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# 2/28/1975

# OREGON
# ENVIRONMENTAL QUALITY
# COMMISSION MEETING
# MATERIALS

State of Oregon
**Department of Environmental Quality**

# A G E N D A

OREGON ENVIRONMENTAL QUALITY COMMISSION

February 28, 1975

Main Floor, Harris Hall, 125 E. Eighth St., Eugene, Oregon 97401

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9:00 A. Minutes of January 24, 1975 Commission Meeting

B. January, 1975 Program Activity Report (Myles)

C. Tax Credit Applications (Myles)

ENFORCEMENT

10:00 D. Request for Authorization to Hold a Public Hearing to Consider a Noise Control Schedule Amendment to the Rules Pertaining to Civil Penalties * (Bolton)

NORTHWEST REGION

E. Variances*

Compliance Schedule Extensions
Forest Fiber Products Co. (Washington County) (Bispham)
Barker Mfg. Co. (Multnomah County) (Bispham)

AIR QUALITY

F. Indirect Source - To Consider Adoption of Proposed Amendments* (Vogt)

G. International Paper Co., Gardiner - Variance Request Relative to Kraft Pulp Mill* (Skirvin)

H. Banfield Freeway (I-80N) - To Consider Approval of Demonstration Project* (Simons)

11:00 I. Public Hearing re:

Open Burning (Brannock)

LUNCHEON BREAK

1:30 J. Status Report on DEQ v. Zidell Explorations* (McSwain)

CENTRAL REGION

K. Brooks-Scanlon, Inc., Bend, Oregon -- Review of Proposed Program for Log Handling in Deschutes River and Request for Time Extension* (Borden)

NORTHWEST REGION

2:30 L. Adoption of*

Clean Fuels Policy (Portland Metropolitan Area) (Kowalczyk)

Air Permit Issuance

Columbia Independent Refinery, Inc., Portland-Rivergate (Kowalczyk)
Charter Energy Co., Columbia County (Kowalczyk)
Cascade Energy, Inc., Rainier (Kowalczyk)

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* Agenda items which may receive attention at an earlier time of day than scheduled

The Commission will meet for breakfast at 7:30 in the Eugene Hotel's Cafe Royale and for lunch at the Eugene Hotel's Bib n'Tucker at noon

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An Executive Session will be held in Eugene on the evening of February 27. Also, an on-site inspection of the Weyerhaeuser installation in Springfield will take place after the February 28 Commission meeting. Both these Commission activities are of a nature exempt from the requirements of the Public Meeting Law (ORS 192.610(5) and 192.660).

MINUTES OF THE SIXTY-FIFTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

January 24, 1975

Pursuant to the required notice and publication, the sixty-fifth meeting of the Oregon Environmental Quality Commission was called to order at 9:00 a.m. on Friday, January 24, 1975. The meeting was convened in the Second Floor Auditorium of the Public Service Building, 920 S.W. Sixth Avenue, Portland, Oregon.

Commissioners present included: Mr. B.A. McPhillips, Chairman; Dr. Morris Crothers; Dr. Grace S. Phinney; and (Mrs.) Jacklyn L. Hallock. Commissioner Ronald M. Somers was unable to attend.

Department staff members present included Kessler R. Cannon, Director; Ronald L. Myles, Deputy Director; and four Assistant Directors, Frederick M. Bolton (Enforcement), Wayne Hanson (Air Quality), Harold L. Sawyer (Water Quality), and Kenneth H. Spies (Land Quality). Chief Counsel Raymond P. Underwood and several additional staff members were present.

MINUTES OF THE DECEMBER 20, 1974 COMMISSION MEETING

It was MOVED by Dr. Crothers, seconded by Dr. Phinney, and carried that the minutes of the December 20, 1974 EQC meeting be adopted as distributed.

PROGRAM ACTIVITY REPORT FOR DECEMBER 1974

Mr. Ronald Myles gave the staff report (summary attached as Appendix A). Mr. McPhillips, noting that in some instances (for example applications for approval for parking facilities) there had elapsed considerable time without action on the application, inquired as to the reasons for delay. Mr. Harold Patterson stated his belief that the principal source of delays was the need for additional information.

Dr. Crothers noted that each time the Commission receives the lists of activities by the Department they seem to follow a different format. Turning to the first page of the form entitled "Air Quality Control Division Information Received," Dr. Crothers noted item number three, dated 12-7-73, had no entries in the columns which would tell the reader what the reason for delay was. He noted there were many other entries which suffered the same lack of explanation cited above. Dr. Crothers asked that, in the future, projects of long standing be reported in terms which would explain the delay. In so doing, he noted that the Department, whether justifiably or not, has been subject to criticism for failure to promptly process applications. Mr. Fritz Skirvin noted that the workload was too great

for staff in certain areas other than the area of applications for parking facilities. Dr. Crothers opined that a shortage of staff, if that were the problem, should be squarely recognized and dealt with. Mr. Cannon recalled that, in many instances, the studies undertaken by staff in conjunction with the applicant were costly in terms of the time needed to evolve a permit satisfactory to both parties. Mr. Patterson agreed with Mr. Skirvin that the problem was, in many cases, workload. He noted that the loss of staff members in the wood products industry and the need to train new staff members had contributed, in part, to the backlog of unprocessed applications. Air contaminant discharge permits and, to a degree, plan review were cited as areas of arrearage. Referring to the previously mentioned application of 12-7-73, Mr. Patterson recalled that, in this particular case, the application was more akin to a proposal than an application. In his view, the applicant was not pressing for immediate action.

Dr. Crothers asked if it was Mr. Patterson's belief that the staff should be increased or the workload decreased. Mr. Patterson noted that there was a request which had been approved in the budget for two additional permit engineers whose presence was expected to relieve the problem.

Mr. McPhillips asked that an age limit be set beyond which reporting should include explanation of delay for each given permit application or plan review action. Dr. Crothers concurred in this wish. Mr. Skirvin noted that, in the case of air contaminant discharge permits, inaction by the Department for a period of sixty days resulted in the applicant's receipt of a temporary permit and saved him from injury occasioned by Departmental delay. He also noted that considerable work was involved in the processing of permits and that, during the last three years, turnover of personnel had been considerable in the area of wood products permits. Mr. McPhillips reiterated his position that an explanation would be appropriate in the case of unusual delay.

It was MOVED by Mrs. Hallock, seconded by Dr. Phinney, and carried that the Department's Program Activity Report receive confirming adoption by the Commission.

TAX CREDIT APPLICATIONS

Mr. Ronald Myles reported on the issuance of nine tax credit applications as follows:

| App. No. | Applicant | Claimed Cost |
|---|---|---|
| T-565 | Lester I. & Ruth M. Versteeg | $ 12,501 |
| T-584 | Allen Fruit Company, Inc. | 41,212 |
| T-587 | Georgia Pacific Corporation | 22,005 |
| T-590 | Publishers Paper Company | 461,373 |
| T-613 | Georgia Pacific Corporation | 19,611 |
| T-614 | Georgia Pacific Corporation | 78,169 |
| T-615 | Georgia Pacific Corporation | 29,835 |
| T-616 | International Paper Company | 57,859 |
| T-621 | International Paper Company | 4,640 |

It was MOVED by Dr. Crothers, seconded by Mrs. Hallock, and carried by the Commission to approve the Department's issuance of the above tax credit applications. Upon the suggestion of Mr. Harold Sawyer, it was MOVED by Dr. Crothers, seconded by Mrs. Hallock and carried to instruct staff to revoke certificate #284 (wigwam burner no longer in use).

It was decided that Agenda Item E would precede Item D, insofar as the latter item was a public hearing whose announced time had not arrived. (Subsequently, Items G, I, and H also preceded Item D).

ADOPTION OF PROPOSED RULES PERTAINING TO VENEER AND PLYWOOD MANUFACTURING

Mr. Fritz Skirvin presented the staff's position that the controversial 10% opacity standard in the proposed rule was, indeed, attainable; that it was a concession to the industry (traded for removal of a previously proposed mass emission limitation; and that the industry had presented no substantial technical support for its position which was not considered by the Department prior to the December hearing on the rule. It was argued that zero opacity was abandoned to avoid occasional technical violations from whisps of blue haze and that 20% opacity would not solve the blue haze problem. Finally, it was noted that plants in violation would receive case-by-case evaluation of their ability to comply and thus be afforded some protection. On these grounds, staff recommended adoption of the rule as proposed with the postponement of compliance requirements from March 1, 1975 to May 1, 1975.

Mr. McPhillips asked if there were mills in compliance at present and received the answer that a few were meeting 10% opacity and that various vendors assured the ability of their products to meet 10% opacity consistently.

Dr. Crothers expressed concern over the case-by-case flexibility argued for the rule, warning that tremendous economic leverage was left in the hands of the Department by such a provision. It was noted that the density of population around a given installation was a simple and valid barometer of how substantial a health hazard existed. In response to Mrs. Hallock's question, Mr. Skivin noted that, while most companies argued initially for a rigid rule, they preferred to be allowed case-by-case consideration when found in noncompliance. Mr. Cannon noted that the possibility of a regional approach had been considered and had met with certain difficulties. On this subject, Mr. Patterson cited an example whereby an area-oriented approach would leave undue discrepancy of compliance dates between Medford and White City. He added that the Department would use a single standard for installations outside special control areas except where an airshed exists. This policy, however, could not properly be drafted into a rule, in Mr. Patterson's opinion.

Dr. Phinney noted that anyone feeling injured by arbitrary or discriminatory behavior of the Department could appeal to the Commission.

She contended also that staff had been very even handed in the past. Dr. Crothers concurred that staff had traditionally been fair in the exercise of latitude granted in the rules.

Mr. Skirvin concurred with Mr. Patterson's view that the mill-by-mill basis was the only practical approach to the problem.

Dr. Phinney noted that the staff had previously agreed to parenthetically include metric units in the presentations where appropriate. Mr. Skirvin opined that the agreement had been prospective in nature, and received Dr. Phinney's magnanimous acquiescence on this point.

Mr. William Coffindaffer, speaking for Timber Products Company of Medford, appeared in answer to a letter submitted by Reid-Strutt through Mr. Ken Parks on November 27, 1974. Mr. Coffindaffer contended that the statement that a Reid-Strutt burner system has been in successful operation for one year at Timber Products Company was misinformation. He asserted that the system had been undergoing tests and revision for two years and that Timber Products would decline to endorse the Reid-Strutt system for veneer dryers. It was argued that particle board sander dust was the fuel for the system and no plywood process wood waste was being used. Mr. Coffindaffer predicted that the use of plywood process wood waste would pose problems to the system. Zero opacity was attained, he said, only under ideal conditions. Mr. Coffindaffer said the system's stack read a number one Ringlemann on many occasions and the system would consistently meet an average opacity closer to 20% than 10%. Finally, Mr. Coffindaffer noted his concern that areas of emission pound/hour and grain loading were not well served by the system unless the particles of sander dust were sifted to reach a minimum size. Mr. Coffindaffer urged that the Commission adopt a 20% opacity limit.

Mr. Patterson, in reply to inquiry from Dr. Crothers, stated the rule would have to be relaxed if (at some future date) a substantial showing was made by industry that the 10% opacity limit was not feasible on an industry-wide basis.

Mr. McPhillips assured those present that there was no intent on the part of the Commission to hurt anyindustry, much less the timber industry. He noted also, however, that he has never seen a favorable first response by industry to a proposed standard. Past apprehensions of industry shut-down, he noted, never came to fruition.

Dr. Crothers denigrated the claim that no health hazard existed as a claim damaging to the industry and not deserving of credulity. He noted that the "gunk" removed from the emissions by the devices now in use presented a solid waste problem to the installations. It was MOVED by Dr. Crothers, seconded by Mrs. Hallock, and carried that the rule be adopted with a May 1, 1975 compliance date as recommended by the Director.

Mr. Matthew Gould of Georgia Pacific argued that the industry had not denied existence of a health hazard, but had denied existence of proof of a health hazard being present. He noted that the emissions are of a turpenoid hydrocarbon type, normally present in pine or fir forests to a lesser degree of concentration than is present in a veneer dryer. He said the question had been one of visibility of emissions, as opposed to the health ramifications of the emissions. He recalled that the Oregon project to reach a standard for veneer dryers was the first of its kind.

VARIANCE REQUEST - PERMANEER DILLARD PARTICLE BOARD PLANT

Mr. Al Burkart of the Department's Air Quality Division presented the staff report, recommending that the proposed variance be issued based on economic impediments to the applicant's compliance with the original permit. It was MOVED by Dr. Crothers, seconded by Mrs. Hallock, and carried that the variance request be granted as recommended by the Director, requiring a compliance schedule by July 1, 1975 and compliance to conditions 1 and 2 of Permit No. 10-0013 by December 31, 1975.

REQUEST FOR AUTHORIZATION TO HOLD A PUBLIC HEARING FOR PURPOSE OF CONSIDERING THE CONTINUATION OF CERTAIN MORATORIUMS PREVIOUSLY ESTABLISHED BY COUNTIES AND CITIES AGAINST CONSTRUCTION OF SUBSURFACE SEWAGE SYSTEMS

Mr. Kenneth Spies presented the staff report, noting that the Legislature, through enactment of ORS 415.605 to ORS 454.745, had preempted local control over the construction of subsurface sewage systems. The statutes were said to have relegated this chore to the Commission. This action, in Mr. Spies view, invalidated needed local ordinances banning construction of new subsurface sewage systems. It was staff's recommendation that the Commission authorize the Department to hold hearings under ORS 454.685 to determine if those moratoriums of local governments which were legislatively invalidated should be restored by the Commission. Several of the areas involved, including Jackson County, Josephine County, Douglas County, Marion County, Columbia County, and Yamhill County were mentioned by Mr. Spies.

In response to Dr. Phinney, Mr. Spies said that, in the absence of an effective moratorium, the Department was simply failing to act upon new applications or issue new permits. Dr. Phinney questioned whether a temporary rule would be in order and was told by Mr. Ray Underwood that such would not be permitted under ORS 454.685. Mr. Cannon stated it was generally known by interested parties that, at present, the permits were not available.

Senator Lynn Newbry responding to Mr. McPhillips' invitation to speak, stated that the matter needed further discussion which, in his hope, would take place locally and soon.

Mr. McPhillips responded to a telegram of Mr. Tam Moore, Jackson County Board of Commissioners, assuring that Mr. Moore would have ample notice of the time and place at which a contribution to the proposed public hearings could be made.

It was MOVED by Mrs. Hallock, seconded by Dr. Phinney, and carried that the requested permission to hold public hearings be granted the Department.

ADOPTION OF PROPOSED RULES PERTAINING TO SURETY BONDS OR EQUIVALENT SECURITY FOR SEWERAGE FACILITIES

Mr. Kenneth Spies presented the staff report, noting that the requisite rule making hearing had been conducted before the Commission on December 20, 1974. He proposed that the rules be adopted as initially presented with the exception of a limitation to the exemption to items within the statutory language "classes of dwellings of municipalities," (ORS 454.425) so as not to exceed the statutory authority.

It was MOVED by Dr. Crothers, seconded by Mrs. Hallock, and carried that the proposed rule be adopted with the change in wording recommended by the Director.

PUBLIC HEARING RE: ADOPTION OF RULE ON AMBIENT AIR QUALITY STANDARD FOR LEAD

It was staff's recommendation, as presented by Mr. Ray Johnson, that the statutory requirements for rule making be served by the hearing, once again, of the matter of adoption of the proposed amendment to OAR Chapter 340, Section 31-055 (prohibiting concentrations of lead exceeding a monthly arithmetic average of 3.0 ug/$m^3$, as measured by any one sampling station).

Mrs. Hallock, noting that the samplings to date had never exceeded 2.5 ug/$m^3$ and were much lower on the average, asked why the Department proposed a standard much more lenient than was now being met. Mr. Johnson answered that the originally recommended 5.0 ug/$m^3$ was the lowest level that the Department felt itself able to justify from a health standpoint. He noted that, in its previous hearing, the Commission opted for 3.0 ug/$m^3$, leading to the instant Departmental recommendation.

Mr. Cannon noted that the 3.0 ug/$m^3$ was a result found acceptable as both below the requirements of health and above the concentrations recorded.

Mrs. Hallock recalled amending Dr. Crothers' motion for a 4.0 ug/$m^3$ limit to a motion for a 3.0 ug/$m^3$ at the previous meeting. She stated her reason for doing so to have been doubt of sufficient support for adoption of a 2.0 ug/$m^3$ limit.

Dr. Crothers contended that the problem of lead concentrations would solve itself with the onset of unleaded gasoline consumption.

Mrs. Hallock cited Dr. Crothers' contention as further reason for the adoption of a strict standard.

Mr. Johnson informed of a single, isolated sampling which indicated concentrations exceeding 3.0 ug/$m^3$ near a freeway.

In response to Dr. Crothers' inquiry, Mr. Johnson noted that enforcement as to existing violations would entail the Draconian measure of shutting down roadways.

Mr. Larry Williams of the Oregon Environmental Council addressed the Commission with his contention that the Commission had inherited the question of lead standards from the Board of Health and introduced Mr. Charles Merten, the Council's attorney to speak for the Council.

Mr. Charles Merten cited the reluctance of the State Board of Health to set lead standards as a source of disappointment which provides a backdrop to the Council's frustration with the Commission's proposal to set a standard more relaxed than can be presently met. He cautioned that it was not to be assumed that the federal government would proceed uninterrupted with its plan to restrict leaded gasoline. In support of this contention he alluded to what he saw as constant revision of federal goals with regard to automobile pollution control devices.

Mr. Merten also argued that the recommendation of the Department was based on the lead concentrations found nontoxic to the average man, not the average child or pregnant woman.

Further, Mr. Merten cited the concept of nondegradation as requiring of a standard more stringent than proposed. He proposed a standard of 2.0ug/$m^3$, arguing that the same could be met with appropriate highway design.

In response to inquiry by Mrs. Hallock, Mr. Merten declined to cite any specific evidence that the concentrations acceptable to a child or pregnant woman were less than those acceptable to the average man. He asserted vague recollection of such evidence, however.

Dr. Phinney decried the use of the average man as the integer of acceptable concentrations only to be met with Mr. McPhillips' opinion that the statistics were based on the average person.

Mrs. Hallock contended that, counter to Dr. Crothers view with regard to veneer emissions, people should be protected be they however few or unrepresentative.

Dr. Crothers hastened to concur that lead concentrations were more severely damaging to children than adults, but urged that the matter be regarded as moot in the light of impending unleaded gasoline consumption. This event he foresaw as coming with no interruption or difficulty of administration.

Mr. McPhillips stated his experience as an operator of service stations to have indicated less than ease of implementation with regard to unleaded gasoline requirements.

Dr. Crothers asserted the primary child-health problem due to lead was eating paint and lead contaminated dirt, a problem which was disappearing due to the use of unleaded paint. He noted that even concentrations of 5.0 ug/$m^3$ had not been demonstrated harmful to children.

Dr. Crothers also noted that the only feasible highway design to reduce ambient air lead concentrations was to widen the corridor between the highway and dwellings. He and Dr. Phinney noted that an admonition to people with infant children not to live in housing with leaded paint or near a freeway was tantamount to an admonition against being poor.

Mr. Clarence A. Hall, speaking for the Ethyl Corporation, asserted that the Goldsmith-Hexter relationship and the Kehoe Study which had both, at varying times, received endorsement in EPA position papers were either invalid (Goldsmith Hexter) or misinterpreted (Kehoe Study). Mr. Hall went on to say that the Director's recommendation of a limit of 5.0 ug/$m^3$ was conservative but acceptable. He discounted the proposed 3.0 ug/$m^3$ as unsupported on the evidence and unnecessarily costly. It was Mr. Hall's contention that ambient air lead levels even in excess of 5.0 ug/$m^3$ had no discernible effect on blood lead levels or health.

Mr. Hall argued that the possibility that future sampling stations closer to the curbside in adverse weather might exceed the 3.0 ug/$m^3$ and require costly but nonbeneficial adjustments.

In response to inquiry from Dr. Crothers, Mr. Hall noted that current federal requirements of catalytic converters on all new cars made unlikely any governmental repeal of requirements that gas be unleaded. However, Mr. Hall noted there were hearings going on which he saw as bringing into question the requirement that catalysts be used on new cars.

Dr. Jerome F. Cole of both the International Lead Zinc Research Organization, Inc. and the Environmental Health for the Lead Industries Association, Inc., addressed the Commission with support of the Director's original 5.0 ug/$m^3$ recommendation. He objected that the measuring period ought to be 90 days rather than one month. This he asserted, would relate more significantly to the half life of the measured entity. He asserted that there was no basis for the proposed 3.0 ug/$m^3$ limit and its adoption would be arbitrary. He cautioned against a state setting standards without scientific support as a move which might influence other states to follow suit, erroneously believing due consideration of the facts had been given in the first state.

Mr. Kip Howlett, representing the Western Environmental Trade Association, addressed the Commission with a resolution favoring a standard of 5.0 ug/$m^3$, arguing there was no foundation for a limit of 3.0 ug/$m^3$. He noted that land use planning decisions as to the construction of highways to relieve traffic density would have a direct impact on lead concentrations and should be awaited with a standard of 5.0 ug/$m^3$, not the lower standard. He further argued there was benefit in the flexibility of the higher standard while more sophisticated information is awaited.

Mr. Bruce Anderson of the Association of Western Contractors and the International Council of Shopping Centers, stressed the importance of avoiding unreasonable standards based on no evidence of a health hazard. He endorsed the original staff report in this matter and supported the proposal for a 5.0 ug/$m^3$ standard. He cited a Multnomah County study as in support of his position.

In response to the preceding testimony, Mrs. Hallock commented that she had understood the 5.0 ug/$m^3$ figure to be the upper margin of the area the EPA had determined to constitute a potential health hazard. Also, Mrs. Hallock argued, the Commission was obligated to look at the principle of nondegradation with regard to the quality of ambient air now existing in the State. This would, in her view, require standards no more lenient than are now being met.

Mr. Anderson rejoined that a balancing of the interests involved would dictate a more lenient standard and that the reasons for nondegradation were not served by a standard higher than health would require.

Dr. Crothers noted that his view was that the 5.0 ug/$m^3$ was safe but that the 3.0 ug/$m^3$ was reasonable as being achievable and deserving of his continued support. He assured Mrs. Hallock of his conviction that if a single child were better protected by a more stringent standard, it would result in his support of a more stringent standard. It was noted that, in Dr. Crothers' view, the only practical way to assure better health was to remove housing from areas near freeways.

Dr. Phinney, citing the requests that the Commission act only on firm data, noted the lack of firm data and stated the Commission's readiness to act on definitive data whenever such becomes available. She described the existing data as inconclusive.

Mr. McPhillips closed the hearing, there being no more speakers. It was MOVED by Dr. Crothers, seconded by Dr. Phinney, and carried to adopt the proposed rule limiting ambient air lead concentrations to 3.0 ug/$m^3$ on a monthly average at any given sampling station.

A short recess was taken.

PUBLIC HEARING RE: CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO THE INDIRECT SOURCE RULES

Mr. Dick Vogt of the Department's Air Quality Section presented the staff report. He noted the Department's review of several alternatives before its selection of the proposal at hand. The proposed change in affected facilities from 50 to 100 parking spaces was supported as involving the maximum savings in manpower per loss in program effectiveness. Also recommended were several minor revisions in the wording of the statute. It was recommended that the statute be amended to consider applications incomplete until the applicant has provided the Department evidence that the proposed source is not in violation of any land use ordinances or regulations.

Mrs. Hallock questioned the negative wording of the land use ordinance provision.

Mr. Cannon sympathized with Mrs. Hallock's inquiry, noting that he had once suggested that the burden upon the applicant ought to be the positive one of demonstrating approval of the proposal by any local agency with jurisdiction. He called upon Mr. Wayne Hanson to further explain the proposed wording's negative aspect. Mr. Hanson noted that lengthy discussion with staff and with counsel had lead to the conviction that it was improper, in cases where he would not otherwise have been required to do so, to force the applicant to solicit approval of a governmental planning body.

Dr. Phinney expressed concern that the proposal, worded in the negative would reserve to the Department the prerogative to decide whether local ordinances are observed, a decision which, in her view, should be reserved to the local land use planning organization. Mr. Hanson stated that the applicant's provision of evidence would be all that is necessary. The evidence would need only to be of a prima facie degree, Mr. Underwood explained.

In response to Dr. Crothers' question, Mr. Vogt explained that the staff report, in pointing out the effects of "the newly adopted rule," had reference to the rule adopted on November 22, 1974 with regard to Indirect Source regulation.

Noting that, while 73% of the lots accommodated less than 250 vehicles, only 23% of the total parking spaces were in lots of less than 250, Dr. Crothers questioned whether 250 might be a cut-off point which would reduce work and still retain jurisdiction over the bulk of the parking spaces. He asked how many proposed facilities of a size under 250 were rejected or altered by the Department in the normal course. Mr. Vogt, while unable to give a firm statistic, opined that a significant number of lots running from 250 spaces to less were altered because the Department looked at aspects other than size aspects in reviewing a proposal. One such aspect, he said, was the number of parking spaces per employee in office facilities. This was kept at a minimum in an effort to encourage

the use of mass transit. Hence, a small facility would undergo review as well as a large one. Mr. Vogt went on to explain that building codes enter into this area and are varied. He said, however, that he had never experienced an applicant's failure to gain a variance where the Department prescribed fewer spaces than the code allowed. Dr. Crothers noted that in Salem it was hard to gain a variance for more spaces. Mr. Vogt noted that development incentives lead to designs entailing too much off-street parking in commercial facilities and too little in residential developments.

Dr. Crothers went on to question the overall effectiveness of limitations on parking facilities, noting that the addition of buses to Washington Square was not accompanied by increased ridership to any significant degree. Dr. Crothers excepted the downtown Portland area from his skepticism. Mr. Vogt explained that there was insufficient data to gauge the program's efficacy in outlying areas. He noted that the answer would run along two dimensions: He predicted decreased effectiveness with increased distance from urban areas. Also, he projected decreased effectiveness with increasing the size of lots exempt from the rule. Dr. Crothers said it was his understanding that only 3% of the cars entering Portland on the Banfield Expressway have more than two riders. This he viewed as an index of failure.

Mr. McPhillips asked groups to designate a spokesman and requested that presentations be as brief as possible, inviting all parties to submit written material in such volume as they would.

Mr. Allen Weber, representing Portland's Mayor, addressed the Commission. He stated the issue of revision to be one which was fundamental to the question of whether the new gubernatorial administration would be an occasion for the undoing of previous accomplishments. He cited the proposal of staff as based on the worst of all possible requirements - the saving of manpower. He argued that program effectiveness, not economy of administration, should be the guiding rationale. It was feared that a serious cumulative impact through the construction of a large number of 99 space facilities might be the result of the staff proposal. He noted a tendency of present facilities to be lumped into the size category previously exempt from the rule. Also, he directed the Commission's attention to the fact that small lots, since they outnumber large ones, are an item to which attention should be brought. He said the impact of small lots was critical in areas of sensitive receptors. Mr. Weber agreed with the staff's conclusion that the present rule encouraged the adoption of comprehensive parking and circulation plans. He criticized the proposed relaxation as detrimental to the aforesaid goal. Mr. Weber urged the Commission to enforce the present rule vigorously so as to give incentive to planning such as that resulting in the Air Quality Improvement Plan in downtown Portland. Mr. Weber then commended the Clean Air Watchdog Committee. He urged that this citizen's committee be consulted prior to any action of amendment.

Mr. Stephen McCarthy, representing Tri-Met, addressed the Commission with his disappointment at not having received notice of the hearing until one day prior to its scheduled time. He asked that he be given additional time to review the proposal. Mr. McCarthy noted that Tri-Met was in support of the principle of parking regulation through the indirect source rule. He viewed it as an effective integration of transit, clean air, and zoning concerns. He noted for Dr. Crothers' benefit that, while he could not speak for other transit facilities, Tri-Met was meeting its projected ridership for the Washington Square area, hauling about 6,000 passengers per month there.

Mr. Bruce Anderson spoke on behalf of the AGC, the Oregon State Home Builders Association, the Mobile Home Park Association, the Associated Floor Covering Contractors, the Mountain Park Corporation, WETA and other concerned parties. He vehemently warned of dire administrative consequences to be expected from the proposed rule. These consequences, he contended, would surely flow from what he saw to be a serious philosophical ambivalence in the working of the rule. He argued that two concepts were being blurred willy-nilly into a miasma of interpretive difficulty. In Mr. Anderson's view, the underlying concept of Indirect Source Regulation was and should remain maintenance of standards with regard to concentrations of carbon monoxide, etc. through preconstruction review of facilities. Not to be confused with this philosophy was the rationale for federal and local Parking Management Regulations, such as the Portland Transportation Control Strategy. The latter provisions were aimed at attainment of standards in presently deficient areas of carbon monoxide concentration and other concentrations, in Mr. Anderson's view.

Mr. Anderson went on to cite OAR Chapter 340, 20-129(1)(a)(v) as an example of a permit consideration within the province of Parking Management but entirely inappropriate to Indirect Source considerations. The reduction of total vehicle miles travelled, it was contended, goes beyond any proposed facility, and should not be a consideration in an Indirect Source Permit.

Mr. Anderson noted that the rule patently applies to the whole state of Oregon, observing no distinction between those areas where a standard must be maintained and those where a standard must be attained.

Noting the federal decision to postpone the effective date of legislation in this area until review could be had, Mr. Anderson urged the Commission to avoid what he saw to be a dilemma through the expeditious repeal of the rule. He assured Mr. McPhillips and Mrs. Hallock that, absent an Oregon rule, the federal standards would protect adequately against the dangers of carbon monoxide and other concentrations resulting from parking facilities.

Mr. Fred VanNatta of the Oregon Home Builders Association and the Oregon Mobile Home Park Association addressed himself to the coverage of residential dwellings in the rule. He went on record as in support of

the suggestion of Mr. Anderson. He considered coverage of residential dwellings in the rule as unreasonable, citing EPA's comments in the federal register to the effect that indirect source regulations were not intended to apply to single family housing developments. These, in Mr. VanNatta's view, did not present an air quality problem susceptable of quantification.

Mr. VanNatta referred to three studies on Indirect Source Regulations: One by the National Academy of Sciences, one by the National Science Foundation, and one by the Stanford Research Institute. All three were cited as in agreement that indirect source regulations will not accomplish their purpose as stated by the EPA, even on commercial lots. In response to a question from Mrs. Hallock, Mr. VanNatta said changing the entry point from fifty to one hundred spaces did not solve the problem of the residential developer. He noted that the staff report had been diametrically opposed to his view with regard to the inclusion of residential dwellings.

Mr. Larry Williams of the Oregon Environmental Council said reduction of staff workload is the worst rationale to change the rule. He concurred with Mr. Weber that encouragement of comprehensive planning should be continued by use of the present rule. He noted apprehension that in areas where land values were less, such as Salem, a proliferation of small exempt facilities would be invited by relaxation of the existing rule.

In addressing himself to the change of application process which makes the DEQ last in review of proposals for a parking permit, he expressed the opinion that this would put undue pressure on the DEQ to approve, all others having done so. In Mr. Williams' view, DEQ, as dealing with a health problem, should be first to review permits, and thus be allowed to review them unfettered by the influence of other agencies.

Mrs. Hallock recalled the Department's plan to solicit early information from other authorities which were reviewing proposals involving air quality impact.

Mr. Cannon described the problem as a "chicken and egg" situation wherein DEQ, in preceding other authorities, is subject to the charge of trespass upon the domain of the land use planner. This was said to have been the reverse of the problem to which Mr. Williams alluded.

Mr. Williams expressed the hope that the Commission would not be in the position of looking at large developments only after the other authorities had given approval.

Mr. Jack R. Kalinoski, representing the Associated General Contractors, requested that the rule be suspended until July 1, 1975 to allow study of whether repeal should follow. Such study would reveal, in Mr. Kalinoski's view, insufficient knowledge about the consequences of the rule, insufficient

information leading to its inception, and a potential halting of necessary public and private improvements. Mr. Kalinoski went on to express apprehension that the rule would pose an undue economic burden and prove to be perverse in some of its applications (actually increasing air pollution). Mr. Kalinoski cited those studies which Mr. VanNatta had cited and contended that they had concluded as Mr. VanNatta had reported. The states of New York, Alabama, and South Carolina were given as examples of jurisdictions which had suspended indirect source regulations. PL 93-563 (December 31, 1974) was called to the attention of the Commission in its denial of appropriation for use by the EPA to regulate parking facilities.

Ms. Lynda Willis, speaking for the Mid-Willamette Valley Air Pollution Authority, decried the proposed relaxation of the rule as a retreat from what experience has shown to be a practical and effective threshold of review in terms of spaces per parking facility. She reiterated the fear of serious cumulative impact of numerous small surface lots in areas of lesser real estate value. From Ms. Willis' point of view, review of all parking facilities within five miles of the center of cities with 50,000 or higher populations, were it practical, would be desirable. The proposal to raise the threshold was criticized as of potential detriment to the planning of mass transit in downtown areas. It would eliminate the current procedure of conditioning approval to the applicant's agreement to include provisions for alternate mode use in many cases, in Ms. Willis' view.

In answer to Dr. Phinney's question, Ms. Willis said the regulations would permit the Mid-Willamette Valley Authority to adopt more stringent requirements than the EQC.

Mr. Dave Hupp of Multnomah County, speaking for Commissioners Clark and Gordon, opposed change in the rule. He noted that the present rule was only two months old and had been preceded by nearly two years of hearings and study. He stated the county's position of reliance on DEQ, as opposed to the EPA, as the guardian of clean air in Oregon. The county's present policy, it was said favored dramatic shifting from the use of the automobile in downtown areas. In lieu of rejecting the proposal, the Commission might, it was said, delay its inception for at least sixty days. The reasoning behind this suggestion was said to be lack of sufficient notice to the county of the proposed rule, a new county commission's need for orientation, and the orientation of the new administration with regard to land use.

Dr. Crothers expressed support of the concept of some delay, both to allow further input from Multnomah County and to allow for the assessment of the Public Law to which Mr. Kalinoski alluded. It was MOVED by Dr. Crothers, seconded by Dr. Phinney, and carried that the record be left open for ten days and the matter of adoption be placed on the agenda of the next regular meeting.

The meeting was adjourned for luncheon.

VARIANCE REQUEST: SALEM GOLF CLUB OPEN BURNING

The Commission granted permission to the Salem Golf Club to burn in place three Douglas fir trees which are infested by bark beatles and whose removal by burning in place was recommended by the Forestry Service and the local Extension Agent.

