emitted into the environment of this state and including the following:

(a) Categories of noise emission sources, including the categories of motor vehicles and aircraft.

(b) Requirements and specifications for equipment to be used in the monitoring of noise emissions.

(c) Procedures for the collection, reporting, interpretations and use of data obtained from noise monitoring activities.

(2) The Environmental Quality Commission shall investigate and, after appropriate public notice and hearing, shall establish maximum permissible levels of noise emission for each category established, as well as the method of measurement of the levels of noise emission.

(3) The Environmental Quality Commission shall adopt, after appropriate public notice and hearing, standards for the control of noise emissions which shall be enforceable by order of the commission.

[1971 c.452 §2; 1973 c.107 §1; 1973 c.835 §159]

467.040 Powers of Environmental Quality Commission. The Environmental Quality Commission has the power to investigate complaints regarding excessive noise emission, to hold hearings, to issue orders, to make rules, to impose sanctions, and to do any other thing necessary to carry out the policies of this state as set forth in this chapter.

[1971 c.452 §4]

467.050 Civil abatement proceedings authorized. The Environmental Quality Commission shall have the further power to bring civil abatement proceedings in the manner provided by ORS 468.105 against violation of this chapter or rules or orders made thereunder.

[1971 c.452 §5; 1973 c.826 §5; 1973 c.835 §160]

467.990 Penalties. Violation of any provision of this chapter or rules or orders made under the provisions of this chapter is a Class B misdemeanor. Each day of violation shall be considered a separate offense.

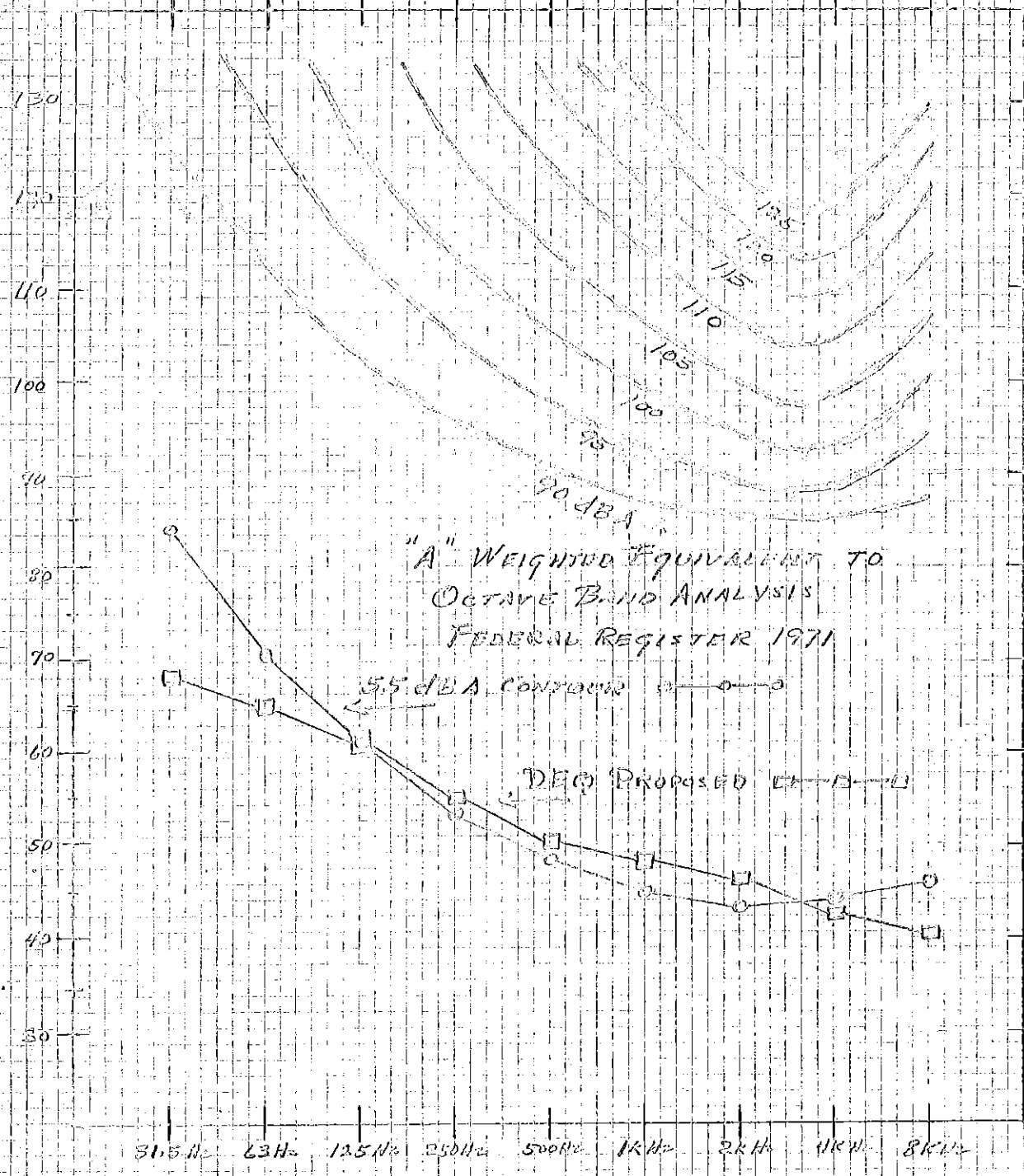
[1971 c.452 §6; 1973 c.835 §161]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 1, 1973.

Thomas G. Clifford
Legislative Counsel



"A" WEIGHTED EQUIVALENT TO
OCTAVE BAND ANALYSIS
FEDERAL REGISTER 1971

OCTAVE BAND CONTOURS FOR 55 dB "A" WEIGHING
DEPICTED ○—○—○—○
PROPOSED OCTAVE BANDS PROPOSED IN TABLE "J"
DEPICTED □—□—□—□

BEN HEALD - SANDERSON SAFETY SUPPLY - SSS 71874

PREPARED STATEMENT OF
PACIFIC GAS TRANSMISSION COMPANY
REGARDING
OREGON STATE DEPARTMENT OF ENVIRONMENTAL QUALITY
PROPOSED NOISE CONTROL REGULATIONS FOR INDUSTRY AND COMMERCE
Submitted at Public Hearing on July 19, 1974

Pacific Gas Transmission Company (PGT) owns, operates and maintains a natural gas pipeline and related facilities in Central Oregon. Construction and operation of this pipeline for interstate transportation of natural gas is authorized by certificates of public convenience and necessity issued to PGT by the Federal Power Commission (FPC) in conformance with procedures specified by the Natural Gas Act. Initial authorization for the pipeline facilities was issued on August 5, 1960 as a result of proceedings identified by FPC Dockets G17350, G17351 and G17352. Subsequent authorizations have been granted with the most recent identified by FPC Dockets CP69-346 and CP69-347. PGT presently has on file with FPC proposals for further expansion of its pipeline facilities as identified by FPC Dockets CP74-241 and CP74-242.

Within the State of Oregon PGT presently has six (6) pipeline compressor stations built over the period from 1961 to 1970. In terms of definitions included in the Department of Environmental Quality Proposed Noise Regulations these stations would be classified as an "Existing Industrial Noise Source".

Pacific Gas Transmission Company has acted where noise complaints have been received at two (2) of its Oregon stations to install supplemental noise silencing equipment. As a result of silencing improvements which involved considerable expense, we believe that the complaints of the very few individuals affected have been satisfied.

PGT's pipeline facilities are operated continuously 24 hours per day. As a result it is not of practical benefit to PGT to have a noise level criteria specified in regulations that is less severe during daytime hours than that specified for night time hours.

PGT has taken a limited number of noise level measurements in accordance with procedures described in the proposed regulations. These measurements were taken near a pipeline compressor station where in excess of \$300,000 has already been expended for supplemental silencing equipment and additional silencing is not feasible. The nearest "noise sensitive property" is a motel located on a State Highway and approximately 900 feet from the noise source.

Our findings are summarized as follows with respect to the proposed noise control regulations for Industry and Commerce, dated June 21, 1974:

1. The compressor station conforms to the allowable statistical noise levels specified in Table G, Pre-1978, 10 pm - 7 am, which are L_{50} -55 dBA, L_{10} -60 dBA, L_1 -65 dBA.
2. The compressor station does not conform to the Post-1977 noise levels.

The equipment installed which provided silencing improvement has eliminated the complaints that were previously received. Based on our experience in silencing industrial noise sources, we consider the noise levels specified in Table G, Post-1977 and in Table H unnecessarily restrictive. We recommend that the noise levels specified in Table G, Pre-1978 be adopted as the maximum allowable statistical noise levels for existing, new or modified noise sources, and that the Post-1977 standard be deleted entirely.

STATEMENT OF
NORTHWEST FOOD PROCESSORS ASSOCIATION
Before the Oregon
Environmental Quality Commission

Regarding Environmental Noise Regulations
for Industry and Commerce
July 19, 1974

I am David A. Pahl, Executive Vice President of the Northwest Food Processors Association and am speaking for the Association with 71 companies in Oregon, Washington and Idaho which produce approximately 20% of the nation's processed fruits, vegetables and potatoes.

Members of Oregon's food processing industry testified at the hearings last November on this subject and we have met with DEQ staff on several occasions in attempts to develop practical, workable standards. Also representing food processors on the DEQ Noise Advisory Committee was David C. Klick, also of our office.

Many of our companies are also represented by Associated Oregon Industries and we are in support of AOI's testimony offered here. After describing the specific views of food processors, we will emphasize some of the points brought out by AOI.

Under the regulations proposed, there is a significant number of food processing plants near "noise sensitive areas" which, we think, could not meet the noise levels prescribed in Table G, pre-1978, of 60 dBA daytime levels and 55 dBA at night. We are uncertain about the noise levels around these plants because, even though these regulations were proposed last November, most of them process seasonal crops only and have not been running during the past nine months. This means plant managers have, in many cases, had no opportunity to monitor noise levels during normal production conditions.

This raises a critical point relating to economic feasibility:

Let's picture a processing plant in the city of Silverton which has "noise sensitive areas" nearby. Insofar as manufacturing is concerned, the plant is idle and relatively quiet for about 40 weeks out of 52 during the year. It's only for 5 or 6 weeks when beans are harvested and being canned 24 hours a day that the plant operates and produces as a normal manufacturing operation.

There are a dozen or more plants in the same situation with a short season of operation (noise generation) and a limited volume of low-value production against which to apply the costs of expensive noise reduction modifications. All are located where the income from processing crops and seasonal employment are of great importance to the local community.

It can be expected that these companies will be making noise control modifications to the extent affordable. (Right now, Northwest Food Processors Association is well along with an \$80,000 cooperative noise abatement engineering research program which hopefully will provide control techniques for the principal noise sources inside our plants. Such changes should reduce outside noise levels as well.)

We submit that plants under these circumstances should qualify for reasonable variance relief under Section 35-100 of the proposal. It is very likely that strict compliance would add an investment burden that could not be carried and result instead in the "substantial curtailment or closing down . . ." as stated in the proposal.

Exhibit #3
A.D.E

TESTIMONY OF THE OREGON ENVIRONMENTAL COUNCIL
COMMITTEE ON NOISE
at the
ENVIRONMENTAL QUALITY COMMISSION
July 19, 1974

PROPOSED REGULATIONS -- INDUSTRIAL AND COMMERCIAL NOISE

I am Jeanette Egger representing the Oregon Environmental Council 2637 S.W. Water St., Portland, Oregon. The Council is a coalition organization comprising 80 environmental, conservation, sportsmen and planning groups and over 2,000 individual members throughout the State of Oregon. The Noise Committee of the OEC is composed of volunteers with professions in the fields of audiology, psychology, law, physics, acoustics, engineering and others. For the past two years we have studied noise and its control on Federal, State and local levels, most particularly the Department's proposed regulations and the City of Portland's proposed noise ordinance.

LEVELS

I am handing up a chart that summarizes the erosion in protection since the first set of rules that we generally supported in September, 1973. That version was written with assistance of EPA, Region X and previous staff who had monitored noise around the State and held hearings prior to writing regulations. The present levels are 10 dBA less protective. Maximum allowable noise has been deleted from the levels. Three years of non-protective levels coupled with the three years that have passed since the Legislature mandated these noise rules in 1971 is a very long phase-in period indeed.

The Seattle-King Co. ordinance states, "... (we) acknowledged that one year is too long a compliance period for many easily changed noise problems, and may be too short a time for others. The one-year deadline for compliance was reached with the assurance that noise-makers unreasonably restricted by the ordinance can secure a variance..." *

These regulations not only have provision for variance, but contain 13 classes of outright exemptions -- for which we have seen no criteria of exemption -- and 5 classes of exceptions in writing (iv consists of two unrelated classes).

OEC asks the Commission to:

1. Return the levels to those of March, 1974 with one-year phase-in period
2. Return the measurement point to the property line at these previous levels

I enclose a chart that shows fixed source noise levels (i.e., industrial-commercial) for 68 cities as measured at boundaries of residential districts indicating:

Average Day Levels: 53.9 dBA
Average Night Levels: 50.1 dBA **

*Seattle-King Co. proposed noise ordinance; Sept., 1973

**Chart and source follows

One court case in Illinois is the only real evidence staff has given of enforcement problems. Without evidence to the contrary, difficulty of enforcement cannot be cited as the reason to ignore more protective levels in other cities and states. Using only one example, the Chicago ordinance for its industrial noise limits:

CHICAGO NOISE ORDINANCE - 1971		Max.
<u>Chap. 17 of Municipal Code as follows:</u>		
Sect. 17-4.14	Zone M3-1 to M3-5 Heavy Mfg.	61 dBA
"	17-4.12 Zone M1 Restricted Mfg.	55
"	17-4.13 Zone M2-1 to M2-5 Gen'l Mfg.	58

These levels are stated as maximums along district boundaries. They apply to residential areas. Business and commercial districts are also protected in the Chicago regulation at levels 7 dBA higher.

I enclose a brief comparison of our levels with other cities and states from a Seattle noise consultant who was the recipient of the City of Portland's HUD grant of \$150,000 (matched) for noise survey, monitoring and control. It will be seen we exceed everyone's limits, or maximums and that we perhaps are the only one in the country using the statistical method.

In placing the measurement point 25' from the inhabited structure staff claims to be "protecting the criteria", yet we find they do not meet their own criteria of holding levels below 45 dBA in the bedroom interior (DEQ Memo dated 4/17/74; pp. 1-2).

Previous testimony indicates 8 dBA lost through the structure with open window. (Supplemental testimony by Mr. Ed. Daly - Daly Engineering Co. Letter and data, 3/25/74). This STC is disputed by staff, but the source is highly regarded in the field of acoustical engineering. Using the 8dBA requires levels outside of no more than 53 dBA if we recognize that sleep is disturbed in 50% of people at 45 dBA levels (See testimony Dr. Nancy Marshall accompanying Hearing Officer's EQC Report, March 22, 1974). This level is used by the 68 cities for a daytime average in their quantitative noise ordinances.

The proposed regulations do not require daytime noise to be less than 60 dBA. Our previous testimony on speech interference by Dr. Paul Ventura in March details levels needed to preserve outdoor speech communication.

The EPA states these reactions at levels of 55 dBA outdoors:

- 1% complaints
- 17% annoyance
- no community reaction, but this is only 7 dB below level of "complaints and threats of legal action"
- 99% sentence intelligibility (avg. at 1.0 meters)

In its criteria memo staff wants to preserve intelligible speech (normal conversation voice) at 8 to 11 feet. With these levels it does not do so.

L-MAX and IMPULSE NOISE

The chart shows the deletion of L-Max. The maximum allowable noise is the traditional one set for quantitative noise regulations. It means one can quickly prove a violation of the loudest noise allowable without extensive statistical measurement. Industry asked for the deletion of L-Max. We ask for its reinstatement:

1. Remove L-1 as a statistical measurement
2. Establish "Maximum allowable noise level" at the property line of
 - 75 dBA Day
 - 60 dBA Night

These are the March levels in the proposed regulation.

The regulations allow blasting noise from all sources except construction. There is no provision for regulating ground vibrations, though staff recognizes how to measure them. Under the proposed regulations we would allow blasting noises (impulse noise in type) for up to 36 seconds every hour 25' from one's home. Any other industrial impulse noise, and EPA says there are many, could occur at any rate -- say 72 half-second noises at 100 dBA -- in the period before L-1 takes over as a statistical limit.

AMBIENT NOISE

We are pleased that the Errata Sheet returns the prohibition against median ambient rise to the regulations. However it does not meet staff's own criteria for median ambient rise to be limited to 5 dBA once in five years (DEQ Memo, supra, p.3), so necessary to prevent environmental degradation. OEC recommends:

1. Return of ambient rise to a 5 dBA limit
2. Stipulate ambient rise as once in five years or more

Since this impinges only on new sources, those which it is supposedly easiest to regulate, this should not be a problem, particularly if the regulations likewise return to the March language that required new sources to do their own ambient monitoring prior to installing a new noise source. This is an instance where the permit procedure could be used as in other pollutant sources.

NIGHT ZONE

Another erosion which impairs the protection of this regulation is the present 9 hour night zone that at one time was a 12-hour zone, and then 10 hours. The reductions in night-time are unjustified in the light of our evidence linking children's nightmares and enuresis with noise (See testimony of OEC by Fran Finney, 3/4/74). The Seattle regulation night zone begins at 9 P.M. Do even the small things have to step aside for industry and commerce to pass on economic costs to us in the form of social costs? Standard pediatric texts show children need 10-11 hours of sleep at age six to ten.

LOW-FREQUENCY NOISE

The regulations are improved in the area of pure-tones, regulating

annoying narrow-band noise and in using octave-band and 1/3 octave band testing, but we must consider why no regulation section appears to cover some of the largest fixed sources of industrial noise on which there has been a great deal of expensive acoustic analysis and for which projected soundproofing is in store. We mean the noise of Bethel and Harborton.

Apparently the Marion County ordinance for noise, as old as it is, does cover the problem and we wonder why you are laboring under a delusion, as staff has indicated, that the Legislature meant only noise that is perceivable through the auditory canal as being that for regulation. When the mandate was passed in 1971, the State did not even have Bethel and Harborton to worry about. To analogize, we would have no X-Ray laws if we required optic stimuli to be defined only as those perceived by the eyeball. Just as the ocular nerve is not the only one to receive stimuli from the optic spectrum, so too is the auditory nerve not the only one to receive acoustic stimuli. We ask that the staff continue to apply effort into regulating the lower and upper ends of the frequency band and not be limiting regulation to that permitted by a definition of noise from engineering standards alone.

Thank you,

OREGON ENVIRONMENTAL COUNCIL
Noise Committee
Submitted by:-

Jeanette Egger

Balance of Committee testimony follows

TESTIMONY OF THE OREGON ENVIRONMENTAL COUNCIL
COMMITTEE ON NOISE
at the
ENVIRONMENTAL QUALITY COMMISSION
July 19, 1974

PROPOSED REGULATIONS--INDUSTRIAL AND COMMERCIAL NOISE

Noise from an industrial and commercial noise source is to be regulated under these proposed regulations only in the case when the noise impinges upon a "noise sensitive property." The definition of noise sensitive property includes only libraries, churches, schools, and places where people normally sleep. Outside of the regulation of noise on extremely serene areas (see our discussion of "quiet areas," infra), no protection whatsoever is given to public land such as parks where people go to rest and recreate. Is there anything about our public outdoor places that is less deserving of protection than a residence? DEQ staff has said that public park land was left out of the definition because traffic noise is the primary noise infringement in these areas. Yet this definition, if passed for the industrial commercial regulations, will almost certainly hold in the other sections of the regulations, including that section regulating noise from roadways. We previously suggested that noise sensitive property include "theaters, outdoor amphitheaters, campgrounds, and any point in a private or public park or recreation area where hiking, picnicking, nature study, fishing or reading take place." We think this amendment to the definition would be appropriate.

Noise sensitive property should also include areas zoned for a noise sensitive use, such as housing, even when such use is not yet actually taking place on the land. Under the draft regulations, an industry would qualify for an exception if it exists before an adjoining noise sensitive use. This allows an industry to move into an area where adjacent land is zoned residential and make as much noise as if all the land surrounding it were in industrial use. Since noise has many unconscious deleterious effects, we should not regard the residential owner's buying into a noisy area as proof that no regulation of these previously existing noise sources is necessary.

In the draft of the regulations heard in public hearings before the DEQ in March, staff had introduced a special classification of property called "quiet areas" for which a greater degree of protection was afforded. Since March quiet areas have suffered an increased tightening of their definition, an erosion of the levels of protection, and a complicating of the process by which they are designated. We now doubt whether the small protection afforded will be a sufficient enough incentive to justify the complicated process of designating a quiet area. We suggest that the definition of quiet area be returned to that of the February draft, so that more than wilderness-type areas are included and department

designation is allowed. We also suggest that the levels of the February draft which provide five dBA greater protection than the current draft be reinstated.

The proposed regulations provide that before enforcement action will take place against an existing industrial or commercial noise source, a complaint must be filed with the department. The department itself may be the complainant. We have submitted previously to the department a research paper on the subject of the inadequacy of the complaint basis of regulation. First of all, only the most articulate segments of our society are apt to make complaints. Those who do not speak English, those who do not read or write well, those who have little acquaintance with the processes of government, and those who have little faith in the operations of government are apt not to make complaints. That the department may make the complaint ameliorates this problem somewhat. Second, noise has many harmful physiological and psychological effects upon people of which they are often not in the least way aware. Changes in sleep patterns, task performance, speech intelligibility, and states of stress are all related to noise impact, although we may not be aware of this effect upon ourselves. However, what disturbs us most about the complaint basis is that as the proposed

regulation is now worded, it appears that a noise source is in conformance with the regulation until a complaint is actually filed. Industry has complained about the long lead time necessary to quiet noisy industrial processes. If a noise source is not in violation of the regulations until the complaint is filed we can expect that lead time to begin from the date of complaint, instead of the effective date of the regulations. The effectiveness of any environmental regulation depends upon the self-enforcement and self-policing of the sources regulated. No environmental agency controlling any environmental pollutant has the staff to monitor all of the pollutants from all sources that enter the environment. The self-enforcement mechanism functions because controllers of pollution sources are aware that the chance exists that the enforcement agency could monitor their activities at any time and find them in violation of the regulation. This incentive to be in compliance with the regulations does not exist in the proposed noise regulations as they are presently worded. Staff has stated that they interpret the regulation to mean that they could (and will) find noncomplying industries in immediate violation of the regulation. A legal opinion on the effect of these regulations should be sought. We suggest that in any case if the legal effect is not as we have set forth, the political effect is, and industry will not quiet its noise sources until complaints are filed. This is a fundamental departure from the self-enforcement schemes of air and water pollution control, and we are surprised

that industry is willing to accept a system which inevitably will lead to selective and nonuniform enforcement of environmental standards.

After industry complained at the March hearing of the effect of the proposed regulations on their operations, the DEQ Director appointed an ad hoc committee to advise the DEQ on problems industry might face meeting the regulations. This committee was composed of representatives from industry, environmentalists, and one consultant. DEQ staff presided. The charge of the committee was to see whether differences over the noise regulations could be resolved in 90 days. The ad hoc committee held five meetings which the OEC representatives faithfully attended, in which the discussion was primarily concerned with the procedures of noise measurement and monitoring. Industry attendance dwindled until the effectiveness of the committee was jeopardized. On the Tuesday before the last scheduled Thursday meeting of the committee, the industrial representatives circulated a counter-proposal to the DEQ regulations. This was the first substantive proposal put forth by industry since the first draft regulations were published in September, 1973. Previously, industry had limited its remarks to complaining that the regulations could not be met. It was our

understanding that the committee would consider on an industry by industry basis the difficulties that might be met in meeting the regulations. To this date, we have not seen any data presented by industry that would show exactly what levels industry could meet and could not meet. We believe that the eleventh-hour proposal of industry was intended to stampede DEQ's staff and the environmentalists into a forced compromise on the regulations so that they could be gotten to the commission in a timely fashion. We regarded industry action as a breach of faith with the other members of the committee, and the OEC representatives refused to participate any further in the activities of the committee. Most of the changes suggested by industry have been embodied in the proposed regulations now before the commission.

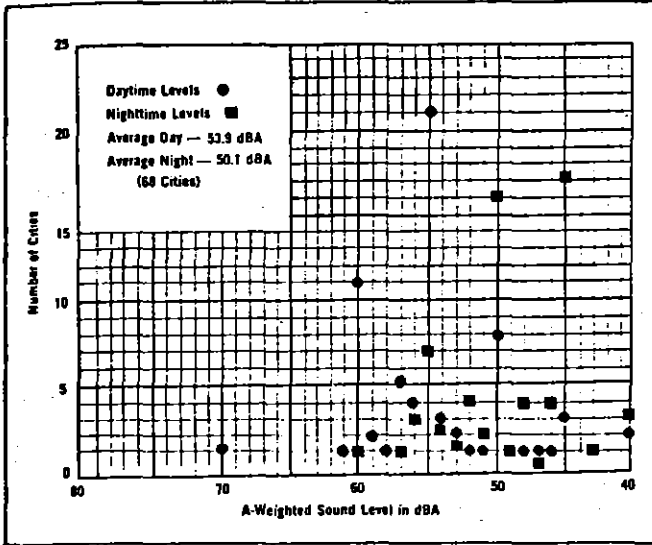


Figure 1. Fixed source noise levels allowable at residential district boundaries.

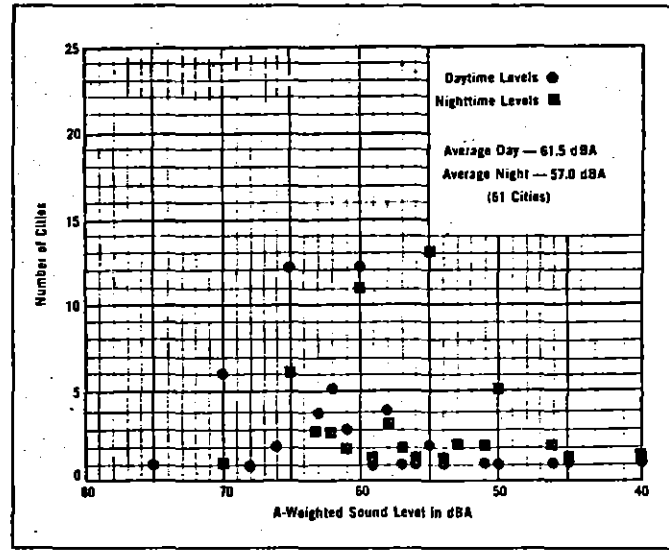


Figure 2. Fixed source noise levels allowable at business/commercial district boundaries.

The degree of detail depends in part upon the number of different zoning districts in the ordinance, or alternatively the land use categories depicted in the comprehensive plan.

At the most fundamental level these ordinances establish noise criteria not to be exceeded in residential districts. In many cases the ordinance has limiting noise levels for residential, commercial or business, and manufacturing or industrial districts. There is however a wide range in the maximum noise limits among city ordinances. By converting the maximum limits in various zoning ordinances into A-weighted sound levels expressed in dBA, comparisons are possible. The most restrictive levels are those occurring at the residential boundary.

Figure 1 compares the fixed source noise levels allowable at residential boundaries among 68 municipalities. The distribution of permissible emission limits ranges between 70-40 dBA for daytime and 60-40 dBA for nighttime. However, nearly one-third of these ordinances have the same daytime requirement of 55 dBA, while during nighttime (usually defined as 10 p.m. to 7 a.m.) 45 dBA and 50 dBA are most common. Even though many ordinances have similar daytime and nighttime noise limits based upon the cities examined there was an average 3.8 dBA reduction in the allowable nighttime noise level.

Allowable noise levels for business or commercial district overall were less stringent than residential districts by virtue of the type of land activity. Business or commercial use districts averaged 61.5 dBA, or 7.6 dBA above residential districts during daytime hours (see Figure 2). There was a wide distribution of observed limits ranging from 75-40 dBA at night. Furthermore there was no generally agreed upon set of limits among these ordinances.

Zoning ordinances containing manufacturing or industrial noise emission limits are the most permissive. Despite the permissible levels, these requirements displayed the greatest range from 80 to

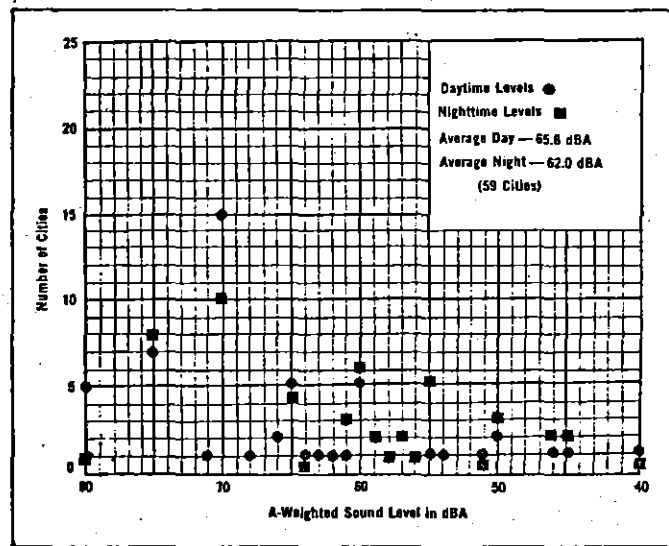


Figure 3. Fixed source noise levels allowable at manufacturing/industrial district boundaries.

40 dBA for both daytime and nighttime (see Figure 3). Like the other district requirements there was no common noise level, although 70 dBA for both day and night was most often chosen. Even within this district many ordinances expressed lower limits for nighttime industrial activity, averaging 3.8 dBA lower at night.

Beside these common differences in allowable levels based upon land use and time of day, several cities have variances depending upon the acoustical characteristics of the noise source. When the offending source is an impulsive type noise, then a correction factor is allowed. Many ordinances stipulate that impulsive type noise must be 5 decibels below the general permissible steady-state noise limit. However, other cities allow the addition of 5 decibels for repeated impulse noise which indicates there is no consistent correction factor. Other variances include a pure tone correction, but

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

June 11, 1973



REPLY TO
ATTN OF: M/S 533

The following is a correction in the Sleep Interference Criteria given on pages 31 and 32 of Region X April 1973 edition of the Environmental Impact Statement Guidelines:

2. Recommended Criteria, paragraph b., should read as follows:

For sleeping purposes maximum levels allowed are suggested peak levels since it is the peaks which cause arousal. EPA-NTID No. 300.7 Effects of Noise on People, page 68, Figure 17, indicates 50% of the people can be protected from awakening if interior peaks do not exceed 50 dBA. With windows open for ventilation, this suggests peak levels outside of 60 dBA to protect sleep.

Summary: Sleep Interference Peak Level outside 60 dBA,
Special Communication L₅₀ outside 55 dBA.

Indirectly, Ward¹⁷ observed that temporary threshold shift for a 700 Hz pure tone was reduced when masking noise of sufficient intensity to elicit a muscle reflex was introduced to the opposite ear from the one receiving the tone. The reduction in temporary hearing loss was of the same magnitude as one would find if the pure tone stimulus were approximately 10 dB lower in amplitude. Therefore, it might be concluded that for the frequency tested, there was a degree of protection afforded by the reflex. When Ward used a 2000 Hz tone, there was no apparent protection function in that the temporary threshold shift was the same with or without the reflex. In electrophysiological studies, Wever, *et al.*,¹⁸ found that the contraction of the stapedius muscle in cats resulted in 5.6 dB less transmission of a 300-Hz signal to the cochlea. The tensor tympani muscle contracting alone reduced the transmission efficiency 1.5 dB. When both muscles were contracted simultaneously, the resulting transmission loss was found to be 20 dB.

There is no firm agreement in the literature on the threshold of middle ear reflex activity for "normal" human ears. Perlman¹⁹ observed that reflex thresholds have been reported for sounds ranging from 40 dB to 100 dB depending upon the type of sound used. Thus, there appears to be a wide range of individual variation with respect to the reflex. In general, however, the reflex occurs when the stimulus is presented at levels between 75 to 90 dB. Perlman¹⁹ has also observed that during continuous stimulation by sound, the muscles tend to relax. This reduces their protective function.

The onset of muscle responses lags behind the onset of an intense sound by 15 to 17 milliseconds or longer.²⁰ The muscles reach peak contraction somewhat later. Wersall²¹ determined that these peaks occur 6 msec after onset of the stimulus for the stapedius muscle and 132 msec for the tensor tympani. This being the case, sounds of sudden onset and of short duration (e.g., gunshots, cap pistols, firecrackers, or stamping presses) are carried into the ear at full force without alteration by the middle ear muscles. It is thereby considered that the protective function of middle ear muscles for impulse-type sounds is nonexistent. Fletcher²² has demonstrated that some protection against noise can be obtained by introducing a moderate reflex-arousing stimulus prior to the occurrence of the more intense impulse noise. In industry, this principle has been applied by constructing a triggering device that presents a reflex-arousing tone to the ear of a drop forge operator prior to the impact of the forge itself. That this provides protection for the cochlea was dramatically demonstrated in animal experiments by Simmons.²³

HUGH J. PARRY NOISE CONSULTING

3060 NE 97TH STREET • SEATTLE, WASHINGTON 98115 • (206) 525-6828

July 15, 1974

Jeanette Egger
290 Iron Mountain Blvd.
Lake Oswego, Oregon
97034

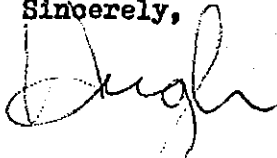
Dear Jeanette:

In researching noise standards of communities around the country I find that Los Angeles, Chicago and San Francisco have a 55 dBA limit for residential zones, as well as the state of Colorado; Illinois has 42 dBA, Boston has 60 dBA, and the new NIMLO model ordinance has 47 dBA. Comparison with the proposed Oregon DEQ levels is difficult because of their statistical approach (the only one in the country as far as I know). A steady noise at 55 dBA, running constantly, would produce 55 dBA values in all percentiles and would be allowable during daytime hours after 1977. At the same time, that noise source could equal or exceed 60 dBA for six minutes each hour and 75 dBA for 36 seconds each hour. Therefore, I tend to think their present statistical approach is more lenient than a straight value of 55 dBA.

Los Angeles, Boston, Illinois, and New Jersey laws all require a 10 dB reduction in levels at nighttime. However, this is not universally true.

I'm not sure these comments are of much help but they're all I can put together under the circumstances. Best regards.

Sincerely,



HUGH J. PARRY
NOISE CONSULTING

HJP:jva

INDUSTRY COMMERCE NOISE
REGULATIONS

OREGON ENVIRONMENTAL
COUNCIL JULY 19, 1974
PRESENTED TO EQC: SALEM

A Comparison of Intrinsic Changes - Sept., 1973 - July, 1974

RULE	SEPT. '73	INTERIM DRAFT DEC., '73	MARCH '74	JULY, 1974
LEVELS:	(Day-Night)	(Day) (Night)		(Day) (Night)
L-90	45	Dropped..... } TO
L-50	50	55 50	Same as 12/73	60 55 } '78*
L-10	55	60 55	" " "	65 60 }
L-1	60	Dropped.....	80 65 }
L-MAX	70	75 60	Same as 12/73	Dropped..... }
TIME ZONES (DAY-NIGHT)	12-Hour Night Zone 8 PM - 8 AM (hotels, motels) 9 PM - 9 AM (racing; ORV's)	10-Hour Night Zone 9 PM - 7 AM for all Noise Sensitive Prop.	9-Hour Night Zone 10 PM - 7 AM (weekend Racing to 11 PM)	Same as Mar., '73
MRSMT. PT.	Property Line	25' from res'l bldg.	25' from inhabited bldg.	Same as Mar., '73
EXCEPTIONS EXEMPTIONS VARIANCES	3 outright None None	11 outright 5 by written request	(terminol. reversed) 11 exemptions 4 exceptions by written request	13 exemptions 5 written/ request except'ns (iv consists of 2)
BASIS FOR NON- COMPLIANCE	Reads: "No person shall cause...noise levels (spec.) ...to be exceeded."	Same as 9/73	Same as 9/73	COMPLAINT basis for existing L-C sources; no change for new, modified
QUIET AREAS	Not specified	Strong def. (Day-Night) L-50 @ 40 dBA L-10 @ 45 dBA L-MAX @ 50 dBA	Stronger def.: Includes nature trails in parks; requires land-use agency to design- nate areas. SAME LEVELS	Def. changed. (Day) (Night) L-50 @ 50 345 L-10 @ 55 350 L-1 @ 60 355 L-MAX - Dropped
SCALE	A, B & C- scales spec. (dBA; dBB; dBC)	Dropped B- scale & C- scales	Same as 12/73	A-Scale plus adds linear for pure tones and Impulse Noise
IMPULSE NOISE	Not specified	Same as 9/73	Same as 9/73	Permits: (Day): 100 dB (Night): 80 dB
AMBIENT RISE (NON-DEGRADA- TION)	± 10 dB based on zoning	Same level Prohibits more than 5 dBA rise in median am- bient 1 X 5 yr. New sources only.	Dropped zoning. Same. Also requires new I & C sources to do all ambient mrsmts.	Property must have been "previously unoccupied..." Rise allowed to ± 10 dBA (L-10, L-50. No msmt req. by source. No limit on how often.

*Post-1978 - minus 5 dBA
New I-C " " "



July 18, 1974

Port of Portland

Box 3529 Portland, Oregon 97208
503/233-8331
TWX: 910-464-6151

Department of Environmental Quality
Noise Control Section
1234 S. W. Morrison Street
Portland, Oregon 97205

PROPOSED NOISE CONTROL REGULATIONS FOR INDUSTRY AND COMMERCE

The Port of Portland fully supports the Department's efforts to regulate noise from industrial and commercial activities. These proposed regulations represent a positive step in the Department's efforts to maintain the quality of life for the citizens of Oregon; however, the Department must continue planning efforts so that state-of-the-art technology in noise measurement and noise control are incorporated into these regulations in a timely manner.

The Port of Portland would like to take this opportunity to submit comments on the proposed regulation. We believe that these comments will further the Department's goals of providing equitable and enforceable regulations.

1. The introduction to these regulations states that it is the policy of the Department to "encourage the enforcement of viable local noise control regulations by the appropriate local jurisdiction." The regulations, as proposed, do not provide a mechanism for allowing the local jurisdictions to enforce these regulations. Therefore, the Port of Portland recommends that language be incorporated into these regulations providing for enforcement at the local level; however, the authority for establishing compliance schedules should remain with the Department because local jurisdictions, in all likelihood, will not have the required expertise.

2. Section 35-035 (1) (A) requires a complaint before the Department may investigate and resolve a noise problem. We realize that the definition section of these proposed regulations allows the Department to initiate a complaint; however, the intent that a citizen must initiate action before DEQ may proceed against a noise source remains. The Port of Portland does not support the limitations of this concept. The probability of a

July 18, 1974
Department of Environmental Quality
Page 2

citizen initiating a complaint can be largely dependent upon the citizen's social economic class and understanding of governmental procedures. Therefore, the Port of Portland recommends that the word "complaint" be stricken from these regulations, thereby providing the DEQ staff with the necessary flexibility to act, with or without a citizen complaint.

3. Section 35-035 (1) (A) establishes pre-1978 and post-1977 noise levels. The regulations, as proposed, provide no mechanism for insuring that a facility that exceeds post-1977 standards, but does not exceed pre-1978 standards, will achieve the required levels by 1978. The Port recommends that all concerns presently exceeding the post-1977 levels be placed on a compliance schedule to insure that these levels are met by January 1, 1978.

4. Review authority for new sources is not contained in these regulations. The Port of Portland recommends that a procedure be established in these regulations for the review of new noise sources that may possibly exceed the standards established. This review authority should be similar to the existing notice of construction system that is incorporated into the air quality regulations, thereby precluding a need for a time-consuming permit process while accomplishing the same objective.

5. Section 35-035 (1) (B) restricts the increase in ambient noise levels for new sources in undeveloped industrial and commercial areas. In major industrial areas, as defined by the local planning jurisdiction's comprehensive plan, the result of this regulation will be to unduly penalize the first facility entering the area. This regulation requires that the first facility meet a standard that may be much lower than for a partially developed area; whereas, the second and successive facilities located in that area will have the benefit of increased ambient noise levels created by the preceding facilities. The net result of this regulation is that it discriminates against the first facility while removing the requirement for successive facilities. The Port recommends that this standard not be applicable to industrial or commercial areas designated by the local planning jurisdiction's comprehensive plan, but that this regulation remain in effect for all other areas.

6. Section 35-035 (1) (E) establishes additional requirements for octave bands and audible discrete tones. This requirement is an essential part of a viable noise control program; however, the levels as presented in Table J, in effect, establish an overall standard more stringent than that presented in Tables G or H. Table J, when viewed as a whole, establishes a noise standard of L10-55 dBA. The allowable octave band sound pressure levels contained in Table J should be increased to become consistent with the levels presented in Table H.

Walter A. Hitchcock

Walter A. Hitchcock
Environmental Coordinator

cc: Cliff Hudsick



Oregon Sanitary Service Institute

4645 18th Pl. S., Salem, Oregon 97302 Phone 362-1526

Research
Standards
Service

July 19, 1974

ENVIRONMENTAL QUALITY COMMISSION HEARING ON NOISE REGULATIONS FOR INDUSTRY AND COMMERCE...OUTLINE REVIEW

Representative Capacity Roger Emmons, Executive Director, Oregon Sanitary Service Institute, trade association of more than 160 refuse collection, disposal and recycling firms with 25 associate members in service and allied fields. Also as Secretary of Tri-County Solid Waste Management Council.