RULE MAKING HEARING AND PUBLIC HEARING ON RULE TO LIMIT SULPHUR CONTENT IN RESIDUAL FUELS AND APPLICATION OF COLUMBIA INDEPENDENT REFINERY FOR AIR CONTAMINANT DISCHARGE PERMIT

Mr. John Kowalczyk of the Department's Northwest Region noted in addressing the Commission that the rest of the afternoon was given to discussion of oil: the sulphur content allowable in residual fuel oil and the air contaminant discharge permits of three proposed refineries, one in Portland's Rivergate Area, and two near St. Helens. The Commission and the audience were shown a map of the three proposed sites. It was pointed out that the Portland Metropolitan Special Air Quality Maintenance Area (PMSAQMA) was inclusive of the Rivergate site.

The November 22 Commission meeting dealt with a report which, together with reports to the Commission for today, delineates the staff's position with regard to the interrelated matters of the Columbia Independent Refinery (CIRI) application and the proposed rule whose common name is the Clean Fuels Policy.

Upon the suggestion of Mr. Kowalczyk, the Commission elected to hear the matter of adopting the Clean Fuels Policy and the matter of the CIRI permit application together, since the matters are interrelated and their separate hearing would invite repetition of testimony.

Using visual aids, Mr. Kowalczyk elaborated on the difference in pollution resulting from the burning of distillate as opposed to residual fuel oil. He noted that one could expect five times greater particulate emission, six times greater $SO_2$ emissions, and approximately two times greater $NO_x$ emissions from the burning of the latter fuel.

Mr. Kowalczyk alluded to desulfurization as a possible means of reducing the sulfur, the ash, and the nitrogen in residual oils. He noted that a reduction of sulfur to a level of 0.5% would reduce the emission difference between residual and distillate fuel consumption. The residual fuel burned locally was understood to have a present sulfur content of 1.4% on an average.

Slides were shown depicting the plumes over various residual consuming boilers and depicting the detriment to the ambient air in general. It was noted about 11% of the overall particulate, 66% of the $SO_2$, and 9% of the $NO_x$ can be attributed to residual fuel oil consumption.

Mr. Kowalczyk presented the written staff report on the Clean Fuels Policy. It was recalled that the Status Report (Agenda Item E) of the November 22, 1974 EQC meeting had indicated a doubt as to CIRI's ability to meet the ambient air impact criteria of the Department's PMSAQMA rule

(OAR Chapter 340, Sections 32-005 to 32-025) in its proposed 100,000 barrel/day phase. Staff's conclusion as reflected in the report was that a Clean Fuels Policy would be necessary to reduce particulate emissions in the PMSAQMA to conform with the provisions of OAR Chapter 340, Section 32-020(1) beginning in 1979. Since the proposed CIRI facility would constitute a "new or expanded" source within the rule, an air contaminant discharge permit could not be granted without implementation of the Clean Fuels Policy. Reduction of the maximum sulfur weight to 0.5% was viewed as desirable because a 1.0% limit would leave a projection for particulate emissions 113 tons per year above the allowable 870 tons per year increase under the current ambient air standard for the Portland Metropolitan Air Quality Maintenance Area (PMAQMA). Also, it was noted that 0.5% was obtainable, had an economic impact only slightly greater than a 1.0% limit, was in alignment with the standards for Los Angeles and San Francisco, and would include significant reductions in $SO_2$ emissions, assuring maintenance of the standards in this category for years to come. It was staff's position that the 0.5% limitation was in the way of necessary interim preventive judgment in the light of inadequate information for a ten-year plan. The effective date of January 1, 1979 was defended as soon enough to allow the CIRI installation to start up as planned and late enough to allow for the availability of the conforming residual fuel at the hands of not only CIRI but other refiners as well. Finally, Columbia County was included in the proposed policy both to allow time for the study of contributions to the Portland area by emission bearing winds from the Longview-Portland airshed and to offset emission increases anticipated from the two refineries proposed for Columbia County. The use of county lines was to make the rule easy of enforcement in the political jurisdictions affected.

Mr. Kowalczyk alluded to a recently completed study of the Los Angeles Basin which cites reduced $SO_2$ emissions as the single most effective measure in the reduction of particulate emissions in that area.

The conclusions and recommendations of staff were predicated on a lack of interference under federal energy allocation prerogatives.

It was staff's recommendation the proposed OAR Chapter 340, Section 20-010 which would prohibit the availability or use in Multnomah, Clackamas, Washington or Columbia Counties of residual fuel oil whose sulfur content by weight exceeds 0.5%. This limitation would take effect January 1. 1979. The recommendation included deletion of county areas where refinery permit applications were disallowed.

Mr. Cannon noted that the rule as proposed is not linked with the CIRI permit application and, should the application be refused, would possibly have to be repealed for lack of available low sulfur fuels.

Mr. Kowalczyk then proceeded to Agenda Item K, the CIRI application for an air contaminant discharge permit, presenting staff's recommendation that the CIRI permit issue for the Phase I facility on the condition that the applicant make available 10,000 bbls/day of 0.5% sulfur content residual fuel and that the Clean Fuels Policy be adopted as proposed. The staff recommended that the CIRI Phase II permit be denied for lack of sound data base and lack of jurisdiction to grant a permit for more than five years. Minor changes in the proposed permit were requested by the applicant.

Dr. Phinney requested that the permit be altered to include metric equivalents.

Mr. McPhillips opened the meeting to public testimony, requesting for the sake of brevity that all written matter be summarized and submitted and that each organization limit itself to one spokesman.

Mr. Lloyd Anderson of the Port of Portland noted the Port's written support of the Clean Fuels Policy and called upon Mr. Walt Hitchcock, the Port's Environmental Coordinator to elaborate on the Port's position. It was the Port's position that the need for the Clean Fuels Policy was well documented, independent of the proposed refineries, and imminent in the light of the proposed refineries. The Port cited the Fuels Policy as a guarantee of $SO_2$ ambient air standards for the future and urged consideration of $SO_2$ emissions be dropped from the new or expanded source rule for the PMSAQMA. It was noted that CIRI supplies of low sulfur fuel in the area would encourage competitors also to make conforming fuel available.

Mr. Anderson noted that the CIRI application would result in increased shipping between Astoria and the Port which would, in turn, insure the maintenance of the channel. The Port supported the application as aiding a capital-intensive use of the Rivergate area which, in view of highway access to the area, was considered as an alternative preferable to labor-intensive development. The parent company of the applicant was cited as financially and environmentally responsible. Finally, the Port cited economic benefits in terms of fuel supply, tax base, construction activity, and secondary economic activity which the refinery would bring.

Mr. Edward W. Reed of the U.S. National Bank of Oregon supported the proposed CIRI installation as beneficial to Oregon's economy not only in terms of its direct impact but in terms of its multiplier effect along dimensions of income and employment. In response to inquiry from Dr. Crothers, Mr. Reed stated his employer to be in support of the Clean Fuels Policy despite the fact that the Clean Fuels Policy would cost the bank and others money.

Mr. Thomas Guilbert spoke neither for nor against the proposed actions. He reminded the Commission that certain federal rules and laws should be considered in predictions as to the success of the Clean Fuels Policy.

He cited the Emergency Petroleum Allocation Act of 1973 (7 U.S.C. § 751-756) as authority for the federal energy administrator to take any fuel produced anywhere in the country and send it elsewhere for use. He was said not to have done so to date however. It was noted that the federal Energy Administration Act renders the administrator's actions preemptive of any conflicting state or local actions. Chapter 13, Volume 32-A of the Code of Federal Regulations was designed, Mr. Guilbert recalled, to insure the optimum use of the limited supplies of low sulfur petroleum products in a manner consistent with both the Clean Air Act as amended and the EPA's Clean Fuels Policy. The Energy Supply and Environmental Coordination Act of 1974(ESECA), it was noted, empowers the federal energy administrator to require any firm burning petroleum to convert to coal. President Ford was reported to have asked that the provisions of ESECA be strengthened to allow conversion to coal to be required even if a primary standard in the Clean Air Act is violated where no direct health hazard for a particular installation's conversion can be proved.

What Mr. Guilbert referred to as a second group of problems was the area of EPA Significant Deterioration Regulations and their class designations. Of the three refinery applications on the Commission agenda, each would use substantially all of the Class II increment and preclude either future Class I designation or added major sources at a Class II level. The Class II increments only apply when the baseline air quality is greater than one increment below the secondary standard, it was contended. Therefore, Mr. Guilbert argued, without knowing the baseline adequately, it is not possible to predict whether the refineries would comply with EPA requirements. It was noted that EPA Class II standards are essentially based on present national secondary Air Quality Standards. For $SO_2$, this standard was reported to be 80 ug/$m^3$ on a national average. This used to be 60 ug/$m^3$ when the Clean Air Act Implementation Plan for Oregon was adopted with the 60 level. This latter Act would, in Mr. Guilbert's view, necessitate a level of at least one increment below the 60 to avoid violation of the Significant Deterioration requirement. Once again, the baseline data is missing, he contended.

Addressing himself to what he termed the "sulfate question," Mr. Guilbert alluded to three pending reports which are expected to deal with the sulfate problem, pointing to sulfur containing particulates as a greater environmental culprit than $SO_2$ emission. This may well lead to a national sulfate standard requiring reduced numbers in terms of $SO_2$ emissions (which are the key to reduced sulfate emissions). Catalytic converters on autos were said to exacerbate the problem further.

Mr. Roger Ulveling of CIRI introduced speakers representing the applicant and offered for the record a copy of a January 14 letter from the applicant requesting wording changes in the proposed permit. The applicant was said to be in understanding with the requirement that the Second Phase of the original permit could not be under consideration at present due to the five-year permit limitation.

Mr. Joseph Pelletier from Pacific Resources, Incorporated of Honolulu, Hawaii spoke for the company's president, Mr. James F. Gary, pointing out that the company was a parent company to the applicant, CIRI. Mr. Pelletier cited his company's successful efforts to provide clean fuels in Hawaii as demonstrative of its ability to provide environmentally compatible fuels to Oregon through its proposed Rivergate site, a site chosen because it had proven to be the most desirable of several investigated. It was further mentioned that many additional refineries would be needed on a national basis and that company policy was to serve local needs first and thus afford Oregon some assurance of clean fuels in the coming energy crunch. It was emphasized that the proposed plant constituted the latest technology in clean fuels design and posed a desirable alternative to requiring fuel consumers to put control devices at the points of consumption. The company withheld commitment as to the final output in terms of product type, stating a desire to await the development of markets for various products.

Mr. William Blosser summarized from a prepared statement the applicant's position with regard to the installation's projected environmental impact. He discussed the use of tankers to bring the crude oil up the Columbia, the use of pipeline and other means to remove the finished products, the effects of construction and operation on the economy, the aspects of water discharge, wildlife, displacement, traffic, electricity usage, compatibility with neighboring land use, air quality, aesthetics, and oil-spill contingency arrangements. In general, it may be said, Mr. Blosser gave the proposed facility a favorable review on all the above subjects.

Mr. Richard S. Reid spoke on behalf of the applicant, addressing himself to the air quality aspects of the proposed facility. He assured highest and best practical standards and isolated particulates and $SO_2$ as the two predicted emissions of major concern. With regard to particulate emissions, he opined that the installation would meet the requirements of the interim rule for the PMSAQMA without a trade-off in terms of new source maximums (107 tons/year). He noted that a trade-off of 683 tons/year was needed to bring the applicant's projected $SO_2$ emissions within the rule's allocation provisions. This could be met, he said, by a Clean Fuels Policy limiting sulfur weight to 1.3%. It was noted that reduction of the maximum sulfur content would lead to an even smaller average content. With regard to ambient air concentrations, Mr. Reid argued that the projected .21 ug/$M^3$ increase at the downtown monitoring station was exceeded by the allowable .25 ug/$M^3$ increase for any one source and would be further reduced by a Clean Fuels Policy. He stated a similar relationship existed for the projected $SO_2$ increase (2.1 ug/$M^3$ predicted and 2.8 ug/$M^3$ allowed). Finally, Mr. Reid noted that recent information indicates that reduction of $SO_2$ emissions results in substantial reduction in suspended sulfate particulates.

Mr. Irwin S. Adams of the North Clackamas County Chamber of Commerce addressed the Commission as spokesman for its membership, citing authority from seven local industries and one water district to support the applicant's proposed permit. In response to Dr. Crothers, Mr. Adams noted that a Clean Fuels Policy not incompatible with energy requirements was supported by the Chamber.

A written statement by Mr. W.E. Kuhn of the Industries Committee of the Portland Chamber of Commerce supported the proposed permit.

Mrs. Ruth Spielman of the Portland League of Women Voters spoke in support of the Clean Fuels Policy and the proposed CIRI permit. She expressed concern over possible increase in truck traffic due to the presence of the refinery and requested the staff begin work on a Clean Fuels Policy for home heating fuels.

Mr. Herbert Bowerman of Robert Brown Associates elected to defer comment on the fuels policy until discussion of the Cascade Permit (Agenda Item L) was begun.

Mr. Carl M. Petterson spoke on behalf of Northwest Natural Gas, expressing objection to Special Condition Seven of each of the three proposed refinery permits on the agenda. It was Mr. Petterson's contention that this condition imposed an unwarranted 24-hour production limit on the applicants, one he considered both superfluous in the light of the direct pollution controls and not fulfilling of any environmental goal. It was argued that the limitation indirectly hampered the Synthetic Natural Gas production proposed by the Northwest Natural Gas Company which, in peak periods, would require more production of the refineries.

In response to Mr. McPhillips, a spokesman for CIRI indicated that it was the applicant, not the Commission, that set the output limit. Mr. McPhillips then strenuously asserted that increased output of a facility corresponded to increased pollutants and presented a new environmental circumstance which should be accompanied by Commission jurisdiction for further review. It was noted that increased production with no increase in pollutants could occasion a new permit.

Mrs. Sharon Rosso spoke against the policy of accepting trade-offs offered by new sources, arguing that the impact of CIRI will be most heavy in North Portland while the beneficiaries of the proposed trade-off will be the residents of the entire PMSAQMA who, for the most part, won't share in the detriment.

Mrs. Rosso further contended that a refinery in the PMSAQMA was inappropriate where existing suppliers can supply the area with low sulfur fuels on the same time schedule as CIRI proposes. Mrs. Rosso contended that the Department's figures on the Clean Fuels Policy and the CIRI proposal were inadequate to support its projection of successful results. Finally, Mrs. Rosso questioned whether the Commission would be virtually compelled to issue a more lenient permit in 1980 when the hundred million dollar installation was completed if it proved unable to comply with the original permit. She cited the Harborton installation as an example of such a happenstance.

Mr. Kip Howlett, counsel for the Western Environmental Trade Association (WETA) admonished that, while the refinery was needed, the added cost of its low sulfur fuel under the Clean Fuels Policy might force plant closings or other economic detriment upon local fuel users. Also expressed was the fear that the Portland refineries, with their more expensive fuels, would corner the Oregon market in areas outside Portland, indirectly imposing a cost on consumers in regions other than the problem region. Mr. Howlett noted the Proposed Regulation for the Prevention of Significant Air Quality Deterioration as published in the August 27, 1974 Federal Register would preclude the location of a major energy producing facility in a Class I Region, requiring location in a Class III Region. It was argued that the $SO_2$ problem in the area might be a lesser problem than is supposed. The Association was said to support controls based on the full industrial development of the area in question. The WETA board recommended that the Commission postpone the adoption of Clean Fuels Policy and approve the addition of oil refining capacity to the area's economic base. Dr. Crothers and Dr. Phinney expressed curiosity about the Association's use of the word "environment" in its title.

Mr. Tom Donaca of the Associated Oregon Industries (AOI) agreed with the position expressed by WETA and added that the $SO_2$ data being used possibly should be discounted in favor of future expected data. He argued that the Department's projections on fuel consumption were oblivious to a reduction in future consumption that was expected by the AOI. Mr. Donaca reiterated Mr. Guilbert's admonition that ultimate control over the use of energy lies with the federal government. It was urged that the rule be expressed in the form of a Commission "intention" or, in the alternative, that the Commission place the Clean Fuels Policy on the agenda of each September Commission Meeting from now until 1978. Parenthetically Mr. Donaca expressed apprehension that the Director's recommendation, if approved, would result in a state-wide 0.5% sulfur limit, were all three refineries refused permits. Mr. Ray Underwood, Chief Counsel to the Commission, noted that he could not share Mr. Donaca's apprehension in this regard while emphasizing the Commission's option to correct any supposed defect of drafting upon its own motion.

Mr. James Penton, on behalf of Locals 3010, 6380 and 8175, United Steelworkers of America, opposed the proposed CIRI permit contending against adding $SO_2$ emissions in the Rivergate area. It was argued that existing industries, in the event of a Natural Gas Shortage and resulting conversion to heavy fuel oils, would result in emissions exceeding the amount allowable by the interim PMSAQMA rule. Therefore it was recommended that the remaining airshed of the Rivergate area be reserved or placed on a priority basis to allow continued operation of existing industry. The welfare of not only the union membership at Oregon Steel Mill Mid Rex and Oregon Steelmills, but of related industry workers was said to be of concern.

Douglas Lee of the Multnomah County Department of Environmental Services spoke for the County. The County recommended that the Clean Fuels Policy be adopted without regard to the permit application of CIRI because it was viewed as both sound and feasible through dealing with existing suppliers of fuel. Mr. Lee lamented the lack of appropriate land use planning and review prior to the construction of the refinery. The Commission was urged, as the only body whose action was required, to consider the sagacity of the proposed CIRI facility in the light of the jobs per acre it would provide in the waining supply of industrial land. The Commission was asked to consult with CRAG and the LCDC on this question. Further, the County expressed apprehension of oil spills that might result from the proposed use of 450,000 bbl tankers to bring in crude oil up the Columbia River.

Mr. Al Scheel, a resident of North Portland, noted that the Rivergate North Portland Peninsula Plan used by the Port of Portland was to be in effect only until 1972. Its replacement has yet to be adopted, leaving the door open in the interim for whatever the Commission approves. Mr. Scheel lamented the lack of representation of the North Portland residents in the planning of the use of the land there. CIRI was argued to be a premature proposal in the absence of a comprehensive plan adopted with the residents involved. Turning to CRAG's suggestion that a greenway for recreational pleasure be reserved along the Columbia Slough, Mr. Scheel argued that this suggestion would not be well served by less than 250 feet of leeway between the slough and the fence of the proposed CIRI installation. Mr. Scheel contended that the area was not in need of a refinery because: 1) existing suppliers of fuel have the ability to increase their capacity if need be; 2) the goal of consumers should be reduced dependence on oil; and 3) the federal regulations coupled with the applicant's marketing policies rendered the in-state location of the refinery of no advantage to Oregon users. It was contended that the purely financial nature of the CIRI proposal rendered a financial "trade-off" appropriate. It was recommended that CIRI be required to assist in opening, cleaning, and dyking the Columbia Slough and improving the area roads. Mr. Scheel also urged the permit be amended to require that the applicant make available for sale to Multnomah, Clackamas, and Washington Counties at least 20,000 bbls of #2 distillate and gasoline and make available no fuel above the residual level to consumers intending conversion to other energy forms with a loss factor greater than 60%. In general, Mr. Scheel urged that the applicant be allowed to build only if it does so in a manner beneficial to the area.

Dr. George A. Tsongas of Portland State University addressed to the Commission his concern that $SO_2$ emission was neither a present nor expected problem in most of the Portland airshed and therefore did not justify the expense of the Clean Fuels Policy to consumers. He noted that the staff's projected $3 per capita yearly cost was exceeded in urban California due to multiplier effects when a 0.5% limitation was enacted in that area. He urged that economic and energy resources available for clean air be directed at carbon monoxide and particulates, rather than $SO_2$.

Upon Dr. Crothers' request, Mr. McPhillips ordered the record left open to give staff an opportunity to respond to Dr. Tsongas' statement. The hearing on the issues of the Clean Fuels Policy and the CIRI air contaminant discharge permit application was closed with leave to all parties to add written materials to the record within ten days. The above action was necessitated by the lateness of the hour, and the comprehensive nature of preceding testimony. It was regretted that time did not permit oral statements by all who wished to offer the same.

PUBLIC HEARING RE: APPLICATION OF CHARTER ENERGY COMPANY FOR AIR CONTAMINANT DISCHARGE PERMIT

Mr. Jack Payne of the Department's Northwest Region presented the staff's report and conclusions with regard to the proposed permit. It was concluded that the proposed permit would not exceed the most stringent air quality rule in the area, the January 6, 1975 EPA rule for the prevention of Significant Deterioration through particulate and $SO_2$ emission. It was found that the facility would use all of the allowable particulate and 92% of the allowable $SO_2$ deterioration under the applicable (Class II) deterioration limits. It was recommended that a Clean Fuels Policy, with the applicant's agreement to supply at least 2000 barrels per day of the required fuel and burn this fuel also, would be an appropriate measure. The installation appeared able to meet noise and odor standards and posed no insoluble problems in terms of solid waste or effluents into the Columbia. Oil spill regulations were being observed in the planning of the refinery.

Mr. Fred Foshaug, Chairman of the Columbia County Board of Commissioners, addressed to the Commission the Board's recommendation that the Charter permit be granted with no production restrictions and minimal reporting or other activity under EPA and DEQ rules. Request for approval of the Cascade permit was also made.

Mr. Herbert Bowerman of Robert Brown Associates testified on behalf of the applicant. He offered a compendious written document to the Commission and sought the Commission's consideration of the points set forth in the document. Mr. Bowerman pointed out his prediction that the demand for gasoline would cease its historic yearly increase, and, perhaps, decline. The applicant's refinery was, it was stated, based on the concept of using North Slope Alaskan Crude, distilling the same, separating the results, and treating them for customer usage and pollution requirements. He read into the record a letter from the federal energy administration applauding the plan to produce more of what is now imported instead of producing gasoline. Mr. Bowerman pointed out that the product range sought would keep the applicant's refinery simple. It would operate without cracking facilities, produce only the gasoline native to the crude oil and sell the remaining residual and distillate fuel oil (whose demand is expected to increase). Turning to the sulfur content of the fuel oil, he noted that the applicant did commit itself to 25,000 bbl/day of 0.5% sulfur residual. The suggestions included a plan to install an additional 20 million dollars in equipment which would increase the refinery's fuel use by 25% and its power consumption by 33% to get the job done. The alternative was to divert the most sulfur-laden third of the fuel oil and use the remainder for 0.5% conforming fuel. The former third, however, must be sold to some customer who can use fuel with a sulfur content of over 2%. It was reported that tentative arrangement

might be made to sell this to Reichold Chemical. This would require someone else's capital investment in any event. The financial aspects involved either way, it was argued, warrant consideration of a staged reduction schedule to enable the 0.5% level to be reached.

In response to Mrs. Hallock's inquiry, Mr. Bowerman noted that a 0.5% sulfur policy affecting any substantial portion of Oregon consumers would force Charter to produce 0.5%; as the 1.0% sulfur content residual fuel was not, in his view, saleable in any alternative market. Dr. Crothers noted that some areas of the State could use 1.0%. In response to Dr. Crothers, Mr. Bowerman was unable to state if Charter would go forward with its plan in the event permits were granted the other refineries.

Mr. Bowerman argued with regard to economic advantages that there was no difference to the State whether a refinery was located in St. Helens or in Portland.

With regard to emissions, he noted that diesel fuel would be the basic fuel used in the refinery. This, he said, would be the best fuel available for environmental concerns.

Mr. McPhillips noted his hope that the applicant's permit would be approved or denied by the next monthly Commission meeting.

Mr. Wallace Gainer, Jr. of the Port of St. Helens spoke in support of the proposed permit and alluded to a conversation with the President of Charter wherein he was assured it was Charter's intention to proceed with its construction promptly upon the issuance of the required permits.

(Mrs.) Joyce Tsongas, speaking on behalf of the Citizens for State Planning, wished to raise questions as to why she could find no one in the DEQ who would take the responsibility for being the "refinery expert." She said one was needed since the idea of issuing permits to refineries is one new to Oregon and, in Mrs. Tsongas' view, one requiring objective, expert analysis. She suggested the process of permit consideration be prefaced by: 1) thorough investigation of the legality of permit conditions regarding production limits or quotas; 2) determination of whether the applicant has explored marketing outside the Oregon-Washington area; 3) deferring any permit applications until arrival of new air maintenance computer modeling; 4) to obtain expert guidance; 5) to prepare state-wide plans for refinery siting; and 6) to adhere to them.

Mr. Joh Frewing, speaking on behalf of the Oregon Clean Water Project, a citizen's group, addressed himself to the water aspects of all three refineries on the basis of the inclusion of comments about the water aspects of the proposed refineries in the staff reports for all three permits. He lamented an inability to find documentation to support the staff's findings other than the figures submitted by the applicant. He urged that the hearings be reopened on the NPDES draft permits after the thirty-day public review of the permits is completed, noting that he had not yet had opportunity to see the draft permits. Specifically he wished the Department to determine whether it will require carbon adsorption to remove phenol from the effluent.

Mr. Frewing also noted that the staff report on waste water flow appeared to exceed the EPA guidelines for topping refineries. Complaint was entered over what Mr. Frewing perceived to be a failure to adequately discuss in-plant techniques for dealing with waste water, maintenance procedures, conservatism in design, storage capacity for upset occurrences, and other parameters of effluent control. The oil transport hazards peripheral to any refinery were, in Mr. Frewing's view, not emphasized sufficiently in view of their gravity. The possibility of trade-offs in the areas of Columbia River oil traffic and in the area of waste oil rerefining capability.

Mr. McPhillips concluded the hearing and the option was reserved to interested parties to submit written material to the record in the next ten days.

PUBLIC HEARING RE: APPLICATION OF CASCADE ENERGY INC. FOR AIR CONTAMINANT DISCHARGE PERMIT

Mr. Jack Payne of the Department's Northwest Region presented the staff report. It was staff's conclusion that the proposed refinery would meet all existing requirements with regard to air and water quality as well as noise and odor abatement. The most difficult air quality standard was the EPA requirement with regard to Significant Deterioration in a Class II area. The allowable deterioration would be consumed by the proposed refinery to the extent that trade-offs or reclassification of the area would have to precede additional substantial installations in the vicinity of the refinery.

Mr. Larry Schreiber spoke on behalf of the applicant stressing its financial soundness, intent to preserve Oregon's fuel supplies in a competitive marketplace, and desire to cooperate in seeing that the installation meets all required environmental standards.

Mr. Waldemar Seton a professional engineer spoke on behalf of the application noting that there were details of the proposed permit which the applicant wished to renegotiate. He presented a prepared statement to the Commission elaborating on these points.

Mr. Glen Odell, a consulting engineer, addressed the Commission with regard to an air quality problem which surfaced in the computer modeling for projected emissions on the hillside south of the proposed refinery. Slides were shown to demonstrate the nature of the problem. It was argued in that dispersion modeling techniques with regard to the impact on the nearby hill were inappropriate. It was urged that the applicant be permitted to burn 75% residual fuel oil coupled with 25% refinery gas. This arrangement would, in Mr. Odell's plan, be replaced by the burning of distillate fuel upon those rare occasions when meteorological conditions (to be monitored from one of the installation's highest stacks) indicated impact on the hill from the major in-plant sources. Mr. Odell asserted that such arrangement would be of considerable economic benefit to the applicant, saving between $1,000 and $2,500 per day.

Mr. John Frewing contended that the air from the proposed refinery would not rise over the hills to the south, but would remain trapped in the valley, as in the case of pollutants in the Longview area. He lamented the effects of the installation on the U.S. 30 Scenic Turnout, opining that the applicant might appropriately answer monetarily for the loss of aesthetic value which, in Mr. Frewing's view, the proposed refinery would occasion. Oil spills were cited as a particularly dangerous threat due to the downstream proximity of the Columbia River Wildlife Refuge. Mr. Frewing alluded to Oceanographic Commission studies of Washington on Puget Sound as showing that one oil spill of 250,000 gallons every four years could be expected. This potential was exacerbated by the proposed berthing near the major navigation channel. It was Mr. Frewing's contention that off-stream berthing was the modern requirement and should be observed. The effluent phenols Mr. Frewing expects from the proposed plant were lamented due to their effect on the fish (oily flesh and taste). DEQ was asked to consider ozone treatment, coagulation treatment, and total organic carbon analysis (as opposed to simply BOD 5 analysis). Finally Mr. Frewing urged that any cost benefit analysis include the 15% lower area salaries for Oregonians attributable to Environmental Quality.

Mr. McPhillips closed the hearing, reserving opportunity for interested parties to offer written materials to the record for ten days. The EQC meeting was adjourned.

MINUTES OF THE SIXTY-FIFTH MEETING

of EQC

January 24, 1975

APPENDIX A

Water Quality Control - Water Quality Division ( )

| Date | Location | Project | Action |
|---|---|---|---|
| 12-1-74 | USA | Cedar Mill Trunk Project - C.O. #1-5 | Approved |
| 12-2-74 | CCSD #1 | Phase II - Interceptor Sewers - C.O. #7 | Approved |
| 12-5-74 | Ashland | Mt. Ranch Subdn. - Phase I Sewers | Prov. App. |
| 12-5-74 | Ashland | Thunderbird Hts. Subdn. Sewers | Prov. App. |
| 12-6-74 | Baker | Projects 12 through 18, San. Sewers | Prov. App. |
| 12-9-74 | Pendleton | C.O. No. 2 - Mt. Hebron Int. Project | Approved |
| 12-10-74 | Lowell | Parker Lane Sewer Project | Prov. App. |
| 12-10-74 | Hood River | San. Sewer Ext. Dist. 5, Div. 10 (Project No. 2) | Prov. App |
| 12-10-74 | Springfield | E-Z Living Estates Sewers | Prov. App. |
| 12-10-74 | Brookings | Easy Manor Drive Sewer Ext. | Prov. App. |
| 12-10-74 | Astoria | C.O. 20, 21 & 22. Sch. A<br>C.O. 7. Sch. B<br>C.O. 8 & 9. Sch. C | Approved<br>Approved<br>Approved |
| 12-10-74 | USA | C.O. No. 3 - Franno Cr. Int. | Approved |
| 12-12-74 | Warrenton | C.O. No. 2 - E. Warrenton Int. Project | Approved |
| 12-17-74 | Coos Bay | C.O. No. 1 - STP Project | Approved |
| 12-18-74 | Florence | Shield Prop. Sewer Ext. | Prov. App. |
| 12-18-74 | Eastside | C.O. #1 - P.S. & Pressure Sewer Project | Approved |
| 12-19-74 | Central Point | Hull Subdn. Sewer | Prov. App. |
| 12-23-74 | USA-Sherwood | C.O. Nos. 1 & 2 - Sherwood Trunk Sewer | Approved |
| 12-26-74 | USA-Metzger | Metzger Modification 0.95 MGD Factory Built STP | Prov. App. |
| 12-26-74 | Astoria | C.O. Nos. 23 & 24 Sch. A | Approved |
| 12-26-74 | Hood River | Septage Facilities for Hood River STP | Prov. App. |
| 12-26-74 | Skyline West S.D. | Stage I Expansion of STP adding 0.769 Acre Lagoon, Clorinating and Flow Metering | Prov. App. |
| 12-26-74 | Bandon | Ninth & Delaware Sanitary Sewer | Prov. App. |
| 12-30-74 | Milwaukie | Interceptor Sewer Schedule II | Prov. App. |
| 12-30-74 | Eugene | Willagillespie Area Sewers | Prov. App. |

Water Quality Control - Water Quality Division - Industrial Projects (3)

| Date | Location | Project | Action |
|---|---|---|---|
| 12-24-74 | Jackson County | Mr. Pitt Dairy, animal waste control and disposal system | App. Denied |
| 12-24-74 | Jackson County | Rouhier Farm, animal waste control and disposal system | Prov. App. |
| 12-24-74 | Jackson County | Straube Dairy, animal waste control and disposal system | Prov. App. |

Water Quality Control - Northwest Region ( )

| Date | Location | Project | Action |
|---|---|---|---|
| 12-3-74 | Canby | N. Cedar Street from 5th to Dahlia Place sanitary sewer | Prov. App. |
| 12-4-74 | Gresham | Between S.E. Stark Street S.E. 221st Ave. sanitary sewer | Prov. App. |
| 12-11-74 | CCSD#1 | Estella Avenue sanitary sewer extension | Prov. App. |
| 12-18-74 | Oregon City | Oregon City Jr. High School sanitary sewer | Submitted to Portland Metro. Area Local Gov. Boundary Com. |
| 12-23-74 | Gresham | Willowbrook-Phase II sanitary sewers | Prov. App. |
| 12-23-74 | Central County Sanitary Service Dist.-Inverness (Multnomah Co.) | Argay Square on N.E. 122nd South of N.E. Sandy Sanitary sewers | Prov. App. |
| 12-24-74 | Oregon City | Roundtree Court sanitary sewers | Prov. App. |
| 12-31-74 | CCSD#1 | United Grocers Warehouse complex sanitary sewers A-1 & A-2 | |
| 12-31-74 | USA (Metzger) | Timmins; S.W. 80th Ave. sanitary sewer | Prov. App. |
| 12-31-74 | USA (Aloha) | Shadow Wood III; S.W. 204th Ave. sanitary sewer | Prov. App. |

Water Quality Control Industrial Projects - Northwest Region

| Date | Location | Project | Action |
|---|---|---|---|
| 12-10-74 | Tillamook County | Animal Waste Disposal System and Holding Tank for Reihl Diary Farm | Approved |
| 12-18-74 | Portland | Zidell Oil Water Separator | Approved |
| 12-20-74 | Portland | Stauffer Chemical Co. Tax Credit T-552, "Lined Pond with Pump". | Approved |

Air Quality Control - Air Quality Division (17)

| Date | Location | Project | Action |
|---|---|---|---|
| 12-6-74 | Washington County | Washington Square - 300 Space temporary employe parking | Cond. App. |
| 12-9-74 | Douglas County | Garden Valley Interchange I-5 freeway | A-95 Review Completed |
| 12-9-74 | Curry County | Brookings Plywood Veneer Dryer modification (low Temp. operation) | Approved |
| 12-9-74 | Jackson County | Olson-Lawyer Timber Installation of scrubber on hogged fuel boiler | Approved |
| 12-10-74 | Multnomah County | Pietro's Pizza Parlor - 108 space joint use parking facility | Req. info. |
| 12-13-74 | Washington County | Somerset West - 172-space parking facility | Req. info. |
| 12-17-74 | Multnomah County | Easthill Church 141-space parking facility | Cond. App. |
| 12-24-74 | Coos County | Cape Arago Lumber Source Test | Approved |
| 12-24-74 | Washington County | Pacific Northwest Tennis Club 115 space parking facility | Req. info. |
| 12-24-74 | Multnomah County | Sommerwood 588 space parking facility | Req. Info. |
| 12-26-74 | Lane County | Mahlon Sweet Field - 100 space facility, LRAPA approval | Approved |
| 12-26-74 | Lane County | Motel 6 - 86 space parking facility LRAPA approval | Approved |
| 12-26-74 | Washington County | Argay Square Commercial Center 154 space parking facility | Req. Info. |
| 12-26-74 | Multnomah County | LDS Church, 182nd Ave. 174 space parking facility | Cond. App. |
| 12-30-74 | Umatilla County | Louisiana Pacific, Pilot Rock Source test | Approved |
| 12-31-74 | Klamath County | Weyerhaeuser Company Source test | Approved |
| 12-31-74 | Linn County | American Can Company Installation of Lime Mud oxidation system | Cond. App. |

Air Quality Control - Northwest Region (

| Date | Location | Project | Action |
|---|---|---|---|
| 12-9-74 | Multnomah Co. | Triangle Milling Dust control | Approved |
| 12-9-74 | Clackamas Co. | Oregon Portland Cement Co. New Agg. lime storage bin | Approved |
| 12-9-74 | Multnomah Co. | Norwest Publishing-Control of heatset ink dryer | Approved |
| 12-9-74 | Clackamas Co. | Oregon Portland Cement roadway paving | Approved |
| 12-10-74 | Multnomah Co. | Ross Island Sand & Gravel Concrete Batch Plant | issued permit |
| 12-12-74 | Multnomah Co. | Medford Corporation Green wood chip storage and distribution center | Issued proposed permit |

Air Quality Control - Northwest Region (continued...)

| Date | Location | Project | Action |
|---|---|---|---|
| 12-17-74 | Multnomah Co. | Western Farmers - Dust Control of Truck Receiving | Approved |
| 12-17-74 | Multnomah Co. | Resource Recovery By products paper Classifier | Approved |
| 12-24-74 | Multnomah Co. | Columbia Independent Refinery Oil Refinery | issued proposed permit |
| 12-24-74 | Columbia Co. | Cascade Energy, Inc. Oil Refinery | Issued proposed permit |
| 12-24-74 | Columbia Co. | Charter Energy Company New Oil Refinery | Issued proposed permit |
| 12-26-74 | Multnomah Co. | Portland Steel Mills New Steel Mill | Issued permit |
| 12-30-74 | Multnomah Co. | Chamberlain's Pet Crematorium Cremation Incinerator | Issued permit |

Land Quality - Solid Waste Management Division (4)

| Date | Location | Project | Action |
|---|---|---|---|
| 12-3-74 | Lane County | Florence Sanitary Landfill Existing Site Operational Plan | Approved |
| 12-23-74 | Jefferson County | Camp Sherman Container Site New Site Construction & Operational Site | Approved |
| 12-30-74 | Klamath County | Weyerhaeuser Co., Bly New Industrial Site (Letter Authorization) | Prov. App. |
| 12-31-74 | Wallowa County | Boise Cascade, Joseph Existing Industrial Site Operational Plan | Approved |

# ENVIRONMENTAL QUALITY COMMISSION

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



MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item B, February 28, 1975 EQC Meeting

January 1975 Program Activity Report

During the month of January staff action with regard to plans, permits, specifications, and reports was as follows:

WATER QUALITY

1. Domestic Sewage: Activity with regard to thirty-eight (38) matters was undertaken as follows:

   WATER QUALITY DIVISION - 23 (See Attachment #1)

   Approval was given to twelve (12) Change Orders.