Concern "Industrial or Commercial Noise Levels" in 35-015 (15) includes those "generated in the storage or disposal of waste products."

Clarification Requested for Record 1973 draft did not specify solid waste. early 1974 draft did. John Hector of staff indicated that this included "collection, transport, transfer and utilization (recycling, etc.) of wastes."

At the March 4th hearing and subsequently, I expressed concern that our packer trucks could park in an alley or on a parking lot of a restaurant, motel, business or industry, cycle to compact the wastes at a noise level above what is now table G and create both a violation for the collector and possibly for the person taking our service.

It appears that the exemption in 35-035 (5) (a) (xi) for Road Vehicle Auxiliary Equipment otherwise complying with noise rules excludes such operations as a compactor is built into such trucks for the handling or storage of waste products within the vehicle under definition in 35-015 (33).

Your staff has assisted us in noise level measurements for the packer vehicles and assured us that the representative samples tested meet the vehicle standards. We deeply appreciate their concern and assistance. But we need this clarification for the record to assure continuance of this vital utility service to you and all Oregonians.

Equal Protection Concern We can sympathize with staff concern over lack of time, staff and money to provide a statewide total enforcement of noise standards and the desire to institute enforcement on a complaint basis. But we believe that there is a better way to express that program in terms of regulations.

As drafted, 35-035 (1) (a) on existing noise sources expresses a standard that "If a complaint on an existing industrial or commercial noise source is filed with the Department, no person..." shall exceed the levels in Table G.

This seems to say that I can be as noisy as I want as long as I don't have a grouchy or sensitive neighbor. Two sets of rules apply...no standard for those without a neighbor problem or direct DEQ complaint and a set of standards for those under complaint.

This appears to be a case of denial of equal protection that we believe should be carefully reviewed by the Attorney General prior to adoption of the regulations.

Our disposal sites, publically or privately owned, are not the most popular of neighbors in some areas and could be particularly subject to harassment. The complaint based standard could well prompt an unscrupulous person to "black-mail" a noise source.

Wouldn't it be far better to have a realistic noise level which everyone has to meet with enforcement being based on time, staff and available resources and complaints?

Quiet Areas Establishment of a "quiet area" by the Commission may have drastic implications for a neighbor whose property may be so restricted that it cannot be developed or an existing facility may not be useable. For example, a processing center for solid wastes may be built with funds supplied by DEQ from the pollution control bonds. Someone builds an ampitheater drive-in next door and asks for a quiet area. Having met the zoning requirements, having met the I and C noise standards, the adjacent center has no notice and effectively no opportunity to be heard. To be economic, and this is being proposed in some of the studies financed by your Department, double shifting will be required.

If a 250 foot radius notice is required in zoning before I can get a variance to build two feet closer to the property line, shouldn't some notice be given hear with an opportunity for a public hearing, if requested?

And should not some notice be filed locally, perhaps with the planning and zoning agency having jurisdiction, so that a person may be made aware of the designated areas?

Exceptions and Variances Public agencies and private firms are going to invest tens of millions of dollars in new resource recovery systems in Oregon together with improved transportation systems and better handling and disposing of those marterials that cannot be recovered. Again, much of the funding may be the pollution control bonds.

If there is no other way to make a facility practical and if it is not a substantial problem to the neighbors, an exception or variance may be warranted under the legislative policies that guide you in administration of ORS Chapter 459 on solid wastes.

Is that exception or variance something on which we can safely rely when investing your bond funds, county revenue bonds, taxpayer funds or private financing of this magnitude?

We share that concern expressed by AOI on this subject. We specifically point to ORS 459.225 which was deliberately drawn with assistance from your staff among many others to take care of a similar problem. It specifically authorizes variances and conditional permits with a compliance schedule built in and further states that operation under such a compliance schedule or variance is not a violation of the many cited solid waste laws.

We urge your careful review with legal counsel and, if any question of authority remains, a submission to the next legislative session of corrective legislation.

New Sources in Newly Developed Areas On the Errata Sheet, 35-035 (1) (b) is amended by a limit that new sources cannot raise the ambient noise level by more than 10 DBA. Transfer stations in the form of rural service or convenience centers and semi-urban stations will generally be built in previously quiet areas and thus be prohibited.

EQC NOISE REGULATION HEARING - 3

Disposal sites for all refuse or, later, for residue from resource recovery, are located in agricultural areas in most cases. For example, the regional site for 2 1/2 counties in the mid valley is Coffin Butte some 11 miles north of Corvallis in an area zoned for agriculture, grazing and timber. It has been approved for preliminary feasibility, subject to operational plan and total compliance by DEQ staff; approved unanimously by the Planning Commission; approved by the Board of Commissioners on appeal and carries the recommendation of the local health officer, solid waste committee and Chemeketa Solid Waste Planning Region.

Coffin Butte has run the gauntlet and is the cornerstone for a massive proposed resource recovery center to extract fuel, ferrous metals and possibly other materials from wastes at nearby Camp Adair. It will be built in a new operational area. It will raise the level far more than 10 DBA. As pointed out at every hearing on these regulations, we use the same equipment that you TOTALLY EXEMPT AS CONSTRUCTION EQUIPMENT AT A CONSTRUCTION SITE.

A D-8 cat, scraper or loader doesn't know it is supposed to be extra quiet because it is buying garbage instead of constructing trenches or on-site roads on the same land!

The new Coffin Butte site is the result of a search that began in 1967, covered more than 20 potential sites and site areas, costs tens of thousands of dollars in finding and approving it, including at least \$15,000 of your pollution bonds for Chemeketa planning. Delays mean construction of the new portion may not begin until 1975. What about that site?

Again, we ask that disposal sites operated under permits from DEQ be exempted from the I and C noise levels with the proviso that essential noise level restrictions can be added to those permits which already contain literally pages of operational conditions.

Respectfully submitted,

Roger Emmons, Ex. Director

PUBLIC STATEMENT BEFORE THE STATE OF OREGON ENVIRONMENTAL QUALITY COMMISSION
July 19, 1974

My name is Marlene M. Frady, 390 Fir Knoll Lane N.E., Salem, Oregon

One of the problems with the DEQ proposed noise regulations for Industry and Commerce is that the regulations will probably be violated many times if the Industry is near residences. If a steady state industrial noise intrudes into a 40 dB(A) residential area, it will bring the Noise Pollution Level up to a higher level. Added on to this will be the intermittent noise of airplanes, cars, trucks, motorcycles, Construction, etc.

"Areas in which the daytime outdoor median noise level exceeds the range of 56 to 60 dB(A), categorized as "very noisy urban", are not well suited to detached residential housing, since normal voice conversation outdoors is limited to distances of less than 6 to 10 feet between talker and listener. Also, when the noise level is above this range, it is not possible to have relaxed conversation in a living room at a distance of 10 feet with windows or sliding glass doors fully opened."¹

Russia has reported on the quality of sleep obtained in a noisy environment. "When noise is at a level of fifty decibels . . . falling asleep is a lengthy process (1½ hours) and there are fairly short intervals of deep sleep (1 hour) followed, on waking, by a sense of fatigue accompanied by palpitations. The level of thirty-five decibels can be considered as the threshold for optimum sleeping conditions, since at this level it takes only twenty minutes to fall to sleep and the period of deep sleep lasts from 2 to 2½ hours."² "The Wilson Committee Report reaches a similar conclusion. In order to insure sleep, it recommends that night noise levels should not exceed 35 dBA, measured inside a dwelling unit."²

"There has been considerable public discussion about the growth of noise Pollution. Some of this discussion has led to dire predictions that the noise in our environment is increasing by as much as 1 dB per year, or 10 dB per decade. Clearly, such a rate growth, if true, would lead to very severe consequences!"³ "The sense of hearing is a twenty-four hour, 360-degree sense. It is a simple matter to close one's eyelids. But man has no corresponding "ear lids."⁴

"Does sound or noise hurt the human body? As several investigations have demonstrated, sounds or noises do change the physiological state. (Grandjean, 1960; Heinecher, 1959; and Maugeri). And since in general we consider extreme physiological changes to be a health hazard, we must think about sound or noise as being a potential health hazard. Until someone proves that these physiological changes are negligible, we must consider noise to have a possible detrimental influence on human health."⁵ "Health is a state of complete physical, mental and social well-being. It is, therefore, logical to consider noise a health hazard when it interferes in a significant way with sleep or rest, when it is annoying or disturbing (including cases of speech interference), or when it produces such emotional effects as fear."⁶

1. pg. 90, Note 3. pg. 80, "Community Noise", EPA, Wash., D.C., 31 Dec. 1971
2. pg. 81, 4. pg. 86, "Noise Pollution", Clifford Bragdon, 1971
5. pg. 89, 6. pg. 100, "Noise as a Public Health Hazard" ASHA Reports No. 4 Washington, February 1969.

Exhibit # 10
No. 8

STATEMENT ON
DEPARTMENT OF ENVIRONMENTAL QUALITY
PROPOSED NOISE CONTROL REGULATIONS
FOR
INDUSTRY AND COMMERCE

FOR
GREATER MEDFORD CHAMBER OF COMMERCE

BY
GENE HOPKINS
EXECUTIVE VICE PRESIDENT

JULY ¹⁹~~20~~, 1974

I am Gene Hopkins, Executive Vice President, Greater Medford Chamber of Commerce. I am appearing before this Commission for the Greater Medford Chamber of Commerce to present testimony for that association of 530 commercial, industrial and professional firms of that area.

The Greater Medford Chamber of Commerce supports the establishment of sound and economically practical noise emission controls. We think the essential ingredients of an attack on these problems are communication, coordination and cooperation.

It is the responsibility of government, or a combination of governments, at a level most appropriate to the problem, and with the participation of industry to identify the objectives, to establish capacity of the receiving environment, to enact standards, and to seek agreement on timing.

Industry should assume leadership in jointly developing information from within the industrial community on which sound decisions can be based.

In the public's interest, solutions should be justified, both technically and economically.

Our problem is to determine the best way to have "sound and economically practical" noise control. We view the regulations as proposed as being lopsided in environmental concern, while almost ignoring

Testimony On
Industrial and Commercial
Noise Regulations

ENVIRONMENTAL QUALITY COMMISSION

19 July 1974

James B. Lee

I am representing the Northwest Environmental Defense Center for the purpose of commenting on the proposed regulations. These comments are in four parts.

1. Low frequency noise and infrasound:

The two largest sources of industrial noise, the Bethel and Harborton turbogenerators, are left unregulated, in essence. Although the part of the regulations dealing with octave bands might catch a small portion of the noise emitted by these plants, the regulations do not speak to the highest sound pressure levels generated. These levels are 1 and 2 acoustic kilowatts, at a frequency in the 4 Hz band, for the Bethel and Harborton plants, respectively.

We have, in the state of Oregon, made positive contributions to understanding the problems of sound in the extremely low frequency bands. Now, with our understanding, it would not be difficult to write a good regulation, a regulation which could be

the model for other jurisdictions.

2. The noise sensitive property:

This concept is inadequate. It presupposes that the acceptable ambient state is that of noisiness, and that quiet properties are to be the exception. The picture thus is one of enclaves of quiet in a state of unregulated sound pressure levels.

Noise ought to be regulated at the source. Technically, this is far simpler to achieve, as it delimits the emissions from a source precisely, and need not burden the proprietors of the source with responsibility for subsequent development of noise sensitive property nearby.

3. Point of complaint:

This concept is wholly in error. It deprives the property owner of equal protection over his entire property. Quietness is a good. Under this concept the property owner is deprived of the good over portions of his property without compensation. For example, if the owner of a large property chooses to move his house, or decides to construct a new house, the point of complaint is moved as well. Under these circumstances, who is to bear the cost, and who is to retrieve the good?

4. Impulsive noise and pure tones:

T. W. Barrett, the originator of the comprehensive theory of acoustic information, believes that impulsive sounds and pure tones are the pathological sonic signals. (There are numerous articles by Barrett in *The Journal of the Acoustical Society of America*, *Acustica*, and *The Journal of Sound and Vibration* for the two years past; the above belief was given in a private communication.)

Impulsive sounds are those occurring within one aural integration period, about $1/20$ to $1/30$ of a second. Pure tones are sounds with predominate intensities in $1/3$ octave or less. These are the most important noises of all to regulate, and they have the capability to annoy out of all proportion to their actual intensities.

Technically, they are the most difficult to regulate. Yet the regulations do not reflect this. The definitions are imprecise; the numbers do not express the proper relation of broadband background noise to the impulses and pure tones.

We are pleased that the regulations speak to these problems, and we would like to join with the staff in improving the technical details of the regulations on impulsive noises and pure tones.

In summary, we state that there is sufficient ability and expertise in the state of Oregon to develop excellent regulations, regulations which would build upon proven existing knowledge and pioneer new regulation in areas of our special experience. We believe that Oregon now is in an excellent position to take a leading position in the field of industrial and commercial noise regulation.

PUBLIC STATEMENT BEFORE THE OREGON STATE ENVIRONMENTAL QUALITY COMMISSION
July 19, 1974

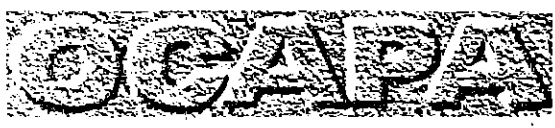
My name is Charles H. Frady, 390 Fir Knoll Lane N.E., Salem, Oregon. I represent the East Salem Environmental Committee as their president.

DEQ has submitted proposed noise control regulations for Industry and Commerce, and as far as I am concerned are inadequate for protecting the health, welfare or safety of the public.

The following statement is taken from the book entitled "Noise Pollution, The Unquiet Crisis" by Clifford R. Bragdon, University of Pennsylvania Press, 1971. "There are ways of getting around a 60 dBA limit without ostensibly attenuating the noise. A well-known manufacturer has simply altered the frequency distribution of the air-conditioner noise. Instead of permitting these units to generate noise within the mid-frequency ranges (frequencies used in determining decibel readings on the A scale), it has redistributed the spectral energy of the noise. Most of the sound energy now occurs in the lower frequency ranges, less sensitive to the A scale. This manufacturer has succeeded in meeting a recommended standard. But, since there is no basic noise reduction, the user (which includes the community) has not benefited at all. The noise signal remains as annoying as before."

This is exactly what our DEQ proposals still fail to involve. The DEQ fails to accept this problem so evident in their leniency towards PGE in allowing them to continue operating the Bethel gas turbine power plant simply by installing mufflers. The addition of sound mufflers, so important to DEQ and PGE, will possibly do one thing, and that is what the air conditioner manufacturer succeeded in doing - meeting a recommended standard, failing to eliminate the noise signal which is the main problem to begin with.

Will you allow the State of Oregon to be caught in this trap?



OREGON CONCRETE & AGGREGATE PRODUCERS ASSOCIATION, INC.

2187 S.W. MAIN STREET • PORTLAND, OREGON 97205 • PHONE (AREA 503) 221-1026
July 18, 1974

Environmental Quality Commission
1234 S.W. Morrison
Portland, Oregon 97205

Gentlemen: RE: Noise Control Regulations

We have reviewed the proposed noise control regulations for industry and commerce and feel that while they may be appropriate for industry in general, we of the sand and gravel industry have a separate concern.

Because we are not experts in noise control, we admit to not fully understanding much of the terminology used in these Regulations. In recent years through other environmental regulations we have had to become expert in such fields as waste water treatment, air contamination, land use planning, mined land reclamation, occupational safety and health standards, etc. Now with this proposal, we find ourselves once again forced to cram for knowledge in a very highly specialized science.

From what we understand at this point, the procedures proposed will be regulated somewhat differently from those of air and water quality with which we are now somewhat familiar. The implication is that these standards are needed as the criteria to evaluate compliance of a noise source upon complaint only. Can we suppose then that if we are not offending the rights of any other person we are excluded from the requirements? Or are we to conduct such tests, with expert help, as necessary to determine our failures and then spend whatever is necessary to bring our operations into full compliance? If this is the theory, then we must describe some of the unique aspects of the mining industry so that the Commission and staff will understand our concern.

As I will not be able to attend the Public Hearing on Friday, July 19th to personally explain some of the unique aspects of our industry, I will attempt to describe a typical sand and gravel operation:

Location - The pit or quarry is located where the deposit exists. This Commission should be made aware that good natural deposits are not abundant. Some counties do not even have a natural deposit of common sand and gravel. Therefore, all references to noise sensitive property, quiet areas, zoning, and land use planning philosophies must be analyzed closely.

Operation - The excavation is ever changing, and the source of noise moves with the development of the quarry or pit. Some pits

Table with 4 columns: OFFICERS, DIRECTORS, PAST PRESIDENTS. Lists names and titles of association members across various locations like Medford, Eugene, Hillsboro, and Portland.

use quiet conveyors while others must use mobile hauling equipment. Although regulations may seek to limit the operation to certain hours of the day, one must realize that this simply is not feasible. Production is paced to anticipated demand, and average ton per hour capacities of each component of a plant need to be coordinated. In other words, a typical plant may have a 200 ton per hour capacity and be working to supply a 200,000 ton contract. With everything working on schedule, this amount of gravel could be produced in 1,000 hours of continuous operation or 42 days. If only allowed to work from 7 a.m. to 10 p.m. (15 hours) the production time would be 67 days. With break-downs and other loss-time problems, the period to fulfill such demands grows. This coupled with the weather and seasons, makes it imperative that night time operations not be limited. A strict time-of-day type of regulation could seriously hamper a whole chain of events on a given construction project, and would in the end multiply the costs astronomically. -- Another operational consideration is that we have no knowledge of how to break or crush rock quietly. We have found ways to lower the noises with rubber lining, baffles, etc. but no way to appreciably lower the noise overall that would put us in compliance with the tables specified in each case.

Safety - In conflict with your Noise Control Standards, we are required by existing safety regulations to use and maintain signals louder than the ambient noise. These are needed to alert workmen of backing trucks, blasting, etc. In some complaints already registered by nearby residents, the chief objection was the sporadic beeping of back-up horns from dump trucks. These would not be exempt as we understand the Rules, as are normal warning devices.

Maintenance - Because of high wear and constant maintenance, it should be understood that much of the repair work can only be done while the plant is not operating. Generally this is scheduled for night hours. This welding, patching, hammering, etc.--with occasional trial runs--is every bit as noisy as the day time operation and even harder to control. We believe our maintenance operations are as necessary and subject to exemption as are utility distribution systems (35-035(5)(a)(viii)).

Without going any further, we appeal to the Commission to consider our position very carefully. Before exact Regulations can be made, we need:

1. To await development of sound control technology in gravel operations.

Environmental Quality Commission

July 18, 1974

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2. A transitional period based on normal growth to make the necessary improvements.
3. Flexibility in the regulations to control the variety of noise situations.

Very truly yours,



A. G. Heizenrader
Managing Director

AGH:jp

CC: R. C. Gilbert, OCAPA President

Exhibit # 16
76. 6

PORTLAND GENERAL ELECTRIC COMPANY

621 S. W. ALDER STREET
PORTLAND, OREGON 97205

WARREN HASTINGS
ASSOCIATE CORPORATE COUNSEL
ASSISTANT SECRETARY

July 19, 1974

Department of Environmental Quality
1234 S. W. Morrison Street
Portland, Oregon 97205

Re: Proposed Noise Pollution Rules and Procedures

Gentlemen,

This letter is in response to your notice inviting comments on the proposed noise control regulations for industry and commerce.

We at Portland General Electric Company are vitally concerned that fair workable noise standards be adopted by your Commission in implementing the statutory dictates of ORS 476.010.

As you are undoubtedly aware, rules and regulations adopted by an administrative agency must be uniform and must be framed to avoid unequal operation on persons of the same class. We do not believe that the proposed noise control regulations for industry and commerce so operate. There is no standard rule or regulation unless a complaint is made to the Director of the Department whether such complaint be justified or not. Following the complaint compliance with either Table G and Table H or the stricter Table J is determined by repeated complaints and the Director's discretion. This mode of procedure could hardly be called uniform.

Turning to the proposed Industrial noise control regulations themselves, we note that Rule 35-010 allows for exceptions. We also note that Rule 35-100 allows for variances. We find nothing in ORS 467.010 through 467.990 authorizing the Environmental Quality Commission to grant exceptions or variances. The Commission's authorizing legislation commands the Commission to adopt reasonable state-wide standards establishing maximum permissible levels of noise emissions and prohibits all persons from emitting noises in excess of such levels. The noise pollution statute contains no authority to grant exceptions and variances as appears in ORS Chapter 468 relating to air, water and other forms of pollution therein described. As such, the Environmental Quality Commission should very carefully consider the levels of noise prohibited or permitted.

Department of Environmental Quality

July 19, 1974

Page two

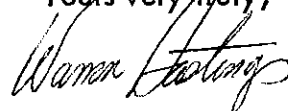
We feel the 10:00 p.m. to 7:00 a.m. allowable octave band sound pressure levels set forth in Table J are far too restrictive. There is no factual basis for the differences between the levels set forth day and nighttime and there is no factual basis to justify such levels on account of health, safety and welfare. It is our understanding that the daytime levels equal or exceed the Preferred Sleep Interference Level. We would recommend that Table J be modified so as to delete entirely the nighttime allowable octave band sound pressure levels.

We feel the addition proposed in Rule 35-035 (1) (b) immediately following Table H and set forth as Item 2 in the Errata Sheet is unreasonable. It effectively limits or prevents any new industrial or commercial development areas where the present ambient noise level is low. The proposed rule is not a uniform application since it works against the first industry on the site and favors those to follow. Furthermore, if Table H sets forth adequate limits to protect the health, safety and welfare, it is obvious that this proposed addition to Table H is unwarranted and unnecessary.

The definition of a quiet zone leaves much to be desired. The present definition leaves the determination of a quiet zone to the discretion of the Commission and as such is not a standard. Under the present definition industrial areas could be designated as quiet zones or areas within industrial areas could be designated as quiet zones.

Finally, we feel that Section (4) (a) of Rule 35-035 must be modified. The rule in its present form places a financial burden upon one accused of emitting excessive noises to determine whether he is in compliance with such rules and regulations. The burden initially belongs to the complainant and if the Department is in sympathy with the complainant then upon the Department also to initially incur the cost of studies demonstrating compliance or noncompliance of the regulations. We note that noncompliance with the regulations under the statute subjects a person to a criminal penalties. This regulation in its present form flagrantly flouts constitutional guarantees of self-incrimination and presumptions of innocence.

The foregoing are our chief areas of concern. We appreciate the opportunity extended to us to comment upon the proposed regulations and hope the foregoing comments are of some assistance to you.

Yours very truly,


The I-205 contract

The Oregon Transportation Commission will reject a proposal to redesign Interstate 205 offered by Commissioner Mel Gordon and adopted by Multnomah County. The state will push forward with the project unless halted by court action.

This state decision is in the best interests of the metropolitan area and Multnomah County. The Gordon proposal, shrinking the size of the freeway from eight to four lanes and eliminating all but three interchanges, would be a great disservice to the residents of East Multnomah County. They would have the freeway project, but would not be able to make much use of it as most of the benefits would go to bypass traffic.

The county, by its action, is simply trying to break a contract it made with the state in 1966 and again agreed to in a supplement in 1967. The attorney general, Lee Johnson, has said in an opinion that if such agreements are broken this would result in "social confusion that cannot be tolerated in an organized society."

The federal government and the state of Oregon have spent \$130 million on portions of the 36-mile I-205 project and another \$30 million has been spent in Washington state with the connecting links to a bridge that is being designed to cross the Columbia River. A section of the route has been completed from Interstate 5 to Oregon City and beyond, and most of the property purchased and cleared for the nine miles within Multnomah County.

Reducing the interchanges from eight, some of which were originally sought by the county, to three, would simply fence the residents of the east county area from the freeway. The route is badly needed by thousands of residents who cannot find jobs in east county and must travel elsewhere to work each day. They would be heavily penalized by the Gordon proposal.

If the route were reduced from eight lanes and a proposed transit corridor the state is considering, the bridge across the Columbia would have to be redesigned for the third time. Further, traffic projections indicate eight will be needed in the next 20 years.

The state plans to depress most of the route, except at the interchanges connections, over an area near Rocky Butte and where the route crosses 80-N.

Even if work proceeds on schedule, the route will not be completed until 1980. Under the Multnomah County proposals, several more years and millions of dollars would be added to the project. George Baldwin, the highway division administrator, said the entire project, including the Columbia bridge, would have to be redesigned if the Gordon plan were accepted or if interchanges were reduced.

Further, new environmental impact studies would have to be made and the land use planning of the county drastically revised. If, for example, light rail were put into the route and auto traffic restricted to four lanes, land use along the route would have to be changed to multi-dwelling in order to build up the population density to support the rail system, Baldwin said.

The Gordon proposal is hardly a compromise, except that it compromises the best interests of east county residents who would have all of the pains of a freeway without being able to get on it except at three widely separated interchanges. Gordon said the state's plan would "tear the heart out of mid-county." Gordon would leave the heart in and refuse to supply it with a main artery.

STATEMENT OF MULTNOMAH COUNTY COMMISSIONER MEL GORDON
ON THE I-205 ENVIRONMENTAL IMPACT STATEMENT
BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
July 19, 1974

Members of the Commission:

I am appearing today to inform you of Multnomah County's position on I-205, and to describe our staff's comments on the rewritten air and noise sections of the Environmental Impact Statement. I have filed with your secretary the appropriate documents.

Our position on I-205 is that the present 8-lane design is unacceptable. We do not yet have agreement with the Oregon Transportation Commission that is acceptable in the interests of everyone concerned, so the settlement of a number of issues lies in the future. Speaking for myself, a very significantly scaled-down freeway, with maximum public transit capability, built to satisfy a number of strict conditions regarding impact, would be acceptable. An example would be a 4-lane freeway with 3 interchanges.

This relates to the rewritten air and noise sections of the draft EIS in two main ways. First, the air and noise impact results appear to be very dependent on design and scale. Certainly, if the auto capacity of the freeway is reduced a great deal, the traffic volume input to the air and noise models should change accordingly. Second, the National Environmental

Policy Act specifically requires that alternatives and the no-build option be evaluated. This was not done adequately in the original EIS, and is not done at all in the rewritten air and noise sections.

So, the current situation is this, in our opinion: The 8-lane current proposal won't be built, assuming Multnomah County's position prevails, as we have every reason to believe it will. The no-build option must be evaluated according to federal law, and quite a few people, including some elected officials, believe no freeway should be built at all. In any event, we need a no-build evaluation in order to make rational decisions. A 4-lane design with transit is a highly likely compromise and should be evaluated. Again, federal law and good sense requires evaluation of "prudent and feasible" alternatives.

I will now summarize our staff comments on the rewritten EIS sections. Both, in our opinion, need reworking, aside from the questions of design and alternatives. First, both analyses use inconsistent assumptions regarding traffic volumes. The air analysis assumes considerably lower volumes than either the noise analysis or the rest of the EIS. Second, the models were not verified, apparently. That is, there is no way of knowing whether the projections are valid or not. Without testing the models by checking them against real-world data, the projections could be entirely fictitious, and the statements about impact entirely unsupported. Third, the discussion appears to define "impact" in terms of federal or other standards

rather than in terms of degradation of existing environmental quality. I believe that "impact" of pollution on living things means a change from what the environment is now, and adverse impact means degradation. There should be more discussion on this, in my opinion, and the Region 10 Guidelines on the Environmental Protection Agency appear to say the same. In these ways, both sections need reworking.

The "Noise" section needs more work in other ways. First, there is no plan indicated for monitoring noise impact once the freeway is operating. I believe this should be a condition of construction in order to best serve the public interest, and to meet EPA guidelines. In addition, I have some concern about whether the standards used for EIS analysis will be used in operation. The BBN standards are acceptable for this project at this time, but will they be followed? The EIS uses BBN standards, but gives no assurances that actual practice will follow them. We are concerned that the higher Federal Highway Administration standards will be used instead. This would be unacceptable to us. The truth of any statements about impact depends upon practice, not what some study says. The impact in Lents and Maywood Park is especially severe.

Second, there is not enough information to show whether or not the proposed noise barriers will actually be effective. There is good reason to believe they will not be effective. Effectiveness is often measured at the barrier, not out in the neighborhood which has to live with the noise. Research indicates that effectiveness falls quickly as you move away from the immediate vicinity of the barrier. Effectiveness also depends upon design,

and not enough information is given. We ask that effectiveness be assured before approval is given.

Third, in a number of ways it is impossible to compare future noise projections with current estimates. It is like comparing apples and oranges. Our staff comments discuss this in more detail, and we have discussed this with technical experts. Because of this lack of comparability, and because the method used is not clear, the data and contours shown are uninterpretable.

Finally, even assuming the projections are true (and the Lents neighborhood in particular is subject to severe impact), there is no discussion of compensation for this projected infringement upon property rights.

Turning to the "Air" section, several things need more work, in my opinion. First, there is no discussion of the relationship of I-205 to the Oregon Clean Air Act Implementation Plan. Does the project conform or not? If not, what measures are required to bring it into conformance?

Second, the impact discussion is confined only to the corridor, and only to direct impacts. As you know, air pollution extends beyond the immediate area of a high impact project like this one, especially smog. There is no adequate discussion in this EIS on the system impacts of this project, for example the impact of traffic growth in the Banfield corridor from opening access in Clark County. Also, there is no discussion of

system impacts due to the intended diversions of traffic from I-5 or extra traffic loads on surface streets from all the interchanges. There is no discussion, either, of indirect air pollution from land use changes associated with the freeway.

Third, the smog impact is inadequately discussed. This is particularly interesting to us because smog is directly related to scale, traffic volumes and speed.

Fourth, the lead discussion is misleading and the results are questionable in line with the earlier discussion about projections. This EIS ignores the fact that lead pollution affects children particularly, to the extent they affect anybody.

There are other comments in the staff report which I won't go into here. I have covered the major concerns. I hope we have made our position on I-205 clear in relation to the EIS issues before you. From that position I urge that you not approve the "Air" and "Noise" sections until the issues we have discussed are addressed more adequately.

Thank you for the opportunity to testify.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

MULTNOMAH COUNTY, OREGON

In the Matter of)
I-205 Design)

ORDER

It appearing to the Board that:

1. The United States Department of Transportation, Federal Highway Administration and the Oregon Department of Transportation Highway Division have resolved to construct Interstate 205 (I-205) Lewis and Clark Highway (Clark County, Washington) to S.E. Foster Road (Multnomah County/Portland, Oregon);
2. Multnomah County and the Oregon Highway Commission entered into the following agreements relating to the design of I-205:
 - a. Throughway Agreement dated January 25, 1966
 - b. Supplemental Throughway Agreement dated June 8, 1967;
3. The Throughway Agreement of January 25, 1966 says, in part, "...final design plans of said route shall be subject to approval by the State and County";
4. Multnomah County, by Order of the Board of County Commissioners dated September 10, 1970, made certain recommendations to the Oregon State Highway Commission Design Hearing of September 14, 1970;
5. Design approval was obtained by the Oregon Highway Commission from the Federal Highway Administration on a specific I-205 design, hereinafter called "the current design";
6. The forementioned agreements and Order were based upon certain planning assumptions and other information regarding the Portland International Airport Master Plan, the Mt. Hood Freeway (I-80N), the availability of transit alternatives, local and regional policies and attitudes on metropolitan growth, the availability of energy and key raw materials, and the social and environmental costs of the proposed design;
7. In the intervening years since these Agreements and Order were settled, the forementioned assumptions and information have changed significantly in virtually every manner that bears on key issues of public policy regarding transportation and its impacts;
8. The National Environmental Policy Act and U.S.D.O.T. Policy and Procedure Memorandum 90-1 requires that due consideration be given to alternative designs, alternative routes and the no-build alternative before the Secretary of Transportation gives approval for Plans, Specifications and Estimates;

9. 23USC Section 134 and U.S.D.O.T. Policy and Procedure Memorandum 50-9 authorizes the Secretary of Transportation to give approval for Plans, Specifications and Estimates only if "he finds that such projects [as I-205] are based upon a continuing comprehensive transportation process," and this process includes "periodic review and modification to meet changing conditions";

10. U.S.D.O.T. Policy and Procedure Memorandum 20-8 requires that a design hearing be held "before the state highway department is committed to a specific design proposal";

11. The effect of the intervening changed conditions and applicable federal laws and regulations is to cause the Throughway Agreement of 1966 and Supplemental Throughway Agreement of 1967 to conflict with resolution of public policy issues in connection with the current design of I-205;

12. Multnomah County on numerous occasions during 1973 and 1974 has expressed to the Oregon Transportation Commission concerns regarding I-205 and its relation to public policy issues of local and regional importance;

13. Oregon Revised Statutes chapter 203.120(3) and Common Law rule provide general authority for the county governing body to declare the public interest in the matter of establishment, vacation, alteration and use of highways within the county;

14. The Portland-Vancouver Metropolitan Area Transportation Study 1990 Transportation Plan, adopted July 18, 1969 by the Columbia Region Association of Governments Transportation Study Coordinating Committee, assumed completed I-205 and Mt. Hood (I-80N) freeways and was based upon most of the aforementioned planning assumptions; it is therefore

RESOLVED AND ORDERED that:

1. Multnomah County, acting under the authority vested in the governing body by ORS 203.120(3), declares that the current design of I-205 is not in the public interest of its citizens;

2. Multnomah County hereby terminates its concurrence in the following agreements with the Oregon State Highway Commission:

- a. Throughway Agreement dated January 25, 1966
- b. Supplemental Throughway Agreement dated June 8, 1967;

3. Multnomah County hereby withdraws its September 10, 1970 Order of the Board of County Commissioners of Multnomah County entitled: "Recommendations of the Multnomah County Planning Commission and the Department of Public Works for the East Portland Freeway I-205/80N Design Hearing, September 14, 1970";

4. Multnomah County enter into subsequent cooperative agreements with the Oregon Transportation Commission in regard to I-205 only at such time as the section located within Multnomah County is redesigned to the satisfaction of the Board of County Commissioners in regard to certain issues of public policy and general welfare;

5. Multnomah County convey fully its position and concerns to the Governor of Oregon and the Oregon Transportation Commission, and request the Oregon Department of Transportation to suspend any further property acquisition, to let no further I-205 contracts pertaining to the Multnomah County section, and to keep the Multnomah County Board of Commissioners fully advised of all subsequent plans for I-205;

6. Multnomah County convey fully its position and concerns to the Secretary of the United States Department of Transportation, request the Secretary and delegated officials to withhold or withdraw any approval of the Environmental Impact Statement, design approval, or approval of plans, specifications and estimates, or construction approval, and request a public hearing be held in accordance with Policy and Procedure Memorandum 20-8 of the U.S. Department of Transportation or applicable successor regulations, prior to any commitment by the Oregon Department of Transportation to a specific I-205 design;

7. Multnomah County convey fully its position and concerns to the Board of Directors of the Columbia Region Association of Governments and inform them that the Portland-Vancouver Metropolitan Area Transportation Study 1990 Transportation Plan is not considered by the County to be a valid document for any purpose of planning for transportation in Multnomah County or the region; and

8. The Department of Environmental Services of Multnomah County is to give top priority to providing any necessary planning assistance required by the Board of Commissioners in the resolution of its policy concerns in the matter of I-205.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By _____
Chairman

APPROVED AS TO FORM:

CHARLES S. EVANS
County Counsel for
Multnomah County, Oregon

Comments on the Rewritten I-205 EIS Chapter II.A.1.b. "Noise". Office of Planning, Evaluation and Program Development. July 19, 1974.

1. The Bolt, Beranek and Newman impact standards of $L_{10}=56$ and $L_{50}=50$ are realistic and acceptable in this situation. The fact that they are well below the FHWA standard of $L_{10}=70$ is cause for concern in that they are no guarantees that the BBN standard will be adhered to in practice, nor is there a clear monitoring plan indicated. Therefore, we recommend that Multnomah County make development of such a plan and guaranteed adherence a condition for completion of I-205.
2. There is not enough design information in the EIS to show if the proposed barriers will do the job, in actual practice. In addition, although it may be common practice in an EIS to expect that alternation effects will be 10 dBA or more, recent research in Toronto indicates that alternation measured at the barrier is 8-10 dBA, it is 2-4 dBA measured 100 feet away. Beyond 100 feet, where impact counts most, alternation can drop to zero, depending upon topography, etc. This EIS should provide more information about these matters, indicating where measurements are taken.
3. Several problems with Table 10d:
 - a. The table is uninterpretable without information on what growth factors were assumed for the model. That is, the "changes" shown from 1973 to 1990 for a given L value and hour varies considerably from site to site. Presumably there are assumed growth differentials among neighborhoods.
 - b. The use of the words "no-build" to describe 1973 and "build" for 1990 is misleading and unjustified for purposes of comparison. An "apples and oranges" comparison is involved here. A correct comparison would involve "build v. no-build" 1990, or a calibrated prediction model comparing 1973 with 1990.
 - c. Comparison of Peak Hour 1973 with Peak Hour 1990 is meaningless because, as the footnotes show, 1973 includes all noises whereas 1990 includes freeway noises only. Apples and oranges again. A meaningful comparison would probably involve translating pertinent growth factors used elsewhere in the study into noise growth and combining this with the freeway noise projections. As it stands now, the table in several places indicates a reduction in noise level with no apparent explanation whatsoever.
 - d. On pp. 3-43 and 3-44 the EIS says, with reference to Table 10d, "The existing levels are given for average and peak hour noise while the future noise levels are listed for average and peak morning noise." Examination of the table headings reveals no such distinction.

4. The contours in Plates 18, 19 and 20 raise questions:
 - a. How were the contours developed to their particular configurations? Some discussion of this ought to be in the EIS. There are presumably reasons why they have their shapes and spacing, but nothing in the EIS indicates why. What assumptions are used and are they consistently applied?
 - b. What relation do these contours have to existing ambient measurements?
5. There are several key questions about methodology:
 - a. There is no indication that the projection model was calibrated, otherwise authenticated, or tested for sensitivity. If the model was not calibrated, then comparisons between 1973 and 1990 are meaningless.
 - b. Generally, there is insufficient discussion about methodology used, so that evaluation of the EIS, even by technically specialized people, amounts to raising more questions than answers.
6. Traffic volume assumptions are inconsistent with those used in the air analysis and are outdated (due at least to changes in planning for PIA and Mt. Hood). In addition, the 3-4% assumed mix of trucks and buses is well below the 6% assumption of the air study (p. 3-47).
7. The Lent's impact is very striking, and intrudes well into the neighborhood as well as encompassing the school. Yet the text discusses impact in terms of standards rather than degradation of current ambient levels, which is misleading in that magnitude of impact appears less than it really will be.
8. For severely impacted areas, consideration should be given to compensation, yet there is no discussion of this.
9. There is no discussion of construction impacts.
10. There is no discussion of L_{90} values.
11. There is no discussion of alternatives or no-build, as required by NEPA. The results are very design and scale dependent.

1. All results depend upon assumed or projected traffic volumes and behavior which, in turn, depend upon a specific design. There are at least two alternative designs which differ significantly in impact: the present design of 8 lanes and an urban bypass design of 4 lanes and fewer interchanges. The National Environmental Policy Act requires that alternatives be evaluated thoroughly in all respects, yet the EIS is based only upon the 8 lane design.
2. The use of certain planning assumptions is very loose, often inconsistent, and without stated justification. For example, the Mt. Hood Freeway is excluded from the design in order to specify the "worst" air quality projected conditions in the vicinity of the Banfield I-205 interchange (p. 3-32). This is an acceptable assumption, however it is not carried throughout the EIS. On p. 3-37 it is stated that "The Mt. Hood interchange will not create any hazards to the air quality." This implies that, aside from the issue of the Banfield, the Mt. Hood is assumed for other air quality questions. However, the traffic volumes used elsewhere (see appendix C, p. 1) are some 40% lower than those used in the original EIS, which assumed a Mt. Hood. For the rest of the corridor, the lower figures will give a lower impact.

In another instance, in the rewritten "Noise Impact" section the traffic projections shown indicate an assumed Mt. Hood. Elsewhere in the draft EIS the Mt. Hood is assumed, leading to higher traffic volumes and higher benefit calculations. These inconsistencies should be reconciled.

3. Another generally questionable assumption involves the definition of impact area. This report consistently limits the impact area to the corridor and studies only impacts in the neighborhood of the corridor. The issues of system impacts and secondary impacts are virtually ignored. In the first case, the impacts on regional air quality or on air quality in related transportation corridors are simply not discussed. In the second case, the air quality impacts of e.g. land use changes due to the freeway are not discussed. A reasonable interpretation of the NEPA and adherence to EPA Region X EIS Guidelines (pp. 45, 47) would suggest a broader analysis is in order.
4. In several places, E stability is assumed at a given percentage, and is the only stability class assumption identified. In practice, results of air quality analysis can vary significantly according to the distribution of other stability classes. The implicit assumption that results are invariant to this distribution needs justifying, or the assumed distribution should be identified.
5. There is no discussion of how the air quality impact of I-205 relates to the Oregon Clean Air Act Implementation Plan. This also involves a major EPA Guideline. In addition, the Plan is not even mentioned in spite of a lengthy discussion of regulations of dubious relevance (e.g. open burning). In the latter regard, although the regulations applicable to construction impacts are discussed, there is no discussion of these impacts themselves.