   Provisional Approval was given to three (3) Sewage Treatment Plants and to eight (8) Sewers.

   NORTHWEST REGION - 15 (See Attachment #2)

   Approval was given to thriteen (13) plans and to one (1) Change Order.

   One (1) proposal was forwarded to the Boundary Commission.

2. Industrial Sewage: Activity with regard to twelve (12) matters was undertaken as follows:

   WATER QUALITY DIVISION - 2 (See Attachment #3)

   Provisional Approval was given to two (2) projects.

   NORTHWEST REGION - 10 (See Attachment #4)

   Approval was given to ten (10) plans.

AIR QUALITY

1. Pollution Control Projects: Activity with regard to fifteen (15) matters was as follows:

   AIR QUALITY DIVISION - 6 (See Attachment #5)

   Approval was given to one (1) Stationary Source Plan and to five (5) ACD Permits (issued).

   NORTHWEST REGION - 9 (See Attachment #6)

   Approval was given to four (4) Plans reviewed, to four (4) Proposed Permits and to one (1) ACD Permit (issued).

2. Indirect Source Projects: Activity with regard to five (5) matters by the AIR QUALITY DIVISION was as follows (See Attachment #5):

   Approval was given five (5) projects.

SOLID WASTE MANAGEMENT

Activity with regard to five (5) matters was undertaken by the SOLID WASTE MANAGEMENT DIVISION as follows (See Attachment #7):

Approval was given three (3) projects.

Provisional Approval was given to one (1) project.

Letter Authorization was given to one (1) project.

DIRECTOR'S RECOMMENDATION

It is the Director's recommendation that the Commission give its confirming approval to the staff action on project plans and proposals for the month of January, 1975.

KESSLER R. CANNON
Director

Attachment #1

PROJECT PLANS

Water Quality Division

During the Month of January 1975, 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.

| Date | Location | Project | Action |
|---|---|---|---|
| | Municipal Projects - 23 | | |
| 1-2-75 | Central Pt. | Hall Subdn Sewers (revised plans) | Prov. Approval |
| 1-3-75 | USA (Durham) | C.O. NO.1 STP Contract | Approved |
| 1-6-75 | Madras | C.O. No.1 STP Contract | Approved |
| 1-8-75 | Portland | C.O. No.2 STP Contract | Approved |
| 1-8-75 | Florence | Replat of Lot 303-Greentrees-Sewers | Prov. Approval |
| 1-20-75 | Toledo | Water Treatment Plant Sewer | Prov. Approval |
| 1-20-75 | Metolius | C.O. No.1 - STP Project | Approved |
| 1-20-75 | Hood River | Contract Documents-Sludge Truck acquisition | Prov. Approval |
| 1-20-75 | USA(Beaverton) | Sr. Adult Leisure Center Sewer | Prov. Approval |
| 1-20-75 | Corvallis | Contract Documents-Comminutor Acquisition | Prov. Approval |
| 1-24-75 | Josephine Co. | Revised Plans-South Allen Creek Sewer | Prov. Approval |
| 1-24-75 | North Bend | Newark St.& Donnelly-Lombard St. Sewers | Prov. Approval |
| 1-27-75 | Yachats | C.O. #8-STP Contract | Approved |
| 1-28-75 | Coos Bay | C.O. #2 STP (#1) Contract | Approved |
| 1-28-75 | Portland | C.O. #9 STP Contract | Approved |
| 1-28-75 | Gresham | C.O. #1,2&3 - STP outfall contract | Approved |
| 1-28-75 | Portland | C.O. #1 - Grit Facilities | Approved |
| 1-28-75 | USA | Willow Creek Int. Sewer - Sect 3 | Prov. Approval |
| 1-28-75 | Corvallis | N.W. 9th St. Sewer (#175) | Prov. Approval |
| 1-29-75 | Astoria | C.O. No. 10 STP Project | Approved |
| 1-29-75 | Salem (Willow Lake) | Sludge Truck purchase contract documents | Prov. Approval |

| | |
|---|---|
| Sewers | 8 |
| STP | 3 |
| C.O. | 12 |
| | 23 |

Attachment #2

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHWEST REGION OFFICE - Technical Services

Water Quality Division - Project/Plan Review

During the month of January 1975, the following sanitary sewer 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.

See attached sheets for disposition of each project.

Summary of projects

| | |
|---|---|
| 15 | Sanitary Sewer plans/change orders received |
| 13 | Sanitary Sewer plans approved |
| 1 | Sanitary Sewer Change Orders approved |
| 1 | Sanitary Sewer proposals forwarded to Boundary Commission |
| 1 | Sanitary Sewer plans pending* |

* Pending refers to scheduling for staff review relative to dispostion of projects unless noted on attached sheets as "under study".

Attachment #3

Water Quality Division

Industrial Projects (2)

| Date | Location | Project | Action |
|---|---|---|---|
| 1-6-75 | Clackamas County | Yoder Twin Silo Farms, animal manure control and disposal facilities | Prov. Approval |
| 1-7-75 | Clackamas County | Mr. James Madsen, animal manure control and disposal facilities | Prov. Approval |

Attachment #4

DEPARTMENT OF ENVIORNMENTAL QUALITY
NORTHWEST REGION
Technical Services

Water Quality Division - Project/Plan Review

During the month of January 1975, the following industrial 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.

See attached sheets for disposition of each project.

Summary of projects:

| | |
|---|---|
| 8 | Industrial plans/tax credits received |
| 10 | Industrial plans/tax credits approved* |
| 9 | Industrial plans/tax credits pending |

*Tax credits have been evaluated by NWR.

Attachment #5 AIR QUALITY CONTROL DIVISION SUMMARY

FOR THE MONTH OF JANUARY, 1975

PROJECT PLANS

| | |
|---|---|
| Indirect Source Plans: | |
| Received this month | 5 |
| Pending | 15 |
| Processing | 12 |
| Stationary Source Plans: | |
| Received this month | 7 |
| Pending | 24 |
| Processing | 1 |
| Approvals | 1 |
| Site Inspections | 4 |

PERMITS

| | |
|---|---|
| Indirect Sources: | |
| Projects Approved | 5 |
| Permits Issued | 0 |
| Denials | 0 |
| Air Contaminant Discharge Permits: | |
| Received this month: New | 5 |
| Renewals | 10 |
| Modifications | 0 |
| Pending | 274 |
| Processing | 33 |
| Issued - Regular | 5 |
| Temporary | 0 |
| Special | 0 |

TAX CREDIT APPLICATIONS

| | |
|---|---|
| Review Reports Prepared | 2 |

Attachment #6

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHWEST REGION
Technical Services

Air Quality Division - Project/Plan Review

During the month of January, 1975 the following air quality project plans and specifications were reviewed by the staff. The disposition of each project is shown pending ratification by the Environmental Quality Commission. See attached sheets for disposition of each project.

Summary of Projects

Air Quality Plan Reviews - Notice of Construction

| | |
|---|---|
| 3 | Received |
| 5 | Pending (awaiting additional information requested) |
| 6 | Processing |
| 3 | Approvals |
| 1 | Cancellation |

New Source Air Quality Permits

| | |
|---|---|
| 1 | Received |
| 0 | Pending (awaiting additional information requested) |
| 12 | Processing |
| 4 | Proposed Permit Issued |
| 1 | Permits Issued |

# ENVIRONMENTAL QUALITY COMMISSION

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



To: Environmental Quality Commission

From: Director

Subject: Agenda Item C, February 28, 1974, EQC Meeting

Tax Credit Applications

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

KESSLER R. CANNON

AHE
February 19, 1975

Attachments

Tax Credit Summary
Tax Credit Review Reports (4)

Appl. T-566

Date 2-18-75

State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Stayton Canning Company, Cooperative
Brooks Plant # 5
P. O. Box 458
Stayton, Oregon 97383

The applicant owns and operates a food processing plant near Brooks, Oregon in Marion County.

2. Description of Claimed Facility

The claimed facility is described to be improvements to waste water disposal facilities consisting of various piping, sprinkling, and valving equipment plus seed and fertilizer.

The claimed facility was placed in operation in June, 1972. Certification is claimed under the 1969 Act with 100% allocated to pollution control.

Facility cost: $14,641.60 (Accountant's certification was submitted.) (The application claimed a cost of $48,731.60 of which $14,641.60 was for capitol improvements and $34,090.00 was the cost of leasing the land and other waste control facilities prior to their purchase. The $34,090 was deducted from the claimed cost because the land and other waste control facilities were subsequently purchase and claimed under Tax Relief Application T-567

3. Evaluation of Application

Without the facilities, partially treated wastewater would be discharged directly to Fitzpatrick Creek due to inadequate useable land area. With the claimed facilities, the wastewater, following pretreatment, is spray irrigated on to land. Investigation reveals that the facilities were designed, constructed, operated, and maintained quite well.

4. Director's Recommendation

It is recommended that a pollution Control Facility Certificate bearing the cost of $14,641.60 with 80% or more of the cost allocated to pollution control be issued for the facilities claimed in Tax Application No. T-566.

H.L.Sawyer:ss
February 18, 1975

Appl. T-567

Date 2/18/75

State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Stayton Canning Company, Cooperative
Brooks Plant #5
P.O. Box 458
Stayton, Oregon 97383

The applicant owns and operates a food processing plant near Brooks, Oregon in Marion County.

2. Description of Claimed Facility

The claimed facility consists of a wastewater collection pit with vibrating screens and a solids collection and storage facility; a series of 4 wastewater ponds with 2 aerators, pumps and related piping; and 153 acres of land for spray irrigation with 3650 feet of pcv pipe.

The claimed facility was placed in operation by Stayton Canning Company, Cooperative in 1972 (1968 by Mainline Foods, the previous owner). Certification is claimed under the 1969 Act with 100% allocated to pollution control.

Facility cost: $413,711.58 (Accountant's certification was submitted.)

3. Evaluation of Application

The wastewater control facilities were installed when the plant was constructed. With the claimed facilities, the wastewater is screened to remove the large solids (which are fed to livestock), treated biologically, and then sprayed on to land. Investigation reveals that the facilities were designed, constructed, operated, and maintained quite well.

The prior owner did not apply for or receive certification of the facilities.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $413,711.58 with 80% or more of the cost allocated to pollution control be issued for the facilities claimed in Tax Application No. T-567.

HLS: bel
2/18/75

Appl T-596
Date 1/10/75

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Atlantic Richfield Company
515 S. Flower Street
Los Angeles, California 90071

The applicant owns and operates a finished petroleum product storage and handling facility in Portland, Oregon.

2. Description of Claimed Facility

The facility described in this application is a storm drainage collection system and oil-water separation facility.

Facility cost: $121, 141.48 (Accountant's certificate was provided)

The facility was placed in operation in August 1973. Certification is claimed under the 1969 Act.

The percentage claimed is 100 percent.

3. Evaluation of Application

The company was required by the Department of Environmental Quality to reduce oil concentrations discharged to the Willamette River from its oil storage facilities. The claimed facilities were installed to eliminate the direct discharge of oil contaminated storm waters. The oil-water separation system is designed to meet a 10 ppm oil and grease effluent limitation.

The plans and specifications for the facility were reviewed and approved by the Department of Environmental Quality. The Department has inspected the facility and has found that it is operating satisfactorily. The materials collected by the system do not pay for the installation. Therefore, it is concluded that the facility was installed and operated for pollution control.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $121, 141.48 be issued for the facility claimed in the Tax Credit Application No. T-596 with 80 percent or more allocated to pollution control.

REG:cs
January 10, 1975

The claimed facility was placed in operation on February 1, 1975. Certification is claimed under ORS 468.165(1)(b) as a facility the substantial purpose of which is to utilize by mechanical and chemical process material which would otherwise be solid waste and the end product is an item of real economic value. Facility cost: $4,521,276 (Accountant's certification was attached to application).

3. Evaluation of Application

The primary reason for installation of this facility was to achieve viable utilization of a waste material, which was previously burned or deposited in a landfill. On a monthly basis the facility will convert about 2,000 tons of Douglas fir bark (dry basis) into a high-quality vegetable wax (70-80 tons), a thermosetting resin extender (1,300-1,700 tons), and phenol substitutes (200-600 tons). Ultimate monthly production is tentatively projected to include 600-750 tons of cork, and 500-600 tons of bast fiber from the thermosetting resin extender.

It was necessary for Bohemia Inc. to employ a new bark acquisition and preparation system, including a Nicholson Ring Barker, to meet the process requirements for specific size of bark (between 7 to 80 mesh). Another key factor in the system was development of a special solvent used in the extraction process.

The development of the extraction process by Bohemia opened a completely new dimension in utilizing waste Douglas fir bark. Vegetable wax and cork are items that to date have not been manufactured in the United States.

The facility has a zero discharge of industrial waste water. Air carried through the system by the vapors is treated in a mineral-oil absorber for solvent recovery, before releasing into the atmosphere.

The annual income derived from the value of recovered materials is said to be $2,401,200. Annual operating expenses is said to be $1,363,611, thus the annual profit before taxes is $1,037,589, or 22.95% return on investment before taxes. The company claims the lowest acceptable return on an investment, before taxes, which will justify an investment is 38.3%.

The Department concludes that the claimed facility meets the requirements of ORS 468.165(1)(b) and is therefore elegible for certification.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued pursuant to ORS 468.165(1)(b) for the claimed facilities in Application T-623, such certificate to bear the actual cost of $4,521,276.

MS:mm

February 18, 1975

Introduced by Roa Sowers  Hazel Blue Canon

# DEPARTMENT OF ENVIRONMENTAL QUALITY

1234 S.W. MORRISON STREET • PORTLAND, ORE. 97205 • Telephone (503) 229-5293

Robert W. Straub
GOVERNOR

KESS CANNON
Director

February 14, 1975

Oregon Department of Transportation
State Highway Division
Highway Building
Salem, Oregon 97310

Attn: Newt Andrus

Re: S. Tigard Interchange - Boones Ferry Road Sec. Kruse Way (FAS 943)

Gentlemen:

As requested in your letter of December 18, 1974 and in accordance with our proposed working agreement and under provisions of Part 771.18 (i)(2)(iv), Title 23, Chapter I, Subchapter H of the Code of Federal Regulations, the Department has reviewed the draft copy of Final Environmental Impact Statement (E.I.S.) for Kruse Way (FAS 943).

The Department finds the draft copy of the Final E.I.S. lacking the necessary information which would allow our staff to fully evaluate the potential air and noise quality impacts of the proposed project. Therefore, before a complete determination can be made as to: (1) consistency with the State Implementation Plan, (b) potential violations of applicable portions of control strategy and (c) interference with attainment or maintenance of National Ambient Air Quality Standards, additional information will have to be submitted to this Department.

A. Air Quality Analysis

1. The draft Final E.I.S. indicates violations of the 8-hour state and federal carbon monoxide (CO) standard of 10 mg/$m^3$ at the interchanges of Kruse Way with the South Tigard Interchange and Lower Boones Ferry Road and along the right-of-way of Kruse Way. In addition, a 1-hour CO violation is projected for the interchange of Lower Boones Ferry Road and Kruse Way though this would most likely occur at no sensitive receptor sites.

As shown in Figure 8-I ("Build case ") of the draft Final E.I.S., a maximum 8-hour CO concentration at the S. Tigard Interchange would be 29.3 mg/$m^3$ within the right-of-way of the Beaverton-Tigard Highway (217) with CO violation levels extending out in generally a NNW direction to

approximately 1100 feet under worse case meteorological conditions of 1 mph winds in a SSE direction and Class F stability. This compares to the "no build" case (Figure 8-H) of an 8-hour CO level violation zone extending approximately 700 feet in 1976 in a NNW direction from the S. Tigard Interchange. In both cases sensitive receptor sites are included in the 8-hour CO level violation zone with the "build case" including at least three additional residential properties and the entire Phil Lewis Elementary School Property. As shown in Figures 8J and 8K the spatial resolution of the 8-hour CO level violation zone would gradually decrease between 1976 and 1987 resulting in a reduced number of existing receptor sites being impacted by CO levels above the 8-hour standard.

While the Department recognizes that the projected "build case" CO level violations at the South Tigard Interchange represents an incremental increase over the "no build" case, the fact remains that several sensitive receptor sites will be impacted by 8-hour CO levels for several years above the state and federal standard. While there are some air quality impact benefits to be derived along Bonita Road in the "build case", this would be off-set by a projected 1987 51% increase in ADT over the 1974 ADT.

2. In order for the Department to make a complete evaluation of the air quality impact of the South Tigard Interchange, the following information should be provided:

a. Magnitude and spatial resolution of maximum 3 hour hydrocarbon levels for the first, tenth, and twentiety years after completion of construction of Kruse way.

3. As required by N.E.P.A. and C.E.Q. guidelines, significant environmental impacts from construction activities should be evaluated in the Final E.I.S. Therefore, projected air quality impacts from activities related to the construction of Kruse Way should be included in the draft Final E.I.S.

B. Alternatives

As stated in the Department's staff report of September 14, 1973 on Kruse Way, a full range of alternative means of transportation should be taken into consideration in order for the Department to completely assess the environmental impact of the proposed project. It is not apparent in the draft Final E.I.S. whether or not the potential environmental impact of alternative modes such as: (1) a substantial expansion of the transit system on the existing road network, (2) use of the existing rail corridor between Lake Oswego and Beaverton and (3) a multi-model Kruse Way corridor which includes, but is not limited to exclusive bus and/or carpool lanes were analyzed. If the

above alternatives were evaluated and determined not to be viable, then detailed reasons for their rejection should have been included in the E.I.S.

C. Noise

If the Kruse Way is constructed, the following measures should be taken to avoid adverse noise impacts on the adjacent residential population.

1. Noise barriers should be built to reduce the impact to Houses #1 and #2 located on Carmen Drive to within FWHA standards.

2. A method should be adopted that will prevent the construction of noise sensitive property within a noise contour at the FWHA standards. This may be accomplished by either the purchase of a buffer zone or the adoption of an ordinance preventing the construction of noise sensitive property within the contour.

3. Projected noise impacts from activities related to the construction of Kruse Way should be included in the Final E.I.S.

D. Traffic Analysis

The most recent traffic projection analysis by OSHD projects a 1987 ADT of 21,600 for the proposed Kruse Way road section between the South Tigard Interchange and Carmen Drive. Since this figure would represent the tenth year after construction of the proposed road section, an Indirect Source Construction Permit will be required under the Department's Indirect Source Rule (20-100 through 20-135). The Indirect Source Construction Permit application should contain all necessary information as required by Section 20-129(1)(d) of the Indirect Source Rule.

E. Conclusions

The Department concludes while several adjacent road segments would be at least temporarily relieved of existing and projected traffic loads as a result of the construction and operation of Kruse Way, other areas would be subjected to increased traffic congestion. Since it appears the net transportation and environmental impact resulting from the utilization of Kruse Way is somewhat marginal, it is suggested that more viable alternatives be evaluated which would result in a substantial reduction in traffic congestion with minimal adverse environmental impact to the affected communities.

While the Department needs additional information to make a complete evaluation of the air quality impact caused by the construction and operation of Kruse Way, the Department concurs with the projected ambient air quality data provided by the State Highway Division in the draft copy of the Final E.I.S. Since ambient air standards would be violated at the South Tigard Interchange, the Department finds that the construction and utilization of Kruse Way as proposed would result in interference with attainment and maintenance of National Ambient Air Standards for carbon monoxide and hydrocarbons and, therefore, would not be consistent with the State Clean Air Implementation Plan.

Thank you for the opportunity to review this statement.

Cordially,

Original Signed By
Kessler R. Cannon, Dir.

FEB 17 1975

KESSLER R. CANNON
Director

CAS:h

cc: Department of Public Works, Clackco.
FWHA District Engineer
Northwest Region

If did
Not Submitted HC data

16
3
.48

OK
not OK
2,000 (.4)

under condition of submittal
1% = 10,000 vehicles

30% meets

can build

Construction Impact
Not address
Accept statement ...
take appropriate measure minimize dust
fugitive emission and noise
comply rule

Alternatives
Not submitted
Rail - statement not economically feasible in view of current demand & length of project
(Include written statement in EIS as submitted by ODOT

Exclusive Bus - Most recent study Traffic
is N-S * visited EW
Don't even agree with statement but even if we not
in EIS

70% Traffic Wn. Co. — Lake Oswego Beaverton
& Beaverton

If 20% reduction CO

Car Pool - Project at Exclusive Lane
Not address

Expansion of Tri-met
No expansion without Kruse way
Explain problem N-S 1990 vs 2H had not in EIS

Consistency I.P.
Attainment + Maintenance

# OREGON STATE HIGHWAY DIVISION

TOM McCALL
GOVERNOR

F. B. KLABOE
Administrator of Highways


December 18, 1974

Mr. Dick Vogt
Air Quality Division
Department of Environmental Quality
1234 S. W. Morrison
Portland, Oregon

Dear Dick,

I am sending you a draft copy of the following environmental impact statements as per my telephone conversation with Carl Simons December 18. 1. Kruse Way FEIS, 2. Powers Highway DEIS, 3. Garden Valley-Fairgrounds Supplemental EIS. These are all preliminary and have not been released as yet.

According to our proposed working agreement we would appreciate your concurrence with the air quality analysis of each document. In addition, under the provisions of Part 771.18 (i)(2)(iv), Title 23, Chapter I, Subchapter H of the code of Federal Regulations we are obligated to have you review and comment on our identification of the air quality impact of these highway sections. We will then summarize your comments in the document prior to their release. Further, because of 40 CFR 51.18 Kruse Way is being submitted to you to determine whether or not the highway section will result in a violation of applicable portions of the control strategy or will interfere with the attainment or maintenance of the National Ambient Air Quality Standards.

Following your submission to us we will include your findings in the documents along with any comments concerning the consistency of the proposals with the State implementation plan.

Because of a critical funding question on all of these projects we would appreciate your expeditious processing of this request.

Would you please contact me by telephone to let me know about when we can expect your comments?

Thank you for your assistance.

Sincerely,

Newt Andrus

Newt Andrus
Research Coordinator
Environmental Section
412 Highway Building

NA:cb

# ENVIRONMENTAL QUALITY COMMISSION

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



MEMORANDUM

To : Environmental Quality Commission

From : Director

Subject : Agenda Item No. D, February 28, 1975 EQC Meeting

Request for Authorization to Hold a Public Hearing to Consider a Noise Control Schedule Amendment to the Rules Pertaining to Civil Penalties.

## Background

The Commission in July and September of 1974 adopted noise control rules for motor vehicles and industrial and commercial type sources. In order to enforce these rules it is essential that the Commission and the Department be able to assess civil penalties when there are violations and when a respondent will not comply with the standards.

## Evaluation

The Department's staff, with legal guidance, has developed a proposed amendment to the Civil Penalties Rules. This amendment is a schedule for different violations of the noise control rules and is attached for your information. The Department will notify interested persons of this proposal.

## Conclusion

A public hearing to consider a noise control schedule amendment must be authorized by the Commission.

Director's Recommendation

It is the Director's recommendation that the Commission authorize public testimony to be heard to consider a noise control schedule for Civil Penalties at their meeting in Klamath Falls on April 25, 1975 and that appropriate action be taken on the amendment to the rules after giving consideration to the testimony received and presented.

KESSLER R. CANNON
Director

FMB:bw

February 14, 1975

attachment - Proposed 12-052 Noise Control Schedule of Civil Penalties

PROPOSED

12-052 NOISE CONTROL 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 noise control 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 twenty-five dollars ($25) nor more than five hundred dollars ($500) for any violation which causes, contributes to, or threatens:

(a) The emission of noise in excess of levels established by the Commission for any category of noise emission source.

(b) Ambient noise at any type of noise sensitive real property to exceed the levels established therefor by the Commission.

(3) Not less than ten dollars ($10) nor more than three hundred dollars ($300) for any other violation.

# ENVIRONMENTAL QUALITY COMMISSION

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

Robert W. Straub
GOVERNOR

B. A. McPHILLIPS
Chairman, McMinnville

GRACE S. PHINNEY
Corvallis

JACKLYN L. HALLOCK
Portland

MORRIS K. CROTHERS
Salem

RONALD M. SOMERS
The Dalles

KESSLER R. CANNON
Director


MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. E, February 28, 1975, EQC Meeting

Variance Request - Forest Fiber Products Company, Washington County

## Background

Forest Fiber Products Company operates a hardboard manufacturing plant in the Scoggins Valley, approximately six miles south-southwest of the City of Forest Grove, Oregon.

The Company employs 125 people and has an annual payroll of 1.65 million dollars. In July 1973, the Columbia Willamette Air Pollution Authority and Forest Fiber Products implemented the attached compliance program to control emissions from the cyclones and the tempering ovens. The Company proceeded in good faith to meet the increments of the schedule. In December 1974, the Company reported a delay in establishing a contract to install the ducting and control equipment for the cyclones which was required by December 31, 1974. The Department was advised that the installation could be completed by January 27, 1975. However, in the attached letter dated January 28, 1975, Forest Fiber Products Company reported a severe cash flow problem which has prevented the installation of particulate control equipment by January 27, 1975, as originally agreed. A second phase control program involving control of hardwood tempering oven fumes is not scheduled to be completed until June 1, 1975. As stated in the letter, the Company requests a 120 day extension to complete installation of the particulate control phase of the overall control program.

## Analysis

As previously mentioned in the background, this plant is located approximately six miles south-southwest of Forest Grove, Oregon in the Scoggins Valley. The plant is in an isolated location as only three private residences are within view of the plant. The Department has never received a complaint with regard to emissions from this source.

According to the original compliance program, the Company was to install control equipment to reduce particulate emissions from the process cyclones from 25 pounds per hour to ten pounds per hour by December 31, 1974. The engineering has been reviewed and approved by the Department and the Company has procured the necessary equipment. However, as previously stated, a severe cash flow problem has necessitated a request to extend the final date to attain compliance until June 1, 1975.

Oregon Revised Statutes (ORS) Chapter 468.345, 1974 Replacement Part, Variances from air contaminant rules and regulations, paragraph (1) states that:

> "The Commission may grant specific variances which may be limited in time from the particular requirements of any rule, or standard. . . if it finds that special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause; or strict compliance would result in substantial curtailment or closing down of the business, plant or operation."

Conclusions

1. The Company has submitted a written statement that a severe cash flow problem has necessitated the requested extension.

2. Conclusion 1 is a factor which is being well publicized by the on-going decline in the timber and building trades industry which this Company is closely associated.

3. From an overall environmental standpoint, the requested extension will have little or no impact due to the remote location of the plant.

4. Engineering of the air pollution control equipment has been approved and the majority of equipment has been received. Although the Company's letter predicates installation of control equipment upon anticipated improvements in market conditions, the Company has assured the staff verbally that it fully intends to complete construction of particulate control equipment prior to expiration of the variance (June 1, 1975).

5. The granting of this variance by the Environmental Quality Commission would be allowable in accordance with ORS 468.345.

Recommendation

It is the Director's recommendation that this variance request be granted under the following condition:

On or before June 1, 1975, Forest Fiber Products Company will complete the installation of the previously approved particulate emission control systems and attain compliance with Department standards.

KESSLER R. CANNON
Director

2/12/75

Attachments: Compliance Schedule for Forest Fiber Products Company
Forest Fiber Products Company, January 28, 1975

1010 NE Couch St., Portland, Oregon 97232

Public hearing note

COMPLIANCE SCHEDULE

FOREST FIBER PRODUCTS CO.

Phase I

Particulate Emission Control
(Cyclones)

1. 31 December 1973 or before, file with Columbia-Willamette Air Pollution Authority a Notice of Construction along with complete engineering plans and specifications of the system or systems for the control of particulate emissions from the cyclones.

2. 1 March 1974 or before, obtain approval by CWAPA of the engineering plans and specifications with any required amendments.

3. 1 April 1974 or before, Forest Fiber Products shall have issued purchase orders for all components of the approved control system with copies thereof furnished to CWAPA.

4. 1 September 1974 or before, Forest Fiber Products shall, or through its contractor, initiate on sight construction of the approved air pollution control system or systems.

5. 31 December 1974 or before, the control system or systems shall be completely installed, in operation and in compliance with Columbia-Willamette Air Pollution Rules and Oregon Administrative Rule 23-325 (2) (a).

Phase II

Tempering Ovens

1. 1 March 1974 or before, submit in writing a report describing the methods of tempering oven control investigated, including a statement of the advantages and disadvantages of each such method.

2. 1 September 1974, file with CWAPA, a Notice of Construction along with complete engineering plans and specifications of the system for the control of the tempering oven emissions.

3. 1 November 1974 or before, obtain approval by CWAPA of the engineering plans and specifications with any required amendments.

4. 1 December 1974, Forest Fiber Products shall have issued purchase orders for all components of the approved control system with complete copies thereof furnished to CWAPA.

5. 1 April 1975 or before, Forest Fiber Products shall or through its contractor, initiate on sight construction of the approved air pollution control system or systems.

# FOREST FIBER PRODUCTS CO.

MANUFACTURERS OF FOREST HARDBOARD
A DIVISION OF STIMSON LUMBER CO.

P. O. BOX 68 • FOREST GROVE, OREGON 97116

(503) 357-2131
OR
(503) 648-4194

January 28, 1975

Mr. Tom Bispham
Dept. of Environmental Quality
Northwest Region
1010 N. E. Couch Street
Portland, OR 97232

Dear Tom:

In regard to our telephone conversation of last week requesting an extension on the completion date of our air pollution project.

With the market for hardboard in such an unstable state and prices being at an even below manufacturing cost, we are having extreme cash flow problems.

We would appreciate a 120 day extension with the anticipation that within that period of time the market will improve enough to allow us to spend the money to complete the project. We have all of the equipment on the premises and part of it already installed. The baghouse is in position mounted on the roof. We are lacking installation of the piping from the cyclones to the baghouse and 75 horsepower blower to pull the air through the baghouse. The contract price for this part of the project is $21,600.00. We are working with Clarke Sheet Metal of Eugene, Oregon to do part of this work as we can with deferred payments, so we may be able to complete this project well before the 120 days.

The baghouse on the cyclone located above the boilers is on the premises but we have not proceeded with any of the installation. If market conditions permit, we anticipate we will have it operating within the 120 days also. We have not projected the installation cost on this one but would anticipate it would not exceed $10,000.00.

FOREST HARD BOARD

In regard to the filtering system for the Tempering Ovens stacks. Most of the equipment for this has been received. My understanding from our discussion on this, we have some time left to complete this project. We are in the process of drawing up the installation piping and the building. At this point, we do not have an installation cost estimate. We know we will not have any money for installation of this project for some time. We are negotiating with the supplier of the filter system some terms of payment for the $63,053.00 we owe for the equipment.

We appreciate your consideration for the extension of time and will proceed with the projects as soon as we are financially able.

Sincerely yours,

FOREST FIBER PRODUCTS CO.