6. Although future impacts are projected for carbon monoxide, hydrocarbons and lead, there is no similar discussion for photochemical oxidants. Why? There is available a methodology and computer program for this analysis. Why wasn't it used? Photochemical oxidants are not only crucial pollutants, they must be studied for an impact area beyond the corridor. This study should be done for an adequate EIS. Finally, photochemical oxidants are directly related to scale and traffic volumes, a major issue from our viewpoint.
7. In two important ways, all results showing future impact need further analysis. First, a sensitivity analysis should be done. The results are of little use if they are unstable over a plausible range of various inputs and assumptions. This is especially important as the EPA emission factors change frequently. Second, there is no indication that the computer models were calibrated. The results could be entirely fictitious and thus tell us nothing, good or bad.
8. The results for lead are questionable. They are consistently and significantly lower than the projections in the previous EIS. The latter assume the federal reductions, while the former do not. While they may be more accurate, in view of the previous discussion, interpretations and conclusions are hardly justified when the validity of the modeling process is in question.
9. Generally air quality impact projections, as they are displayed, are virtually impossible to relate to current ambient air quality estimates, and somewhat difficult to relate to federal standards. The former is especially important, because degradation of current air quality is a very basic impact, no matter what the federal standards are.
10. The statements on lead (p. 3-39) are quite misleading. First, the critical lead issue, from virtually all research, doesn't involve general "human beings" it centers very specifically on children and statements about absorption, ingestion, etc. should use data applicable to children. Second, for children, ingestion is a "serious form of receiving lead," and inhalation is secondary except under certain conditions. Third, the EIS says the absorption after ingestion is "only" 5%. There is a lot of research which suggests that 10% may be a more appropriate figure for adults, and for children it may be as high as 50%.
11. Miscellaneous comments.
 - p. 3-21. OSHD criteria for site selection are mentioned. They should be identified as well.
 - p. 3-40 "Impact on Air Quality" paragraph. The last sentence is a gross conjecture, completely unsupported. The rest of the EIS shows impact in relation to FHWA standards, not in terms of the people "who live, work and play."
 - p. 3-40. There is a large amount of research on impacts on vegetation. Every sentence in this paragraph is misleading and self-serving. Particularly noticeable is the comment on photochemical, which was not analyzed at all in the EIS.
12. There is no discussion of no-build as required by NEPA.



State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Exhibit # 12 No. 7(2)

RECEIVED

JUL 18 1974

COUNTY COMMISSIONERS
M. JAMES GLEASON, Chairman
BEN PADROW
DAN MOSEE
DONALD E. CLARK
MEL GORDON

OFFICE OF THE DIRECTOR

Multnomah County Oregon

DEPARTMENT OF ENVIRONMENTAL SERVICES
(503) 248-5000 • 2115 S.E. MORRISON STREET • PORTLAND, OREGON 97214

July 15, 1974

Mr. Kessler Cannon, Director
Dept. of Environmental Quality
1234 S. W. Morrison Street
Portland, Oregon 97205

RE: Satellite Long Term Parking Facilities serving Portland
International Airport - Goss Bros Construction Co. -
N. E. 82nd Avenue and Sandy Blvd.

Dear Mr. Cannon:

The Department of Environmental Services requests that Environmental Quality Commission withhold action on the above application for one month.

We believe it is important to the future air and land use qualities of this vicinity that an overall plan for airport related long-term parking be developed and implemented.

The requested delay would allow sufficient time to prepare a work program for such a plan and to request recommendation from the Planning Commission and authorization from the Board of County Commissioners.

We can submit the official position of the Board of County Commissioners on this question and the details of a planning process at the Environmental Quality Commission meeting in August.

Very truly yours,

Daniel M. Uman

Daniel M. Uman, Director

DM/jb



DEPARTMENT OF ENVIRONMENTAL QUALITY

1234 S.W. MORRISON STREET • PORTLAND, ORE. 97205 • Telephone (503) 229-5359

TOM McCALL
GOVERNOR

KISS CANNON
Director

Mr. Robert Baldwin, Director
Multnomah County Planning Department
1107 S. W. 4th Avenue
Portland, Oregon 97204

July 10, 1974

RECEIVED
JUL 11 1974

Multnomah County
Division of Land Use Planning

Re: Satellite Long Term Parking Facilities
Serving Portland International Airport
Goss Bros. Construction Co.
N. E. 82nd and Sandy Blvd.

Dear Mr. Baldwin:

The Department has recently received an application for construction for a private long-term parking facility at 82nd and Sandy Blvd., providing automobile storage and shuttle service for airline passengers travelling from Portland International Airport. Based upon a review of the project application, the Department has determined that the applicant has justified this facility on the basis of inadequate or a shortage of parking facilities at the airport. It is our understanding that the facility is not related to any overall plan for Portland International Airport Parking. It is further our understanding that any shortage of parking spaces at the airport is interim in nature and basically occurs during the Christmas and school holiday periods. We have been advised that some of the existing parking and car rental facilities on 82nd Avenue are scheduled for relocation to airport property.

The Department is concerned that approval of the Goss parking facility is not consistent with any overall plan for parking as related to PIA. The Department has intended to require the Port of Portland to develop an overall parking and transportation plan. Projects inconsistent with that adopted plan would not be considered approvable.

In the interim, it was the intention of the Department to request that the Environmental Quality Commission defer approval of this project and of all parking facilities until such time as the Port of Portland has completed a master plan for parking at the Portland International Airport.

Mr. Robert Baldwin
July 10, 1974
Page 2

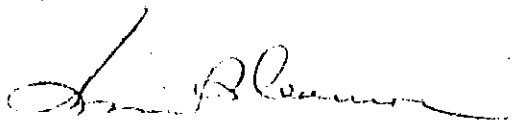
Recognizing that this and future projects may not be on Port of Portland property and therefore not subject to Port control, and that such action might be construed as interfering with the authority of Multnomah County, we are inquiring as to the present status of this project with Multnomah County.

While the Department is concerned that proliferation of parking facilities in and around the airport may lead to degradation of environmental quality (air quality and noise), individual facilities such as this one do not normally violate established standards.

If Multnomah County intends to issue a construction permit, based upon current analysis, the Department would approve the proposed Goss Bros. Construction Co. Parking Facility. If Multnomah County planned to defer action, then the Department would refer the proposed project to the Environmental Quality Commission at their July 10th meeting as previously indicated, recommending deferral of action and requiring the Port to develop an overall plan.

Your early response would be appreciated.

Cordially,



KESSLER R. CANNON
Director

RMJ:h



July 18, 1974

Port of Portland

Box 3529 Portland, Oregon 97208

503/233-8331

TWX: 910-464-6151

Environmental Quality Commission
1234 S. W. Morrison Street
Portland, Oregon 97205

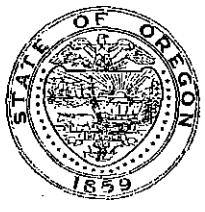
SATELLITE LONG-TERM PARKING FACILITIES SERVING PORTLAND INTERNATIONAL AIRPORT

The Port of Portland supports adoption of the proposed moratorium on new satellite long-term parking facilities at Portland International Airport. The Port will undertake, in the near future, a Master Plan for PIA; and, as one element of this plan, the demand for airline passengers' parking will be determined. We anticipate that this plan will be completed within the next two years. Plan preparation will be closely coordinated with the Multnomah County Planning Department.

An adequate number of parking spaces presently exists at PIA to serve the projected number of airline passengers during the master planning and implementation time period. Therefore, the Port of Portland believes that it is in the interest of the community to defer action on all additional general public parking facilities serving PIA until such time as this plan is completed and the need for additional parking is determined.


T. James Church
Director, Aviation

Exhibit 770.20



OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM 97310

July 8, 1974

TOM McCALL
GOVERNOR

Mr. B. A. McPhillips, Chairman
Environmental Quality Commission
P. O. Box 571
McMinnville, Oregon 97128

Dear Barney:

I want you to know that I personally support the proposed standards for lead content in the ambient air, scheduled for consideration by the Environmental Quality Commission in the near future.

I have heard from concerned citizens who believe such a standard is needed to protect the health of the general public. I would encourage you to adopt the standard now and to explore, after its adoption, the question of whether the standard is strict enough adequately to protect special groups such as young children.

Sincerely,

Tom
Governor

TM:dc



News Release

Weyerhaeuser

Contact: James D. Bradbury
Public Affairs Manager
Springfield, OR 97477
746-2511, ext. 358

July 10, 1974

Weyerhaeuser representatives appeared before Lane County Commissioners today to request cooperation from the County in obtaining low-interest revenue bonds for financing the purchase of environmental control equipment in Springfield and Cottage Grove.

The Willamette Region of Weyerhaeuser plans to spend \$7.3 million over the next two years to meet Oregon air and water environmental control permits.

This money is part of the firm's program to improve facilities announced last November by George Weyerhaeuser.

Howard E. Hunt, Willamette Region vice president, said the local area will be involved in an on-going program of capital improvement to the plant over the next several years.

Hunt said the spending for environmental controls will include not only those needed to meet present environmental compliance schedules, but also those in the future.

The County, in cooperating with Weyerhaeuser in obtaining the revenue bonds, assumes no financial responsibility. The firm pays all administrative costs and assumes all obligations to repay the bonds.

The program is similar to revenue bond financing used by port districts, a right extended to all municipalities by the 1974 Oregon Legislature. The purpose of the law is to encourage industry to spend money to control pollution.

NEWS RELEASE

July 10, 1974

Page 2

ENVIRONMENTAL PROJECTS DESCRIPTION

Springfield

-- Pulp Mill Effluent Clarifier

This mechanical clarifier, costing \$1,205,000, will be installed by the end of 1974. Its purpose will be to remove settleable solids from the pulp mill effluent before being pumped to the aeration basin for secondary treatment. It will eliminate the primary settling ponds that are a current source of odor and ground level steam and fog.

-- Paper Mill Flotation Saveall System

This system will remove and recycle paper mill fiber and solids. There will be a reduced solids load going to the primary and secondary treatment system. The system will be completed in July, 1975, and will cost \$720,000.

-- Mill Effluent Collection System

This project is primarily aimed at segregating contaminated mill process waste water from uncontaminated water and reducing the chances of spill. This project will cost \$485,000 and will be completed by the end of 1974.

- Pond for collection of spills

-- Vent Collection System

Miscellaneous odor emissions will be collected and incinerated by this project. Visible plumes will be reduced. Cost of the project is \$445,000 and completion is scheduled for the end of 1974.

(more)

NEWS RELEASE

July 10, 1974

Page 3

-- Condensate Treatment System

This system collects high Biological Oxygen Demand (BOD) wastewater from the process and separates odorous compounds for incineration. Many benefits will result, including substantially reduced BOD discharge, lower suspended solids, and elimination of the odors and contaminated runoff problems from the summertime irrigation of the condensates. The project is scheduled for completion in July, 1975, and will cost \$1,979,000.

-- Lime Kiln Precipitator

This facility will provide application of the latest technology available for controlling white particulate emissions from lime kilns. It will also eliminate the wet scrubbers presently being used and reduce the heavy white vapor plume. The particulate emissions from the kilns will drop from approximately 6,000 pounds per day to 900 pounds per day. This project will cost \$1,493,000 and be completed by January, 1976.

-- Veneer Dryer Emission Control System

This air-to-air condenser system was developed by Weyerhaeuser research and development personnel, and will be the first full-scale installation of its type. It will remove the characteristic "blue smoke" emission common to plywood veneer dryers. It will be completed in September, 1974, and will cost \$250,000.

(more)

NEWS RELEASE

July 10, 1974

Page 4

-- Particleboard Plant Emission Control System

The system consists of a baghouse and cyclones to control air emissions. Completion is scheduled for December, 1974, at a cost of \$75,000.

-- Lumber Wood Waste Emission Control System

This system consists of three cyclones, a baghouse and bin to collect air emissions from the sawmill and end-glue operations. Cost is \$60,000 and completion is December, 1974.

Cottage Grove

-- Veneer Dryer Emission Control System

This system will involve the burning of veneer dryer gases in the powerhouse as a means of eliminating the "blue smoke" from the veneer dryer. This system will be completed by December, 1974, and will cost \$115,000.

-- Cooling Tower and Water Filtration Plant

This system will allow the power boiler cooling water to be mechanically cooled and recirculated. Discharge of cooling water will be eliminated. The project will cost \$300,000 and will be completed by June 1, 1975.

(more)

NEWS RELEASE

July 10, 1974

Page 5

-- Glue Waste and Dryer Washdown Water Ponds

This system will allow collection of wastes from glue and dryer washdown. There will be no discharge of these wastes. Cost of the project is \$63,000 and completion is scheduled for September, 1974.

-- Oil Skimming and Flow Measuring System

This system will provide continuous removal of floating oil and a system to measure the flow of the wastewater from the plant drainage system. The cost is \$30,000 and it will be completed by August, 1974.

-- Lam Plant Glue Waste Pond

This will provide an enlarged and improved system for collecting and storing glue wastes from the laminated beam plant. The pond will be completed by October, 1974, and will cost \$50,000.

-- Lam Plant Emission Control System

This system will control particulate emission from the laminated beam plant. Cost is \$75,000 and project completion will be in early 1975.

* * * * *

New Water-Cleanup Roles for Powdered Activated Carbon

Industries with liquid-waste-treatment problems will be the main beneficiaries of the newest powdered-activated-carbon developments. Latest in the limelight are: cleanup processes that rely on biological interaction; methods to regenerate the carbon; and schemes to make the virgin material at lower cost.

JON E. BROWNING
Associate Editor

Using activated carbon to clean up industrial or municipal wastewater is not a new idea. Both granular and powdered systems have for some time been used on a small scale to remove organic-contaminates, and new processes using granular carbon have recently been developed for treating effluents from petroleum refining, food processing, textile mills, etc. (*Chem. Eng.*, Sept. 7, 1970, pp. 32-34). But while granular activated carbon has been pioneering the way in wastewater treatment, powdered activated carbon may not only reap much of the harvest but carve out a few niches of its own.

What powdered carbon offers over granular is lower cost—about 9-15¢/lb. vs. 30¢/lb. This difference fades quickly, however, if the powder form cannot be economically regenerated—a problem that has been tackled by a lot of people. Most recent to come out with a regeneration method has been Westvaco Corp.

Apart from cost considerations, one of the more interesting proposed concepts based on powdered carbon is the upgrading of secondary-effluent quality through biological interaction. *without* a large capital outlay. Du Pont has such a system that it has tagged PACT (Powdered Activated Carbon Treatment). Reportedly, similar biological treatment methods are also the subject of a patent interference case involving a trio

of firms—Fram Corp., International Hydronics Corp., and Westvaco.

Enhanced Activated Sludge—Addition of powdered activated carbon to the aerator of a secondary waste-treatment plant can produce the effect of tertiary treatment, says Du Pont. The carbon particles not only adsorb or trap organics and toxic chemicals that might poison microorganisms but also act as growth sites for them. In a clarifier, the microorganism/carbon particles tend to flocculate and settle better than does either alone. The results are a more dense and compact sludge, effluent that is less turbid and has fewer suspended solids, and increased hydraulic capacity of the secondary treatment system.

Laboratory tests have been made with PACT on wastewater from an organic chemical plant that handles over 2,000 products, including amines, ketones, alcohols, etc. The results are shown in the table. Another test of the same wastewater, in which the BOD (biochemical oxygen demand) sample was not filtered, found that the PACT process affords an 85% reduction of BOD.

Plant-scale tests of PACT have been made at a textile-fiber manufacturing plant. BOD was reduced by about one-half and filterable solids in the effluent, as well as turbidity,

by over 60%. Moreover, the activated-sludge system at the plant was previously limited to a hydraulic capacity of about 350 gpm., above which the effluent filterable solids rose to intolerable levels. Du Pont says that addition of powdered activated carbon could raise hydraulic capacity to at least 500 gpm.

At present, Du Pont is making comparative pilot plant tests of PACT applied to a mixed industrial wastewater containing large numbers of organics including colored material. This test is being run in parallel with two other treatment methods—activated sludge followed by granular carbon beds, and vice versa.

Among the lessons Du Pont says it has already learned from the various test programs is that cheap activated carbons work just as well as the higher priced ones. The best range of treatment levels is 50 to 300 ppm carbon; and a system should be loaded slowly over a period of one to two weeks, with the carbon being added in a slurry. For difficult-to-treat organic streams, oxygenation rather than aeration might be best.

Due to the added cost of the carbon, the PACT process will usually have higher operating costs than a conventional activated-sludge system. Yet, while 150 ppm. of carbon addition to a secondary system might cost 11.3¢/1,000 gal. versus 9.7¢/1,000 gal. for a carbon-bed tertiary-treatment plant with sand-filter equipment, the corresponding capital investment costs are \$200,000 for PACT carbon-feed equipment versus \$2.4 million for the tertiary installation. What's more, the cost of carbon for the PACT system could be reduced more than 50% by carbon regeneration.

Du Pont says it has applied for patents and will license the process once they have issued. The company sees the market as mixed wastewaters or industrial waste streams.

Results of
Organic Wastewater Treatment

	Activated Sludge Process	DuPont PACT Process
Detention time, hrs.	7.3	7.3
Carbon dosage, g./l.	0	0.4
% BOD removal, filtered samples	79	96
% COD removal	56	86
Effluent color, APHA units	400	30

NEWS FEATURES . . .

municipal domestic wastes are readily biodegradeable, and the PACT system is of little additional value.

Because of the patent interference case now underway, Fram, International Hydronics and Westvaco are hesitant to admit the existence of such technology, let alone to give any details. International Hydronics does say, however, that its Bio Carb system will be part of the chemical treatment system in a plant being built by its wholly owned subsidiary, Hyon Waste Management Service, on Lake Calumet near Chicago. This plant will take industrial wastes—liquid and solid—and convert some of them into useful products such as humus and land fill.

All of these systems permit the upgrading of existing secondary treatment facilities without the need for large capital investment. This becomes particularly important as industry and municipalities tighten the belt. For example, New York State's Dept. of Environmental Conservation disclosed last month that it had halted clearing plans for 157 sewage-treatment projects because there was not enough state and federal money for them.

Mercury Removal—Several major mercury-cell caustic producers are using activated carbon in both powdered and granular forms, says Westvaco, which makes both types. In addition to strong caustic solutions containing mercury, other streams being purified are brine, sodium methylate solution, and several aqueous plant-effluents.

Although the mechanism of mercury removal by activated carbon has not been clearly identified, says Westvaco, there is good evidence that organic forms of mercury are adsorbed by the activated carbon with some emulsion-breaking also taking place. As for mercuric and mercurous ions, it is thought that they are entrapped by the carbon or reduced on the carbon surface to the metal (analogously, silver ions are known to deposit as metal on activated carbon).

Westvaco found that granular activated carbon (8 to 50 mesh) will remove 65% to 80% of the mercury from a concentrated caustic solution, provided that the filter is kept hot, and that contact times of 6 min. or

Anticipated Requirements for Salt Lake City Plant, Mg./L.

Water Quality	Raw Wastewater	Moderate Quality Effluent	High Quality Effluent
Total COD	200	30	15
Soluble COD	60	25	12
BOD ₅	100	20	10
Suspended solids	100	5	5
Total phosphorus	6	0.5	0.5
Soluble total phosphates	4	0.4	0.4

longer are allowed. Filter-aid types of powdered activated carbon, used alone on precoat tube filters or in conjunction with other filter-aids, will effect a high degree of mercury removal from caustic and other solutions when these are pumped under pressure through the precoat. Finer carbons, thicker cakes and higher velocities may be necessary for less-viscous solutions.

Municipal Pilot-Plant—Powdered activated carbon has been used to remove solid organics in a 100-gal./min. pilot plant by the Salt Lake City based Eimco Process Machinery Div. of Envirotech Corp.

Over a period of 24 mo., coarse-screened and comminuted raw wastewater was obtained from the main Salt Lake City pump station discharge line. After chemical treatment and clarification, the effluent was fed to 10-ft.-dia. countercurrent contacting units. Powdered carbon was added and maintained as a concentrated slurry (50-100 ppm.), and spent carbon was periodically withdrawn and fresh added (effective clarification was achieved without the aid of chemicals). Next, the effluent was filtered; it was then suitable for use as utility water by the pumping station, as well as for backwashing the filter.

Estimated treatment costs for a 10-million-gal./day physical-chemical treatment plant using powdered activated carbon has been calculated by Eimco. Capital costs for a moderate-quality effluent (see table) are pegged at \$2.169 million, which comprises pretreatment, chemical treatment with alum (including sludge handling and incineration), powdered-activated-carbon treat-

ment (including carbon handling and regeneration), granular-media filtration, and chlorination. Add on 40% for electrical, legal, administrative, engineering, profit and contingency costs brings total capital cost to \$3.037 million. Total operating cost is 9.4¢/1,000 gal., of which 1.1¢ is for powdered activated carbon. Comparable totals of capital and operating costs for a higher-quality effluent were \$3.602 million and 13.2¢, respectively.