Earl E Meyer

Earl E. Meyer
General Manager

EEM/m
CC/Mr. Don Smith
CC/Mr. Keith Kruse

# ENVIRONMENTAL QUALITY COMMISSION

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. E, February 28, 1975, EQC Meeting

Variance Request - Barker Manufacturing Company, Multnomah County

## Background

Barker Manufacturing Company operates a furniture manufacturing plant at 1100 N. E. 28th, Portland, Oregon.

The Company employs approximately 560 people and has an annual payroll in excess of 3.9 million dollars. In July 1972, the Columbia Willamette Air Pollution Authority and Barker Manufacturing Company implemented the attached two phase compliance program to control emissions from the numerous paint spray booths (phase I) and the seven cyclones handling particulate from the processing of lumber (phase II). Phase I was completed on schedule at a cost of approximately $40,000. In July 1974, the Company advised the Department that equipment delivery delays had been incurred, and therefore, requested an extension until January 1, 1975, to procure the delayed equipment and complete the installation of Phase II. The requested extension was granted with the condition that a progress report be submitted by October 15, 1974.

On October 14, 1975, the Department received the subject progress report which cited further delays in equipment delivery and the fact that the Company was in the midst of an employee strike. In light of these problems, the Company requested an extension until May 15, 1975, to complete the project. In response, the Department advised Barker that upon resolution of the strike and equipment delivery they would be allowed 45 days to complete construction.

In a letter dated December 18, 1974, Barker Manufacturing Company advised the Department that the employee strike had been resolved on November 16, 1974, and that all necessary equipment had been received. However, the Company stated that the strike had created a financial crisis and another extension was requested until February 15, 1975, to complete construction. The Department granted the requested extension.

On January 29, 1975, at the request of the Company, representatives of the Department and Barker met to discuss the present status. Mr. Bruce Roemer, Executive Vice President, reported that the employee strike had cost the Company approximately four million dollars and that this loss of business has created a severe cash flow problem which prevents the expenditure of the $40,000 necessary to finish this project.

Due to this financial problem, Mr. Roemer stated that an extension until July 15, 1975, is necessary; otherwise, he would be forced to close the plant if required to attain compliance before this latter date. Mr. Roemer formalized his request in the attached letter dated January 31, 1975.

Analysis

As previously mentioned, this plant is located at 1100 N. E. 28th, Portland, Oregon. The plant is bounded on the south by the Banfield Freeway, to the west by private residences and to the north and east by the Hyster Company.

The original compliance program was initiated to effect controls which would result in compliance with applicable emission standards and eliminate the numerous complaints of wood particulate fallout on the Hyster Company employee parking lot. The engineering for the necessary control equipment has been reviewed and approved by the Department. All necessary equipment has now been received. However, a cash flow problem created by an employee strike in the latter part of 1974 has necessitated a request to extend the final date to attain compliance until July 15, 1975.

Complainants of record have been notified in writing of previous extentions and have been notified by a copy of this report of this recommended action to extend the final compliance date to July 15, 1975.

Oregon Revised Statutes (ORS) Chapter 468.345, 1974 Replacement Part, Variances from air contaminant rules and regulations, paragraph (1) states that:

> "The Environmental Quality Commission may grant specific variances which may be limited in time from the particular requirements of any rule, regulation or order. . . if it finds that special circumstances render strict compliance unreasonable, burdensome or impractical due to special conditions or cause; or strict compliance would result in substantial curtailment or closing down of the business, plant or operation."

Conclusion

1. Barker Manufacturing Company employs approximately 560 people and has an annual payroll in excess of 3.9 million dollars.

2. The Company has stated that an employee strike in the latter part of 1974 has created a cash flow problem which necessitated a request to extend the final date of compliance with Department particulate emission rules until July 15, 1975. The Company further states that mandatory compliance prior to July 15, 1975, would result in the shutdown of the plant.

3. Engineering of the air pollution control equipment has been approved and the necessary equipment has been received. Forty thousand dollars is required to complete the installation.

4. From an over-all environmental standpoint, the requested extension will result in an additional period of inconvenience to the Hyster employees whose cars are subject to the wood particle fallout from the Barker cyclones.

5. The granting of this variance by an Environmental Quality Commission would be allowable in accordance with ORS 468.345.

Recommendations

It is the Director's recommendation that this variance request be granted under the following conditions:

1. On or before June 1, 1975, Barker Manufacturing Company shall initiate the installation of the approved particulate emission control systems.

2. On or before July 15, 1975, Barker Manufacturing Company will complete the installation of the approved particulate emission control systems and attain compliance with Department regulations.

3. During the interim of the variance period, Barker Manufacturing Company will continue the implementation of a self-monitoring program to insure that the impact of fallout on neighboring property due to breakdown or plugged equipment is kept to a minimum.

KESSLER R. CANNON
Director

2/12/75

Attachments: Barker Manufacturing Company letter, January 31, 1975
Columbia Willamette Air Pollution Authority, Consent and Order
DEQ memorandum of Barker Manufacturing Company office conference, January 29, 1975

BARKER MANUFACTURING COMPANY
P. O. BOX 2717 / 1100 N. E. 28th AVENUE / PORTLAND, OREGON 97208 / AREA CODE 503-288-5871

January 31, 1975

Mr. Thomas Bispham
Dept. of Environmental Quality
1010 N.E. Couch Street
Portland, Oregon 97232

Dear Tom:

As per our meeting and conversation in your office Wednesday, January 29, we are requesting an extension on the compliance for the control on the cyclone emission to start on June 1, 1975 with the completion date by July 15, 1975. This request is due to the strike we had, causing us to have a cash flow problem.

Best personal regards,

BARKER MANUFACTURING CO.

Bruce W. Roemer
Executive Vice President

CC: Rick Reid, CH2M Hill

COLUMBIA-WILLAMETTE AIR POLLUTION AUTHORITY
1010 N. E. Couch Street, Portland, Oregon 97232

| | | |
|---|---|---|
| In the matter of: | ) | |
| | ) | No. 72-7 |
| BARKER MANUFACTURING COMPANY, | ) | |
| | ) | ORDER INCLUDING |
| a Corporation | ) | FINDINGS AND CONCLUSIONS |

## FINDINGS

I

A dispute exists between Columbia-Willamette Air Pollution Authority and Barker Manufacturing Company, a corporation, operating a furniture manufacturing plant with headquarters at 1100 N. E. 28th Avenue, Portland, Oregon, as to whether or not said plant is being operated in such a manner as to comply with the Rules of Columbia-Willamette Air Pollution Authority; and the parties to the dispute, being desirous of settling the same by cooperation and compromise rather than by formal public hearing and/or litigation, made and entered into a STIPULATION providing for the acquisition and installation of certain air pollution control systems and to perform certain affirmative acts to control emissions of air contaminants from the furniture manufacturing plant headquartered at 1100 N. E. 28th Avenue, Portland, Oregon.

## CONCLUSIONS

I

The past and current operation of the furniture manufacturing plant by the Barker Manufacturing Company, headquartered at 1100 N. E. 28th Avenue, Portland, Oregon, was and is in violation of emission standards contained in the Rules of Columbia-Willamette Air Pollution Authority.

The hereinabove described STIPULATION is approved and based upon said STIPULATION and the FINDINGS and CONCLUSIONS hereinabove contained, the Columbia-Willamette Air Pollution Authority Board of Directors enters its ORDER AS FOLLOWS:

ORDER

IT IS HEREBY ORDERED that Barker Manufacturing Company, a corporation operating a furniture manufacturing plant with headquarters at 1100 N. E. 28th Avenue, Portland, Oregon, design, engineer, acquire and install control systems to control said plant so that it will at all times, operate in compliance with Columbia-Willamette Air Pollution Authority Rules, said designing, engineering, acquisition and installation of the systems to be accomplished as follows:

PHASE I

PAINT SPRAY BOOTHS OVERSPRAY, PLUGGING ALARM ON FINE MATERIALS CONVEYING SYSTEM AND MODIFICATION OF PNEUMATIC CONVEYING SYSTEMS

I

1 July 1972 or before, file with Columbia-Willamette Air Pollution Authority, a Notice of Construction along with complete engineering plans and specifications of the system for the control of spray paint booths, the materials conveying system, plugging alarms, and modification of pneumatic conveying systems as contained in the document entitled "An Engineering Report on Control of Cyclone Emissions for Barker Manufacturing Company, Portland, Oregon," by Cornell, Howland, Hayes & Merryfield, April, 1972, and Barker Manufacturing Company letter to the Columbia-Willamette Air Pollution Authority dated 23 May 1972, 17 April 1972, with attached tables.

II

15 August 1972 or before, obtain approval by Columbia-Willamette Air Pollution Authority of the engineering plans and specifications with any required amendments.

III

1 October 1972 or before, Barker Manufacturing Company shall have issued purchase orders for all components of the approved control system, the alarms and modification of the pneumatic conveying system with copies thereof furnished to Columbia-Willamette Air Pollution Authority.

IV

1 January 1973 or before, the control system, the alarms and the modification shall be completely installed and in operation.

PHASE II

PNEUMATIC CONVEYING SYSTEMS
AND CYCLONES

I

15 October 1973 or before, file with Columbia-Willamette Air Pollution Authority a Notice of Construction along with complete engineering plans and specifications for a system for the control of emissions from the pneumatic conveying systems and cyclones to accomplish compliance with Columbia-Willamette Air Pollution Authority Rules.

II

15 December 1973 or before, obtain approval by Columbia-Willamette Air Pollution Authority of the engineering plans and specifications with any required amendments.

III

1 March 1974 or before, Barker Manufacturing Company shall have issued purchase orders for all components of the approved control system with copies thereof furnished to Columbia-Willamette Air Pollution Authority.

IV

1 July 1974 or before, the control system shall be completely installed and in operation and the entire manufacturing plant in compliance with Columbia-Willamette Air Pollution Authority Rules.

Entered at Portland, Oregon, this 21st day of July, 1972.

Fred Stefani
Chairman

Certified a True Copy

Jack Lowe
Jack Lowe
Administrative Director

1010 N. E. Couch Street, Portland, Oregon 97232

| | | |
|---|---|---|
| In the matter of: | ) | |
| | ) | No. 72-7 |
| BARKER MANUFACTURING COMPANY, | ) | |
| | ) | STIPULATION |
| a Corporation | ) | |

There being a dispute between the Barker Manufacturing Company, a Corporation, and Columbia-Willamette Air Pollution Authority as to whether or not air contaminants are emitted from the plant of said Barker Manufacturing Company with headquarters at 1100 N. E. 28th Avenue, Portland, Oregon, in such quantities as to constitute violation of emission standards contained in the Rules of said Columbia-Willamette Air Pollution Authority, and the parties hereto being desirous of settling and compromising the dispute by cooperation rather than by a formal public hearing and/or litigation.

IT IS HEREBY STIPULATED the Board of Directors of Columbia-Willamette Air Pollution Authority may enter its Order, a copy of which is attached hereto marked "Exhibit A" and by this reference incorporated herein requiring said Barker Manufacturing Company to acquire and install air pollution control systems to control the emissions of air contaminants from its manufacturing plant with headquarters at 1100 N. E. 28th Avenue, Portland, Oregon, all in accordance with provisions of "Exhibit A" hereto.

This Stipulation made and entered into by and between the Columbia-Willamette Air Pollution Authority and Barker Manufacturing Company, a Corporation, at Portland, Oregon, on the 21st day of July, 1972.

BARKER MANUFACTURING COMPANY

By _____ Vice President
Title

COLUMBIA-WILLAMETTE AIR POLLUTION AUTHORITY

By _____
Chairman

Certified a True Copy

_____
Jack Lowe
Administrative Director

State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

To: ~~REGilbert~~ RCC, EJWeathersbee

Date: January 31, 1975

From: TRBispham

Subject: AQ - Barker Manufacturing Company - Multnomah County

On January 29, 1975, I met with Bruce Roemer, Vice President of Barker and Rick Reid, $CH_2M$ to discuss the status of their installation to control cyclone emissions.

Mr. Roemer explained that the strike which they underwent in December 1974 cost the Company 4 million dollars and the cash flow problems which this created prevents them from completing the installation of the baghouse by February 15, 1975. The $40,000 which is required to make this installation will not be available until mid 1975. Becuase of this financial condition, Mr. Roemer requested an extension until July 15, 1975, to complete the installation.

I told Mr. Roemer that his request presented two problems; the extension exceeds the implementation date and the complainants will have to experience several more dry months of fallout emissions. I attempted to get him to complete the installation by April 15, 1975. In response, Mr. Roemer stated that he did not have the capital and would shut down the plant if held to this latter date and put 560 people out of work. In light of this fact, the best schedule we could resolve was to initiate construction June 1, 1975, and complete July 15, 1975.

Because this request is based solely on economics, I requested the Company to make a formal written request which we would present to the Environmental Quality Commission.

# ENVIRONMENTAL QUALITY COMMISSION

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

ROBERT W. STRAUB
GOVERNOR

B. A. McPHILLIPS
Chairman, McMinnville

GRACE S. PHINNEY
Corvallis

JACKLYN L. HALLOCK
Portland

MORRIS K. CROTHERS
Salem

RONALD M. SOMERS
The Dalles

KESSLER R. CANNON
Director


To: Environmental Quality Commission

From: Director

Subject: Agenda Item F, February 28, 1975, EQC Meeting

Consideration for Adoption of Proposed Amendments to the Indirect Source Rules (OAR Chapter 340, Sections 20-100 through 20-35)

## Background

A public hearing was held before the Environmental Quality Commission (EQC) at its regularly scheduled meeting on January 24, 1975, to receive testimony and consider for adoption amendments to the Indirect Source Rule (OAR, Chapter 340, Section 20-100 through 20-135) which was adopted November 22, 1974.

The testimony received in response to the proposed amendments to the Indirect Source Rule has been reviewed by the staff and a summary presented to the Commission as part of the January 24, 1975, EQC meeting minutes.

## Discussion

In an effort to minimize manpower required to implement the Indirect Source Rule with a minimum impact on the effectiveness and objectives of the program, the staff reviewed several possible amendments to the Rule. The amendments considered, and a brief summary of their impacts, were submitted to the Commission at the January, 1975, hearing.

The amendment presented to the Commission for consideration for adoption was to raise the lower limit for review of Indirect Sources from 50 parking spaces to 100 parking spaces for the area within five (5) miles of the municipal boundaries of a municipality with a population of 50,000 or more.

Additional corrections and an addition to clarify that the rule required approval of local planning and zoning agencies were also submitted to the Commission for consideration and approval. The following list summarizes the proposed amendments to the Rules for Indirect Sources:

1) Page 4, Section 20-115 (2)(a)(i), line 3.
To increase the minimum size parking lot requiring review from "50" to "100" spaces.

2) Page 8, Section 20-129 (1)(b), line 3.
To increase the minimum size parking lot from "50" to "100" spaces.

3) Page 12, Section 20-030 (9).
The addition of subsection (9) as follows:

"An Indirect Source Construction Permit Application shall not be considered complete until the applicant has provided to the Department evidence that the Indirect Source in question is not in violation of any land use ordinance or regulation enacted or promulgated by a constitutive local governmental agency having jurisdiction over the subject real property."

4) Additional minor changes and corrections proposed for the clarification of this rule include:

a) Page 2, Section 20-110 (10)(b), capitalize "Facilities";
b) Page 3, Section 20-110 (14), line 3, addition of the words "in designated Parking Spaces.";
c) Page 5, Section 20-115 (5), renumbered to 20-115 (3);
d) Page 5, Section 20-115 (6), renumbered to 20-115 (4);
e) Page 6, Section 20-125 (1)(a)(iv), line 1, the deletion of the word "of" and the insertion of "and quantity of Parking Spaces at the Indirect Source and";
f) Page 7, Section 20-125 (1)(a)(vii), line 2, the deletion of the word "spaces";
g) Page 8, Section 20-129 (1)(a)(vi), line 2, the insertion of "concurrent with or" and also the insertion of a comma after "the result of".

Several issues were brought to the attention of the staff at the public hearing which must be considered.

1) What is the purpose of the negative wording in Section 20-130 (9) relative to land use approval?

Section 20-130 (9) written in the negative will avoid placing an unnecessary burden on the applicant to appeal to local planning agencies for certification of land use approval for a development which is an accepted use under existing zoning ordinances.

2) Will Section 20-130 (9) place undue political pressure on the Department as the last agency whose review is sought?

Section 20-130 (9) clarifies and formalizes a policy which

has been followed by the Department staff in cooperation with local planning agencies for more than a year. Under this rule, the Department is not last to issue an approval but is placed in what appears to be a logical sequence between granting land use approval and issuance of a building permit. The rule does not prevent the Department from conducting a preliminary evaluation of the facility upon request.

3) Will congressional action (Section 510 of PL 93-563) prohibiting through June 30, 1975, the use of Environmental Protection Agency (EPA) funds to administer programs regulating parking facilities have any affect on the validity of the proposed rule or any fiscal affect on the Department?

HR 16901 contained a provision prohibiting the use of the fiscal 1975 EPA funding for administering a program to tax, limit, or otherwise regulate parking facilities. Though the Senate attempted to soften or eliminate this language, the final version (PL 93-563) signed by the President on December 31 contains the prohibition. A memo to EPA regional administrators over the signature of Alan Kirk, Assistant Administrator in the Office of Enforcement and General Counsel, contains the following language:

> Neither the deferral of the indirect source regulations by EPA nor the provisions of section 510 affect state-adopted programs nor will these actions affect the validity of the approvals EPA has already issued. EPA can continue to take approval/disapproval action on state-submitted indirect source laws or regulations. and (sic) continue to process indirect source applications. Also, EPA can continue to help state programs with technical and/or financial assistance.

4) Does the EPA suspension of its Indirect Source Permit Review program (Federal Register, Vol. 39, No. 251 - Monday, December 30, 1974 - Attachment 1) render it encumbent upon or appropriate for the Commission to do the same?

Page 45015, paragraph 2 of the December 30, 1974, Federal Register specifies "this suspension will have no effect on the applicability or validity of existing state indirect source laws or regulations, nor will it affect state indirect source laws or regulations which may be adopted hereafter, whether or not submitted to EPA for approval."

Conclusion

After due consideration of the testimony received at the January 24, 1975, Public Hearing, the staff concludes that:

The Indirect Source Rule as amended and presented to the

Commission at the January hearing represents an equitable solution which will result in maximum manpower savings with a minimum effect on the effectiveness and objectives of the program.

The amended version of the Indirect Source Rules is attached and is hereby submitted to the Commission for consideration.

Director's Recommendation

It is the recommendation of the Director that the Environmental Quality Commission amend the Rule for Indirect Sources, OAR, Chapter 340, Section 20-100 through 20-135, in accordance with the proposal.

KESSLER R. CANNON

RLV:ahe
February 19, 1975

Attachments

Federal Register, December 30, 1974
Indirect Source Rules - amended version
**Adherence to Notice Requirements**

(4) The maximum allowable penetration after six hours of testing according to subparagraph (3) of this paragraph shall not exceed 1 ppm vinyl chloride.

§ 11.205 Requirements for end-of-service-life indicator.

(a) After June 30, 1975, each canister or cartridge submitted for testing and approval in accordance with §§ 11.202, and 11.203, and 11.204 shall be equipped with a canister or cartridge end-of-service-life indicator which shows a satisfactory indicator change or other obvious warning before 1 ppm vinyl chloride penetration occurs. The indicator shall show such change or afford such warning at 80±10 percent of the total service life to 1 ppm leakage, as determined by continuing each test described in paragraphs (b) of each of §§ 11.202, 11.203, and 11.204 of this Subpart until a 1 ppm leakage of vinyl chloride occurs. After December 31, 1975, a cartridge or canister without an end-of-service-life indicator will not be considered approved for use by employees exposed to vinyl chloride.

(b) The applicant shall provide sufficient pretest data to verify the performance of the end-of-service-life indicator required in paragraph (a) of this Section.

§ 11.206 Quality control requirements.

(a) In addition to the construction and performance requirements specified in Sections 11.201, 11.202, 11.203, 11.204, and 11.205 of this Subpart, the quality control requirements in paragraphs (b), (c), and (d) of this section apply to approval of gas masks, chemical cartridge respirators, and powered air-purifying respirators for entry into and escape from vinyl chloride atmospheres containing adequate oxygen to support life.

(b) The respirators submitted for approval as described in paragraph (a) of this Section shall be accompanied by a complete quality control plan meeting the requirements of Subpart E of this Part.

(c) The applicant shall specify in the plan that a sufficient number of samples will be drawn from each bulk container of sorbent material and that where activated carbon is used, the following specific tests will be performed:

1. Apparent density,
2. Iodine number,
3. Moisture content,
4. Carbon tetrachloride number, and,
5. Mesh size.

Such tests shall be performed in a quantity necessary to assure continued satisfactory conformance of the canisters and cartridges to the requirements of this Subpart.

(d) Final performance quality control tests on the complete canisters and cartridges shall be accomplished using the bench tests and procedures prescribed in §§ 11.202, 11.203, 11.204, and 11.205 of this Subpart.

11.207 Labeling requirements.

A warning shall be placed on the label of each gas mask, chemical-cartridge respirator, and powered air-purifying respirator, and on the label of each canister and cartridge, alerting the wearer to the need for a fitting test in accordance with the manufacturer's facepiece fitting instructions, providing service life information, providing specific instructions for disposal, and advising that the wearer may communicate to NIOSH any difficulties that may be experienced in the design and performance of any gas mask, chemical-cartridge respirator, or powered air-purifying respirator approved under the requirements of this Subpart. The service lives of respirators meeting the test requirements of this Subpart shall be specified as follows:

| | |
|---|---|
| (a) Chemical-cartridge respirator. | 1 hour |
| (b) Gas mask | 4 hours |
| (c) Powered air-purifying respirator. | 4 hours |

(d) Where the service life of a respirator is approved for more than four hours, the service life for which the respirator has been approved will be specified.

11.208 Fees.

The following fees shall be charged for the examination, inspection, and testing of complete assemblies and components of respirators described in §§ 11.200 and 11.201 of this Subpart.

| | |
|---|---|
| (a) Complete gas mask | $1,100 |
| (b) Complete chemical-cartridge respirator. | 1,150 |
| (c) Complete powered air-purifying respirator. | 1,500 |
| (d) Canister or cartridge only. | 750 |

[FR Doc.74-30352 Filed 12-27-8:45 am]

## CHAPTER II—GEOLOGICAL SURVEY

## PART 250—OIL AND GAS AND SULPHUR

### Operation in the Outer Continental Shelf Helicopter Refueling Facilities

On April 15, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 13551) which proposed to amend § 250.19(a) of the Outer Continental Shelf Operating Regulations. The proposed amendment provided that the Area Oil and Gas Supervisor of the Geological Survey could require that oil and gas lessees on the Outer Continental Shelf provide the use of helicopter refueling sites maintained on platforms, fixed structures or artificial islands for helicopters employed by the Department of the Interior in connection with OCS lease management activities.

After reviewing all the comments received, it was decided that the intent of the amendment needed clarification on two items. First, it was not intended that offshore helicopter refueling sites would be required to be constructed solely for the use of helicopters employed by the Department of the Interior, but that any established refueling site would be accessible to helicopters used by the Department of the Interior during the inspection of OCS operations. Second, it is not intended that expenses incurred by the lessee as a result of the Government's use of the refueling site not be reimbursed. As a result, § 250.19(a) is revised to reflect these changes.

Effective date: This amendment shall be effective January 1, 1975.

Dated: December 23, 1974.

C. K. MALLORY,
*Deputy Assistant Secretary of the Interior.*

Paragraph (a) of § 250.19 is revised to read as follows:

§ 250.19 Platforms and pipelines.

(a) The supervisor is authorized to approve the design, other features, and plan of installation of all platforms, fixed structures, and artificial islands as a condition of the granting of a right of use or easement under paragraphs (a) and (b) of § 250.18 or authorized under any lease issued or maintained under the act. The Supervisor is authorized to require that lessees maintaining existing platforms, fixed structures and artificial islands equipped with helicopter landing sites and refueling facilities provide the use of such facilities for helicopters employed by the Department of the Interior in inspection operations on the Outer Continental Shelf. The Supervisor is further authorized, in approving the design of any new platform, fixed structure, or artificial island which includes a helicopter landing site and refueling facilities, to require that the lessee provide the use of such facilities for helicopters employed by the Department of the Interior in inspection operations on the Outer Continental Shelf. As determined by the Supervisor, the lessee shall be reimbursed for reasonable costs incurred in connection with the use of such facilities by helicopters employed by the Department.

[FR Doc.74-30291 Filed 12-27-74;8:45 am]

## Title 40—Protection of Environment

## CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL-313-7]

### SUBCHAPTER C—AIR PROGRAMS

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### Review of Indirect Sources

On February 25, 1974 (39 FR 7270), the Administrator of the Environmental Protection Agency (EPA) promulgated an indirect source review regulation (40 CFR 52.22(b)) to be incorporated into the Clean Air Act implementation plans for 52 states and territories. The regulation was repromulgated with clarifying amendments on July 9, 1974 (39 FR 25292). As currently promulgated, the regulation requires affected facilities which commence construction after December 31, 1974 to secure a permit from EPA before proceeding with construction. 40 CFR 52.22(b)(3). The regulation has been effective for purposes of processing applications since July 1, 1974.

The Administrator is today suspending implementation of the review procedures under the regulation pending further notice. No facility which commences construction or modification prior to July 1, 1975 will be subject to the Federal indirect source regulation. Certain other questions relating to the regulation are now being reviewed by EPA. EPA expects to formulate its plans and make its intentions known on these matters within the next few weeks.

This suspension will have no effect on the applicability or validity of existing state indirect source laws or regulations, nor will it affect state indirect source laws or regulations which may be adopted hereafter, whether or not submitted to EPA for approval.

(Sections 110(a)(2)(B), 110(c) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857c-5(a)(2)(B), 1857c-5(c), and 1857g (a)).

Dated: December 23, 1974.

RUSSELL E. TRAIN,
*Administrator.*

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is hereby amended by adding the following new paragraph (b)(16) to § 52.22:

§ 52.22 Maintenance of standards.

* * * * *

(b) *Regulation for review of new or modified indirect sources.* * * *

(16) Notwithstanding the provisions of any other portion of this paragraph to the contrary, implementation of the review procedures under this paragraph is hereby suspended pending further notice. No owner or operator of an indirect source for which construction or modification commences prior to July 1, 1975 shall be subject to the requirements of this paragraph.

[FR Doc.74-30329 Filed 12-27-74;8:45 am]

Attachment II

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY CONTROL DIVISION

Adopted November 22, 1974
December 24, 1974 - Proposed Amended

# RULES FOR INDIRECT SOURCES

OAR, Chapter 340, Sections 20-050 through 20-070 are repealed and Sections 20-100 through 20-135 are adopted in lieu thereof.

## 20-100 POLICY

The Commission finds and declares Indirect Sources to be air contamination sources as defined in ORS 468.275. The Commission further finds and declares that the regulation of Indirect Sources is necessary to control the concentration of air contaminants which result from Motor Vehicle Trips and/or Aircraft Operations associated with the use of Indirect Sources.

## 20-105 JURISDICTION AND DELEGATION

The Commission finds that the complexity or magnitude of Indirect Sources requires state-wide regulation and assumes or retains jurisdiction thereof. The Commission may, however, when any Regional Authority requests and provides evidence demonstrating its capability to carry out the provisions of these rules relating to Indirect Sources, authorize and confer jurisdiction upon such Regional Authority to perform all or any of such provisions within its boundary until such authority and jurisdiction shall be withdrawn for cause by the Commission.

## 20-110 DEFINITIONS

(1) "Aircraft Operations" means any aircraft landing or takeoff.

(2) "Airport" means any area of land or water which is used or intended for use for the landing and takeoff of aircraft, or any appurtenant areas, facilities, or rights-of-way such as terminal facilities, parking lots, roadways, and aircraft maintenance and repair facilities.

(3) "Associated Parking" means a parking facility or facilities owned, operated and/or used in conjunction with an Indirect Source.

(4) "Average Daily Traffic" means the total traffic volume during a given time period in whole days greater than one day and less than one year divided by the number of days in that time period, commonly abbreviated as ADT.

(5) "Commence Construction" means to begin to engage in a continuous program of on-site construction or on-site modifications, including site clearance, grading, dredging, or landfilling in preparation for the fabrication, erection, installation or modification of an indirect source. Interruptions and delays resulting from acts of God, strikes, litigation or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.

(6) "Commission" means the Environmental Quality Commission.

(7) "Department" means the Department of Environmental Quality.

(8) "Director" means director of the Department or Regional Authority and authorized deputies or officers.

(9) "Highway Section" means a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multi-year highway improvement program.

(10) "Indirect Source" means a facility, building, structure, or installation, or any portion or combination thereof, which indirectly causes or may cause mobile source activity that results in emissions of an air contaminant for which there is a state standard. Such Indirect Sources shall include, but not be limited to:

(a) Highways and roads.
(b) Parking Facilities.
(c) Retail, commercial and industrial facilities.
(d) Recreation, amusement, sports and entertainment facilities.
(e) Airports.
(f) Office and Government buildings.
(g) Apartment, condominium developments and mobile home parks.
(h) Educational facilities.

(11) "Indirect Source Construction Permit" means a written permit in letter form issued by the Department or the Regional Authority having jurisdiction, bearing the signature of the Director, which authorizes the permittee to Commence Construction of an Indirect Source under construction and operation conditions and schedules as specified in the permit.

(12) "Mobile Source" means self-propelled vehicles, powered by internal combustion engines, including but not limited to automobiles, trucks, motorcycles and aircraft.

(13) "Off-street Area or Space" means any area or space not located on a public road dedicated for public use.

(14) "Parking Facility" means any building, structure, lot or portion thereof, designed and used primarily for the temporary storage of motor vehicles in designated Parking Spaces.

(15) "Parking Space" means any Off-street Area or Space below, above or at ground level, open or enclosed, that is used for parking one motor vehicle at a time.

(16) "Person" means 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.

(17) "Population" means that population estimate most recently published by the Center for Population Research and Census, Portland State University, or any other population estimate approved by the Department.

(18) "Regional Authority" means a regional air quality control authority established under the provisions of ORS 468.505.

(19) "Regional Parking and Circulation Plan" means a plan developed by a city, county or regional planning agency, the implementation of which assures the maintenance of the state's ambient air quality standards.

(20) "Regional Planning Agency" means any planning agency which has been recognized as a substate-clearinghouse for the purposes of conducting project review under the Unites States Office of Management and Budget Circular Number A-95, or other governmental agency having planning authority.

(21) "Reasonable Receptor and Exposure Sites" means locations where people might reasonably be expected to be exposed to air contaminants generated in whole or in part by the Indirect Source in question. Location of ambient air sampling sites and methods of sample collection shall conform to criteria on file with the Department of Environmental Quality.

(22) "Vehicle Trip" means a single movement by a motor vehicle which originates or terminates at or uses an Indirect Source.

20-115 INDIRECT SOURCES REQUIRED TO HAVE INDIRECT SOURCE CONSTRUCTION PERMITS

(1) The owner, operator or developer of an Indirect Source identified in subsection 20-115(2) of this section shall not Commence Construction of such a source after December 31, 1974 without an approved Indirect Source Construction Permit issued by the Department or Regional Authority having jurisdiction.

(2) All Indirect Sources meeting the criteria of this subsection relative to type, location, size and operation are required to apply for an Indirect Source Construction Permit:

(a) The following sources in or within five (5) miles of the municipal boundaries of a municipality with a Population of 50,000 or more, including but not limited to Portland, Salem and Eugene:

(i) Any Parking Facility or other Indirect Source with Associated Parking being constructed or modified to create new or additional parking (or Associated Parking) capacity of 100 or more Parking Spaces.

(ii) Any Highway Section being proposed for construction with an anticipated annual Average Daily Traffic volume of 20,000 or more motor vehicles per day within ten years after completion, or being modified so that the annual Average Daily Traffic on that Highway Section will be increased to 20,000 or more motor vehicles per day or will be increased by 10,000 or more motor vehicles per day within ten years after completion.

(b) Except as otherwise provided in this section, the following sources within Clackamas, Lane, Marion, Multnomah or Washington counties:

(i) Any Parking Facility or other Indirect Source with Associated Parking being constructed or modified to create new or additional parking (or Associated Parking) capacity of 500 or more Parking Spaces.

(ii) Any Highway Section being proposed for construction with an anticipated annual Average Daily Traffic volume of 20,000 or more motor vehicles per day within ten years after completion, or being modified so that the annual Average Daily Traffic on that Highway Section will be 20,000 or more motor vehicles per day, or will be increased by 10,000 or more motor vehicles per day, within ten years after completion.

(c) Except as otherwise provided in this section, the following sources in all areas of the state:

(i) Any Parking Facility or other Indirect Source with Associated Parking being constructed or modified to create new or additional parking (or Associated Parking) capacity of 1,000 or more Parking Spaces.

(ii) Any Highway Section being proposed for construction with an anticipated annual Average Daily Traffic volume of 50,000 or more motor vehicles per day within ten years after completion, or being modified so that the annual Average Daily Traffic on that Highway Section will be 50,000 or more motor vehicles per day, or will be increased by 25,000 or more motor vehicles per day, within ten years after completion.

(d) Any Airport being proposed for construction with projected annual Aircraft Operations of 50,000 or more within ten years after completion, or being modified in any way so as to increase the projected number of annual Aircraft Operations by 25,000 or more within 10 years after completion.

(3) Where an Indirect Source is constructed or modified in increments which individually are not subject to review under this section, and which are not part of a program of construction or modification in planned incremental phases approved by the Director, all such increments commenced after January 1, 1975 shall be added together for determining the applicability of this rule.

(4) An Indirect Source Construction Permit may authorize more than one phase of construction, where commencement of construction or modification of successive phases will begin over acceptable periods of time referred to in the permit; and thereafter construction or modification of each phase may be begun without the necessity of obtaining another permit.

20-120 ESTABLISHMENT OF AN APPROVED REGIONAL PARKING AND CIRCULATION PLAN(S) BY A CITY, COUNTY OR REGIONAL PLANNING AGENCY

(1) Any city, county or Regional Planning Agency may submit a Regional Parking and Circulation Plan to the Department or to the Regional Authority having jurisdiction for approval. Such a plan shall include, but not be limited to:

(a) Legally identifiable plan boundaries.

(b) Reasonably uniform identifiable grids where applicable.

(c) Total parking space capacity allocated to the plan area.

(d) An emission density profile for each grid or plan.