Eimco says it sees the powdered-activated-carbon process being used for small (1 to 3 million gal./day) wastewater treatment plants where the effluent quality does not have to be really high, or as a standby unit when the existing activated-sludge process has an upset and ceases to do its job.

Regeneration—The economics of most processes using powdered activated carbon dictate that the carbon be regenerable. This problem has been tackled by a number of companies. Five recent approaches are:

1. Low-temperature stream of oxidizing gas moves spent carbon to a combustion chamber where foreign matter is burnt off—Westvaco.
 2. Fluidized-bed process—Battelle Memorial Institute, Columbus, Ohio.
 3. Transport reactor furnace—FMC Corp., Princeton, N.J.
 4. Multiple-hearth furnace—Nichols Engineering and Research Co., New York, N.Y.
 5. Wet combustion—Zimmerman Process Div. of Sterling Drug Co.
- Newest of these is the Westvaco process, which was announced last December. According to the company, the regeneration furnace

would be located onsite. Yields are said to be 85 to 90%, capacities 300 to 5,000 tons/year, and regeneration costs less than half that of the virgin powdered carbon. Although most of the work to date has been reactivation of carbons used in treating wastes from sugar refineries and syrup manufacturing plants, the company says it sees no reason why the system cannot be modified to handle sludge such as that generated by Du Pont's PACT process. A patent has been allowed, and Westvaco plans to license the process.

Eimco says that it evaluated both the FMC system and Battelle's approach and has opted for the latter. It has selected a Copeland-designed fluidized bed that is 3 ft. dia. in the

fluidization area. Dewatered spent carbon requires 5 to 10 sec. in the 1,500-F. fluidized bed for drying and regeneration. About 83% of the carbon is recovered, and the regenerated carbon has essentially the same properties as fresh feed, says Eimco. It estimates regeneration costs at 3¢ to 4¢/lb.—about equal to granular-carbon-regeneration costs.

Cheap Carbon—The ideal answer to the problem of powdered-carbon-regeneration costs is to make a virgin product that is so low cost that regeneration is not required.

St. Regis Paper Co. has been developing a new process for converting pulping wastes into an activated carbon that it describes as "intermediate" between powdered and

granular forms. The company itself will not make cost estimates, but industry sources guesstimate that the product will be about 8¢/lb.

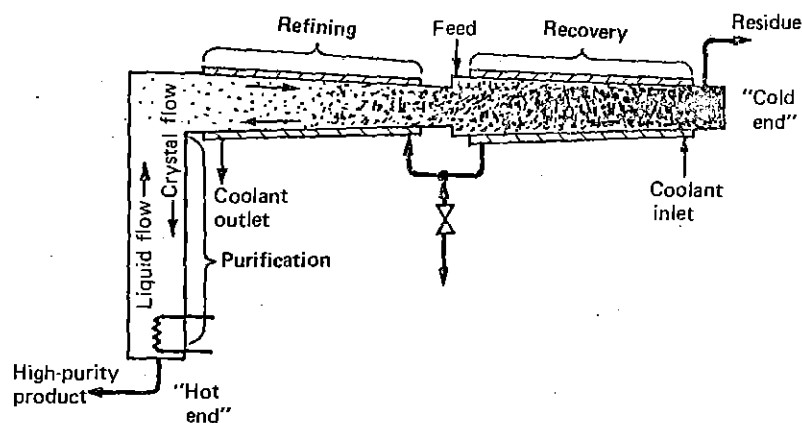
W. F. Heneghan Associates, a Greenwich, Conn., consulting firm in the waste-treatment area, says that it has developed a process whereby a community could produce its own high-grade, low-cost activated carbon for effluent treatment by using newspapers segregated in local trash collections as the raw material. Also, the company sees the biological enhancing property of activated carbon becoming increasingly important in upgrading the effluent of existing treatment plants—particularly for those communities that have reached the limit of bonded indebtedness. ■

Crystallizer Yields A 99.9% Pure Product

A simple configuration, low energy and capital costs, and high-purity product are claimed for a novel Australian crystallizer.

The Brodie Purifier, a cost-shaving crystallizer development by Union Carbide Australia, Ltd. is now available on a broad basis. Late last year attention was focused on the development when it received the Australian Soc. of the Chemical Industry of Victoria's "Plant of the Year" award.

The continuous crystal purifier has been upgrading 75:25 mixtures of *p*- and *o*-dichlorobenzene to better than 99.9% of the *para* compound. Union Carbide Australia, which is now offering the Brodie Purifier for license, says the unit has also been shown to operate successfully on 1- and 2-naphthol, 1-, 2-, 4- and 5-tetrachlorobenzene and *p*-dibromobenzene, and other heat-sensitive crystals. Capital and operating costs are only one-half that of a conventional purification unit comprising distillation equipment that provides only a 99.3% pure product, says the firm.



L-SHAPED CRYSTALLIZER is heated at bottom left to set up thermal gradient.

How It Works—The Brodie Purifier utilizes a long horizontal and somewhat tapered body in which crystals grow while passing countercurrently against an overhead flow of liquid. There are three general process zones: recovery, refining, and purification (see drawing). In the recovery zone, product is con-

tinuously cooled by the shell jacket: crystals form as the liquid volume diminishes.

Crystals move from the recovery zone toward the intermediate refining section, picking up mass from liquid coming from the purification zone. In the purification zone, the crystals settle by gravity to form a

Kraft pulping effluent treatment and reuse—state of the art.
U.S. Environmental Protection Agency. Office of Research and
Monitoring. Environmental Protection Technology Series EPA-R2-
73-164, Feb. 1973. 93 pp.

Abs., illus., numerous refs., from AA.

**PAPER INDUSTRY WASTES : WASTE WATER TREATMENT :
ACTIVATED CARBON : LIME : WATER REUSE : kraft mill
effluent.**

A survey of the literature and other sources on present practices and advanced methods of handling and treatment of pulp and paper mill effluents is presented, with particular emphasis on the kraft process, and the use of activated C and lime treatment as advanced methods of treatment. The survey was the 1st step of a development program aimed at maximum water reuse in kraft pulp and paper mills based on effluent treatment using activated C. Information is provided on activated C and its applications in treatment of pulp and paper mill effluents as well as in treatment of municipal water supplies and effluents. Information is presented on lime treatment of kraft mill effluent and on other advanced treatment methods, along with discussions of in-plant water reuse, effluent collection systems, solids removal, and biological oxidation.

74-01216
Witherow, J.L.

EPA, Robert S. Kerr Environmental
Research Lab., Treatment & Control
Research Program, Agricultural Wastes

Statement of the League of Women Voters of Central Lane County
before Environmental Quality Commission July 19, 1974, Salem, Oregon

Subject: National Pollutant Discharge Elimination System (NPDES) Permit
Weyerhaeuser Co. Application No. 071-OYA-2-000148
File No. 96224 County: Lane

Upon request of the League of Women Voters of Central Lane County, and other interested parties, a public hearing was held on May 13, 1974 in Eugene, to take testimony on the proposed NPDES Permit for Weyerhaeuser's Springfield plant. We spoke at that time, and commended the Department of Environmental Quality for holding the hearing, to allow the public participation mandated by Public Law 92-500.

We continue to oppose this permit as written.

Many issues are still unresolved. Was the public hearing a mere formality? Administrative convenience must not take precedence over valid public concerns.

In addition to our previous concern for water quality in the McKenzie River, we have new concerns, to present to this Commission, as to possible violations of the spirit and the letter of the law and guidelines under which this permit is to be issued.

1. Public Participation

The point at which Weyerhaeuser did not agree to the draft permit was the point at which the public should have been involved. Public hearings should be held as early as practicable during agency consideration of potentially controversial actions. In this way, hearings can serve as forums for genuine consultation and not just as forums for citizen protest.

Minimum Guidelines for Public Participation in Water Pollution Control were printed in the Federal Register, Vol. 38, No. 163, August 23, 1973. The following relevant quotations are from Section 105:

The regulations are based on the evident intent of Congress that public participation under the 1972 Act is to be accorded new significance, and that special attention and resources will be required. Emphasis for public involvement is placed at three levels: First, in development of statewide programs...second, in preparation of basin and areawide plans..and third, in the case-by-case consideration of local projects and permit applications.

105.2 Policy and Objectives. Participation of the public is to be provided for, encouraged, and assisted to the fullest extent practicable consistent with other requirements of the Act in Federal and State government water pollution control activities. The major objectives of such participation include greater responsiveness of governmental actions to public concerns and priorities, and improved popular understanding of official programs and actions. (Emphasis added)

Although the primary responsibility for water quality decision-making is vested by law in public agencies at the various levels of government, active public involvement in and scrutiny of the intergovernmental decision-making process is desirable to accomplish these objectives. Conferring with the public after a final agency decision has been made will not meet the requirements of this part. (Emphasis added) The intent of these regulations is to foster a spirit of openness and a sense of mutual trust between the public and the State and Federal agencies in efforts to restore and maintain the integrity of the Nation's waters.

Mr. Cannon dismissed public testimony because, he alleges, no new facts were presented to him after his decision was complete. The regulations clearly state that the public should have participated in the formulation of the draft permit, and that their concerns and priorities should have been a major objective. Thus, the spirit of the law is violated.

2. Zero Discharge.

Mr. Cannon wrote that zero discharge into navigable waters is an ideal rather than a requirement. The Federal Water Pollution Control Act Amendments of 1972 states that "It is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985. " Now, "goal" and "ideal" are, in one sense, synonymous; but "goal" is an end toward which effort is directed, and

"ideal" may be, by implication, lacking practicality, be only a beautiful image. At any rate, this is a policy decision made by the Congress.

The League lobbied for this Act as written. In the words of our position on water quality adopted in January, 1969 (long before the present controversy)

League members want clean water. To achieve and maintain clean water, they believe requires:...Enforcement bodies which have sufficient strength and courage to withstand pressure from special interests.

3. Mixing Zone

The Hearings Officer quoted from Oregon Administrative Rules (OAR) Chapter 340, Division 4, 41-023 in his report, and it is relevant to this discussion:

Mixing Zones. (1) The Department may suspend the applicability of all or part of the water quality standards set forth in this subdivision, except those standards relating to aesthetic conditions, with a defined immediate mixing zone of very limited size adjacent to or surrounding the point of waste water discharge. (emphasis added)

The mixing zone is certainly not "defined" in the permit, nor is it "very limited", being two and one-half miles long; and, from an aesthetic point of view, it smells bad.

This may be a violation of the letter of the rules.

The fact that the permit may be reviewed at any time may be true, but not very likely; and, if we are thinking together about a spirit of openness and sense of mutual trust as the avowed intent of the Federal guidelines, if not necessarily those of the State, then the rules should be followed at all times, not just at some undetermined future time.

4. Monitoring and Enforcement.

Guidelines for State programs appear in the Federal Register Vol. 37, December 22, 1972 Section 124.92 page 28400:

Inspection and surveillance support for NPDES permits:

Any State or interstate agency participating in the NPDES shall have the funding, qualified personnel and other resources necessary to support NPDES permits with inspection and surveillance procedures which will determine, independent of information supplied by applicants and permittees, compliance or noncompliance with applicable effluent standards and limitations, water quality standards, NPDES filing requirements and issued NPDES permits or terms of conditions thereof.

Mr. Cannon excuses the Department's failure to monitor the Weyerhaeuser discharge on grounds of insufficient manpower. If you do not have the funds necessary to carry out your assigned task, why did you not confront the Emergency Board with the fact that the State of Oregon is not capable of fulfilling the requirements of the Federal guidelines? This is clearly a violation of the letter of the law.

Recommendations.

The League of Women Voters of Central Lane County respectfully requests that the Environmental Quality Commission thoroughly consider the testimony of the May 13, 1974 hearing, the Hearings Officer's report, and the testimony given here today, and make a recommendation to the Director that the NPDES permit for Weyerhaeuser be modified.

We suggest that the permit be granted after a complete study of the mixing zone; or, for a term of one year with public review before renewal, the review to include all data from the mixing study; that automatic devices be installed where available, and that independent monitoring be practiced continuously.

Internal procedures for receiving and ensuring proper consideration of information and evidence submitted by citizens, and the encouragement of public effort in reporting violations of water pollution control laws should be established as the Federal guidelines mandate.

On the basis of our concerns that the law be fulfilled in spirit and in letter, we suggest that the procedures for public participation in issuance of permits, monitoring and enforcement be critically examined and modified.

Thank you for scheduling this hearing. We know that it is difficult for the Commission, meeting once a month, to be aware of all things. We trust that, once policy matters have been brought to your attention, action will be taken.

Annabel Kitzhaber, Pres.
League of Women Voters of
Central Lane County

1892 W. 34th Ave.
Eugene, Oregon 97405

July 19, 1974

Mr. McPhillips, Chairman
Environmental Quality Commission
State of Oregon

Dear Mr. McPhillips; Members of the Commission:

I am Tom Bowerman, Rt. 2, Box 326b, Eugene. Our family has had a farm on the McKenzie River for 24 years. I represent myself, my family, and fellow neighbors who are unable to attend this hearing and that are concerned about the ramifications of this proposed permit.

I would herein like to express my opposition to the proposed NPDES Waste Discharge Permit for Weyerhaeuser Company on the McKenzie River. The objections to the proposed permit are many, but I will limit my testimony today to the single aspect that this permit will essentially increase the allowable discharge into the State waters and will result in a net decrease in water quality standards. I ask that you consider the following points in evaluating this decrease in the State standards:

- I. The DEQ is writing this permit to legalize the violations by Weyerhaeuser of the existing State permit. This is analogous to a court of law dealing with a speeding violation by increasing the speed limit.
- II. While records indicate that Weyerhaeuser exceeded the permit standards in 10 of 15 months, it must be stressed that Weyerhaeuser did demonstrate ability to conform for 5 months, both winter and summer periods, while their equipment was working properly and was well maintained. Using present technology (their own in fact) the existing permit standards can be achieved. Why then are we considering a decrease in standards?
- III. The DEQ has stated that the old permit standards were too strict, and were developed from unscientific procedures ("guestimation"). However, the new permit is not based upon either scientific or biologic association with the McKenzie River, nor is it based upon the highest ability of Weyerhaeuser but rather the low average of a company that permits its treatment systems to deteriorate to substandard performance levels before pursuing normal maintenance.
- IV. The government of Lane County is going to obtain revenue bonds for Weyerhaeuser Company to spend on pollution control devices. These devices are intended to improve the water quality in the McKenzie River. Why is this help from the public not reflected by higher quality standards in this permit, rather than vice-versa?

- V. Federal Law 92-100 Sec. 301 (1)(a) requires that permit standards be based upon the ability to achieve the highest quality given the "best practicable technology". Practicable technology has been demonstrated that can achieve the existing standards. Violations have occurred when treatment facilities become overloaded and not maintained. The solution to this problem is most reasonably not relaxing the standards but inducing the company administration to resolve overloading and maintenance procedures. To grant the proposed permit as written would essentially violate this Federal Law, would condone Weyerhaeuser's lax approach to clean natural resources, and would leave the McKenzie River in a condition of lower quality than we achieved five years ago.
- VI. Federal Law 92-100 Sec 101 (!), the first point in the first section, clearly specifies a goal of zero pollution discharge in all waters by 1985. It is certainly contrary to the intent of this goal, and quite possibly illegal to permit an increase in effluent discharge when we are directed by federal law to be going the other direction. We must also face a more immediate initiative within this State of trying to achieve excellence in environmental quality. This permit being considered, as proposed, ignores both the mandate of the Federal Water Pollution Control Act of 1972, and the will of the people of this state.

I ask that you take a step towards renewing our once pure natural resources by not accepting this permit. I urge you to direct the DEQ to rewrite this proposed permit to induce Weyerhaeuser to achieve the highest quality possible.

Most Sincerely,



Tom R. Bowerman

On July 2, 1974, I wrote a letter to the DEQ Director, Kessler Cannon calling his attention to the fact that Public Law 92-500 requires an Environmental Impact Statement on all projects which will significantly affect the environment.

In his reply to me Mr. Cannon points out that Oregon law does not require an EIS and I guess that is so.

But Mr. Cannon did not acknowledge that one of the requirements to gain EPA certification to issue NPDES permits is that a or the state agency comply with Federal Standards. The only time State Standards prevail over Federal Standards are when the State Standards are stricter than Federal Standards.

To say that requiring no impact statement is stricter than requiring an impact statement is ridiculous.

In the parameters under Special Conditions S7 & S8, pertaining to outfall 001 - the process water - there is no mention of temperature. This unspecified temp. parameter is being used as a ruse to legitimize the applicants request for a large mixing zone.

The large mixing zone at outfall 001 is not necessary because Weyerhesuser has a thermal problem at that point, but rather because they have a problem with BOD and SS which will be 80.7 mg/l.

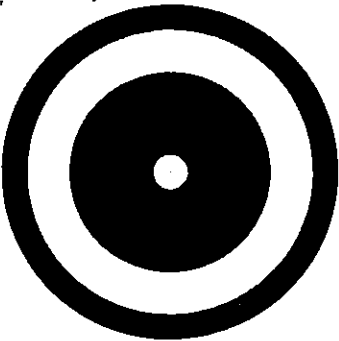
In the parameters for outfall 001, no mention is made of COD, Chemical Oxygen Demand.

This company has been operating under a state permit for a number of years, apparently no one has ever asked what the COD of their effluent was and they have not volunteered the information.

There can be many oxidizable inorganic compounds in water, which of course is COD.

I ask that if a permit is issued, it be with the provision that an evaluation of the BOD - the COD - the SS and the temperature be made and published, the effects of these pollutants be made known, and what steps will be taken to reduce the pollution load on the river.

Jim Long
5436 Monmouth Dr.
Spurysfield



OREGON ENVIRONMENTAL COUNCIL

2637 S.W. WATER AVENUE, PORTLAND, OREGON 97201 / PHONE: 503/222-1963

July 16, 1974

Mr. Barney McPhillips
Chairman, Environmental
Quality Commission
P. O. Box 571
McMinnville, Oregon 97128

Dear Mr. McPhillips:

A number of individuals and citizen organizations, including the Oregon Environmental Council, are concerned with the draft NPDES permit for the Weyerhaeuser Company, Springfield Plant, which is on your agenda for Friday's EQC meeting. The Commission has been open to similar citizen input in the past and we trust you will be able to give the subject a thorough review.

I have enclosed a copy of the comments we had hoped to present to you at last month's meeting in Coos Bay. We did want to give you the opportunity to read it prior to Friday's meeting.

Sincerely,

John R. Neilson

Enclosure
JRN:jan

- AMERICAN INSTITUTE OF ARCHITECTS
The Portland Chapter
- Southwestern Oregon Chapter
- AMERICAN INSTITUTE OF PLANNERS
Oregon Section
- AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS
Oregon Section, PNW Chapter
- ANGLERS CLUB OF PORTLAND
- AUDUBON SOCIETY, Portland
- BAY AREA ENVIRONMENTAL COMMITTEE
Coos Bay, Oregon
- CHEMEKETANS, Salem, Oregon
- CITIZENS FOR A CLEAN ENVIRONMENT
Corvallis, Oregon
- CLATSOP ENVIRONMENTAL COUNCIL
- COLUMBIA RIVER FISHERMAN'S
PROTECTIVE UNION
- COMMITTEE FOR MINAM ACTION, INC.
Portland, Oregon
- ECO-ALLIANCE, Corvallis
- EUGENE FUTURE POWER COMMITTEE
- EUGENE NATURAL HISTORY SOCIETY
- FACULTY WIVES OF CENTRAL COMMUNITY
COLLEGE, Bend
- 4-H CLUB CARROT-TOPPERS, Scappoose, Oregon
- FRIENDS OF THE EARTH
- GARDEN CLUBS of Cedar Mill, Corvallis,
Eastmoreland, Gervois, Nehalem Bay,
McKenzie River, Scappoose, Portland, Villa
- GREENLEAF CLUB OF FIRST UNITARIAN CHURCH
Portland
- JUNIOR LEAGUE, Eugene, Portland
- LANE COUNTY PLANNED
PARENTHOOD, Eugene
- MCKENZIE FLYFISHERS, Eugene, Oregon
- MCKENZIE GUARDIANS, Blue River, Oregon
- MT. HOOD COMMUNITY COLLEGE
OUTDOOR CLUB
- NORTHWEST STEELHEADERS COUNCIL OF TROUT
UNLIMITED, Milwaukie, Tigard, Willamette Falls
- NORTHWEST ENVIRONMENTAL
DEFENSE CENTER
- OBSDIANS, INC., Eugene, Oregon
- OREGON CITIZENS FOR CLEAN AIR
- OREGON GUIDES AND PACKERS, Vida, Oregon
- OREGON LUNG ASSOCIATION
- OREGON PARK & RECREATION SOCIETY
Corvallis, Oregon
- OREGON SCIENCE TEACHERS ASSOCIATION
- OREGON SHORES CONSERVATION COALITION
O.S.P.I.R.G.
- O.S.U. FIN AND ANTLER CLUB
Corvallis, Oregon
- PLANNED PARENTHOOD ASSOCIATION, INC.
Portland
- P.U.R.E., Bend, Oregon
- REED COLLEGE OUTING CLUB
Portland, Oregon
- ROGUE ECOLOGY COUNCIL
Ashland, Oregon
- SALEM BEAUTIFICATION COUNCIL
- SANTIAM ALPINE CLUB
Salem, Oregon
- SELLWOOD-MORELAND IMPROVEMENT
LEAGUE, Portland
- SIERRA CLUB
Pacific Northwest Chapter
Mary's Peak, Corvallis
Rogue Valley, Ashland
Columbia Group, Portland
Mt. Jefferson, Salem
- SOCIETY FOR OREGON AVIAN RESEARCH
- SPENCER BUTTE IMPROVEMENT ASSOCIATION
Eugene, Oregon
- STEAMBOATERS
- SURVIVAL CENTER, U. of O., EUGENE
- TRAILS CLUB OF OREGON
- TRI COUNTY NEW POLITICS, Lake Oswego
- WESTERN RIVER GUIDES ASSOCIATION, INC.
- WILLAMETTE RIVER GREENWAY ASSOCIATION
- WOMEN'S ARCHITECTURAL LEAGUE OF PORTLAND
- WOMEN'S INTERNATIONAL LEAGUE FOR
PEACE AND FREEDOM, Portland
- ZERO POPULATION GROWTH
Lane County

TESTIMONY OF THE OREGON ENVIRONMENTAL COUNCIL BEFORE THE
ENVIRONMENTAL QUALITY COMMISSION REGARDING THE NPDES PERMIT
FOR WEYERHAEUSER COMPANY, SPRINGFIELD OPERATIONS, HELD IN
COOS BAY, OREGON - JUNE 21, 1974

I am John R. Neilson representing the Oregon Environmental Council, 2637 S. W. Water Avenue, Portland, Oregon 97201. We are pleased to be able to present for your consideration, our concerns regarding the NPDES permit for the Weyerhaeuser Springfield operation. The Council has followed this permit from the time it was released in March in draft form. We discussed proposed modifications of the permit with the Department of Environmental Quality at that time. When a number of citizen and conservation groups expressed similar concerns and the Department did not choose to modify the draft permit on the basis of this informal input, the OEC joined with other members of the public in presenting their case through the public hearing process.