(e) Other applicable information which would allow evaluation of the plan such as, but not limited to, scheduling of construction, emission factors, and criteria, guidelines or ordinances applicable to the plan area.

(2) The Department or Regional Authority having jurisdiction shall hold a public hearing on each Regional Parking and Circulation Plan submitted, and on each proposed revocation or substantial modification thereof, allowing at least thirty (30) days for written comments from the public and from interested agencies.

(3) Upon approval of a submitted Regional Parking and Circulation Plan, the plan shall be identified as the approved Regional Parking and Circulation Plan, the appropriate agency shall be notified and the plan used for the purposes and implementation of this rule.

(4) The appropriate city, county or Regional Planning Agency shall annually review an approved Regional Parking and Circulation Plan to determine if the plan continues to be adequate for the maintenance of air quality in the plan area and shall report its conclusions to the Department or Regional Authority having jurisdiction.

(5) The Department or Regional Authority having jurisdiction shall initiate a review of an approved Regional Parking and Circulation Plan if it is determined that the Regional Parking and Circulation Plan is not adequately maintaining the air quality in the plan area.

20-125 INFORMATION AND REQUIREMENTS APPLICABLE TO INDIRECT SOURCE(S) CONSTRUCTION PERMIT APPLICATIONS WHERE AN APPROVED REGIONAL PARKING AND CIRCULATION PLAN IS ON FILE

(1) Application Information Requirements:

(a) Parking Facilities and Indirect Sources Other Than Highway Sections:

(i) A completed application form;
(ii) A map showing the location of the site;
(iii) A description of the proposed and prior use of the site;
(iv) A site plan showing the location and quantity of Parking Spaces at the Indirect Source and Associated Parking areas, points of motor vehicle ingress and egress to and from the site and Associated Parking;

(v) A ventilation plan for subsurface and enclosed parking;
(vi) A written statement from the appropriate planning agency that the Indirect Source in question is consistent with an approved Regional Parking and Circulation Plan or any adopted transportation plan for the region.
(vii) A reasonable estimate of the effect the project has on total parking approved for any specific grid area and Regional Parking and Circulation Plan area.

(b) Highway Section(s):

(i) Items (i) through (iii) of subsection 20-125(1)(a).
(ii) A written statement from the appropriate planning agency that the Indirect Source in question is consistent with an approved Regional Parking and Circulation Plan and any adopted transportation plan for the region.
(iii) A reasonable estimate of the effect the project has on total vehicle miles travelled within the Regional Parking and Circulation Plan Area.

(2) Within 15 days after the receipt of an application for a permit or additions thereto, the Department or Regional Authority having jurisdiction shall advise the owner or operator of the Indirect Source of any additional information required as a condition precedent to issuance of a permit. An application shall not be considered complete until the required information is received by the Department or Regional Authority having jurisdiction.

20-129 INFORMATION AND REQUIREMENTS APPLICABLE TO INDIRECT SOURCE(S) CONSTRUCTION PERMIT APPLICATION WHERE NO APPROVED REGIONAL PARKING AND CIRCULATION PLAN IS ON FILE

(1) Application information requirements:

(a) For Parking Facilities and other Indirect Sources with Associated Parking, other than Highway Sections and Airports, with planned construction resulting in total parking capacity for 1000 or more vehicles, the following information shall be submitted:

(i) Items (i) through (v) of subsection 20-125(1)(a).
(ii) Subsection 20-125(2) shall be applicable.
(iii) Measured or estimated carbon monoxide and lead concentrations at Reasonable Receptor and Exposure Sites. Measurements shall be made prior to construction and estimates shall be made for the first, tenth and twentieth years after the Indirect Source and Associated Parking are completed or fully operational. Such estimates shall be made for average and peak operating conditions.

(iv) Evidence of the compatibility of the Indirect Source with any adopted transportation plan for the area.

(v) An estimate of the effect of the operation of the Indirect Source on total vehicle miles traveled.

(vi) An estimate of the additional residential, commercial and industrial developments which may occur concurrent with or as the result of, the construction and use of the Indirect Source. This shall also include an air quality impact assessment of such developmer

(vii) Estimates of the effect of the operation and use of the Indirect Source on traffic patterns, volumes, and flow in, on or within one-fourth mile of the Indirect Source.

(viii) An estimate of the average daily Vehicle Trips, detailed in terms of the average daily peaking characteristics of such trips, and an estimate of the maximum Vehicle Trips, detailed in one hour and eight hour periods, generated by the movement of people to and from the Indirect Source in the first, tenth and twentieth years after completion.

(ix) A description of the availability and type of mass transit presently serving or projected to serve the proposed Indirect Source. This description shall only include mass transit operating within 1/4 mile of the boundary of the Indirect Source.

(x) A description of any emission control techniques which shall be used to minimize any adverse environmental effects resulting from the use of the Indirect Source.

(b) For Parking Facilities and other Indirect Sources with Associated Parking, other than Highway Sections and Airports, with planned construction of parking capacity for 100 to 1000 vehicles; the following information shall be submitted:

(i) Items (i) through (v) of subsection 20-125(1)(a).

(ii) Subsection 20-125(2) shall be applicable. Such additional information may include such items as (iii) through (x) of subsection 20-129(1)(a).

(c) For Airports, the following information shall be submitted:

(i) Items (i) through (v) of subsection 20-125(1)(a).

(ii) Subsection 20-125(2) shall be applicable.

(iii) A map showing the topography of the area surrounding and including the site.

(iv) Evidence of the compatibility of the Airport with any adopted transportation plan for the area.

(v) An estimate of the effect of the operation of the Airport on total vehicle miles traveled.

(vi) Estimates of the effect of the operation and use of the Airport on traffic patterns, volumes, and flow in, on or within one-fourth mile of the Airport.

(vii) An estimate of the average and maximum number of Aircraft Operations per day by type of aircraft in the first, tenth and twentieth years after completion of the Airport.

(viii) Expected passenger loadings in the first, tenth and twentieth years after completion.

(ix) Measured or estimated carbon monoxide and lead concentrations at Reasonable Receptor and Exposure Sites. Measurements shall be made prior to construction and estimates shall be made for the first, tenth and twentieth years after the Airport and Associated Parking are completed or fully operational. Such estimates shall be made for average and peak operating conditions.

(x) Alternative designs of the Airport, ie. size, location, parking capacity, etc., which would minimize the adverse environmental impact of the Airport.

(xi) An estimate of the additional residential, commercial and industrial development which may occur within 3 miles of the boundary of the new or modified Airport as the result of the construction and use of the Airport.

(xii) An estimate of the area-wide air quality impact analysis for carbon monoxide, photochemical oxidants, nitrogen oxides and lead particulate. This analysis would be based on the emissions projected to be emitted from mobile and stationary sources within the Airport and from mobile and stationary source growth within 3 miles of the boundary of the Airport. Projections should be made for the first, tenth and twentieth years after completion.

(xiii) A description of the availability and type of mass transit presently serving or projected to serve the proposed Airport. This description shall only include mass transit operating within 1/4 mile of the boundary of the Airport.

(d) For Highway Sections, the following information shall be submitted:

(i) Items (i) through (iii) of Subsection 20-125(1)(a).

(ii) Subsection 20-125(2) shall be applicable.

(iii) A map showing the topography of the Highway Section and points of ingress and egress.

(iv) The existing average and maximum daily traffic on the Highway Section proposed to be modified.

(v) An estimate of the maximum traffic levels for one and eight hour periods in the first, tenth and twentieth years after completion.

(vi) An estimate of vehicle speeds for average and maximum traffic volumes in the first, tenth and twentieth years after completion.

(vii) A description of the general features of the Highway Section and associated right-of-way.

(viii) An analysis of the impact of the Highway Section on the development of mass transit and other modes of transportation such as bicycling.

(ix) Alternative designs of the Highway Section, ie. size, location, etc., which would minimize adverse environmental effects of the Highway Section.

(x) The compatability of the Highway Section with an adopted comprehensive transportation plan for the area.

(xi) An estimate of the additional residential, commercial and industrial development which may occur as the result of the construction and use of the Highway Section, including an air quality assessment of such development.

(xii) Estimates of the effect of the operation and use of the Indirect Source on major shifts in traffic patterns, volumes, and flow in, on or within one-fourth mile of the Highway Section.

(xiii) An analysis of the area-wide air quality impact for carbon monoxide, photochemical oxidants, nitrogen oxides and lead particulates in the first, tenth and twentieth years after completion. This analysis would be based on the change in total vehicle miles traveled in the area selected for analysis.

(xiv) The total air quality impact (carbon monoxide and lead) of maximum and average traffic volumes. This analysis would be based on the estimates of an appropriate diffusion model at Reasonable Receptor and Exposure Sites. Measurements shall be made prior to construction and estimates shall be made for the first, tenth and twentieth years after the Highway Section is completed or fully operational.

(xv) Where applicable and requested by the Department, a Department approved surveillance plan for motor vehicle related air contaminants.

20-130 ISSUANCE OR DENIAL OF INDIRECT SOURCE CONSTRUCTION PERMITS

(1) Issuance of an Indirect Source Construction Permit shall not relieve the permittee from compliance with other applicable provisions of the Clean Air Act Implementation Plan for Oregon.

(2) Within 20 days after receipt of a complete permit application, the Department or Regional Authority having jurisdiction shall:

(a) Issue 20 day notice and notify the Administrator of the Environmental Protection Agency, appropriate newspapers and any interested person(s) who has requested to receive such notices in each region

in which the proposed Indirect Source is to be constructed of the opportunity for written public comment on the information submitted by the applicant, the Department's evaluation of the proposed project, the Department's proposed decision, and the Department's proposed construction permit where applicable.

(b) Make publicly available in at least one location in each region in which the proposed Indirect Source would be constructed, the information submitted by the applicant, the Department's evaluation of the proposed project, the Department's proposed decision, and the Department's proposed construction permit where applicable.

(3) Within 60 days of the receipt of a complete permit application, the Department or Regional Authority having jurisdiction shall act to either disapprove a permit application or approve it with possible conditions.

(4) Conditions of an Indirect Source Construction Permit may include, but are not limited to:

(a) Posting transit route and scheduling information.

(b) Construction and maintenance of bus shelters and turn-out lanes.

(c) Maintaining mass transit fare reimbursement programs.

(d) Making a car pool matching system available to employes, shoppers, students, residents, etc.

(e) Reserving parking spaces for car pools.

(f) Making parking spaces available for park-and-ride stations.

(g) Minimizing vehicle running time within parking lots through the use of sound parking lot design.

(h) Ensuring adequate gate capacity by providing for the proper number and location of entrances and exits and optimum signalization for such.

(i) Limiting traffic volume so as not to exceed the carrying capacity of roadways.

(j) Altering the level of service at controlled intersections.

(k) Obtaining a written statement of intent from the appropriate public agency(s) on the disposition of roadway improvements, modifications and/or additional transit facilities to serve the individual source.

(l) Construction and maintenance of exclusive transit ways.

(m) Providing for the collection of air quality monitoring data at Reasonable Receptor and Exposure Sites.

(n) Limiting facility modifications which can take place without re-submission of a permit application.

(o) Completion and submission of a Notice of Completion form prior to operation of the facility.

(5) An Indirect Source Construction Permit may be withheld if:

(a) The Indirect Source will cause a violation of the Clean Air Act Implementation Plan for Oregon.

(b) The Indirect Source will delay the attainment of or cause a violation of any state ambient air quality standard.

(c) The Indirect Source causes any other Indirect Source or system of Indirect Sources to violate any state ambient air quality standard.

(d) The applicable requirements for an Indirect Source Construction Permit application are not met.

(6) Any owner or operator of an Indirect Source operating without a permit required by this rule, or operating in violation of any of the conditions of an issued permit shall be subject to civil penalties and/or injunctions.

(7) Nothing in this section shall preclude a Regional Authority authorized under Section 20-105 from setting the permit conditions for areas within its jurisdiction at levels more stringent than those detailed in Sections 20-100 through 20-135.

(8) If the Department shall deny, revoke or modify any Indirect Source Construction Permit, it shall issue an order setting forth its reasons in essential detail.

(9) An Indirect Source Construction Permit shall not be approved until the applicant has provided to the Department evidence that the Indirect Source in question is not in violation of any land use ordinance or regulation enacted or promulgated by a constitutive local governmental agency having jurisdiction over the subject real property.

20-135 PERMIT DURATION

(1) An Indirect Source Construction Permit issued by the Department or a Regional Authority having jurisdiction shall remain in effect until modified or revoked by the Department or such Regional Authority.

(2) The Department or Regional Authority having jurisdiction may revoke the permit of any Indirect Source operating in violation of the construction, modification or operation conditions set forth in its permit.

(3) An approved permit may be revoked without a hearing if construction or modificaton is not commenced within 18 months after receipt of the approved permit; and, in the case of a permit granted covering construction or modification in approved, planned incremental phases, a permit may be revoked as to any such phase as to which construction or modification is not commenced within 18 months of the time period stated in the initial permit for the commencing of construction of that phase. The Director may extend such time period upon a satisfactory showing by the permittee that an extension is justified.

Attachment III

Appendix to Agenda Item F, February 28, 1975 EQC Meeting

Re: Adherence to Notice Requirements

Discussion

In the January 24 EQC hearing on a proposed amendment to the rules governing Indirect Sources, Mr. Stephen McCarthy of Tri-Met and Mr. Dave Hupp of Multnomah County raised objection to their lack of actual notice of the hearing until shortly before its scheduled time. Mr. Allen Weber, representing the Mayor of Portland, voiced a similar objection in private.

Regrettably, Mr. Stephen McCarthy of Tri-Met was not on our mailing lists (an oversight which has been corrected). We acknowlege Tri-Met as a highly visible interested party and we have apologized to Mr. McCarthy for our oversight. We have requested that he inform us if his files show Tri-Met's having requested in writing that he be included on the Department's statutorily prescribed mailing lists. We have not received an affirmative answer and our files do not indicate such a request. While this would seem to negate the supposition that the Department has fallen short of its duty of notice, every reasonable effort is appropriate, whether required or not, in giving notice to obviously affected parties.

Our files indicate that Mr. Weber of the Mayor's office and Mr. Hupp of Multnomah County were mailed a copy of the Notice of Public Hearing on December 24, 1974. We are at a loss to understand where the breakkin communications occurred. Our written apology has been conveyed to these gentlementalong with our understanding that the mailing was, in fact, undertaken.

The Secretary of State's Bulletin, on January 1, 1975, carried a copy of the Notice of Public Hearing which appears to be in compliance with the requirements of ORS 183.335 (1)(a).

While the Commission granted all interested parties ten days from the date of hearing in which to submit written additions to the record, none of those complaining (on or off the record) of insufficient notice have offered further material.

Conclusion

Absent a showing that Tri-Met submitted a written request for notice pursuant to ORS 183.335, the statutory requirements of notice with regard to rule-making have been served.

TRI-COUNTY
METROPOLITAN
TRANSPORTATION
DISTRICT
OF OREGON

TRI-MET

PACIFIC BUILDING
520 S.W. YAMHILL STREET
PORTLAND, OREGON 97204
(503) 233-8373

February 28, 1975

Oregon Environmental Quality Commission
Department of Environmental Quality
1234 S.W. Morrison Street
Portland, Oregon 97205

Commissioners:

The Tri-County Metropolitan Transportation District of Oregon does not support the proposed amendments to the Indirect Source Rules (OAR Chapter 340, Sections 20-100 through 20-135), specifically the proposed amendment to subsection 20-115 (1) (i) which would increase the size of the minimum parking lot reviewed by the Air Quality Commission from 50 to 100 spaces.

The proposed change in the minimum size of parking lots reviewed would not be consistent with plans for implementation of the clean air control strategy for the Portland Air Region.

In order to help you meet the goals of the Clean Air Plan, Tri-Met has dedicated its resources and efforts to increasing the use of mass transit in the Portland region by improving Tri-Met service, offering fare incentives, and purchasing millions of dollars worth of new equipment.

Within the Clean Air Plan, an important parallel to Tri-Met's efforts to increase mass transit ridership is the review of proposed increases in the number of parking spaces for automobiles in order to protect the region from proliferation of parking facilities, an important source of air quality degradation.

The change from a 50 to 100-space minimum appears at first to be a minimal change, however, the incremental impact of such a change is of a potentially sufficient magnitude to warrant serious reconsideration by the

Environmental Quality Commission of the proposed change. The unreviewed, unchecked incremental addition of hundreds of possibly unnecessary parking spaces in the Portland region which may result from the proposed rule change would, by providing increased incentives for automobile use, work directly against the efforts that Tri-Met is now making to improve air quality by increasing transit use.

The Tri-County Metropolitan Transportation District of Oregon, therefore, does not support the proposed amendment to subsection 20-115 (1) (i).

Sincerely,

Stephen R. McCarthy
Assistant General Manager

SRM/dh

State of Oregon

Send to AMP

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

To: ~~Wayne Hanson~~ & Dick Vogt
Air Quality

Date: 2-13-75

From: Peter McSwain

Subject: January 24, EQC hearing on Amendment to Indirect Source Rules.

Attached is a tentative copy of that portion of the minutes which deals with the hearing. An attempt to delineate some of the issues which staff may wish to address in the coming meeting is what follows:

1. Whether the negative wording of Section 20-030(9) ("is not in violation of any land use ordinance or regulation...") will avoid the applicant's unnecessary appeal to local agencies without putting the Department in the business of interpreting local land use ordinances.

2. Whether the above wording will result in undue political pressure on the Department as the last agency whose review is sought.

3. Whether the rule will precipitate a rash of 99 space facilities in the Portland Area.

4. Whether the Mid-Willamette Valley APA's option to draft tighter restrictions for its own jurisdiction is sufficient protection for its discouragement of small facilities on relatively cheap real estate and for its current program of conditioning permits on alternate mode incentives.

5. Whether Staff shares the opinion that the rule is unwise to embody the rationale of Parking Management as well as that of Indirect Source Control.

6. Whether Staff shares the opinion that the rule will not accomplish its purpose. This is with reference to the three studies concluding that the federal rules would not accomplish their purpose.

7. Whether the staff, after consideration of all testimony, still views the relaxation of the threshold to 100 spaces as combining maximum manpower savings with minimum impact on effectiveness.

8. Whether the rule should exempt either residential facilities or facilities closer in than the present "five mile" proposal (20-115(2)(a).

9. Whether the threshold for review should be lowered for facilities near sensitive receptors such as schools, nursing homes, etc.

10. Whether Section 510 of PL93-563 prohibiting through June 30, 1975 the use of EPA funds to administer programs regulating parking facilities has any affect on the validity of the proposed rule or any fiscal affect on the Department.

11. Whether the EPA suspension of its Indirect Source Permit Review program renders it encumbent upon or appropriate for the Commission to do the same.

12. Whether all parties complaining of insufficient notice have been given ample opportunity to submit materials for consideration in the hearing record.

13. Whether there has been compliance with the Provisions of ORS Chapter 183 with respect to the notice requirements in rule making actions.

It is felt that at least four of these issues can be resolved as follows:

1. With respect to issue number ten, it appears that HR16901 contained a provision prohibiting the use of the fiscal 1975 EPA funding for administering a program to tax, limit, or otherwise regulate parking facilities. Though the Senate attempted to soften or eliminate this language, the final version (PL93-563) signed by the President on December 31 contains the prohibition. A memo to EPA regional administrators over the signature of Alan Kirk, Assistant Administrator in the Office of Enforcement and General Counsel, contains the following language.

> Neither the deferral of the indirect source regulations by EPA nor the provisions of section 510 affect state-adopted programs nor will these actions affect the validity of the approvals EPA has already issued. EPA can continue to take approval/disapproval action on state-submitted indirect source laws or regulations. and [sic] continue to process indirect source applications. Also, EPA can continue to help state programs with technical and/or financial assistance.

2. With respect to issue number eleven, Russel Train, Administrator of the EPA was cited in the December 27, 1974 Current Developments issue of the Environmental Reporter as urging states that have already adopted indirect source controls to continue their programs. Mr. John Vlastelicia of the Portland EPA office wants conveyed to the Commission the EPA's complete encouragement of continued Oregon Indirect Source Controls.

3. With respect to issue number twelve, Mr. Stephen McCarthy of Tri-Met and Mr. Dave Hupp of Multnomah County were given ten days to submit additional materials to the record. Staff feels this is ample time absent a showing of good cause for further delay.

4. With respect to issue number thirteen, the Department's records clearly show that a copy of the Director's Notice of Public Hearing was mailed Mr. Dave Hupp, Planning and Evaluation, 803 Multnomah Co. Courthouse, Portland, Oregon-97204. The mailing is recorded as having been accomplished on December 24, 1974. Regrettably, Mr. Stephen McCarthy of Tri-Met was not on our mailing lists. We both acknowlege Tri-Met as an obviously affected party and apologize for our oversight in this matter. Mr.McCarthy's name is being added to our general rule making and air quality mailing lists.

The provisions of ORS 183.335(3) require the agency to mail notice to persons upon their written request that the same be done. While we do not have on file a written request from Tri-Met, we do not, as of yet, have a file where such written requests would be kept. This renders it less than candid to rely on the absence of a written request in our possession and would seem to make appropriate an inquiry of Mr. McCarthy to see if Tri-Met has on file record of a written request to the Department which would tend to demonstrate our failure to conform to the technical requirements of the statute. The Secretary of State's January 1 Bulletin carried publication of the notice. Perusal of the notice indicates compliance in its drafting with the requirements of ORS 183.335 (1)(a). In summary, it would appear that the provisions of the statute have been served unless subsequent events indicate our disregard for a duly filed request for notice by Tri-Met.

With respect to the remaining issues, I am not qualified to address them. I hope this will serve as a starting point for the staff report (agenda item F) of the February 28 EQC meeting.

PUBLIC HEARING RE: CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO THE INDIRECT SOURCE RULES

Mr. Dick Vogt of the Department's Air Quality Section presented the staff report. He noted the Department's review of several alternatives before its selection of the proposal at hand. The proposed change in affected facilities from 50 to 100 parking spaces was supported as involving the maximum savings in manpower per loss in program effectiveness. Also recommended were several minor revisions in the wording of the statute. It was recommended that the statute be amended to consider applications incomplete until the applicant has provided the Department evidence that the proposed source is not in violation of any land use ordinances or regulations.

Mrs. Hallock questioned the negative wording of the land use ordinance provision.

Mr. Cannon sympathized with Mrs. Hallock's inquiry, noting that he had once suggested that the burden upon the applicant ought to be the positive one of demonstrating approval of the proposal by any local agency with jurisdiction. He called upon Mr. Wayne Hanson to further explain the proposed wording's negative aspect. Mr. Hanson noted that lengthy discussion with staff and with counsel had lead to the conviction that it was improper, in cases where the applicant would not otherwise have been required to do so, to force him to solicit approval of a governmental planning body.

Dr. Phinney expressed concern that the proposal, worded in the negative would reserve to the Department the prerogative to decide whether local ordinances are observed, a decision which, in her view, should be reserved to the local land use planning organization. Mr. Hanson stated that the applicant's provision of evidence would be all that is necessary. The evidence would need only to be of a prima facie degree, Mr. Underwood explained.

In response to Dr. Crothers' question, Mr. Vogt pointed out that the staff report, in pointing out the effects of "the newly adopted rule," had reference to the rule adopted on November 22, 1974 with regard to indirect source regulation.

Noting that, while 73% of the lots accommodated less than 250 vehicles, only 23% of the total parking spaces were in lots of less than 250, Dr. Crothers questioned whether 250 might be a cut-off point which would reduce work and still retain jurisdiction over the bulk of the parking spaces. He asked how many proposed facilities of a size under 250 were rejected or altered by the Department in the normal course. Mr. Vogt, while unable to give a firm statistic, opined that a significant number of lots running from 250 spaces to less were altered because the Department looked at aspects other than size aspects in reviewing a proposal. One such aspect, he said, was the number of parking spaces per employee in office facilities. This was kept at a minimum in an effort to encourage

the use of mass transit. Hence, a small facility would undergo review as well as a large one. Mr. Vogt went on to explain that building codes enter into this area and are varied. He said, however, that he had never experienced an applicant's failure to gain a variance where the Department prescribed fewer spaces than the code allowed. Dr. Crothers noted that in Salem it was hard to gain a variance for more spaces. Mr. Vogt noted that development incentives lead to designs entailing too much off street parking in commercial facilities and too little in residential developments.

Dr. Crothers went on to question the overall effectiveness of limitations on parking facilities, noting that the addition of buses to Washington Square was not accompanied by increased ridership to any significant degree. Dr. Crothers excepted the downtown Portland area from his skepticism. Mr. Vogt explained that there was insufficient data to gauge the program's efficacy in outlying areas. He noted that the answer would run along two dimensions: He predicted decreased effectiveness with increased distance from urban areas. Also, he projected decreased effectiveness with increasing the size of lots exempt from the rule. Dr. Crothers said it was his understanding that only 3% of the cars entering Portland on the Banfield Expressway have more than two riders. This he viewed as an index of failure.

Mr. McPhillips asked groups to designate a spokesman and requested that presentations be as brief as possible, inviting all parties to submit written material in such volume as they would.

Mr. Allen Weber, representing Portland's Mayor, addressed the Commission. He stated the issue of revision to be one which was fundamental to the question of whether the new gubernatorial administration would be an occasion for the undoing of previous accomplishments. He cited the proposal of staff as based on the worst of all possible requirements - the saving of manpower. He argued that program effectiveness, not economy of administration, should be the guiding rationale. It was feared that a serious cumulative impact through the construction of a large number of 99 space facilities might be the result of the staff proposal. He noted a tendency of facilities to date to be lumped into the category previously exempt from the rule. Also, he directed the Commission's attention to the fact that small lots, since they outnumber large ones, are an area to which attention should be brought. He said the impact of small lots was critical in areas of sensitive receptors. Mr. Weber agreed with the staff's conclusion that the present rule encouraged the adoption of comprehensive parking and circulation plans. He criticized the proposed relaxation as detrimental to the aforesaid goal. Mr. Weber urged the Commission to enforce the present rule vigorously so as to give incentive to planning such as that resulting in the Air Quality Improvement Plan in downtown Portland. Mr. Weber then commended the Clean Air Watchdog Committee. He urged that this citizen's committee be consulted prior to any action of amendment.

Mr. Stephen McCarthy, representing Tri-Met, addressed the Commission with his disappointment at not having received notice of the hearing until one day prior to its scheduled time. He asked that he be given additional time to review the proposal. Mr. McCarthy noted that Tri-Met was in support of the principle of parking regulation through the indirect source rule. He views it as an effective integration of transit, clean air, and zoning concerns. He noted for Dr. Crothers' benefit that, while he could not speak for other transit facilities, Tri-Met was meeting its projected ridership for the Washington Square area, hauling about 6,000 passengers per month there.

Mr. Bruce Anderson spoke on behalf of the AGC, the Oregon State Home Builders Association, the Mobile Home Park Association, the Associated Floor Covering Contractors, the Mountain Park Corporation, WETA and other concerned parties. He vehemently warned of dire administrative consequences to be expected from the proposed rule. These consequences, he contended, would surely flow from what he saw to be a serious philosophical ambivalence in the working of the rule. He argued that two concepts were being blurred willy-nilly into a miasma of interpretive difficulty. In Mr. Anderson's view, the underlying concept of Indirect Source Regulation was and should remain maintenance of standards with regard to concentrations of carbon monoxide, etc. through preconstruction review of facilities. Not to be confused with this philosophy was the rationale for federal and local Parking Management Regulations, such as the Portland Transportation Control Strategy. The latter provisions were aimed at attainment of standards in presently deficient areas of carbon monoxide concentration and other concentrations.

Mr. Anderson went on to cite OAR Chapter 340, 20-129(1)(a)(v) as an example of a permit consideration within the province of Parking Management but entirely inappropriate to Indirect Source considerations. The reduction of total vehicle miles travelled, it was contended, goes beyond the proposed facility, and should not be a consideration in an Indirect Source Permit.

Mr. Anderson noted that the rule patently applies to the whole state of Oregon, observing no distinction between those areas where a standard must be maintained and those where a standard must be attained.

Noting the federal decision to postpone the effective date of legislation in this area until review could be had, Mr. Anderson urged the Commission to avoid what he saw to be a dilemma through the expeditious repeal of the rule. He assured Mr. McPhillips and Mrs. Hallock that, absent an Oregon rule, the federal standards would protect adequately against the dangers of carbon monoxide and other concentrations resulting from parking facilities.

Mr. Fred VanNatta of the Oregon Home Builders Association and the Oregon Mobile Home Park Association addressed himself to the coverage of residential dwellings in the rule. He went on record as in support of

the suggestion of Mr. Anderson. He considered coverage of residential dwellings in the rule as unreasonable, citing the Director's comments in the federal register to the effect that indirect source regulations were not intended to apply to single family housing developments. These, in the Director's view, did not present an air quality problem susceptable of quanitification.

Mr. VanNatta referred to three studies on Indirect Source Regulations: One by the National Academy of Sciences, one by the National Science Foundation, and one by the Stanford Research Institute. All three were cited as in agreement that indirect source regulations will not accomplish their purpose as stated by the EPA, even on commercial lots. In response to a question from Mrs. Hallock, Mr. VanNatta said changing the entry point from fifty to one hundred spaces did not solve the problem of the residential developer. He noted that the staff report had been diametrically opposed to his view with regard to the inclusion of residential dwellings.

Mr. Larry Williams of the Oregon Environmental Council said reduction of staff workload is the worst rationale to change the rule. He concurred with Mr. Weber that encouragement of comprehensive planning should be continued by use of the present rule. He noted apprehension that in areas where land values were less, such as Salem, a proliferation of small exempt facilities would be invited by relaxation of the existing rule.

In addressing himself to the change of application process which makes the DEQ last in review of proposals for a parking permit, he expressed the opinion that this would put undue pressure on the DEQ to approve, all others having done so. In Mr. Williams' view, DEQ, as dealing with a health problem, should be first to review permits, and thus be allowed to review them unfettered by the influence of other agencies.

Mrs. Hallock recalled the Department's plan to solicit early information from other authorities which were reviewing proposals involving air quality impact.

Mr. Cannon described the problem as a "chicken and egg" situation wherein DEQ, in preceding other authorities, is subject to the charge of trespass upon the domain of the land use planner. This was said to have been the inverse of the problem to which Mr. Williams alluded.

Mr. Williams expressed the hope that the Commission would not be in the position of looking at large developments only after the other authorities had given approval.

Mr. Jack R. Kalinoski, representing the Associated General Contractors, requested that the rule be suspended until July 1, 1975 to allow study of whether repeal should follow. Such study would reveal, in Mr. Kalinoski's view, insufficient knowledge about the consequences of the rule, insufficient

information leading to its inception, and a potential halting of necessary public and private improvements. Mr. Kalinoski went on to express apprehension that the rule would pose an undue economic burden, prove to be perverse in some of its applications (actually increasing air pollution). Mr. Kalinoski cited those studies which Mr. VanNatta had cited and contended that they had concluded as Mr. VanNatta had reported. The states of New York, Alabama, and South Carolina were given as examples of jurisdictions which had suspended indirect source regulations. HB 16901 (October 9, 1974) was called to the attention of the Commission in its denial of appropriation for use by the EPA to regulate parking facilities.

Ms. Lynda Willis, speaking for the Mid-Willamette Valley Air Pollution Authority, decried the proposed relaxation of the rule as a retreat from what experience has shown to be a practical and effective threshold of review in terms of spaces per parking facility. She reiterated the fear of serious cumulative impact of numerous small surface lots in areas of lesser real estate value. From Ms. Willis' point of view, review of all parking facilities within five miles of the center of cities with 50,000 or higher populations, were it practical, would be desirable. The proposal to raise the threshold was criticized as of potential detriment to the planning of mass transit in downtown areas. It would eliminate the current procedure of conditioning approval to the applicant's agreement to include provisions for alternate mode use in many cases, in Mrs. Willis' view.

In answer to Dr. Phinney's question, Mrs. Willis said the regulations would permit the Mid-Willamette Valley Authority to adopt more stringent requirements than the EQC.

Mr. Dave Hupp of Multnomah County, speaking for Commissioners Clark and Gordon, opposed change in the rule. He noted that the present rule was only two months old and had been preceded by nearly two years of hearings and study. He stated the county's position of reliance on DEQ, as opposed to the EPA, as the guardian of clean air in Oregon. The county's present policy, it was said favored dramatic shifting from the use of the automobile in downtown areas. In lieu of rejecting the proposal, the Commission might, it was said, delay its inception for at least sixty days. The reasoning behind this suggestion was said to be lack of sufficient notice to the county of the proposed rule, a new county commission's need for orientation, and the orientation of the new administration with regard to land use.

Dr. Crothers expressed support of the concept of some delay, both to allow further input from Multnomah County and to allow for the assessment of the House Bill to which Mr. Kalinoski alluded. It was MOVED by Dr. Crothers, seconded by Dr. Phinney, and carried that the record be left open for ten days and the matter of adoption be placed on the agenda of the next regular meeting.

The meeting was adjourned for luncheon.

INFORMATION ON RESULTS OF CONGRESSIONAL APPROPRIATIONS BILL ACTION

EPA's 1975 appropriations Bill contains rider which prohibits EPA from using the appropriated funds to administer a program to tax, limit or otherwise regulate parking facilities. Below are items of EPA's response to questions about that action's impact.

1. It affects only EPA's ability to administer a program -- we can still provide technical and financial assistance to States and local agencies who have or who are developing parking programs (including indirect sources).
2. Any State indirect source review regulation which is either approved by EPA or not, is not affected.
3. Any local parking management plans are not affected.
4. EPA's indirect source review regulations which were to go into effect on 1/1/75 have been postponed until July 1975, partly because of this congressional action but also because there were technical questions involved with highway reviews.
5. EPA can still enforce violations of state indirect source review and regulations which have been approved by EPA.
6. We can approve parking management plans before July 1975.
7. EPA can enforce violations of State or local parking management plans which have been approved by us.

# ENVIRONMENTAL QUALITY COMMISSION

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

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. G, February 28, 1975, EQC Meeting

Variance for International Paper Company, Gardiner Kraft Pulp Mill, File No. 10-0036

## Background

International Paper Company operates a kraft pulp and paper mill in Gardiner, Oregon. The kraft pulp production capacity of the mill is 640 Tons per day (ADT). The pulp and recycled cardboard are used to produce liner board.

The company is currently operating under Air Contaminant Discharge Permit No. 10-0036. Conditions No. 5 and No. 14 of this permit require that the lime kiln be in compliance with the particulate emission limits of OAR, Chapter 340, Section 25-165 (2)(b) by the regulatory rule compliance date of May 1, 1975. Conditions No. 1b (2)(b) and No. 4 require that the smelt dissolving tank vents also be in compliance with the particulate emission limits of OAR, Chapter 340, Section 25-165 (2)(c) by May 1, 1975.

Conditions No. 7 and No. 13 of the permit require that non-condensible gases be continuously incinerated by no later than December 31, 1974.

The company has recently completed the installation of a new recovery furnace which provided control of recovery furnace Total Reduced Sulfur emissions. The associated electrostatic precipitator also significantly reduced particulate emissions. The proposal for this installation was approved by the Environmental Quality Commission (EQC) on February 25, 1972.

## Discussion

### Current Program

A. Lime Kiln Particulates

International Paper Company has requested a variance to

OAR, Chapter 340, Section 25-165 (2)(b) until January 21, 1976, to enable the company to install a venturi scrubber on the lime kiln to control particulate emissions. The company has proposed the following schedule for this installation:

| | | |
|---|---|---|
| a. | Completion of Engineering | March, 1975 |
| b. | Start of Construction | May, 1975 |
| c. | Completion of Construction and Start-up | December 30, 1975 |
| d. | Compliance Demonstration | January 21, 1976 |

The Department has reviewed the specifications for the lime kiln venturi scrubber and has found that it should be capable of controlling emissions within regulatory limits.

The venturi scrubber and fan have been ordered and are scheduled to be received in November, 1975.

The lime kiln currently has a low pressure drop scrubber installed for the control of particulate emissions and emissions currently average 1.7 pounds per air dried ton of pulp produced. The regulatory limit is one (1) pound per air dried ton of pulp produced (effective May 1, 1975).

The Department concludes that the schedule is reasonable in view of the long delivery date stated for receiving the fan.

B. Smelt Dissolving Tank Particulates

An extension of the final compliance date for the two smelt dissolving tank vents has also been requested. The company has proposed the following schedule for this installation:

| | | |
|---|---|---|
| a. | Testing to Determine Compliance | April 15, 1975 |
| b. | Submission of Final Control Plan | April 29, 1975 |
| c. | Issue Purchase Orders | May 24, 1975 |
| d. | Initiation of Construction | October 15, 1975 |
| e. | Completion of Construction | January 24, 1976 |
| f. | Compliance Demonstration | March 1, 1976 |

It was thought by the company and the Department that the existing control equipment would be adequate to meet the regulations after the new recovery furnace was installed. However, recent testing has indicated that the emissions are in excess of the regulatory limits.

The smelt dissolving tank vents presently have mist eliminator pads installed for the control of particulate emissions and emissions have averaged 1.5 pounds per air dried ton of pulp produced. The regulatory limit is one half (0.5) pound per air dried ton of pulp produced.

The company proposes to make additional efforts to bring these

sources into compliance with current rules. In view of these efforts, it is concluded that the schedule is reasonable.

C. Non-condensible Gases - Alternative Method of Control

International Paper Company has also requested an extension of the final compliance date for installation of the alternative non-condensible gas incinerator. The permit compliance date is December 31, 1974. The regulatory compliance date is July 1, 1975. The company requested an extension of this date to June 21, 1975. The specifications for the equipment are acceptable to the Department and the equipment has been ordered.

It is concluded that the proposed schedule is acceptable since it is within regulatory time limits.

International Paper Company has fallen behind schedule on the lime kiln scrubber and non-condensible projects for two reasons:

1) The installation of the new recovery furnace put a heavy work load on the company's engineering staff. Thus, they did not accomplish the subject projects as soon as proposed or desired.

2) The lengths of time required from the date of an order to the date of delivery of equipment have been extended drastically since the compliance schedules were originally established.

International Paper Company has requested a variance for the lime kiln, in accordance with ORS 468.345, on the grounds that conditions exist which are now beyond the control of the company.

When the lime kiln venturi scrubber is installed and smelt tank emissions are controlled at regulatory levels, particulate emissions will be reduced by a projected 1,088 pounds per day. The installation of the new recovery furnace and electrostatic precipitator have reduced particulate emissions by 13,200 pounds per day. The current plant site particulate emissions are 3,600 pounds per day. Therefore, the granting of this variance is not considered to have a significant adverse effect on ambient air quality around the mill.

The Oregon Clean Air Act Implementation Plan requires compliance with ambient air standards by May 30, 1975. The Department's projection indicates that the ambient air standard in the area will be met by May 30, 1975, even if this emission reduction is not achieved by that date. However, in order to grant an extension beyond May 30, 1975, the original schedules, adopted as a part of the Implementation Plan, must be amended. Granting the extension must be done in the context of also amending the Implementation Plan.

The extension of the compliance date for the alternative non-condensible gas incinerator is not considered to have significant effects on odor levels around the mill. Non-condensible gases are currently incinerated in the lime kiln and the non-condensible gas alternate incinerator will be used at times when the lime kiln is not operating. The lime kiln does not operate an average of five (5) hours a month. The extension of the alternate non-condensible incinerator could potentiaLly be observable on approximately two (2) days a month and the schedule of compliance is within regulatory time limits. (This is the only period of time for which an alternative method of treatment will not be available under current operations.)

Conclusions

The granting of a variance for lime kiln and smelt dissolving tank vent particulate emissions can be allowed in accordance with ORS 468.345 since conditions exist that are now beyond the control of the company and strict compliance would result in substantial curtailment or the closing down of plant activities.

The granting of the extensions for the lime kiln and the smelt dissolving tank vents are not projected to have a measurable effect on the air quality in the Gardiner area.

Director's Recommendation

It is recommended that International Paper Company be granted a variance for lime kiln particulate emissions (OAR, Chapter 340, Section 25-165 (2)(b)) and smelt dissolving tank vent particulate emissions (OAR, Chapter 340, Section 25-165 (2)(c)) and also be granted an extension of the final compliance date for installation of the alternative non-condensible gas incinerator in accordance with the following schedules:

| | (Variance) Lime Kiln Particulate | (Variance) Smelt Tank Particulate | (Schedule Extension) Non-condensible Alternative Incinerator |
|---|---|---|---|
| Testing to Determine Compliance | | Apr. 15, 1975 | |
| Submission of Final Control Plan | | Apr. 29, 1975 | |
| Initiate Construction | May 31, 1975 | Oct. 15, 1975 | Apr. 1, 1975 |
| Complete Construction | Dec. 30, 1975 | Jan. 24, 1976 | May 21, 1975 |
| Compliance Demonstration | Jan. 21, 1976 | Mar. 1, 1976 | |

It is also recommended that the above schedules be incorporated in a proposed modified permit which will be the subject of a public hearing to amend the Oregon Clean Air Act Implementation Plan and the permit be issued if no adverse testimony is received.

KESSLER R. CANNON

CRC:ahe
February 18, 1975

PROPOSED

Permit Number: 10-0036
Expiration Date: 7/1/75
Page 1 of 8

# 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 468.310**

ISSUED TO:
INTERNATIONAL PAPER COMPANY
Gardiner Paper Mill
P. O. Box 854
Gardiner, OR 97441

PLANT SITE:
Gardiner Paper Mill
Gardiner, OR 97441

ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY

Kessler R. Cannon, Director — *Date*

REFERENCE INFORMATION

Application No. 0068

Date Received April 19, 1973

Other Air Contaminant Sources at this Site:

| Source | SIC | Permit No. |
|---|---|---|
| (1) | | |
| (2) | | |

**SOURCE(S) PERMITTED TO DISCHARGE AIR CONTAMINANTS:**

| **Name of Air Contaminant Source** | **Standard Industry Code as Listed** |
|---|---|
| UNBLEACHED KRAFT PULP AND PAPER MILL | 2631 |

Permitted Activities

Until such time as this permit expires or is modified or revoked, INTERNATIONAL PAPER COMPANY 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 this permit from its unbleached kraft pulp-and-paper-making facilities and steam-generating boiler facilities, located near Gardiner, Oregon. The specific listing of requirements, limitations, and conditions contained herein does not relieve the permittee from complying with other rules and standards of the Department.

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 effectivness, such that the emission of air contaminants are kept at the lowest practicable levels, and in addition:

1. Recovery furnace No. 1 (C.E.) shall be operated and controlled such that:

   a. Total Reduced Sulfur (TRS) gas emissions shall not exceed:

      (1) 2,700 pounds of sulfur per day (lb S/day), and 5.5 pounds of sulfur per air dry, unbleached ton of pulp produced (lb S/adt), and 250 ppm as a monthly average until 180 days after recovery furnace No. 3 is placed in operation, and

      (2) 4,200 lb S/day, and 8 lb S/adt, and 650 ppm as a maximum daily average until 180 days after recovery furnace No. 3 is placed in operation.

   b. Particulate emissions shall not exceed:

      (1) 12,000 pounds per day (lb/day) and 20 pounds per adt until 180 days after recovery furnace No. 3 placed in operation,

      (2) from the smelt dissolving tank vent:

         a. 600 lb/day and two (2) lb/adt until March 1, 1976

         b. 220 lb/day and 0.5 lb/adt after March 1, 1976

2. (Condition No. 2 has been removed since it is no longer applicable).

3. By July 1, 1975, recovery furnaces No.'s 1 and 3 shall be operated and controlled such that:

   a. TRS emissions from the combined stack shall not exceed:

      (1) 200 lb S/day, and 0.3 S/adt, and 10 ppm as a monthly average, or

      (2) 40 ppm for more than 60 cumulative minutes in any one (1) day.

   b. Particulate emissions from the combined stack shall not exceed:

      (1) 2,650 lb/day,

      (2) 4 lb/adt.

4. The No. 3 recovery furnace smelt dissolving tank vent shall be operated and controlled such that particulate emissions shall not exceed:

   a. 1,200 lb/day and 2.0 lb/adt until March 1, 1976.

   b. 300 lb/day and 0.5 lb/adt after March 1, 1976.

5. Lime kiln emissions:

   a. Of TRS shall not exceed:

      (1) 64 lb S/day, and 0.1 lb S/adt, and 20 ppm as a monthly average,

   b. Of particulates shall not exceed:

      (1) 3,000 lb/day and 5 lb/adt, as a monthly average until May 1, 1975, and

      (2) 640 lb/day and one (1) lb/adt as a monthly average after January 21, 1976.

6. Power boiler particulate emissions shall not exceed 0.2 grains per standard cubic foot and an opacity equal to or greater than 40% exclusive of uncombined water for more than an aggregated three (3) minutes in any one (1) hour.

7. Non-condensible and odorous gases shall continue to be collected and treated by thermal oxidation or equivalent treatment in existing equipment. By no later than May 21, 1975, the means shall be provided to treat the collected gases by alternative equivalent means and to automatically alternate treatment between the lime kiln and the new control device in the event that the one in use fails or is otherwise incapable of providing treatment.

8. Emissions of TRS from Other Sources, as defined by OAR, 340, Section 25-165 (1)(e), shall be maintained at the lowest practicable levels and shall not exceed 0.2 lb S/adt.

9. Sulfur dioxide emissions shall not exceed:

   a. 300 ppm as a daily average from any recovery furnace, or

   b. 1,000 ppm from the power boiler.

10. (Condition No. 10 has been removed because it was no longer applicable).

11. The use of residual fuel oil containing more than one and three-quarters percent (1.75%) sulfur by weight is prohibited.

Compliance Demonstration Schedule

12. The permittee shall provide recovery furnace TRS and particulate emission controls and smelt-dissolving tank vent particulate emission controls according to the following schedule:

   a. ~~A new generation recovery furnace (No. 3) shall be installed and placed in operation by no later than July 1, 1975. The emissions from furnaces 1 and 3 shall be vented to the atmosphere through a common stack. Upon completion of No. 3 furnace, recovery furnace No. 2 (B and W) shall be retired from service.~~ (complied)

   b. The permittee shall report the following:

      (1) ~~A summary of contracts and purchase orders for major component parts issued,~~ (complied)

(2) ~~Date(s) construction is completed for major component parts,~~ (complied)

(3) ~~Date construction is completed, not to exceed January 1, 1975, and~~ (complied)

(4) Date compliance is achieved, not to exceed July 1, 1975.

(5) ~~The permittee shall confirm in writing that Conditions 12b.1. and 12b.2. have been completed with the monitoring report submitted for August, 1973. Thereafter, the permittee shall submit progress reports with the monthly monitoring reports for January, April, July, and October, 1974, describing progress in completing construction of the furnace.~~ (complied)

13. The permittee shall provide an alternative means of automatically and continuously providing treatment of non-condensible gases by no later than May 21, 1975, according to the following schedule:

a. ~~Final control plan (decision on means) by no later than December 31, 1973,~~ (complied)

b. ~~Issuance of construction contracts or purchase orders for components by no later than April 1, 1974,~~ (complied)

c. Initiation of on-site construction and installation of facilities by no later than April 1, 1975,

d. Construction complete and operation initiated by no later than May 21, 1975, and

e. The permittee shall submit in writing to the Department of Environmental Quality progress reports relative to the increments in Condition 13a. through 13d. and such confirmation to be submitted with the monthly monitoring reports for ~~December, 1973~~; ~~March, 1974~~; March, 1975, and May 1, 1975.

14. The permittee shall provide lime kiln particulate emission controls according to the following schedule:

a. ~~Final control plan (decision on means) by no later than December 31, 1973,~~ (complied)

b. ~~Issuance of construction contracts or purchase orders for components by no later than April 1, 1974,~~ (complied)

c. Initiation of on-site construction and installation of facilities by no later than May 31, 1975,

d. Complete construction and initiate operation by no later than December 30, 1975,

e. Demonstrate compliance by no later than January 2, 1976,

f. The permittee shall confirm in writing that the increments in Conditions 14c through 14e have been completed, said confirmation to be submitted with the monthly monitoring reports for May, 1975; December, 1975; and January, 1976.

15. ~~The permittee shall report to the Department by no later than January 1, 1974, the adequacy of the emission limits set forth in Condition 8 for "Other Sources", and, if warranted, the permittee shall submit to the Department a proposed control program for significant sources.~~ (complied)

16. ~~The permittee shall submit to the Department of Environmental Quality by no later than November 1, 1973, a detailed program and time schedule of tests to evaluate visible and particulate emissions from the steam generating power boiler while residual fuel oil is being used as fuel. Results of such tests shall be submitted to the Department of Environmental Quality by no later than May 1, 1974. If such tests indicate non compliance with the limits of condition 6 a detailed compliance schedule setting forth a program to achieve compliance with this condition by no later than February 1, 1975, shall be submitted to the Department of Environmental Quality by no later than September 1, 1974.~~ (complied)

17. The permittee shall reduce the emissions of the No. 1 and 3 smelt dissolving tank vents to less than one half (0.5) lb/adt by no later than March 1, 1976 according to the following schedule:

a. Submission of final control plan by no later than April 29, 1975.

b. Issuance of purchase orders for components by no later than May 24, 1975.

c. Initiation of on-site construction and installation of facilities by no later than October 15, 1975.

d. Completion of construction and initiate operation by no later than January 24, 1976.

e. Demonstration of compliance by no later March 1, 1976.

f. The permittee shall confirm in writing that the increments of Conditions 14a through 14e have been completed.

g. Attaining compliance with the limits of one half (0.5) lb/adt by one or both smelt dissolving tank vent(s) shall be sufficient reason to relieve the company of the necessity of completion of the remaining phases for the vent(s), subject to approval in writing by the Department of Environmental Quality.

18. The permittee shall obtain written approval for the facilities installed in accordance with Condition 12 through 16, above, from the Department of Environmental Quality in accordance with the Department's "Notice of Construction and Approval of Plans" regulation, OAR, 340, Sections 20-020 through 20-030.

Monitoring and Reporting

19. The permittee shall effectively monitor the operation and maintenance of the kraft pulp and paper production facilities. Unless otherwise approved in writing by the Department of Environmental Quality, the information shall be collected and submitted in accordance with testing, monitoring, and reporting procedures on file at the Department of Environmental Quality or in conformance with recognized applicable standard methods approved in advance by the Department of Environmental Quality, and shall include, but not necessarily be limited to, the following parameters and monitoring frequencies:

| Parameter | Minimum Monitoring Frequency | Information Required |
|---|---|---|
| a. Recovery Furnace Particulate | One (1) sample per week<br>Continuous as soon as practicable | lb/adt |
| b. Recovery Furnace TRS | Continually monitored | daily average ppm, cumulative minutes each day over 20 and 40 ppm, monthly average lb S/adt |
| c. Recovery Furnace $SO_2$ | Once per month | average ppm and lb/adt |
| d. Lime Kiln Particulate | One (1) sample per week<br>Continuous as soon as practicable | lb/adt |
| e. Lime Kiln TRS | Continually monitored | daily average ppm, monthly average lb S/adt |
| f. Smelt dissolving tank vent particulate | Two (2) samples per month | lb/adt |
| g. Production of unbleached pulp | Summarized from production records | monthly average tons per day of unbleached, air-dried pulp (adt/day) |
| h. Non-condensible gas | Continual | Cumulative hours of lime kiln operation, dates and cumulative minutes of alternate treatment |
| i. Other Sources of TRS | Annual inventory | average ppm and lb S/adt |
| j. Fuel usage | Summarized annual from operating records | Amounts of natural gas and fuel oil burned each year. |

20. The permittee shall collect and submit the information described in Condition 19 to the Department of Environmental Quality within 15 days after the end of each calendar month unless the Department requires, in writing, a difference frequency or array of data. Information required annually shall be submitted with the monitoring report for December of each year.

21. ~~The permittee shall submit a complete, detailed description of the sampling and analytical procedures used for measuring TRS and particulate emissions with the monthly monitoring report for August, 1973. The description shall include the following:~~

    a. ~~A description and diagram of all sampling and monitoring trains,~~

    b. ~~A description of the analytical techniques used for particulate analysis, and~~

    c. ~~An estimate of the systematic error in the sampling, monitoring, and analytical methods and the cumulative errors in reported contaminant emission rates.~~ (complied)

22. The permittee shall make a minimum of two (2) tests by December 1, 1975, on the electrostatic precipitator which will serve recovery furnaces No.'s 1 and 3 by taking particulate samples before and after the precipitator, and shall report the results to the Department of Environmental Quality in the next monthly monitoring report following completion of the tests.

23. The permittee shall participate in industry studies on the occurrence of $SO_2$, $SO_3$, and $SO_4$ ion in the recovery furnace emission gases, and shall submit a report on the results as applicable to its own mill by no later than July 1, 1975.

24. The permittee shall promptly notify the Department of Environmental Quality by telephone or in person of any scheduled maintenance, malfunction of air pollution control equipment or upset that may cause or tend to cause a significant increase of air contaminant emissions. Such notice shall include

    a. The nature and quantity of increased air contaminant emissions that are likely to occur during the maintenance or repair period,

    b. The expected length of time that the air pollution control equipment will be out of service,

    c. The corrective action that shall be taken, and

    d. The precautions that shall be taken to prevent a future recurrence of a similar condition.

## GENERAL REQUIREMENTS

### Prohibited Activities

25. The permittee is prohibited from conducting any open burning at the plant site.

26. 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.

### Special Conditions

27. (NOTICE CONDITION) The permittee shall dispose of all solid wastes or residues in manners and at locations approved by the Department of Environmental Quality.

28. 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.

29. The permittee is prohibited from altering, modifying or expanding the subject kraft 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.

30. 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.

31. Application for a renewal of this permit must be submitted not less than 60 days prior to the permit expiration date. A filing Fee and Application Investigation and Permit Issuing or Denying Fee must be submitted with the application.

32. 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 conjuction 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.

INTERNATIONAL PAPER COMPANY

GARDINER PAPER MILL, P.O. BOX 854, GARDINER, OREGON 97441, PHONE 503 271-2184

February 12, 1975



Mr. H. M. Patterson, Director
Air Quality Control Division
Dept. of Environmental Quality
1234 S.W. Morrison
Portland, Oregon 97205

Dear Mr. Patterson:

Re: Dissolving Tank Vent Emissions Control.

It is hereby requested that a variance from the Gardiner Mill's Air Discharge Permit be granted on the above mentioned item and that the attached compliance schedule be adopted.

Referring to O.R.S. 468.345, Variances, the reason for requesting the variance falls under condition (1), (a): "Conditions exist that are beyond the control of the persons granted such variance." The conditions which exist are as follows:

The new two recovery boiler-two dissolving tank vent system has been in operation less than four weeks at the present time. Due to economic conditions the mill will be unable to operate until March 11, 1975. Thus, testing of the two existing dissolving tank vent emissions control systems will probably not be completed until April 15, 1975. Until that time, it will not be possible to determine if the new complex is in compliance.

Therefore, it is requested that the attached compliance schedule, which takes into consideration testing, decision on means (if required), engineering, equipment delivery, and construction schedules, be adopted.

Very truly yours,

Dave Bailey

Dave Bailey
Supt. Environmental Services

DAB/ceh
Attach.
cc: H. D. Hinman

## COMPLIANCE SCHEDULE

## DISSOLVING TANK VENT SCRUBBERS

| | |
|---|---|
| Testing Completed | April 15, 1975 |
| Final Control Plan (Decision on Means) | April 29, 1975 |
| Issuance of Equipment Purchase Orders | May 24, 1975 |
| Initiation of On-Site Construction | October 14, 1975 |
| Complete Construction & Initiate Operation | January 24, 1976 |
| Demonstration of Compliance | March 1, 1976 |

Note - If International Paper Company can demonstrate compliance with existing equipment on one or both of the dissolving tank vents, additional facilities may be waived on the vent(s) in compliance.

# ENVIRONMENTAL QUALITY COMMISSION

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



MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. H, February 28, 1975, EQC Meeting

Banfield Freeway (I-80N) to Consider Approval of Demonstration Project for High Occupancy Vehicle Lanes

## Background

The need to use existing transportation corridors more efficiently has been identified as the primary transportation improvement goal in the Portland Metropolitan Area. This goal was incorporated into the Portland Transportation Control Strategy (adopted by the Commission June 4, 1973) as part of a program for traffic flow and public transportation improvements.

As a major step towards reducing traffic congestion and improving air quality in the Banfield Corridor, the Oregon State Highway Division (OSHD) is proposing a demonstration project designed to induce bus and high occupancy vehicle use within a portion of the Banfield Freeway (I-80N). (A copy of OSHD's proposal is attached.)

Since the project is not anticipated to increase the annual ADT by 10,000 or more per day, the project is not subject to the Environmental Quality Commission's Indirect Source Rule. However, the project is related to the Portland Transportation Control Strategy, and therefore is being submitted for review and approval of the Commission.

## Discussion

A. Objectives

As proposed, the specific objectives of the Banfield Freeway (I-80N) High Occupancy Vehicle Lane Demonstration Project are:

1. To implement transportation improvements as enumerated in the Portland Transportation Control Strategy.

2. Provide for carpooling and bus incentives in the Corridor, including implementation and use of high-occupancy vehicle lanes (express bus and carpool), plus park and ride lots and preferential ramp control as needed.

3. Reduce traffic congestion on the Banfield Freeway and adjacent arterial streets.

4. Lay the foundation for continuing transportation innovation in the Portland Metropolitan Area.

These objectives would be accomplished through a series of design changes and road improvements in the existing Banfield Freeway between approximately Union Street and 82nd Avenue. The initial elements of project design would require the following:

1. Upgrading the existing facility with new pavement overlay.

2. Development of an additional lane to be used exclusively by high-occupancy vehicles (HOV) from 82nd Avenue westbound to Holladay, and 39th eastbound to 82nd Avenue, by restriping within the existing roadway.

   a. Lane widths to be approximately 11 1/2'.

   b. Parking shoulders will be removed and emergency parking bays will be constructed within existing right-of-way or easements.

   c. GM safety rail will be installed in the median and shoulders at bridge columns, walls, etc.

   d. Widening eastbound from 42nd Avenue to 47th Avenue, within the right-of-way to provide for the development of the HOV lane.

3. Overhead signing will be provided for designation of high occupancy vehicle lane.

4. Extensive public relations campaign to increase HOV usage.

While operational alternatives have yet to be finalized, several are under consideration pending mutual agreement of a number of agencies involved in the project. Proposed operational alternatives within the HOV lane project are as follows:

1. Define high occupancy vehicle:

   a. Two or more passengers per vehicle.
   b. Three or more passengers per vehicle.
   c. Present conditions:

1. Two or more passengers = 23.6%
2. Three or more passengers = 4.2%

2. Access Ramp Control

   a. No control
   b. Limit access to HOV's
      1. Selected ramps
      2. All ramps
      3. Time of Access Limitation
         a. 24 hours
         b. Peak hour
         c. Other

B. Interagency Coordination

Due to the fact there are a number of agencies involved in the proposed HOV lane project, OSHD is proposing the formation of a Project Advisory Committee consisting of one representative from each of the following agencies or groups: OSHD, DEQ, City of Portland, Tri-Met, Multnomah County, Business Interests, and Public Interests. The committee will meet approximately once a month for the duration of the project. Tasks will include review or progress reports and the coordination of interagency activities. The purpose of the committee is to provide the necessary guidance for project development and implementation.

C. Air Monitoring Activities

For the review of air quality and operation of the facility, OSHD proposes the preparation of an interagency agreement between OSHD and DEQ. Proposed areas of the agreement will include:

1. Air monitoring procedures.

2. Traffic monitoring procedures.

3. Collection, exchange and review of data.

4. Preparation of an operations plan.

5. Provision of adequate notice to either agency in the event of a proposed project revision by OSHD or DEQ.

6. Return of the Corridor to its existing configuration in the event of significant air quality violations.

Air monitoring is proposed to:

1. Determine ambient air quality levels in the project corridor prior to construction.

2. To help determine the air quality levels as a result of project implementation.

Location of monitoring stations will be at key areas along the freeway corridor and/or paralleling surface streets, to be determined as needed.

Data summaries will be prepared and submitted to the Commission as appropriate throughout the life of the project.

A project of this magnitude would normally require extensive predictive ambient air quality analysis which would result in a delay of several months in the implementation of the proposed demonstration project. It is the Department's judgment that the proposed project, properly designed, will most likely have a favorable impact on ambient air quality in the Banfield Corridor.

Both the Department and the Highway Division agree that since it is a Demonstration Project, flexibility must be provided including provisions to modify the project when adverse impacts are identified, and, if necessary, terminate the project resulting in a return of the Banfield Corridor to its existing configuration.

Since it is the intention of OSHD to highly accelerate the implementation of this proposed project in an effort to begin project construction by July 1975, it is requested that the Commission approve the Banfield Freeway Demonstration Project as consistent with the goals of the Portland Transportation Control Strategy.

Director's Recommendation:

It is the recommendation of the Director that the Environmental Quality Commission conceptually approve the Oregon State Highway Division's proposed Banfield Freeway (I-80N) High Occupancy Vehicle Lane Demonstration Project.

KESSLER R. CANNON
Director

CAS:mh

February 18, 1975

# COLUMBIA REGION ASSOCIATION of GOVERNMENTS

527 S.W. HALL STREET
PORTLAND, OREGON 97201

(503) 221-1646




February 25, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
FEB 26 1975
OFFICE OF THE DIRECTOR

Environmental Quality
Commission
1234 S.W. Morrison
Portland, OR 97205

Gentlemen:

The Oregon State Highway Division is proposing a project to repave the Banfield Freeway from Union Avenue to 82nd Avenue within the city of Portland. Included in the project are safety improvements, new guardrails and provision of exclusive lanes for high occupancy vehicles. A Notice of Intent to request federal funding for these improvements has been filed by the Division with CRAG. In addition, we have received a copy of Mr. Bothman's letter to Mr. Cannon regarding air quality problems and their monitoring.

It is my understanding that the Commission will consider the Division's request at its meeting on February 28. Unfortunately, neither the CRAG Transportation Committee, nor the CRAG Board of Directors is able to review and comment upon the project by the date of that meeting.

I have reviewed the project information very carefully and find that the safety improvements and the provision of exclusive lanes for high-occupancy vehicles are in accordance with CRAG's transportation planning activities and current policies which support public transportation improvements. Completion of this project would provide for improved bus and carpool service on the Banfield, and would provide invaluable experience for the consideration of similar projects in other corridors.

I would request your approval of this project for the reasons mentioned above.

Sincerely,

Richard Etherington

Richard Etherington

kt
cc: Bob Bothman

# ENVIRONMENTAL QUALITY COMMISSION

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



MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. I, February 28, 1974, EQC Meeting

Public Hearing to Consider Adoption of Proposed New Rules for Open Burning (OAR Chapter 340, Sections 23-025 through 23-050 and 26-006)

## Background

Current Open Burning Rules are found in two sections of the Oregon Administrative Rules, OAR Chapter 340. Sections 23-005 through 23-020, were adopted January 24, 1972, and deal with open burning in general throughout the state. Sections 28-005 through 28-020 were adopted November 26, 1973, and deal specifically with open burning only in Clackamas, Columbia, Multnomah and Washington Counties of the Northwest Region.

Under current rules open burning of land clearing debris within most special control areas of the state and open burning of domestic waste in Clackamas, Columbia, Multnomah, and Washington Counties was prohibited after July 1, 1974. At the request of several governmental agencies the Director recommended a variance to the rules for 120 days on behalf of the requesting agencies to allow the burning of domestic wastes in sections of Columbia, Clackamas and Washington Counties. This variance was granted in action taken by the Commission on June 21, 1974.

The proposed rules now subject to a public hearing have been drafted to resolve previous valid objections and to improve rule applicability throughout the state. All air quality rules pertaining to open burning (except Agricultural Operations) are proposed to be included in this section of OAR Chapter 340.

Notice of this Hearing was mailed to interested parties on January 22, 1975. In addition, the Notice was published in the State of Oregon Administrative Rule Bulletin of February 1, 1975.

Discussion

Several meetings were arranged with Department staff representing the affected Department Division and District offices to obtain input relating to any administrative difficulty with the open burning rules. Suggestions were also solicited from the Mid-Willamette Valley and Lane Regional Air Pollution Authorities.

The major areas of concern with the existing rules were:

1. Lack of suitable alternative disposal means in rural areas where domestic burning had become prohibited.

2. Need for means of handling emergency cleanup or spill problems.

3. Lack of demonstrated need for prohibition of land clearing burning in all special control areas and inequity of applying such a prohibition in all special control areas except the Willamette Valley where the need is concluded to be greatest.

4. Need for managing open burning at Solid Waste Disposal sites in a manner compatible with the requirements of the Solid Waste management objectives.

Conclusion

The staff concludes that provision for open burning of some domestic type wastes needs to be extended to 1 July, 1977, in the Clackamas, Columbia, Multnomah, and Washington County area, at which time it is anticipated that the Metropolitan Service District will be in operation and may have the capability of handling the types of wastes previously burned.

It is also concluded that open burning of land clearing debris has not caused a significant problem in most areas of the state and does not warrant the large expenditure of effort to implement a prohibition except within the major portion of the Willamette Valley.

The following summarizes the proposed changes from existing rules.

1. Provides an Open Burning Policy Statement.

2. Places all open burning rules (except Agircultural Operations) in one section of OAR Chapter 340.

3. Extends cutoff dates for open burning of certain domestic wastes in Clackamas, Columbia, Multnomah and Washington Counties to July 1, 1977.

4. Extends the time allowed for burning of yard clean-up materials in the Portland area during the fall.

5. Provides for immediate prohibition of burning of land clearing debris within population centers of the Willamette Valley and total prohibition within the Willamette Valley after July 1, 1977.

   Allows the burning of land clearing debris elsewhere in the state subject to EQC authority to issue the daily burning classification.

6. Provides an Emergency Conditions section to handle problems caused by log jams, storms, floods and oil spills.

7. Expands the definitions section to assist in understanding the intent of the Rule.

A copy of the proposed Rules is attached to this report.

Written public comment pertaining to this hearing has been received from four individuals, two governmental agencies, and the Washington County Fire Marshals Association. These responses are attached as part of the hearing record.

One person, Judith A. Neilson, 4005 SE Lambert, Portland, expressed opposition to the leniency of the proposed rules.

Three people expressed oppostion to the restrictiveness of the rules:

1. G. E. Roeder, Representing, Homeowners Preservation League, Inc., Lower Tualatin Valley Chapter

2. James A. Mount, 3060 S. Glenmorie Dr., Lake Oswego, Oregon

3. Stan Ecaas, Mayger, Oregon

Two of the above respondents requested that a hearing on these rules be held in Portland before they are adopted.

The Columbia County Board of Commissioners oppose the inclusion of Columbia County with Clackamas, Multnomah and Washington County regulations. The city of Lyons supports the proposed rules and specifically cites a need for some form of controlled burning in rural areas. The Washington County Fire Marshals Association supports the proposed rules.

As this report was being typed a written response to the proposed rules was received from Mid-Willamette Valley Air Pollution Authority. A copy of the MWVAPA letter is attached but no analysis has been made for this staff report.

Director's Recommendation

It is the recommendation of the Director that the Environmental Quality Commission, after considering public testimony at this hearing or any future hearings, adopt these rules as OAR Chapter 340, Sections 23-025 through 23-050 and 28-006 in accordance with the proposal or as appropriate after considering public testimony.

KESSLER R. CANNON
Director

LDB:mh

February 18, 1975

DEPARTMENT OF ENVIRONMENTAL QUALITY
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Department of Environmental Quality is considering amendments to OAR Chapter 340, Sections 23-005 through 23-020 (Open Burning) and 28-005 through 28-020 (those sections of the Specific Air Pollution Control Rule for Clackamas, Columbia, Multnomah and Washington Counties pertaining to open burning).

The Department is proposing to repeal the present open burning rules and to adopt new rules to be made OAR Sections 23-025 through 23-050 and 23-006. The State of Oregon Clean Air Act Implementation Plan is proposed to be amended with the adoption of these rules.

Copies of the proposed rule may be obtained upon request from the Department of Environmental Quality, Office of the Administrator, Air Quality Control Division, 1234 S. W. Morrison Street, Portland, Oregon, 97205.

Any interested person desiring to submit any written documents, views or data on this matter may do so by forwarding them to the above address, or may appear and submit his material, or be heard orally at 1:30 p.m. on the 28th day of February, 1975 on the Main Floor, Harris Hall, 125 East Eighth Street, Eugene, Oregon. The Environmental Quality Commission has been designated as Hearings Officer.

Dated this 15th day of January, 1975.

KESSLER R. CANNON
Director

DEPARTMENT OF ENVIRONMENTAL QUALITY

PROPOSED RULES FOR OPEN BURNING

January 13, 1975

OAR Chapter 340, Sections 23-005 through 23-020 and 28-005 through 28-020 are repealed and new Sections 23-025 through 23-050 and 28-006 are adopted in lieu thereof.