Over 100 citizens turned out for that hearing on May ¹³ 22 in Eugene. Of 25 witnesses appearing at the four hour hearing, about 23 were opposed to the terms of the draft permit for the Weyerhaeuser plant. The Weyerhaeuser spokesman and one letter read into the record represented the only testimony against tighter restrictions for the plant than contained in the draft permit. The Hearings Officer then submitted a report with a number of very specific modifications recommended for the draft permit. Unfortunately, DEQ has chosen to reject, point by point, each of these recommendations.

In spite of hundreds of man hours spent by the public sitting in the Eugene hearing- researching the problem and talking with representatives of DEQ, the DEQ staff has not responded favorably to any of the recommended modifications. On the one hand, you have the changes recommended by the Hearings Officer and the concerns of the public. On the other hand, you have the DEQ staff in direct opposition, recommending that a permit be issued exactly as they drafted it in the spring. The public participation process appears to have broken down.

We strongly support the findings of your Hearings Officer, Mr. Tom Guilbert, and feel that he has accurately represented the facts of the case. The DEQ, in rejecting each and every recommendation by the Hearings Officer and the public, attempted to refute Mr. Guilbert's findings in the DEQ memorandum to the EQC. On pages 3 and 4 of this memorandum, DEQ advances 8 points in arguing against modification of the permit. I would like to comment briefly on the most important of those 8 points, in the order they appear.

1. 5,700 pounds BOD/day winter discharge: The question here whether the present 4,000 pounds BOD/day winter discharge limit should be loosened to 5,700 pounds BOD/day in light of the finding that Weyerhaeuser has not been consistently meeting this winter limit. The fact is, however, that Weyerhaeuser was able to meet this 4,000 pound winter limit when its treatment pond first came into operation. Before a four year permit is issued incorporating this less strict standard, we would like to see Weyerhaeuser and the Department

investigate the feasibility of different alternatives for meeting the present 4,000 pound standard. The DEQ and the public could make use of this information on alternatives if a one-year permit were issued as recommended by the Hearings Officer. The basic question raised by Mr. Guilbert is a good one. Should the set of controls which represented the highest and best practicable control technology in 1967 be relied upon to control pollution until 1978?

2. Requests for automatic monitoring: The DEQ memorandum states that "most automatic monitoring equipment has not proven to be effective, reliable, or accurate in such installations." While we realize that DEQ would be very hard pressed to expand its monitoring programs, our best information is that certain important parameters such as temperature or ~~dissolved oxygen~~, can be accurately monitored automatically at relatively small expense.

3. Mixing zone size: The OAR adopted in 1973 places specific legal requirements on the creation of mixing zones. These requirements have, we feel, been compromised or overlooked in the drafting of this permit. First, OAR CH. 340 Sec 41-023(1), cited in the hearings Officer report, permits the DEQ to suspend water quality standards "...within a defined immediate mixing zone of very limited size." Taken in context, this definition, most logically means small. The 2-1/2 miles of mixing zone contained as a term of this permit is not small. Relative to other mixing zones already approved by DEQ, this 2-1/2 miles is of another scale of magnitude.

Secondly, Oregon Administrative Rules require that the DEQ "(c) Shall limit the mixing zone to that which in all probability will (A) not interfere with any biological community or population of any important species to a degree which is damaging to the ecosystem; and (B) not adversely affect any other beneficial use disproportionately."

Testimony at the Eugene hearing brought into focus the commercial and recreational significance of protecting salmon, trout, and steelhead populations and the aquatic insects and water quality necessary to sustain these fish populations. Speakers at the hearing also raised serious questions about the actual or potential damage of the Weyerhaeuser discharges distributed over 2-1/2 on fish and aquatic habitat. Testimony and evidence in DEQ files points out gross changes to the river bottom and aquatic insect populations were observed when Weyerhaeuser was operating in violation of this permit in 1972.

As noted in the summary of testimony, DEQ has stated that it may be necessary, after evaluating the report Weyerhaeuser would be required to make on thermal discharges, to modify the permit to redefine mixing zones or require thermal controls. The mixing zones described in the permit were large because, as stated in the Hearing Officer's report, DEQ "lacked sufficient data to adequately describe the actual area within which the thermal requirements for the McKenzie River are not met during various river stages." (p. 4). Mr. Guilbert concluded "...testimony received tended to cast doubt upon whether the Department possessed a sufficient data base to make the determinations impliedly required in the EQC's rule 41-023." (p. 9) "The Department does not have all the desired data available, ~~and~~ cannot delay permit issuance until it is obtained." *but feels it*

It is clear that the data necessary to meet the legal requirements of OAR has not been developed.

4. Deteriorating water quality: The Department's biological and chemical monitoring of the River has not been as systematic as is desirable and data available in DEQ files does not make a convincing case that fish population and aquatic insects are not impacted by the discharges. Further, fishermen, recreationists, and people living along the River have been complaining about the Weyerhaeuser discharge for years, not just a deterioration in the recent period.

5., 6., and 7. - These points are covered in a general manner by other comments in our statement.

8. One year permit: This is one of the most important recommendations made in the Hearings Officer report. The report states, "In light of the nature and quantity of unresolved questions regarding this discharge and its effects, your hearings officer finally recommends that a permit issued now be effective for only one year." Statements made by DEQ, by the Hearings Officer, and in hearing testimony all indicate, we feel, that the DEQ lacks a sufficient data base to make the determinations required by OARS.

Before a four year permit is issued, plume boundaries must be defined and evaluated. A systematic assessment of fish and insect populations and other important biological indices needs to be conducted at both high and low river flows. Weyerhaeuser should be required to submit a report on the engineering alternatives available for reducing the size of the mixing zone, both by reducing the amount of effluent discharged and by alteration of the method of discharge. This information should be available, both to DEQ and the public, before a long term permit is issued to Weyerhaeuser.

There are special circumstances in this case which recommend issuing the NPDES permit on a short term basis. First, as Mr. Guilbert emphasizes, it is quite possible that if Weyerhaeuser were to install a primary clarifier as planned, DEQ would be precluded from imposing more stringent thermal discharge limitations for more than ten years.

Secondly, the Weyerhaeuser discharge into the McKenzie is unique in many respects. The McKenzie is truly exceptional from both a recreational and fishery standpoint and basic information on the discharge and the impact of this comparatively very large mixing zone is not available as required by Oregon Administrative Rules.

And thirdly, the public, which has already expended a great deal of effort to voice its concerns, will lose much of the leverage it has to influence the final form of a permit by being able to call for a public hearing on permit conditions. It is true that DEQ can institute modification of any permit at any time if it determines a demonstrated need.

With DEQ staff already overworked and with a four year permit negotiated with Weyerhaeuser, chances of initiating a modification are much more remote than if a permit comes up for renewal. Under existing State and Federal water quality law, the public is no longer saddled with the difficult burden of proving damage to a public resource. If there is a history of resource damage and a lack of available information, supplied by the polluter to the DEQ, as is the case with this Weyerhaeuser permit, the public must retain its option of calling for a public hearing on the terms of a discharge permit.

To issue a 4-year permit to Weyerhaeuser at this point could stifle the opportunity for meaningful public input into this important water quality decision. This is the kind of input that is required by the Federal Water Pollution Control Act and that is in the best tradition of open operation by Oregon's Environmental Quality Commission.

Thank you.

OREGON ENVIRONMENTAL COUNCIL
2637 S. W. Water Avenue
Portland, Oregon 97201

Phone: 222-1963

Exhibit No. 25 208

MCKENZIE FLYFISHERS
P. O. Box 1832
EUGENE, OREGON 97401

B. A. McPhillips
P. O. Box 571
McMinnville, Oregon 97128

Re: National Pollution Discharge Elimination System
(NEPDS) Permit to be issued to Weyerhaeuser Company,
P. O. Box 1645, Tacoma, Washington 98401, for
operation of its Springfield, Oregon plant.

Gentlemen:

We are writing you in regard to the Weyerhaeuser permit which director Kessler Cannon has stated he recommends. We strongly feel that the recommendations of the Hearings Officer, Mr. Thomas Gilbert, much more accurately represents the true facts and the interest of the people of this state. We write to you individually because we fear you may not realize the depth of public opposition to the permit as recently supported by Mr. Cannon.

A representative of our club testified before Mr. Thomas Gilbert, Hearings Officer, at the public hearing in regard to the above matter held at 7:30 p.m., at Harris Hall in Eugene on Monday, May 13, 1974. Our club, the parent club of the National Federation of Flyfishers, is made up of a homogenous mixture of native Oregonians and people who came to Oregon in large part, due to its reputation for a willingness to do everything humanly possible to preserve and protect irreplaceable natural resources. It was due to our concern for one such natural resource, the McKenzie River, that we appeared at the May 13th public hearing. It is our understanding that based on the testimony there taken by Mr. Gilbert, in the report he prepared following the hearing, that the EQC plans to issue an NEPDS Permit to Weyerhaeuser Company for the waterborne discharges associated with or stemming from the operation of its Springfield, Oregon plant. Our representatives have read Mr. Gilbert's report, and this letter is intended to state the club's position in response thereto.

FIRST, we oppose any increase in the permissible BOD, suspended solids and discharge water temperature limits for the plant, regardless of the time of the year in which the discharges may occur. We firmly believe that federal and state law require the continuous improvement of water quality, not the permitted increase of the discharge of pollutants and necessarily related decrease in water quality. It should be Weyerhaeuser's obligation, not the public's, to do whatever is necessary to continually decrease the pollution load it contributes to the McKenzie River.

July 17, 1974

Page 2

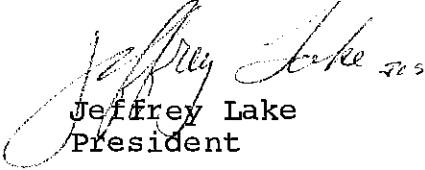
SECOND, regardless of the permissible limits of discharge established in the NEPDS Permit, the permit should be for one year, as recommended by Mr. Gilbert, not for four years as originally proposed by the DEQ or five years as requested by the Weyerhaeuser Company representative (Mr. Jerry Harper) at the May 13th public hearing. This time limitation is absolutely crucial, in light of a complete lack of reliable, objective evidence on which to base so many things that should be answered before, not after the proposed permit is issued. For example, as regards the permitted temperature of discharged cooling water, it was admitted at the May 13th hearing by Mr. Craig Starr, the DEQ Representative, that the size picked for the mixing zones was largely a matter of guess, since there was no reliable information available on which to base the size of the zone. Similarly, as regards BOD and suspended solids, there was no reliable information presented at the hearing on the effect on animal and plant life in the river from the proposed increase in permitted discharge. Finally, the only statistics as to the history of the quantity and content of water-borne waste discharges from the plant have come from readings taken by Weyerhaeuser itself. To remedy these and similarly related problems, we recommend, (a) the issuance of an NEPDS Permit for a period of time not to exceed one year, and (b) during this one year period that the DEQ set up independent monitoring facilities, accessible only to DEQ representatives, to provide reliable, objective information on the BOD, suspended solids and temperature levels in the plant's discharge.

Finally, we request, and in fact respectfully demand, that the DEQ enforce the standards that are set by the new, proposed NEPDS Permit, by the use of fines and injunctive relief. All the evidence suggests that non-compliance in the past, especially in the area of permitted BOD levels, has gone on substantially without the use of remedies that effectively and immediately prevent reoccurrence. Conference, conciliation, and the absence of short-term, enforced compliance schedules simply can no longer be tolerated. It was specifically and publicly stated by a DEQ representative at the May 13th hearing, as well as earlier, in response to a reporter's questions, (see article on Page 8A of Eugene Register Guard for Monday, May 6, 1974, and the last column of an article on Page 11A of the Register Guard for May 9, 1974), that the DEQ will expect Weyerhaeuser to abide by the new permit levels, and that failure to do so "would be prosecuted". We expect this promise to be honored.

July 17, 1974
Page 3

We appreciate your attention to this letter, and recognize the importance and difficulty of your job. We also recognize the need for you to be an unhesitating watchdog of the public interest. We believe the recommendations contained in this letter will help to insure such a goal.

Very truly yours,


Jeffrey Lake
President

JCS:amc



WESTERN ENVIRONMENTAL TRADE ASSOCIATION, INC.

Suite 610, 100 Southwest Market Street, Portland, Oregon 97201 - (503) 226-4513

July 18, 1974

Environmental Quality Commission
1234 S. W. Morrison Street
Portland, OR 97205

Gentlemen:

We would like to thank you for giving us an opportunity to review the proposed civil penalties rules. In general we believe the proposed revisions will both simplify and clarify the present regulations. We do, however, wish to recommend some changes which we believe will further improve the proposed rules.

First of all, we are concerned with the proposed definition of "Director," which would include "his authorized deputies or officers." Realizing that ORS 468.045 (3) allows the Director to delegate authority, it would still seem advisable, both as a matter of department policy and to insure orderly communications between the public and the department, that all delegations be required to be in writing. Thus we suggest that definition (2) of 12-030 read as follows:

"Director" means the Director of the Department. "Director" shall also mean his authorized deputies or officers whenever authority is so delegated pursuant to ORS 468.045 (3) and the fact and extent of delegation is communicated in writing to all affected parties.

We also suggest that this definition be incorporated in Chapter 340, Section 11-005, of the Oregon Administrative Rules.

Section 12-030 (4) defines "order" differently than does Administrative Rule 11-050 (5). Practically, the definitions may mean the same thing, but in the interest of consistency, we would suggest using identical language. It is our opinion that the administrative rule definition is less ambiguous and therefore would be easier to work with.

Section 12-045 is titled "Mitigating and Aggravating Factors." We would suggest that while ORS 468.130 (3) allows flexibility in remitting or mitigating fines, nonetheless the factors to be considered as "aggravating" are limited to those listed pursuant to ORS 468.131 (2), specifically:

(2) In imposing a penalty pursuant to the schedule or schedules authorized by this section, the commission and regional air quality control authorities shall consider the following factors:

- OFFICERS**
PRESIDENT
 HUGH D. BANNISTER
 President
 Western Pulp & Paper Workers
- 1st VICE PRESIDENT**
 MATTHEW SCULD
 Corporate Director
 Environmental Control
 Georgia-Pacific Corp.
- 2nd VICE PRESIDENT**
 DEAN KILLICK
 President, Oregon AFL-CIO
- 3rd VICE PRESIDENT**
 WYLS H. BUCHER
 President
 Bucher Fleety, Inc.
- 4th VICE PRESIDENT**
 NICK BRAJAVICH
 Executive Secretary
 Joint Council of Teamsters Union No. 220
- REGIONAL VICE PRESIDENT**
 LOWELL N. JONES
 President
 Lewis N. Jones Company
- SECRETARY**
 CLANCY STANDFIDGE
 Governmental Affairs Manager
 General Telephone Company
 of the Northwest
- TREASURER**
 ROBERT BAUMAN
 President
 W. C. Bauman Company
- IMMEDIATE PAST-PRESIDENT**
 PHILIP N. BLADINE
 Publisher
 News-Register
- EXECUTIVE DIRECTOR**
 RICK MEYERS
- DIRECTORS**
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 Sloop & Boely
- PETER SCHNELL
 Public Relations Manager
 Publishers Paper Company
- JOHN L. SCHWABE
 Attorney
 Snuffer, Spaulding, Kinsey,
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- STORIS WATERMAN
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 President
 Teletyne Wah Chang Company

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations of statutes, rules, orders and permits pertaining to water or air pollution or air contamination or solid waste disposal.

(c) The economic and financial conditions of the person incurring a penalty.

Concerning then, factors 12-045 (d)-(j), it appears to us that there is no statutory authority for treating them as aggravating factors. However, they could be considered as mitigating factors under 468.130 (3), as long as they are "proper and consistent with health and safety." We would suggest clearly designating them as mitigating factors only.

Those factors set out above in ORS 468.131 (2) correspond roughly with proposed rules 12-045 (1) (a), (b), and (c). However, Section 12-045 (1) (a) would make violations a consideration, "whether or not any administration, civil or criminal proceeding was commenced therefore." Presumably then, a "violation" which had never even been drawn to the respondent's attention could be considered. We believe that absent a decision by a judicative body or an admission of guilt, there is not adequate proof of a violation and to hold otherwise would be a violation of due process. Therefore, we suggest 12-045 (a) read as follows:

Whether the respondent has committed any prior violation, admitted, or so found by a judicative body.

Still with reference to 12-045 (a), (b) and (c), there remains a certain amount of ambiguity in how these provisions shall apply to individual plants of a multi-plant company. In that connection, it seems grossly unfair to penalize a local plant which has been cooperative and aggressive in attacking pollution problems, just because another plant belonging to the same company, with a different manager and located in another part of the state, has not been as cooperative. For this reason, we would suggest adding the following statement after 12-045 (c):

In applying (a) and (b) above, consideration will be given only to the acts or omissions of the individual plant or facility responsible for the violation.

Such a provision would make it clear that the individuals responsible will benefit or suffer, depending upon their own actions, which in turn is a prerequisite of just administration.

Part (3) of 12-045 refers to a presumption that a respondent will be financially able to pay the maximum fine. Basically the regulation says that unless respondent attacks that issue in his written answer, he is foreclosed from doing so at his hearing. This would seem to be in direct conflict with ORS 468.130 (2) which states in relevant part that: "the commission ... shall consider ... the economic and financial conditions of the person incurring a penalty." If, nonetheless, you are going to establish such a presumption, we believe you should require that the written notice of all violations contain a statement explaining the presumption so that no respondent is ever misled.

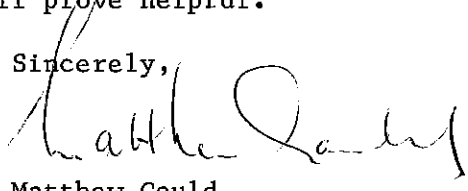
Section 12-065, Part (2), dealing with solid waste, includes: "... any violation of a rule which causes, contributes or threatens (b) damage to a natural resource, including aesthetic damage" Yet nowhere is "aesthetic damage to a natural resource" defined. Absent a clear, understandable and usable definition, it is our opinion that this language is unworkable and lends itself to erratic and inconsistent application. As written, no one could tell with any degree of certainty whether or not a specific act would constitute a violation.

Also concerning Section 12-065, it is not clear that a given single act, which may fall under more than one criteria in part (2) (a)-(f), will nonetheless still be treated as a single violation. We realize that this is indeed current Department of Environmental Quality policy, but would suggest adding the following language at the end of that section to spell it out:

No single violation of a rule will be assessed more than one fine, regardless of the number of subdivisions (a-f) under which it qualifies.