23-025 POLICY

In order to restore and maintain the quality of the air resources of the State in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state, it is the policy of the Environmental Quality Commission: to eliminate open burning disposal practices where alternative disposal methods are feasible and practicable; to encourage the development of alternative disposal methods; to emphasize resource recovery; to regulate specified types of open burning; to encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible; and to require specific programs and timetables for compliance with these rules.

23-030 DEFINITIONS. As used in this Section, unless the context requires otherwise:

(1) "Commercial Waste" means waste produced by business operations such as retail and wholesale trade or service activities, transportation, warehousing, storage, merchandising, packaging, or management including offices, office buildings, governmental establishments, schools, hospitals, and apartment houses of more than four (4) family units.

(2) "Commission" means the Environmental Quality Commission.

(3) "Demolition Material" means any waste resulting from the complete or partial destruction of any man-made structures such as houses, apartments, commercial buildings or industrial buildings.

(4) "Department" means the Department of Environmental Quality.

(5) "Director" means the Director of the Department of Environmental Quality or his delegated representative pursuant to ORS 468.045 (3).

(6) "Domestic Waste" means non-putrescible wastes consisting of combustible materials such as paper, cardboard, yard clippings, wood, and similar materials generated by a dwelling housing four (4) families or less.

(7) "Forced-air Pit Incineration" means any method or device by which burning of wastes is done in a subsurface pit or above ground enclosure with combustion air supplied under positive draft or air curtain and controlled in such a manner as to optimize combustion efficiency and minimize the emission of air contaminants.

(8) "Industrial Waste" means waste resulting from any process or activity of manufacturing or construction.

(9) "Land Clearing Debris" means waste generated by the removal of debris, logs, trees, brush, or demolition material from any site in preparation for land improvement or a construction project.

(10) "Open Burning" means burning conducted in open outdoor fires, common burn barrels or backyard incinerators, or burning conducted in such a manner that combustion air may not be effectively controlled and that combustion products are not vented through a stack or chimney.

(11) "Population" means the annual population estimate of incorporated cities within the State of Oregon issued by the Center for Population Research and Census, Portland State University, Portland, Oregon.

(12) "Population Center" means areas within incorporated cities having a population of four thousand (4,000) or more and within three (3) miles of the corporate limits of any such city. If the resulting boundary touches or intersects the corporate limits of any other smaller incorporated city, the affected smaller city shall be considered to be a part of the population center which shall then extend to three (3) miles beyond the corporate limits of the smaller city.

(13) "The Rogue Basin" means the area bounded by the following line: Beginning at the NE corner of T32S, R2E, W.M.; thence South along Range line 2E to the SE corner of T39S; thence West along Township line 39S to the NE corner of T40S, R7W; thence South to the SE corner of T40S, R7W; thence West to the SE corner of T40S, R9W; thence North on Range line 9W to the NE corner of T39S, R9W; thence East to the NE corner of T39S, R8W; thence North on Range line 8W to the SE corner of Sec. 1, T33S, R8W on the Josephine-Douglas County line; thence East on the Josephine-Douglas and Jackson-Douglas County lines to the NE corner of T32S, R1W; thence East along township line 32S to the NE corner of T32S, R2E to the point of beginning.

(14) "Special Control Area" means:

a. Population Center

b. The Rogue Basin

c. The Umpqua Basin

d. The Willamette Valley

(15) "Special Restricted Area" means those areas established to control specific practices or to maintain specific standards.

(a) In Columbia, Clackamas, and Washington Counties, Special Restricted Areas are all areas within rural fire protection districts, including the areas of incorporated cities within or surrounded by said districts.

(b) In Multnomah County, the Special Restricted Area is all area west of the Sandy River.

(16) "The Umpqua Basin" means the area bounded by the following line: Beginning at the SW corner of Sec. 2, T19S, R9W, W.M., on the Douglas-Lane County lines and extending due South to the SW corner of Sec. 14, T32S, R9W, on the Douglas-Curry County lines; thence Easterly on the Douglas-Curry and Douglas-Josephine County lines to the intersection of the Douglas, Josephine and Jackson County lines; thence Easterly on the Douglas-Jackson County line to the intersection of the Umpqua National Forest boundary on the NW corner of Sec. 32, T32S, R3W; thence Northerly on the Umpqua National Forest boundary to the NE corner of Sec. 36, T25S, R2W; thence West to the NW corner of Sec. 36, T25S, R4W; thence North to the Douglas-Lane County line; thence Westerly on the Douglas-Lane County line to the point of beginning.

(17) "Waste" means unwanted or discarded solid or liquid materials.

(18) "The Willamette Valley" means all areas within the following counties or portions thereof as indicated:

1. Benton
2. Clackamas
3. Columbia
4. Lane, all areas east of Range Nine (9) West of the Willamette Meridian.
5. Linn
6. Marion
7. Multnomah
8. Polk
9. Washington
10. Yamhill

23-035 OPEN BURNING GENERAL

(1) No person shall cause or permit to be initiated or maintained any open burning which is specifically prohibited by any rule of the Commission.

(2) Open burning in violation of any rule of the Commission shall be promptly extinguished by the person in attendance or person responsible upon notice to extinguish from the Department, or other public official.

(3) No open burning shall be initiated on any day or time when the Department advises fire permit issuing agencies that open burning is not permitted because of adverse meteorological or air quality conditions.

(4) No open burning shall be initiated in any area of the State in which an air pollution alert, warning, or emergency has been declared pursuant to OAR Chapter 340, Sections 27-010 and 27-025 (2), and is then in effect.

(5) Open burning of any waste materials which normally emit dense smoke, noxious odors, or which may tend to create a public nuisance such as, but not limited to plastics, wire insulation, auto bodies, asphalt, waste petroleum products, rubber products, animal remains, and animal or vegetable wastes resulting from the handling, preparation, cooking, or serving of food is prohibited.

(6) Open burning authorized by these rules does not exempt or excuse any person from liability for, consequences, damages, or injuries resulting from such burning, nor does it exempt any person from complying with applicable laws, ordinances, or regulations of other governmental agencies having jurisdiction.

23-040 OPEN BURNING PRACTICES

(1) Industrial Waste

Open burning of industrial waste is prohibited.

(2) Commercial Waste

Open burning of commercial waste is prohibited within Special Control Areas.

(3) Solid Waste Disposal Sites

Open burning at solid waste disposal sites is governed by OAR Chapter 340 Sections 61-005 through 61-085.

(4) Land Clearing Debris

Open burning of land clearing debris is prohibited:

(a) Within population centers of The Willamette Valley.

(b) Within the Special Restricted Areas of Columbia, Multnomah, and Washington Counties.

(c) In Clackamas County within control areas established as:

1. Any area in or within three (3) miles of the boundary of any city of more than 1,000 population, but less than 45,000 population.

2. Any area in or within six (6) miles of the boundary of any city of 45,000 or more population.

3. Any area between areas established by this rule where the boundaries are separated by three (3) miles or less.

4. Whenever two or more cities have a common boundary, the total population of these cities will determine the control area classification and the municipal boundaries of each of the cities shall be used to determine the limits of the control area.

5. Whenever the boundary of a control area passes within the boundary of a city, the entire area of the city shall be deemed to be in the control area.

(d) After July 1, 1977 in The Willamette Valley.

(5) Domestic Waste

No person shall cause or permit to be initiated or maintained any open burning of domestic waste within Special Restricted Areas except such open burning of domestic waste as is permitted:

(a) In Columbia County until July 1, 1977, excluding the area within the Scappoose Rural Fire Protection District.

(b) In the Timber and Tri-City Rural Fire Protection Districts, of Washington County until July 1, 1977.

(c) In the following rural fire protection districts of Clackamas County until July 1, 1977:

1. Clarkes Rural Fire Protection District;
2. Estacada Rural Fire Protection District No. 69;
3. Colton-Springwater Rural Fire Protection District;
4. Molalla Rural Fire Protection District;
5. Hoodland Rural Fire Protection District;
6. Monitor Rural Fire Protection District;
7. Scotts Mills Rural Fire Protection District;
8. Aurora Rural Fire Protection District.

(d) In all other Special Restricted Areas until July 1, 1977 for the burning of wood, needle, or leaf materials from trees, shrubs, or plants from yard clean-up of the property at which one resides, during the period commencing with the last Friday in October and terminating at sundown on the third Sunday in December, and the period commencing the second Friday in April and terminating at sundown on the third Sunday in May. Such burning is permitted only between 7:30 a.m. and sunset on days when the Department has advised fire permit issuing agencies that open burning is permitted.

(6) Emergency Conditions

To prevent or abate environmental emergency problems such as but not limited to accumulations of waste caused by:

(a) Log jams, storms or floods, the Director may upon request of an operator, owner, or appropriate official, give approval for burning of wastes otherwise prohibited by these rules;

(b) Oil spills, the Director may upon request of an operator or appropriate official, approve the burning of oil soaked debris generated by an oil spill.

All such requests and approvals shall be confirmed in writing. The Director may require whatever degree of control he deems appropriate under the circumstances.

23-045 FORCED-AIR PIT INCINERATION

(1) Forced-air pit incineration may be approved as an alternative to open burning prohibited by this regulation, provided it is demonstrated to the satisfaciton of the Department that:

(a) No feasible or practicable alternative to forced-air pit incineration exists;

(b) The facility is designed, installed, and operated in such a manner that visible emission standards set forth in OAR Chapter 340, Section 21-015, are not exceeded after thirty (30) minutes of operation from a cold start.

(2) Authorization to establish a forced-air pit incineration facility shall be granted only after a Notice of Construction and Application for Approval is submitted pursuant to OAR Chapter 340, Sections 20-020 through 20-030.

23-050 EXCEPTIONS

These rules do not apply to:

(1) Fires set for traditional recreational purposes and traditional ceremonial occasions when a campfire or bonfire is appropriate using fuels customarily associated with this activity.

(2) Barbecue equipment used in connection with any residence.

(3) Fires set or permitted by any public agency when such fire is set or permitted to be set in the performance of its official duty for the purpose of weed abatement, prevention, or elimination of a fire hazard, or instruction of employes in the method of fire fighting, which in the opinion of the agency is necessary.

(4) Fires set pursuant to permit for the purpose of instruction of employes of private industrial concerns in methods of fire fighting, or for civil defense instruction.

(5) Open burning as a part of agricultural operations which is regulated by OAR Chapter 340, Division 2, Subdivision 6, (Agricultural Operations).

28-006 DEFINITIONS

As used in this subdivision:

(1) "Fuel burning equipment" means a device which burns a solid, liquid, or gaseous fuel, the principal purpose of which is to produce heat, except marine installations and internal combustion engines that are not stationary gas turbines.

(2) "Odor" means the property of a substance which allows its detection by the sense of smell.

February 3, 1975

Mr Barney McPhillips
Chairman, Environmental
Quality Commission
1234 S. W. Morrison
Portland, Oregon 97205



Dear Mr McPhillips, et al.

I'm very distressed to read in the February 3, 1975 Oregon Journal of the possibility that backyard burning would again be allowed in the tri-county area, even though populated areas would be unaffected.

At a time when President Ford is softening air quality rules for industry and autos, let us not add more bad air by the burning in our precious Willamette Valley.

I'm in strong opposition to any loosening of our backyard burning regulations.

Sincerely,

Judith A. Neilson
4005 S.E. Lambert
Portland, Oregon 97202

# Homeowners Preservation League

## Lower Tualatin Valley Chapter

**Incorporated under the Oregon Non-Profit Corporation Act in 1966**

**Registered address: Route 1, Box 290 Tualatin, Oregon 97062**

(COPY AS REQUESTED 1/28/75)



Nov. 5, 1974

Dept. of Environmental Quality,
1234 S W Morrison
Portland, Ore. 97205

Gentlemen:

Our incorporated association of some 60 property owners and residents in the Lower Tualatin Valley in Clackamas County has instructed the undersigned to write you in protest over the present manner of determining days for permitting outdoor burning.

We feel that it is not only unfair but unrealistic that a specified consecutive number of days is set aside for such burning without regard to air conditions, precipitation, or convenience of the property owner.

It is well-nigh impossible at times to ignite wet material, and if damp material is burned, it burns much slower and gives off denser smoke (also, it is poorly consumed). And there may be personal reason preventing property owners from using specified days in a limited period. A permit system for such a specified period would seem to have no real meaning.

We strongly urge that, instead, a longer (30 actual burning days) period be provided, from which property owners could choose for themselves the most propitious and appropriate days for burning - - after permission granted. Now at each of the two burning periods of the year, we approach a long holiday, and these holidays are never included in the burning period, thereby depriving property owners of convenient opportunities.

Kindly give this matter your earnest consideration, advising

Sincerely yours,

G E Roeder, Cor.Sec.
HOMEOWNERS PRESERVATION LEAGUE, Inc.
L.T.Val.Chapter

Box 297 Rt 1
West Linn Ore 97068

JAMES A. MOUNT



Department of Environmental Quality
Office of the Administrator
Air Quality Division
134 S. W. Morrison St.
Portland, Oregon 97205

Gentlemen:

I would like the following written testimony presented at the hearing on Open Burning regulations:

1. I request a hearing on this matter be held in Portland before rules are adopted.

2. There are admittedly problems arising in the disposal of domestic wastes which no one has shown can be eliminated without some open burning.

3. This particularly applies to rural areas which may be close to incorporated cities as well as more distant locations. It even applies to some large lots within cities where there are considerable amounts of vegetation, trees and berries which must be pruned resulting in large amounts of cuttings for which burning is the only practical means of disposal.

4. The permits issued in the last years have caused no real problems in air quality and twice yearly permits should be available indefinitely.

5. The alternative is piles of rubbish left to decay resulting in a definite degrading of the environment.

6. Those persons who are becoming overzealous in protective rules have not faced the real problems which confront many citizens in disposing large piles of trimmings by those who have tried to do a good job in beautifying the environment and raising fruits and berries.

I ask that limited burning be continued with permits as in the past.

Respectfully,

James A. Mount

3060 S. Glenmorrie Drive
Lake Oswego, Oregon 97034

FEB 10, 75

D.E.Q.

I WOULD LIKE MY VIEWS ENTERED IN YOUR HEARING ON BURNING WHICH EFFECTS COLUMBIA COUNTY.

I LIVE IN THE SMALL COMMUNITY OF MAYGER WHICH IS ON THE COLUMBIA RIVER BETWEEN PORTWESTWARD & LONGVIEW. PORTWESTWARD IS A INDUSTRIAL SITE WHERE P.G.E. IS FINISHING THE NEW TURBINE GENERATING PLANT WHICH WILL BURN FUEL IN THE THOUSANDS OF GALLONS A DAY, BUT BECAUSE OF IDEAL AIR CURRENTS IN THIS AREA IT WILL NOT ADD TO THE AIR POLLUTION, IT IS SAID.

AT THE PRESENT TIME IN ORDER TO BURN WE HAVE TO GET A PERMIT FROM THE FORESTRY DEPT. & THEN WAIT FOR A BURN DAY. I DONT OBJECT TO THIS BECAUSE THE FORESTRY DEPT. HAS BEEN FAIR, REASONABLE & PROMP IN ISSUING PERMITS TO ME IN THE PAST FOR BURNING.

I DO NOT OBJECT TO WAITING FOR A BURN DAY ALTHOUGH AT TIMES I GET CONFUSED. THIS USUALLY HAPPENS WHEN I DRIVE TO LONGVIEW & LOOK ACCROSS THE RIVER GOING DOWN THE HILL TO THE LONGVIEW BRIDGE. WITH ALL THE SMOKE COMING FROM RENOLDS ALLUMINUM & WYERHOUSER PLANTS IT IS HARD TO IMAGINE THAT IT IS NOT A BURN DAY EVERY DAY IN THIS AREA.

TWO MILES TO THE WEST OF ME P.G.E. WILL BE BURNING THOUSANDS OF GALLONS OF FUEL A DAY IN THEIR NEW TURBINE GENERATING PLANT. FIVE MILES TO THE EAST RENOLDS ALUMINUM & WYERHOUSER CAN TURN OUT SO MUCH POLLUTION THAT HEADLIGHTS ARE NEEDED AT TIMES TO DRIVE THROUGH IT ON THE WAY TO RAINIER OR LONGVIEW & YOU PEOPLE (THE D.E.Q.) ARE PROPOSING CONTROLS TO STOP PEOPLE FROM BURNING THE LIMBS & BRANCHES THAT ARE BLOWN DOWN EACH WINTER FROM THE TREES ON OUR PLACES OR BURNING THE STUMPS AFTER CLEARING LAND BECAUSE OF WOOD SMOKE. I THINK YOU HAVE PLACED THE CART BEFORE THE HORSE.

I ALSO OBJECT TO THE D.E.Q. HOLDING A HEARING WHICH EFFECTS THE CITIZENS OF COLUMBIA COUNTY IN EUGENE. IT IS A OBVIOUS WAY OF LIMITING OBJECTING CITIZEN' IMPUT.

STAN ECAAS
MAYGER

C.C. CLATSKANIE CHIEF

FJW

# COLUMBIA COUNTY

BOARD OF COMMISSIONERS

331 Courthouse, St. Helens, Oregon 97051

TELEPHONE (503) 397-4322

February 7, 1975

Mr. Kessler Cannon, Director
Department of Environmental Quality
1010 N. E. Couch Street
Portland, Oregon 97232

Dear Mr. Cannon:

This letter is submitted as testimony at the public hearing to be held by DEQ on February 28, 1975, relating to burning rules.

The Columbia County Board of Commissioners would like to go on record as being strongly opposed to the proposed burning regulations covering Columbia County which indicate a special control area or special restricted areas.

With the exception of the St. Helens area, with a population of slightly over 5,000, we can see no reason whatever to limit agricultural or field burning within Columbia County. There are no other population centers or large industries contributing to pollution in Columbia County other than that which comes from the Longview, Washington area.

Since approximately 80% of the land within Columbia County is in private timber ownership, there is little other area in which burning could occur.

It might also again be brought to your attention that Columbia County does not fall within the "metropolitan" area of the city of Portland, and the counties of Multnomah, Washington, and Clackamas. Rules governing that area should not be forced upon Columbia County, which in no way compares to the metropolitan area.

It is our further contention that the air screen in Columbia County could in no way affect conditions in the tri-county area of Multnomah, Clackamas and Washington counties.

Therefore, we respectfully request that all due consideration be given to excluding Columbia County from the proposed burning regulations being considered.

Sincerely,

COLUMBIA COUNTY
BOARD OF COMMISSIONERS

Chairman

Commissioner

Commissioner

# City of Lyons

LYONS, OREGON 97358

11 February, 1975

Office of Administrator
Air Quality Control Division
Oregon D. E. Q.
1234 S. W. Morrison Street
Portland, Oregon 97205

ATTENTION: Kessler R. Cannon, Director.

Dear Sir:

The Lyons City Council would like to go on record as approving the proposed Rules for Open Burning dated 13 January, 1975.

It is the judgement of the Council that some form of controlled burning is very essential in rural areas. High cost of trash pick-up for yard trimmings makes disposal extremely difficult in our area. Also the long distance to a disposal site for individuals to transport burnable yard refuse makes burning essential.

Very Truly Yours,

June G. McPheeters

June G. McPheeters, Mayor
by

Evelyn L. Mormon, Recorder

**Washington County**
**Fire District No. 1**

14480 S.W. Jenkins Road
Beaverton, Oregon 97005



February 13, 1975

Mr. Kessler R. Cannon, Director
Department of Environmental Quality
Northwest Region
1234 S. W. Morrison Street
Portland, Oregon 97205

Dear Mr. Cannon:

The Washington County Fire Marshals Association at their regular monthly meeting held February 11, 1975 at Orenco, Oregon, unanimously voted their endorsement of your proposed amendments to OAR Chapter 340.

The members were gratified to see the needed addition of Section 23-040 (6) Emergency Conditions. This area has been causing the fire departments a bit of trouble. Hopefully this section will help if occasions arise.

However, we were not totally impressed by the extension of the fall burning period. Perhaps it has merit, but for a number of fire departments it only adds to the problems of issuing permits. Nevertheless we intend to continue to do all that we can to support your program.

Very truly yours,

D. E. McEvoy

DEM/b
cc: Mr. Tom Bisthan

MICHAEL D. ROACH
Director

# MID WILLAMETTE VALLEY
# AIR POLLUTION AUTHORITY

2585 STATE STREET / SALEM, OREGON 97301 / TELEPHONE AC 503 / 581-1715

February 13, 1975



Environmental Quality Commission
1234 S.W. Morrison
Portland, Oregon 97205

Commissioners:

The Mid-Willamette Valley Air Pollution Authority has reviewed the draft dated January 13, 1975 of "proposed rules for open burning". As you know the general thrust of the state and the two regional authorities in the past few years has been to encourage and develop alternatives to open burning and to encourage the use of air curtain incineration where other alternatives were not yet viable. The proposed regulations do not promote these objectives.

Specifically the following comments are intended to strengthen the proposed regulations and the above objectives:

23-025 POLICY
....to eliminate open burning disposal practices [where] and to develop alternative disposal methods, emphasizing resource recovery [,are feasible and practicable;] and to regulate specified types of burning [; to encourage] by requiring utilization of highest and best practicable burning methods (air curtain incineration) available where other disposal practices [are not feasible] have not yet been developed, ....

23-030 DEFINITIONS
(6) "Domestic waste" means nonputrescible waste consisting of combustible materials such as [paper, cardboard,] yard clippings, wood and similar materials ....

(7) [Forced - air pit] "Air curtain incineration" means any ....

(10)"Open burning" means burning conducted in open outdoor fires [common burn barrels] or backyard incinerators or burning conducted in such a manner that combustion air may not be effectively controlled, and that combustion products are not vented to the atmosphere through a stack, duct, vent, or chimney.

23-015 OPEN BURNING GENERAL
(4) No open burning shall be initiated in any area of the

state affected by an air pollution forecast, alert, warning or emergency ....

23-040 OPEN BURNING PRACTICES

(4) Land Clearing Debris

(d) [After July 1, 1977 in the Willamette Valley] Within Benton, Linn, Polk, Yamhill, and Marion Counties. (MWVAPA regulations prohibit landclearing burning.)

(e) After July 1, 1977 in the Willamette Valley.

(5) Domestic (Note: Mid-Willamette Valley Air Pollution Authority prohibits all types of domestic burning of other than wood, needle or leaf material at the present and prohibits all domestic burning after July 1, 1975.)

(6) Special or Emergency Conditions
(Delete - adequately covered under variance procedure and in most instances controllable through use of air curtain incineration.)

23-025 [FORCED-AIR PIT] AIR CURTAIN INCINERATION

The Authority prohibits all open burning, except that exempted by statute or where air curtain incineration is used, after July 1, 1975. The alternatives of whole log chippers, composting and paper recycling are all available. For those specifics where these alternatives do not apply, air curtain incineration can be used.

Sincerely yours,

Michael D. Roach
Director

David St. Louis
Acting Director

DS/ls/163,963

ADDENDUM TO AGENDA ITEM NO. I., February 28, 1974, EQC Meeting

Since the publication of this staff report, several additional responses have been received and are provided for the record.

The City of Portland, Fire Prevention Division, indicates general support for the proposed rules. They suggest mention of a written permit requirement might be beneficial in 23-035(6). Also suggested is expanded language relating to 'barbecue equipment" usage in 23-050(2).

Clackamas Marion District of State Forestry Department is concerned with the prohibition burning in rural areas, when alternatives are not available. They also request that a hearing be held in the Clackamas County area.

Another letter from Clackamas expresses concern about lack of opportunity to burn if the allowed period turns out to be wet.

The Clatskanie Rural Fire Protection District and Mr. and Mrs. Guisinger from Rainier object to including West and Central Columbia County in the Northwest Regional burning control area. It should be noted that the only immediate control being proposed for Columbia County is the Marginal-Prohibition type of daily control except for the Scappoose RFPD which would come under the same control as the Portland area. After July 1, 1977 all open burning addressed by this rule would be prohibited in Columbia County.

The State Forester noted that forest land burning was omitted from the exclusions listed in 23-050 and suggested a notice provision to be included. The staff agrees with the State Forester and therefore proposes an addition to Section 23-050 to be paragraph (6) as follows:

"23-050(6) Burning on forest land permitted under the Smoke Management Plan filed pursuant to ORS 477.515."

THE CITY OF
PORTLAND
OREGON

FIRE PREVENTION
DIVISION

CHARLES R. JORDAN
COMMISSIONER

ROBERT W. BUSCHO
FIRE MARSHAL

55 S.W. ASH STREET
PORTLAND, OR. 97204
503/248-4363



February 13, 1975

Mr. Kessler R. Cannon, Director
Department of Environmental Quality
Office of the Administrator
Air Quality Control Division
1234 S. W. Morrison Street
Portland, Oregon 97205

Dear Mr. Cannon:

Our division has received and reviewed DEQ's proposed rules for open burning dated January 13, 1975. Basically we support these rules as written. However, I notice the absence of any reference to a written permit. Perhaps this would come under 23-035 Open General Burning, paragraph (6).

We especially like and support 23-050 Exceptions, paragraphs (1) through (4). As the regulating authority, this gives us some latitude which we use occasionally such as fire control training. Paragraph (2) could be rewritten as: "(2) Barbecue equipment for the convenience and comfort of outdoor living when used in connection with any single family residence." However, as written presents no problem.

Sincerely,

Robert W. Buscho
Fire Marshal

RWB:lh

**FORESTRY DEPARTMENT**

**CLACKAMAS MARION DISTRICT**

RT. 4, BOX 595 • MOLALLA, OREGON • 97038 • Phone 829-2216



SUBJECT: PROPOSED OPEN BURNING RULES

TO: Department of Environmental Quality

FROM: Chan Bunke, District Forester

DATE: February 5, 1975

I have read and concur with your proposed open burning rules as they will apply to several Rurals in the Cascade foothills portions of Clackamas County. I feel that the extension of open burning is proper. In fact, I would recommend that the July 1, 1977 cutoff date be extended indefinitely, because:

1. Residents of these areas are now accustomed to burning on days when air pollution is low. They understand and agree with this.

2. Recent years burning practices have not resulted in serious air quality degradation.

3. Alternate means of disposal are not that readily available. (Burning prohibition in these areas tends to foster illegal roadside and forest area dumping.)

4. The predominant land use in these areas is farm and forest. The County plans to so zone the areas. These areas have a much greater need for the continued use of fire as part of their farm and/or forest operation. (I know that a farm and forest exemption exists. People are much more willing to accept uniform application of the rules.)

5. Open burning will still be allowed in large areas of Clackamas County, outside of the Rurals.

I would like to respond to one more point. I believe that a hearing that will effect a burning prohibition on certain residents of Clackamas County should be held in the County, not in Eugene.

CB:nf

17119 S.E. Division
Portland, Ore. 97236
2-24-75

Dept. of Environmental Quality
1234 S.W. Morrison Street
Portland, Oregon 97205

Dear Sirs:

In regard to your proposal of new open burning rules, we would like to know if on the scheduled burning days, that there is rain or a high pollution rating – one could have extra burning days provided so that one could burn the necessary things.

Thank you for this consideration.

Yours truly,
Mr. and Mrs. Chas. Ciriani

---

Emily Seifert,
Clackamas RT. 1,

**Clatskanie Rural Fire Protection District**

P. O. BOX 807

CLATSKANIE, OREGON 97016

2-25-75

Dept. of Environmental Quality,
Office of Administrator,
Air Quality Control Div.
1234 S. W. Morisson St.
Portland, Ore.

Dear Sirs;

Our Fire district covers some 135 Sq. Miles, Population About 5000 people. I do not believe that we should be included in a specially restricted area at this time, and have a regulation that would be restrictive in the means of disposing of Land Clearing Debri.

I believe that if the people cannot burn legaly under a permit system, they will merely let this brush accumalate Either growing or in piles, and thereby increase our potential fire losses.

In some cases I am sure there will be (Accidental) fires, which we will have an expense to suppress, and there will be no way to prove how these are started.

Surely polution of the Land by accessive debrim must also be concidered along with Air Pollution. Most people cannot afford the alternate methods of disposal.

Sincerely Yours,
Stanley Lund
Stanley Lund, Chief

**Petition**

Whereas the Western and Central portions of Columbia County, namely those areas encompassed by the boundaries of the Clatskanie school district 5J, Rainier school district 13, and Vernonia school district 47, are less populated and have different air conditions and problems than those of the Metropolitan area and

Whereas, there are solid waste disposal problems in the area for land clearing and domestic waste disposal and

Whereas, there is precedent for division of counties in terms of open burning regulations (ie: Portions of Multnomah and Lane counties are excluded from "Willamette Valley" and or specially restricted areas) now therefore

Be it Resolved: that we the undersigned residents of Columbia County request that the above mentioned areas be removed from both the "Willamette Valley" and the Specially Restricted area designations as proposed in Department of Environmental Quality Proposed Rules for Open Burning, Jan. 13, 1975.

Name George L & Fern M Hausinger

Address RFH 1 Box 228

Rainier, Oregon 97048

Delena-Alston area.

Clip and Mail to:

Burning Regulations
The Clatskanie Chief
P.O. Box 8, Clatskanie, Oregon 97016

They will be forwarded to the Department of Environmental Quality for its February 28 hearing in Eugene.

# FORESTRY DEPARTMENT

## OFFICE OF STATE FORESTER

2600 STATE STREET • SALEM, OREGON • 97310 • Phone 378-2560


February 24, 1975



Department of Environmental Quality
Office of the Administrator
Air Quality Control Division
1234 SW Morrison St.
Portland, OR 97205

Gentlemen:

Reference is made to the proposed rules for open burning amending OAR Chapter 340, Sections 23-005 through 23-020 (Open Burning) and 28-005 through 28-020.

It is understood no intent to restrict forest land burning under Oregon Forest Laws Chapter 477, is intended in the proposed revision. This is not made entirely clear, however.

We suggest this could be clarified by the addition of a point (6) in Section 23-050 Exceptions to read as follows:

(6) Burning on forest land permitted under the Smoke Management Plan filed pursuant to ORS 477.515.

Very truly yours,

J. E. Schroeder
State Forester

JES:LWW:bbs

cc: Kessler Cannon

air Q

Judy Moore
229-5326

Department of Environmental Quality
1234 S.W. Morrison
Portland, Oregon 97205

February 4, 1975: For Immediate Release

The Department of Environmental Quality (DEQ) has scheduled a public hearing to consider open burning rules February 28 at 1:30 p.m. in Harris Hall, 125 E. 8th Street, Eugene.

Under rules proposed by the DEQ, back-yard burning will be extended until July 1, 1977. Banned as of January 1, 1975, back-yard burning has been permitted twice-yearly for 30 days in the spring and fall for yard and garden clippings and clean wood. The rules will also allow extension of land clearing burning in Southern Oregon and other populated areas in Eastern and Central Oregon to July 1, 1977.

Further provisions in the rules allow DEQ to authorize burning under emergency conditions -- such as debris from a massive oil spill or from log jams in a waterway -- when no other alternatives are available.

Unaffected would be the long-standing prohibition against the burning of land clearing debris in the populated areas of Multnomah, Washington, Clackamas, and Columbia counties.

According to Wayne Hanson, chief of the DEQ air quality division, "Essentially there is no change in the rules prohibiting open burning of commercial, industrial and solid waste debris." He indicates "The bans are being removed in certain areas because solid waste programs are not capable yet of disposing of the materials."

All interested persons may submit testimony or be heard orally at the hearing, or submit written material to DEQ headquarters, 1234

S.W. Morrison Street, Portland, 97205, prior to the hearing.

B. A. McPhillips, chairman of the Environmental Quality Commission will conduct the hearing.

- 30 -

# ENVIRONMENTAL QUALITY COMMISSION

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

To: Environmental Quality Commission

From: Director

Subject: Agenda Item J, February 28, 1975, EQC Meeting

Status Report: DEQ v. Zidell Explorations, Inc.

## Background

What follows is a brief report on the matter of the Department of Environmental Quality v. Zidell Explorations, Incorporated. On October 1, 1973, the Department precipitated a contested case relationship between itself and Respondent by imposing a $20,000 civil penalty against the Respondent in a letter over the signature of then Director, Diarmuid F. O'Scannlain. The Department's allegation was that Respondent had negligently caused or permitted a substantial oil spill into the Willamette River. By letter of October 10, 1973, Respondent requested a contested case hearing in the matter, setting up answers by way of denial and, in the alternative, a plea for mitigation. The matter went to hearing on April 1, 1974, before the Commission's duly appointed Hearings Officer, Professor William H. Dorsey. On January 27, 1975, the Hearings Officer filed with the Commission and the Parties his Proposed Findings, Conclusions, and Order. It was the Hearings Officer's Ultimate Finding that the Respondent caused or permitted the discharge of oil into the Willamette River through negligence. The Hearings Officer's Proposed Order imposes a $20,000 fine upon Respondent.

## Discussion

On February 3, 1975, Respondent filed with the Commission a Request for Review of the Hearings Officer's Proposed Findings, Conclusion, and Order. Such timely request enjoins upon the Commission the duty of review in this matter. Respondent, by letter of February 7, 1975, has been informed of the Commission's acceptance of his petition for review on February 6, 1975. Written exceptions and argument should be filed with the Commission by February 26, 1975 to be considered timely.

The record in this matter consists of some 439 pages of transcription and includes the testimony of some 28 witnesses, as well as several items of documentary and physical evidence. The Commission may wish to limit its examination of the record to those portions specifically cited by counsel. The record is (or soon will be) reposed with the Department's Hearings Officer in Portland. Each Commissioner is required to examine all of those portions of the record cited by the parties and informal arrangements should be made to such an end.

The Commission is respectfully reminded that it is improper to discuss the merits of this case with any third party or with Departmental representatives outside the presence of opposing counsel.

Conclusion

The Chairman may, at his discretion, schedule the matter for oral argument before the Commission. After review of the record, the Commission may substitute its judgment for that of the Hearings Officer in making any particular Finding of Fact, Conclusion of Law, Order, or Judgment.

Recommendation

It is the Director's recommendation that this matter be set for review as an agenda item for the regularly-scheduled Commission meeting of March 28, 1975.