We appreciate the opportunity to comment on the proposed rules. We appreciate the difficulty in formulating complex regulations and commend your efforts in that direction. We hope that the changes we have suggested will prove helpful.

Sincerely,


Matthew Gould
Acting President

ENVIRONMENTAL QUALITY COMMISSION

AMENDMENT OF CHAPTER 340, OREGON ADMINISTRATIVE RULES

June 15, 1974

Sections 12-005 through 12-025, "Civil Penalties Schedule and Classification, Air and Water Pollution and Solid Waste Management," and section 47-030, "Regulations Pertaining to Oil Spills into Public Waters: Violations," are hereby repealed and the following rules adopted in lieu thereof:

Division 1

"RULES OF GENERAL APPLICABILITY AND ORGANIZATION,"

Subdivision 2,

CIVIL PENALTIES

12-030 DEFINITIONS. Unless otherwise required by context, as used in this subdivision:

- (1) "Commission" means the Environmental Quality Commission.
- (2) "Director" means the Director of the Department or his authorized deputies or officers.
- (3) "Department" means the Department of Environmental Quality.
- (4) "Order" means any action so designated by statute.
- (5) "Person" includes individuals corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.
- (6) "Respondent" means the person against whom a civil penalty is assessed.
- (7) "Violation" means a transgression of any statute, rule, standard, order, license, permit, compliance schedule, or any part thereof and includes both acts and omissions.

12-035 CONSOLIDATION OF PROCEEDINGS. Notwithstanding that each and every violation is a separate and distinct offense, and in cases of continuing violation, each day's continuance is a separate and distinct violation, proceedings for the

assessment of multiple civil penalties for multiple violations may be consolidated into a single proceeding.

12-040 NOTICE OF VIOLATION. (1) Except as provided in subsection (3) of this section, prior to the assessment of any civil penalty the Department shall serve a written notice of violation upon the respondent. Service shall be in accordance with section 11-097.

(2) A notice of violation shall specify the violation and state that the Department will assess a civil penalty if the violation continues or occurs after five days following service of the notice.

(3) (a) Written notice shall not be required where the respondent has otherwise received actual notice of the violation not less than five days prior to the violation for which a penalty is assessed.

(b) No advance notice shall be required where the water pollution, air pollution, or air contamination source would normally not be in existence for five days, or where the water pollution, air pollution, or air contamination source might leave or be removed from the jurisdiction of the Department.

12-045 MITIGATING AND AGGRAVATING FACTORS. (1) In establishing and imposing the amount of a civil penalty to be assessed, the Director and the Commission shall [may] consider and cite as factors:

(a) Whether the respondent has committed and been cited for any prior violation, regardless of whether or not any administrative, civil, or criminal proceeding was commenced therefor;

(b) The history of the respondent in taking [all] recommended and feasible steps or procedures necessary or appropriate to correct any prior cited violation;

(c) The economic and financial conditions of the respondent;

(d) The gravity and magnitude of the violation;

(e) Whether the violation was repeated or continuous;

(f) Whether a cause of the violation was accidental or negligence or an intentional act of the respondent;

(g) The opportunity and degree of difficulty to correct the violation;
(h) The respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed;

(i) The cost to the Department of investigation and correction of the cited violation prior to the time the Department receives respondent's answer to the written notice of assessment of civil penalty; or

(j) Any other factor he deems relevant.

[(2) In imposing a penalty subsequent to a hearing, the Commission shall consider factors (a), (b), and (c), of subsection (1) of this section, and each other factor cited by the Director. The Commission may consider any other factor it deems relevant.]

(3) Unless the issue is raised in respondent's answer to the written notice of assessment of civil penalty, the Commission may conclusively presume that the economic and financial conditions of respondent would allow imposition of a [the maximum] penalty. At the hearing, the burden of proof and the burden of coming forward with evidence regarding the respondent's economic and financial conditions shall be upon the respondent.

12-050 AIR QUALITY SCHEDULE OF CIVIL PENALTIES. In addition to any liability, duty, or toehr penalty provided by law, the Director, or the director of a regional air quality control authority, may assess a civil penalty for any violation pertaining to air quality by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not [less than one hundred dollars (\$100) nor] more than five hundred dollars (\$500) for violation of an order of the Commission, Department, or regional air quality control authority.

(2) Not [less than twenty-five dollars (\$25) nor] more than five hundred dollars (\$500) for any violation which causes [,] or contributes to [,] or threatens the emission of an air contaminant into the outdoor atmosphere.

(3) Not [less than twenty-five dollars (\$25) nor] more than three hundred dollars (\$300) for any other violation.

12-055 WATER POLLUTION SCHEDULE OF CIVIL PENALTIES. In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation relating to water pollution by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not [less than five hundred dollars (\$500) nor] more than ten thousand dollars (\$10,000) for violation of an order of the Commission or Department.

(2) Not [less than fifty dollars (\$50) nor] more than ten thousand dollars (\$10,000) for any violation which causes, contributes to , or threatens the discharge of a waste into any waters of the state.

(3) Not [less than twenty-five dollars (\$25) nor] more than seven thousand five hundred dollars (\$7,500) for any other violation.

(4) (a) In addition to any penalty which may be assessed pursuant to subsections (1) through (3) of this section, any person who intentionally causes or permits the discharge of oil into the waters of the state shall incur a civil penalty not less than one thousand dollars (\$1,000) nor more than twenty thousand dollars (\$20,000) for each violation.

(b) In addition to any penalty which may be assessed pursuant to subsections (1) through (3) of this section, any person who negligently causes or permits the discharge of oil into the waters of the state shall incur a civil penalty of not less than five hundred dollars (\$500) nor more than fifteen thousand dollars (\$15,000) for each violation.

12-060 SUBSURFACE SEWAGE DISPOSAL AND NONWATER-CARRIED SEWAGE DISPOSAL FACILITIES SCHEDULE OF CIVIL PENALTIES. In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to subsurface disposal of sewage or nonwater-carried

[sewage] waste disposal facilities by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determine consistent with the following schedule:

(1) Not [less than twenty-five dollars (\$25) nor] more than five hundred dollars (\$500) upon any person who:

(a) Violates a final order of the Commission requireing remedial action;

(b) Violates an order of the Commission limiting or prohibiting construction of subsurface sewage disposal systems or nonwater-carried [sewage] waste disposal facilities in an area;

(c) Performs, or advertises or represents himself as being in the business of performing, sewage disposal services, without obtaining and maintaining a current license from the Department, except as provided by statute or rule; or

(d) Operates or uses a newly constructed or modified subsurface sewage disposal system without first obtaining a certificate of satisfactory completion from the Department, except as provided by statute or rule.

(2) Not [less than ten dollars (\$10) nor] more than four hundred dollars (\$400) upon any person who:

(a) Constructs or causes to be constructed a subsurface sewage disposal system or nonwater-carried [sewage] waste facility or part thereof without first obtaining a permit from the Department therefor;

(b) Constructs or causes to be constructed a subsurface sewage disposal system or nonwater-carried [sewage] waste facility which fails to meet the minimum requirements for design and construction prescribed by the Commission therefor;

(c) [Commits] Continues any other cited violation in the course of performing sewage disposal services; or

(d) Fails to obtain a permit from the Department within three days after beginning emergency repairs on a subsurface sewage disposal system.

(3) Not [less than five dollars (\$5) nor] more than three hundred dollars (\$300) upon any person who commits any other violation pertaining to the subsurface

disposal of sewage or nonwater-carried sewage disposal facilities.

12-065 SOLID WASTE MANAGEMENT SCHEDULE OF CIVIL PENALTIES. In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation [pertaining] relating to solid waste [management] by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not [less than one hundred dollars (\$100) nor] more than five hundred dollars (\$500) for violation of an order of the Commission or Department.

(2) Not [less than fifty dollars (\$50) nor] more than five hundred dollars (\$500) for any violation of a rule which causes, contributes to, or threatens;

(a) A hazard to the public health or safety;

[(b) Damage to a natural resource, including aesthetic damage and irradiation;]

(c) Air contamination;

[(d) Vector production;]

[(e) Exposure of any part of an ecosystem to environmentally hazardous wastes; or]

(f) A public nuisance.

(3) Not [less than twenty-five dollars (\$25) nor] more than three hundred dollars (\$300) for any other violation.

12-070 WRITTEN NOTICE OF ASSESSMENT OF CIVIL PENALTY: WHEN PENALTY PAYABLE.

(1) A civil penalty shall be due and payable when the respondent is served a written notice of assessment of civil penalty signed by the Director. Service shall be in accordance with section 11-097.

(2) The written notice of assessment of civil penalty shall be in the form prescribed by section 11-100 for a notice of opportunity for a hearing in a contested case and shall state the amount of the penalty or penalties assessed

(3) The rules prescribing procedure in contested case proceedings contained in subdivision 1 of this division shall apply thereafter.

12-075 COMPROMISE OR SETTLEMENT OF CIVIL PENALTY BY DIRECTOR. At any time subsequent to service of the written notice of assessment of civil penalty, the Director is authorized to seek to compromise or settle any unpaid civil penalty which he deems appropriate. Any compromise or settlement executed by the Director shall not be final until approved by the Commission.

Section 11.

*11-095 2nd sentence. add "within 5 days"
after "shall issue"*

*We request that you defer
adoption of these rules.*

Douglas P. Sowles



Research
Standards
Service

Oregon Sanitary Service Institute

4645 18th Pl. S., Salem, Oregon 97302 Phone 362-1526

July 19, 1974

ENVIRONMENTAL QUALITY COMMISSION HEARING ON CIVIL PENALTIES... Rough Draft

Representative Capacity Roger Emmons, Executive Director, Oregon Sanitary Service Institute.

Concerning Solid Waste Management Violations

12-045. Mitigating and Aggravating Factors. Recommend addition of a positive factor on previous efforts to abate or control all forms of pollution.

12-050, 55, 65 As presently drafted, appear to permit cumulative penalties. For example, disposal site does not properly cover wastes. Odor results with Mid Valley Air Authority penalty; water pollution results with water penalty by DEQ and solid waste violation occurs with DEQ penalty there too. We believe that each should be exclusive where same act violates two or more areas.

12-050 Does wording properly convey a mutually exclusive penalty which may be assessed by DEQ or the Air Authority, but not both?

12-065 (1) Why \$100 here for violation of an order when violation of a rule can be as low as \$50?

12-065 (2) If damage is caused, we can see the basis for a penalty. But mere speculation that something is threatened is not adequate basis.

"Contributing to" should not be included as vague and indefinite.

What is a natural resource?

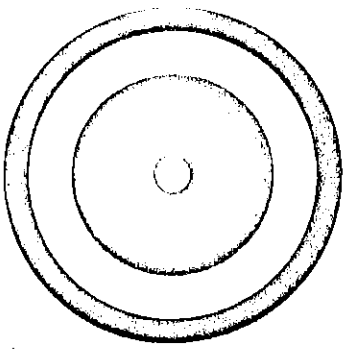
What is "aesthetic damage"? What is "aesthetic". Example from Oregon's unique Scenic Area Law. 10 years of hearings did not bring total agreement on what is "aesthetic" and should be protected. What is aesthetic about a landfill to begin with??? Why is it so important that sanitary landfills are excluded from the operation of the federal highway beautification act?

What is "irradiation"? Dispersion of radioactive substances? Then should be dealt with as environmentally hazardous.

What is "environmentally Hazardous Wastes"? Still no regulations on this subject.

What is a "public nuisance"

Why have any of these categories. You already have a general aggravation-mitigation section. Does this overrule an consideration of water pollution?



OREGON ENVIRONMENTAL COUNCIL

2637 S.W. WATER AVENUE, PORTLAND, OREGON 97201 / PHONE: 503/222-1963

July 16, 1974

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

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OFFICE OF THE DIRECTOR

- AMERICAN INSTITUTE OF ARCHITECTS
The Portland Chapter
Southwestern Oregon Chapter
- AMERICAN INSTITUTE OF PLANNERS
Oregon Section
- AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS
Oregon Section, PNW Chapter
- ANGLERS CLUB OF PORTLAND
- AUDUBON SOCIETY, Portland
- BAY AREA ENVIRONMENTAL COMMITTEE
Crest Bay, Oregon
- CHIMÉRIANS, Salem, Oregon
- CITIZENS FOR A CLEAN ENVIRONMENT
Corvallis, Oregon
- CLATSOP ENVIRONMENTAL COUNCIL
- COLUMBIA RIVER FISHERMAN'S
PROTECTIVE UNION
- COMMITTEE FOR MINAM ACTION, INC.
Portland, Oregon
- ECO-ALLIANCE, Corvallis
- EUGENE FUTURE POWER COMMITTEE
- EUGENE NATURAL HISTORY SOCIETY
- FACULTY WIVES OF CENTRAL COMMUNITY
COLLEGE, Bend
- 4-H CLUB CARROT-TOPPERS, Scappoose, Oregon
- FRIENDS OF THE EARTH
GARDEN CLUBS of Cedar Mill, Corvallis,
Eastmoreland, Gervais, Nehalem Bay,
McKenzie River, Scappoose, Portland, Villa
- GREENLEAF CLUB OF FIRST UNITARIAN CHURCH
Portland
- JUNIOR LEAGUE, Eugene, Portland
- LANE COUNTY PLANNED
PARENTHOOD, Eugene
- MCKENZIE FLYFISHERS, Eugene, Oregon
- MCKENZIE GUARDIANS, Blue River, Oregon
- MT. HOOD COMMUNITY COLLEGE
OUTDOOR CLUB
- NORTHWEST STEELHEADERS COUNCIL OF TROUT
UNLIMITED, Milwaukie, Tigard, Willamette Falls
- NORTHWEST ENVIRONMENTAL
DEFENSE CENTER
- OBSEDIANS, INC., Eugene, Oregon
- OREGON CITIZENS FOR CLEAN AIR
- OREGON GUIDES AND PACKERS, Vida, Oregon
- OREGON LUNG ASSOCIATION
- OREGON PARK & RECREATION SOCIETY
Corvallis, Oregon
- OREGON SCIENCE TEACHERS ASSOCIATION
- OREGON SHORES CONSERVATION COALITION
O.S.P.I.R.G.
- O.S.U. FIN AND ANTLER CLUB
Corvallis, Oregon
- PLANNED PARENTHOOD ASSOCIATION, INC.
Portland
- P.U.R.E., Bend, Oregon
- REED COLLEGE OUTING CLUB
Portland, Oregon
- ROGUE ECOLOGY COUNCIL
Ashland, Oregon
- SALEM BEAUTIFICATION COUNCIL
- SANTIAM ALPINE CLUB
Salem, Oregon
- SELLWOOD-MORELAND IMPROVEMENT
LEAGUE, Portland
- SIERRA CLUB
Pacific Northwest Chapter
Mary's Peak, Corvallis
Rogue Valley, Ashland
Columbia Group, Portland
Mt. Jefferson, Salem
- SOCIETY FOR OREGON AVIAN RESEARCH
- SPENCER BUTTE IMPROVEMENT ASSOCIATION
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- SURVIVAL CENTER, U. of O., EUGENE
- TRAILS CLUB OF OREGON
- TRI COUNTY NEW POLITICS, Lake Oswego
- WESTERN RIVER GUIDES ASSOCIATION, INC.
- WILLAMETTE RIVER GREENWAY ASSOCIATION
- WOMEN'S ARCHITECTURAL LEAGUE OF PORTLAND
- WOMEN'S INTERNATIONAL LEAGUE FOR
PEACE AND FREEDOM, Portland
- ZERO POPULATION GROWTH
Lane County

Mr. Kessler Cannon
Director, Department of
Environmental Quality
1234 S. W. Morrison
Portland, Oregon 97201

RE: Changes in Rules of practice and
Procedure

Dear Kess:

The EQC at its next meeting will be considering the proposed amendments to the Rules of Practice and Procedure under which the DEQ and EQC hold public hearings. The proposed new rules will make more explicit the legal procedures to be filed in contested case and rule-making hearings and will establish a separate class of hearings called "public informational hearings."

We support these amendments to OAR Chapter 340. However, we suggest additional amendments which will make clear the procedure to be followed in public informational hearings and expand the interaction between testimony presented at such hearings and the response of the relevant agency. Our proposed amendments and their rationale follow:

New section 11-007, line 4, add "through section 11-035" following the words, section 11-025."

Reason for amendment: This amendment would make clear that the sections dealing with the presiding officer's report and the action of the agency apply also in the case of the public informational hearing.

Section 11-025: Add a new section (6):
"At public informational hearings, as defined by Section 11-007, prior to submission of testimony by members of the general public, the Director shall present and offer for the record all information which he at that time deems relevant for a decision in the matter at issue."

Renumber present subsections 11-025(6) through 11-025 (11) to 11-025 (7) through 11-025 (12), respectively.

Reason for amendment: This amendment would guarantee that the public testimony is based upon all relevant information, and would preclude the staff from later claiming that the hearing record is an incomplete basis for a reasoned decision in the case.

Section 11-030: Amend as follows (new material underlined):

"11-030 PRESIDING OFFICER'S REPORT. Where the rule-making hearing has been conducted before other than the full Commission or a public informational hearing preliminary to an action by the Director has been conducted before other than the Director, the presiding officer, within a reasonable time after the hearing, shall provide the Commission or Director, as the case may be, with a written summary of statements given and exhibits received, and a report of his observations of physical experiments, demonstrations or exhibits. The presiding officer may also make recommendations to the Commission or Director based upon the evidence presented, but the Commission or Director is not bound by such recommendations."

Reason for amendment: New section 11-007, "PUBLIC INFORMATIONAL HEARINGS" makes explicit that public informational hearings are to be conducted in the same manner as rule making hearings. This amendment would make clear that the duties of the presiding officer apply in public informational hearings as well as contested case and rule-making hearings.

Section 11-035: Amend as follows (new material underlined):


"11-035 ACTION OF THE COMMISSION OR DIRECTOR. (1) Following the rule-making hearing by the Commission, or after receipt of the report of the presiding officer, the Commission may adopt, amend or repeal rules within the scope of the notice of intended action.

(2) Following the public informational hearing and within a reasonable time after receipt of the report of the presiding officer, the Director shall take action upon the matter. Prior to or at the time of such action, the Director shall issue a written report in which he addresses separately each district issue raised in the hearing record."

Letter to Kess Cannon
July 16, 1974
Page 3

Reason for amendment: Like the proposed amendment to Section 11-030, this carries through the logic of new section 11-007, which analogizes rule-making and public informational hearings. It further guarantees that the views of the public will be considered by the Director prior to arriving at a decision. "District" as a qualifier included to allow the Director to group a constellation of questions and suggestions which together add up to a single issue.

Sincerely,



Larry Williams
Executive Director

LW:jan
cc: Jacqueline Hallock

Mrs. Marlene Frady
390 Fir Knoll Lane N.E.
Salem, Oregon 97301

July 16, 1974

Mr. B. A. Mc Phillips
P.O. Box 571
Mc Minnville, Oregon 97128

REF: PGE Bethel turbines
Salem

Dear Mr. Mc Phillips:

There are some problems, in the DEQ report, that still bother us, the residents near the Bethel power plant. One of the problems is with the dBA allowed on our property from the PGE turbines. There is good documentation on noise that interferes with sleep. One such report states, "noise of modest intensities (from 55 - 60 dB) and more did influence the deepest stage of sleep in our subjects, when they were exposed during sleep to noise stimuli lasting from 300 msec to 90 minutes." Taken from, pg. 94, ASHA Reports, No. 4, Noise as a Public Health Hazard, Proceedings of the Conference, Washington, February 1969. Also, "The U.S. Department of Housing and Urban Development has issued a circular to guide the various HUD programs in noise abatement and control. This circular is primarily oriented to proposed rather than existing structures. There are some interior noise standards for rehabilitated residential construction. Noise levels for sleeping quarters are "acceptable" if they do not exceed the following standards:

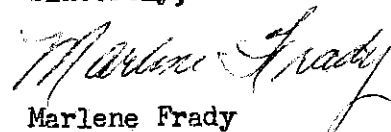
1. do not exceed 55 dB(A) for more than an accumulation of 60 minutes in any 24-hour period, and
2. do not exceed 45 dB(A) for more than 30 minutes during night-time sleeping hours from 11 P.M. to 7 A.M., and
3. do not exceed 45 dB(A) for more than an accumulation of eight hours in any 24-hour day."

pg. 178, Noise Pollution, Clifford Bragdon, 1971

At the present time we do not have the assurance the mufflers will solve the problem of the low frequency rumble and the vibrations. Those of you who visited our homes realize our problem is not with speech interference, but with the low rumble and vibrations that have a cumulative effect upon our nervous system.

The power companies have become very powerful. We realize what a difficult decision this is going to be. We hope you will consider the technical information and personal experiences that have been presented as you make your decision regarding the Bethel power plant in Salem.

Sincerely,



Marlene Frady