KESSLER R. CANNON
Director

PWM:kok
February 19, 1975

cc: Mr. Robert Haskins
Mr. Kenneth Roberts
Professor William Dorsey

DEPARTMENT OF
ENVIRONMENTAL QUALITY

1234 S.W. MORRISON STREET • PORTLAND, ORE. 97205 • Telephone (503) 229-5301



October 1, 1973

CERTIFIED MAIL
Return Receipt Requested

Zidell Explorations, Inc.
3121 S. W. Moody Street
Portland, Oregon 97201

Attention: Emery Zidell
President

Gentlemen:

On or about September 6 and 7, 1973 Zidell Explorations, Inc. (hereinafter referred to as "Company") negligently caused or permitted the discharge of over 50,000 gallons of oil into the Willamette River, waters of the state, from Company's partially dismantled aircraft carrier formerly known as the USS Princeton while it was moored at the Kingsley Lumber Company dock on the west bank of the river near Linnton.

Pursuant to ORS 449.995 I hereby impose a civil penalty in the amount of $20,000.00 against Company for the above-described spill. In determining the precise amount of the penalty, full consideration has been given to the gravity of the violation, previous record of compliance or non-compliance, timeliness of notice to the Department of the oil spill and timelinesss and effectiveness of cleanup efforts.

Company has the right, if it so requests, to have a contested case hearing pursuant to Oregon Revised Statutes, chapter 183. Company's request must be made to the Director in writing, must be received by the Director within 20 days of the date hereof, and must specify with particularity each and every objection Company has to the civil penalty imposed, including the specific grounds for and reasoning in support thereof.

Sincerely,

DIARMUID F. O'SCANNLAIN
Director

FMB/bw

cc: Raymond P. Underwood
Justice Department
cc: Water Quality Division
cc: Portland District Office

I hereby acknowledge receipt of this letter this 2nd day of October 1973 at_____ .m.

Zidell Explorations, Inc.

By: _____

SOUTHER, SPAULDING, KINSEY, WILLIAMSON & SCHWABE
ATTORNEYS AT LAW
12TH FLOOR STANDARD PLAZA
PORTLAND, OREGON 97204
TELEPHONE 503-222-9981
CABLE ADDRESS: "ROBCAL"
ROBERT T. MAUTZ (1905-1969)

CALVIN N. SOUTHER
BRUCE SPAULDING
WILLIAM H. KINSEY
WAYNE A. WILLIAMSON
JOHN L. SCHWABE
GORDON MOORE
KENNETH E. ROBERTS
FORREST W. SIMMONS
JAMES B. O'HANLON
DOUGLAS M. THOMPSON
JAMES R. MOORE
A. ALLAN FRANZKE
ROLAND F. BANKS, JR.
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DOUGLAS J. WHITE, JR.
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JAMES F. SPIEKERMAN
ROBERT G. SIMPSON
RIDGWAY K. FOLEY, JR.
THOMAS M. TRIPLETT
ROBERT E. JOSEPH, JR.

STEPHEN B. HILL
PAUL N. DAIGLE
ROBERT T. HUSTON
KENNETH D. RENNER
KENNETH E. ROBERTS, JR.
ANDREW F. FINK
DONALD JOE WILLIS
J. LAURENCE CABLE
GREGORY W. BYRNE
MICHAEL D. HOFFMAN
JAMES D. HUEGLI
HENRY C. WILLENER
TERRY C. HAUCK
MARK H. WAGNER
JAMES L. FITZGERALD
JOHN G. CRAWFORD, JR.
DON K. LLOYD

EDWIN D. HICKS
COUNSEL

October 10, 1973

Diarmuid F. O'Scannlain
Director
Department of Environmental Quality
1234 S.E. Morrison Street
Portland, Oregon 97205

RE: Zidell Explorations, Inc.
Ex-"USS PRINCETON"
Casualty 9/6/73
Our File No. M-11972

Dear Mr. O'Scannlain:

Your letter of October 1, 1973, imposing a civil penalty under ORS 449.995 in the amount of $20,000 against Zidell Explorations, Inc., has been referred to me as its attorney for handling and further action.

ORS 449.995 provides:

"Any person who intentionally or negligently causes or permits the discharge of oil into the waters of the state shall incur, in addition to any other penalty as provided by law, a penalty in the amount of up to $20,000 for every such violation; that amount to be determined by the Director of the Department after taking into consideration the gravity of the violation, the previous record of the violator in complying, or failing to comply, with the provisions of this section and ORS 449.155 to 449.175, and such other considerations as the Director deems appropriate."

ORS 449.077 provides in part:

" * * *, it is hereby declared to be the public policy of the state to conserve the waters of the state and to protect, maintain and improve the quality thereof for public water supplies, for the

> propogation of wildlife, fish and aquatic life and for domestic, agricultural, industrial, municipal, recreational and other legitimate beneficial uses; to provide that no waste be discharged into any waters of this state without first receiving the necessary treatment or other corrective action to protect the legitimate beneficial uses of such waters; to provide for the prevention, abatement and control of new or existing water pollution; and to cooperate with other agencies of the state, agencies in other states and the Federal Government in carrying out these objectives."
>
> ORS 449.081(5) provides in part:
>
> "The Commission may settle or compromise in its discretion, with the approval of the Attorney General, any action, suit, or cause of action or suit for the recovery of a penalty or abatement of a nuisance as it may deem advantageous to the state."

I do not believe that there is any evidence whatsoever that my client "intentionally" caused the oil to be discharged into the waters of the state. On the subject of "negligence," there is no evidence that Zidell Explorations, Inc. breached the standard definition of negligence, i.e., the doing of some act which a reasonably prudent person would not do or the failure to do something which a reasonably prudent person would do under the same or similar circumstances.

The vessel had been at the Kingsley Lumber dock since April 12, 1973, and had been inspected weekly and there was absolutely no evidence during the inspections of any water entering the vessel. The clear weight of the evidence indicates that persons unknown came aboard the vessel and caused a ten-inch water line to be opened which permitted water to enter the vessel.

On behalf of my client, I ask for a contested case hearing pursuant to ORS Chapter 183 and the grounds for such request and the specific objections of my client are as follows:

1. That the imposition of a civil penalty under ORS 449.995 is unreasonable, capricious, arbitrary and an abuse of discretion and is not warranted under the law and the facts.

2. Your letter of October 1, 1973, states that Zidell Explorations, Inc. (Zidell) "negligently caused or permitted the discharge of over 50,000 gallons of oil into the Willamette River." There is absolutely no evidence that Zidell was "negligent" or that it "permitted" the discharge of over 50,000 gallons of oil into the Willamette River.

3. That there is no evidence that Zidell did not act as a reasonably prudent person would or would not have acted under like or similar circumstances in regard to the vessel at the Kingsley Lumber dock.

4. That there is no evidence that "50,000" gallons of oil was discharged from the vessel into the Willamette River.

5. That the imposition of the maximum penalty of $20,000 is indicative that the Director did not take into consideration all of the circumstances of the casualty and Zidell's activities before and subsequent to the casualty as is required by OAR Chapter 340, Section 47-030.

6. The penalty has apparently been imposed because of claimed violations of ORS 449.155 to 449.175 and it clearly appears that there can be no responsibility where the discharge was a- a result of an "act of war or sabotage or an act of God." (ORS 449.157). Although Zidell has no proof that there was an act of "sabotage," nevertheless it is of the opinion that the facts clearly indicate the discharge was as a result of the activities of a third person or persons for whose acts Zidell would not be responsible.

7. That due consideration has not been taken of the fact that Zidell immediately took steps to remove and abate the oil under and pursuant to the provisions of ORS 449.161; that by so acting, Zidell made it unnecessary for the state to act as it would have been required to do under ORS 449.163.

In the alternative, and without waiver of the foregoing, Zidell Explorations, Inc., asserts:

1. That ORS 449.171 provides that the Director may, upon written application therefor received within fifteen (15) days after receipt of notice under ORS 449.995 and when deemed in the best interests of the state in carrying out the purposes of this chapter, "remit or mitigate any penalty provided for in ORS 449.995 or discontinue any prosecution to recover the same upon such terms as he, in his discretion, shall deem proper," and that the evidence clearly indicates that the penalty in this case should be remitted and/or mitigated for the reasons stated and numbered 1 through 7.

Zidell Explorations, Inc. believes that other grounds and exceptions may exist in its favor and reserves the right to present evidence on other grounds and exceptions at the time of any formal hearing.

SOUTHER, SPAULDING, KINSEY,
WILLIAMSON & SCHWABE

By: Kenneth E. Roberts
Of Attorneys for Zidell Explorations, I

KER:tms

cc: Richard G. Thorne
Zidell Explorations, Inc.

The Department of Environmental Quality hereby acknowledges receipt of this letter this 10th day of October, 1973, at 2:45 p.m. hours.

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: Carole Mascato

Typed name

SOUTHER, SPAULDING, KINSEY, WILLIAMSON & SCHWABE
ATTORNEYS AT LAW
12TH FLOOR STANDARD PLAZA
PORTLAND, OREGON 97204
TELEPHONE 503-222-9981
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JOHN G. CRAWFORD, JR.
DON K. LLOYD
NEVA T. CAMPBELL
JOHN E. HART
ERWIN A. DUTCHER
ROGER A. LUEDTKE

EDWIN D. HICKS
COUNSEL

February 3, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
FEB 4 1975
OFFICE OF THE DIRECTOR

Chairman
Environmental Quality Commission
1234 S.W. Morrison Street
Portland, Oregon 97205

RE: Department of Environmental Quality
Zidell Explorations, Inc.
Our File No. M-11972

Dear Sir:

I am enclosing for filing the Request for Review of the Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order of the Hearing Officer dated the 27th day of January, 1975. I would ask that the Request for Review be filed with the Commission.

I understand from reading the Oregon Administrative Rules, Chapter 340, that my client may file with the Commission written exceptions and arguments to the Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order of the Hearing Officer. As I read OAR 11-132(4), these exceptions must be filed 30 days from the time of mailing but as I read the rule, the written exceptions and arguments are only permitted after a Request for Review has been filed and only upon the motion of the Chairman of the Commission or a majority of the members have voted to review the Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order of the Hearing Officer.

Sincerely yours,

KENNETH E. ROBERTS

KER:tmc
Enclosure

cc: (w/enclosure)
Mr. Kessler R. Cannon,
Director, DEQ

Professor William H. Dorsey
Hearing Officer

Mr. Robert L. Haskins
Assistant Attorney General

Mr. Thomas Sherwood
Zidell Explorations, Inc.

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

BEFORE: PROFESSOR WILLIAM H. DORSEY,
HEARING OFFICER

| | | |
|---|---|---|
| In the Matter of: | ) | |
| | ) | |
| DEPARTMENT OF ENVIRONMENTAL QUALITY, STATE OF OREGON, | ) | |
| | ) | |
| The Department, | ) | |
| | ) | REQUEST FOR REVIEW |
| v. | ) | |
| | ) | |
| ZIDELL EXPLORATIONS, INC., | ) | |
| | ) | |
| The Respondent. | ) | |

COMES NOW ZIDELL EXPLORATIONS, INC. and requests the ENVIRONMENTAL QUALITY COMMISSION and the members thereof to review the Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order of the Hearing Officer, Professor William H. Dorsey, dated the 27th day of January, 1975.

This Request for Review is filed with the ENVIRONMENTAL QUALITY COMMISSION in accordance with the provions of OAR Chapter 40, Section 11-132(2).

DATED this 3rd day of February, 1975.

SOUTHER, SPAULDING, KINSEY,
WILLIAMSON & SCHWABE

By: _____
KENNETH E. ROBERTS
Of Attorneys for Zidell Explorations, Inc.

SOUTHER, SPAULDING, KINSEY, WILLIAMSON & SCHWABE
ATTORNEYS AT LAW
STANDARD PLAZA
PORTLAND, OREGON 97204
TELEPHONE 222-9981

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing Request for Review on the following individuals and agencies on the 3rd day of February, 1975, by mailing to said individuals and agencies a correct copy thereof, certified by me as such, contained in a sealed envelope, with postage paid, addressed as indicated and deposited in the post office at Portland, Oregon, on said day. Between the said post office and the address to which said copy was mailed there is a regular communication by U.S. Mail.

Kessler R. Cannon, Director
Department of Environmental Quality
1234 S.W. Morrison Street
Portland, Oregon 97205

Robert L. Haskins
Assistant Attorney General
Oregon State Department of Justice
555 State Office Building
Portland, Oregon 97201
Attorney for DEQ

Professor William H. Dorsey
Hearing Officer
Post Office Box 926
Salem, Oregon 97308

Dated this 3rd day of February, 1975.

KENNETH E. ROBERTS
Of Attorneys for Zidell Explorations, Inc.

February 7, 1975

Mr. Kenneth E. Roberts, Esq.
Souther, Spaulding, Kinsey,
Williamson & Schwabe
12th Floor Standard Plaza
Portland, Oregon 97204

Re: Department of Environmental Quality
v. Zidell Explorations, Inc.
Your File No. M-11972

Dear Mr. Roberts:

Allow me to respond, in the Chairman's behalf, to your correspondence of February 3, 1975.

The Commission accepts filing of the respondent's petition for review as of February 4, 1975.

The provisions of ORS 183.460 apply in the circumstance where "a majority of the officials of the agency who are to render the final order have not heard the case or considered the record." It obliges the agency to allow adversely affected parties to file exceptions and present argument to the officials who must then "personally consider the whole record or such portions of it as may be cited by the parties."

OAR Chapter 340, Section 11-132 should be interpreted to invoke review either on the Commission motion or timely request by the adversely affected party. This prevents the rule's being construed to abridge the right of review secured to Zidell by ORS 183.460.

The petition for review, having been executed in a correct and timely fashion, enjoins upon the Commission the duty to grant Zidell thirty days from the date of the proposed order to file exceptions and argument (our rule) and the duty to personally consider such portions of the record as may be cited.

You are reminded that we would expect to receive your exceptions and argument within thirty days of the date of mailing of the Proposed Findings, Conclusions, and Order of Professor Dorsey.

Please adhere as closely as possible to that portion of our rule (OAR Chapter 340, Section 11-132(4)) requiring specific reference to the portions of the record on which you rely. This will better enable the Commission to understand your client's position.

The Commission contemplates no oral presentation in this matter. Currently it expects from staff a brief status report containing no discussion of the merits. This is planned for the February 28 meeting in Eugene.

In March after having had opportunity to review your exceptions, argument, and supporting parts of the record (along with any analogous materials presented through agency counsel) the Commission contemplates deliberation and action without public hearing. This would be on the agenda for the Portland meeting on March 28, 1975.

Thank you for your kind attention in this matter.

Cordially,

KESSLER R. CANNON
Director

Peter McSwain
Hearing Officer

PMcS:vt

cc: Mr. Kessler Cannon
Mr. Rob Haskins
Mr. B.A. McPhillips

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

BEFORE: PROFESSOR WILLIAM H. DORSEY,
HEARING OFFICER

| | |
|---|---|
| In the Matter of:<br><br>DEPARTMENT OF ENVIRONMENTAL QUALITY, STATE OF OREGON,<br><br>The Department,<br><br>vs.<br><br>ZIDELL EXPLORATIONS, INC.,<br><br>The Respondent. | SUMMARY OF EVIDENCE, PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW, AND A PROPOSED ORDER |

The above-entitled matter having come on regularly for hearing before WILLIAM H. DORSEY, the duly appointed Hearing Officer, On April 1, 2, 10, and 11, 1974, and July 8, 1974; the Department of Environmental Quality, State of Oregon, being represented by ROBERT L. HASKINS, Assistant Attorney General, State of Oregon, and Zidell Explorations, Inc., being represented by KENNETH E. ROBERTS, ESQ., of Souther, Spaulding, Kinsey, Williamson & Schwabe; evidence having been introduced, both oral and documentary, on April 1, 2, 10, and 11, 1974, and the Hearing Officer having considered the evidence and having been duly advised in the premises by the Post-Hearing Briefs of the parties, now submits his Summary of Evidence, Proposed Findings of Fact and Conclusions of Law, and a Proposed Order.

## I. INTRODUCTION

The facts in this case are not in dispute, but the legal conclusions to be drawn from the facts are in dispute.

### A. PROCEDURAL MATTERS

This matter was commenced on October 1, 1973, when the then

Director of the Department of Environmental Quality (the Department) informed Zidell Explorations, Inc., (the Respondent) in writing, that he was assessing the maximum $20,000 civil penalty under ORS 449.995 against the Respondent for allegedly having negligently caused or permitted a discharge of oil into the Willamette River at Portland, Oregon, on September 6 and 7, 1973.

By a letter dated October 10, 1973, the Respondent made a timely request for a hearing, denied the allegations of negligence contained in the Department's October 1, 1973 letter, raised several affirmative defenses, and, in the alternative, petitioned for mitigation of the civil penalty assessed.

Effective October 4, 1973, ORS 449.995 was repealed by Oregon Laws 1973, Chapter 835, Section 234; however, the substance of said section was recodified as the new ORS 449.993 (3)(a) by the said Oregon Laws 1973, Chapter 835 in Section 25 (now ORS 468.140, 1974).

The Department argues that the oil spill in question and its Director's assessment of the maximum civil penalty of $20,000 must be judged by the law in existence at the time of the offense and of the assessment (namely, ORS 449.995 in effect on October 1, 1973) but that the procedural processes subsequent to the effective repeal of ORS 449.995 (namely, October 4, 1973) are subject to any new procedural requirements contained in its recodification (as ORS 449.993 (3)(a)) or in any other appropriate statutory amendments, all of which were also effective the same day, namely, October 4, 1973.

With respect to this point, the Respondent argues that in any event, certain of the asserted "procedural requirements" effective October 4, 1973, are matters of substance rather than of procedure, and are, therefore, inapplicable in judging the correctness of the civil penalty assessed against it for its alleged September, 1973 violation.

It should be expressly noted, however, that the Respondent does not question that the hearing in this case is before a Hearing Officer of the Commission (rather than before a Hearing Officer of the Director), nor that any mitigation of the civil penalty assessed must now be done by the Commission rather than by the Director.

The parties orally stipulated at the start of the hearing on April 1, 1974, that the matter is properly before the undersigned Hearing Officer in spite of the fact that the Notice of Hearing was not given strictly in accordance with OAR 11-110 as amended on March 28, 1974, and in spite of the fact that the undersigned's original appointment as the Hearing Officer in this case on December 13, 1973 was by the Department's then Director, Diarmuid F. O'Scannlain, rather than by an order of the Commission itself.

It should also be noted that there was an unavoidable delay in the preparation of the final transcript in this case, which also naturally delayed the filing of the Post-Hearing Briefs and the undersigned's report, because of difficulties with the electronic recording devices used to tape or record the proceedings on the four days of hearings in April, 1973.

The Respondent, from the start of the proceedings on April 1, 1973, objected to the use of these electronic recording devices in place of a court reporter. While agreeing with the Respondent's Counsel that a court reporter would have provided a better transcript of the proceedings, nevertheless the undersigned deems that he has no authority to rule, nor right to even suggest, that the use of electronic recording devices in 1974 vitiated or materially affected the administrative hearing process in this case.

B. THE FACTS SHOWN BY THE EVIDENCE

As stated earlier, the facts in this case are not in dispute; they may be summarized in a few pages.

The Respondent is a well known, highly respected and substantial firm, with its corporate headquarters in Portland, Oregon Among its many activities are its marine scrapping or salvage operations conducted in the main on the Willamette River at its dock located at 3121 S. W. Moody Street in Portland, Oregon.

In 1971, the Respondent purchased the former USS PRINCETON from the United States Department of Defense for almost $350,000, for scrapping purposes. It towed the ex-USS PRINCETON to its affiliated facilities in Tacoma, Washington, where approximately 190,000 gallons of oil were removed from the ship, and its superstructure and its flight deck were removed, and where some additional initial dismantling may have occurred. In April, 1972, the ship was towed to the Respondent's Moody Street facilities where the dismantling operations continued in earnest for approximately one year.

In April, 1973, due to the lighter than normal Oregon rain and snowfall during the winter of 1972-73, the Respondent was of the opinion that the then Willamette River depth at its Moody Street facilities was not sufficient to allow the ballasting operations involved in dismantling the ex-USS PRINCETON to continue. Because of the size of the ship, to allow it to simply remain at the Moody Street dock would be to preclude Zidell's dismantling operations on smaller vessels. Accordingly, the Respondent made a busines decision to move the ship from its Moody Street facilities, where 24-hour security protection existed, to rented facilities located several miles downstream on the Willamette River at a dock owned by the Medford Corporation within the city limits of Portland, in the area of the city known as Linnton. (This dock has been known and referred to variously as the Kingsley Lumber Company dock, the West Oregon Lumber Company dock, the Medford dock, and the Linnton dock.)

The dock in question in April, 1973, was no longer in

active use by ships for loading and unloading. It was, indeed, in a state of disrepair. It was often used by fishermen and sightseers and others, most, if not all, of whom were technically trespassers, since "No Trespassing" signs were posted at several key points leading to the dock.

In addition to the usual "trespassers," the dock soon attracted other kinds of trespassers, once the ex-USS PRINCETON was towed there and tied up. These persons may well have often been mere sightseers (after all, the ex-USS PRINCETON, even in its half-way dismantled state, was an awesome sight to behold because of its size, and, in addition, it was a famous ship); however, many of these persons were scavengers or just plain thieves who found the lure of the copious quantities of nonferrous metal parts aboard an unguarded ship too strong to resist. Many of these nonferrous metal pipes, bonnets, flanges and valves and other parts installed on the ship were readily removable with the use of common tools; in addition, the ship's storerooms still contained new replacement parts of various nonferrous metals.

The evidence is uncontradicted that during the period April 12, 1973, when the ship arrived at the Medford dock, and September 6, 1973, when the oil spill first occurred:

(1) There was no 24-hour security of the ship, weekly inspections only being made by the Respondent's employees to see if the lines were secure;

(2) Neither the Medford Corporation nor any of its other lessees on the adjacent premises had 24-hour security guard, nor any contractual or moral obligation to supply one for the ship;

(3) Several, if not many, incidents of fire on the dock, theft from the ship, and vandalism were reported to the Respondent's employees or were observed or known by them. As a matter of fact, in June, 1973, police citations were actually issued to four individuals and some of their "loot", plus a saw seized at, on, or

near the ship were confiscated by the police, and these items were introduced into evidence at the undersigned Hearing Officer's specific request. However, when Zidell officials failed to sign formal complaints, after notice of the need to do so, the charges against these four were dropped.

(4) Some weeks prior to the oil spill in question, Zidell employees had to retighten the bolts on a valve charged with water because it had begun to leak (presumably after someone abandoned his effort to remove the valve when it began to leak water).

Sometime on the evening of September 5, 1973, or in the early morning hours of September 6, 1973, someone or some persons unknown went on the ship, removed a flange on a ten-inch brass valve, and removed the brass valve itself. Unfortunately, the ten-inch line itself was a sea line charged with water; after the flange and valve were removed, river water entered the ship and almost scuttled her before the cause of the trouble was discovered, the ten-inch line replugged, the water pumped out of the ship, the ship righted, and a disaster avoided.

As water entered the ship in the boiler compartment where the ten-inch sea line in question was located, it rose therein until it reached penetrations in the bulkheads fore and aft. As it reached these penetrations, it flowed into adjacent compartments fore and aft; however, because the stern section was lower in the water than the middle section was, water flowed aft more rapidly than forward; the water's weight soon brought the bottom stern section down until it became awash and flooded.

It appears that all of the oil that escaped into the Willamette River came from the flooded bottom stern section; as this bottom stern section settled, the oil contained therein floated out as it was replaced by water.

///

The Respondent properly notified the United States Coast Guard and the Department of the spill; immediate salvage efforts were initiated and immediate containment and cleanup efforts were undertaken by Zidell.

The parties agree, and the uncontradicted documentary testimony conclusively shows, that Zidell's containment and cleanup efforts were highly successful and very expensive for it, costing it somewhere between $300,000 and $500,000. In spite of its herculean efforts, however, approximately 26,000 gallons of oil spilled into the Willamette River.

Following its containment and mop-up operations, the Respondent, on September 13, 1973, duly informed the Department, as required by OAR 47-015 (1)(e) in writing, of the spill, of its cleanup efforts and the success thereof, and of its steps to prevent any further spills of the kind in question.

As noted above, the Department's reply was to assess the maximum $20,000 civil penalty on the ground of the Respondent's alleged negligence.

C. THE DEPARTMENT'S LEGAL ARGUMENTS

The ultimate legal conclusion which the Department draws from the facts -- and which it wishes the Commission and the Hearing Officer to draw from the facts -- is that the Respondent's negligence caused or permitted the discharge of oil from the ex-USS PRINCETON into the Willamette River.

In support of this ultimate legal conclusion, the Department argues as follows:

(1.) Zidell should have off-loaded all the oil from the ship contained in open tanks(particularlyand principally in the stern section of the ship) prior to moving it from the Moody Street dock where it had 24-hour a day security to the Medford dock where it knew it would only check on the ship weekly. Said failure

to remove the oil constituted negligence and said negligence was a proximate cause of the September 6-7, 1973 oil spill.

(2) In addition, Zidell's security, with respect to the ship at the Medford dock, was almost wholly nonexistent, and this, in and of itself under all of the circumstances, constituted gross negligence. This negligence was a concurring proximate cause of the September 6-7, 1973 oil spill.

With respect to the lack of security at the Medford dock, the Department's arguments are that the oil spill was forseeable because Zidell had knowledge during the months of April through August, 1973, that numerous trespassers were on the boat, that these trespassers were, with hand tools and saws, removing flanges bonnets, valves, and pipes, and other items of nonferrous material that Zidell knew that the ex-USS PRINCETON contained many lines, some of which had to be charged with water and go directly to the sea; that, as a matter of fact, Zidell personnel, a short time before the oil spill, had to tighten bolts on a valve on a line charged with water, where the bolts had been partially loosened by trespassers and the line was leaking water; and that accordingly, Zidell could have foreseen that some of the thieving trespassers would have removed a valve or a blank on a sea line which would have caused water to pour in, the ship to sink, and oil in open tanks to flow into the Willamette River as the ship sank.

With respect to the question of off-loading oil before the ship was moved from the Moody Street dock, the Department contends that it was possible for Zidell, at the point it then found itself in the dismantling operation, to remove a great deal -- if not all -- of the oil from the stern section that was in open tanks, and that to move the ship from a guarded place to an unguarded place with the knowledge that there was this much removable oil on board in open tanks ( or without checking to see how much oil was on board in open tanks) constituted, in and of

itself, negligence, with the result, an oil spill like the one in September, 1973, being clearly forseeable.

The Department actually contended at first that Zidell should have removed as much oil as practicable from the dead ship before even commencing dismantling operations. During the hearing, the undersigned Hearing Officer noted that on the basis of all the evidence before him, in not removing all oil before commencing dismantling operations, Zidell was following the ordinary standards in its industry. He further noted that the Department of Environmental Quality had authority to impose such a requirement on the dismantling industry by way of regulations, but that before such regulations could be promulgated and therefore be binding upon the industry, the Department would have had to give interested industry members notice of their proposed regulation and an opportunity to be heard.

Accordingly, the Hearing Officer is restricting his consideration of the Department's argument with respect to off-loading oil to the question of whether or not the off-loading of oil in the open tanks in the stern section should have taken place prior to the moving of the ship in April, 1973, from the Moody dock to the Medford dock.

D. THE RESPONDENT'S LEGAL ARGUMENTS

As the Respondent has correctly pointed out, at no time has the Department contended that the September 6, 1973 oil spill was intentional; the sole question under the applicable statutory provision is whether or not the oil spill in question was caused or permitted by the Respondent's "negligence."

The Respondent's first argument or contention is that there is absolutely no evidence in the record which shows that the Respondent's negligence caused or permitted the oil spill in question.

Specifically answering the contentions of the Department, Zidell argues that it followed the ordinary standards of care in the industry in removing oil from a dead ship as it came to it; that to now say that all oil must be removed prior to the commencement of a dismantling operation is to impose an obligation of care on it "after the fact."

In addition, Zidell maintains that in not posting a 24-hour security guard on the PRINCETON, it was again following the common practice in the industry, and that besides, it really had no jurisdiction over the Medford dock, nor rights there, other than to berth the ship. Zidell also contends that the Medford Corporation and it did all it could to get rid of trespassers and those who were pilfering from the ship.

Moreover, the principal contention of Zidell is that the evidence shows conclusively that a person or persons unknown removed the flange and valve on a ten-inch line in the boiler compartment charged with water and leading to the sea, and that this unauthorized and illegal act caused the sinking of the PRINCETON, the oil spill itself, and that said unauthorized and illegal act can in no way constitute the act of, nor be said to be due to, the negligence of Zidell.

In its Post-Hearing Brief, the Respondent also contends that the recent case of United States vs. LeBeouf Brothers Towing Co., Inc., (United States District Court for the Eastern District of Louisiana, filed June 14, 1974) could also apply to the imposition of the fine against Zidell by the Department of Environmental Quality. Without specifying how this case would apply to the Oregon situation, it is difficult, both for the Department and the Hearing Officer, to deal with this contention; however, the Hearing Officer is of the opinion that LeBeouf would not apply to our Oregon situation because the legislature has clearly intended that the penalty involved here be a "civil penalty" for intention-

al or negligent oil spills, rather than a criminal penalty; and, above all, to say the Respondent "incriminated" itself by its reporting of the incident and of its cleanup efforts is to ignore the fact that its own negligence might have caused the spill, and that the spill be well known to the Commission without the Respondent's reporting it.

The Hearing Officer specifically notes that the court in LeBeouf had first to find that thepenalty in question was "criminal" in nature before it made its ruling that to impose such a Federal criminal penalty in that case would violate the United States constitutional privilege against self-incrimination.

Zidell further argues in its Post-Hearing Brief, as its counsel implied during the hearing, that the Director acted arbitrarily and capriciously when he assesssed the $20,000 civil penalty, because he did not then have all of the facts in front of him. In this regard, the Hearing Officer rules that the position of the Department taken in its Post-Hearing Brief is sound: namely, that what the Director had in front of him when he assessed the penalty was enough for him to make a reasonable determination on, and that while additional facts were naturally developed during the course of the hearing requested by the Respondent, these additional facts would not nullify or negate what the Director did at the time he assessed the penalty, since these additional facts supplemented and completed the Department's information, rather than contradicted it.

A third additional point raised by the Respondent in its Post -Hearing Brief is to the effect that the act of the person or persons unknown constituted "sabotage" and under the provisions of ORS 449.157, therefore, excuse the Respondent from liability under ORS 449.995.

Without ruling whether or not the act constituted "sabotage" under the meaning of ORS 449.157, the Hearing Officer is neverthe-

less in agreement with the Department's position, as stated in its Post-Hearing Brief, that the "sabotage" exception in ORS 449.157 does not apply to violations of ORS 449.995.

In its Post-Hearing Brief, the Respondent recognizes that although the applicable statute might have been repealed and then recodified in another code section, the offence must be judged by the statute in effect at the time it was committed. It also concedes that new "procedural matters" incorporated into the recodification would be applicable during the hearing on this matter; however, it contends that several of the items labeled "procedural" by counsel for the Department are really substantive and therefore not applicable in this proceeding.

The Hearing Officer agrees with the Respondent on this matter, at least with respect to the new items listed in the amendments (Oregon Laws, 1973, Chapter 835, Section 23) to ORS 449.970 (2) (now ORS 468.130(2)1974) namely, the following:

> "(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 of solid waste disposal.
>
> (c) The economic and financial conditions of the person incurring a penalty,"

and agrees that they are matters of substance.

Thus, in the opinion of the Hearing Officer, only those matters listed in ORS 449.995 and OAR 47-030 in effect at the time of the oil spill in question (and also in effect when the Director assessed his penalty) can be considered in judging the determination of the amount of the penalty and they are as follows:

> "(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."

In this regard, it should be noted that the imposition of the penalty, while made by the Director of the Department, is now to judged in a hearing before the Environmental Quality Commission itself, and that if any mitigation is to be allowed, it is to be allowed by the Commission itself, rather than by the Director. (ORS 449.970 (3), Oregon Laws 1973, Chapter 835, Section 23; now ORS 468.130(3), 1974.)

## II. THE ISSUES

There are essentially two issues before the Hearing Officer in this case. The first is whether or not, based on the entire record before him, the preponderance of the evidence shows that Zidell Explorations, Inc., was negligent in causing or permitting the oil spill in question. The second is whether or not the Hearing Officer has the authority, or whether, if he did have authority, he even should recommend to the Commission mitigation of the assessed fine, in view of the fact that the Commission itself must make the final determination on mitigation and must exercise its own discretion in so doing.

## III. SPECIFIC FINDINGS OF FACT

Based on all of the evidence before him in the record, the Hearing Officer hereby makes the following specific findings of fact on the preponderance of the evidence:

1. On September 6-7, 1973, approximately 26,000 gallons of oil escaped into the Willamette River from the stern bottom section of the ex-USS PRINCETON owned by Zidell Explorations, Inc. in the City of Portland, State of Oregon.

2. This oil escaped from the stern bottom section of said ship when it became awash sometime early in the morning of September 6, 1973.

3. Almost all of the oil that escaped was contained in the bottom stern section of the ship.

4. The ship became awash because a person or persons unknown had, without authorization and illegally, removed in its entirety a ten-inch brass valve from a sea line charged with a hydrolic head, which sea line allowed river water to enter the ship. The water flowing between bulkheads added weight and brought the bottom stern section down until it became awash and flooded.

5. In addition to the 26,000 gallons which escaped into the Willamette River from the stern section, there was an additional approximately 9,000 gallons in the stern section which did not escape into the river, but which was later removed from the stern section by order of the United States Coast Guard.

6. Moreover, the ex-USS PRINCETON had an additional 47,000 to 52,000 gallons of oil on board when she was moved to the Medford dock, which oil was not spilled and which oil remained confined in tanks until ordered removed by the Coast Guard subsequent to the September 6-7, 1973 oil spill.

7. No inspection was made by Zidell prior to the moving of the vessel on April 12, 1973 to see how much oil was contained in her, nor to see what oil could have been removed from the open tanks in the stern section prior to moving her.

8. At Zidell's Moody Street docks, the ex-USS PRINCETON, while there, was under 24-hour security. At the Medford dock, the ex-USS PRINCETON was not under 24-hour security but was only inspected by Zidell personnel to see if its lines were taut, approximately once a week during the period April 13, 1973 to September 6, 1973.

9. Subsequent to the oil spill of September 6, 1973, and prior to its removal from the Medford dock to its Moody Street dock, Zidell did provide a 24-hour security for the ex-USS PRINCE-

TON. In November and December, 1971, Zidell had also provided a 24-hour security at the Medford dock for the ex-USS PRINCETON's sister ship, the ex-USS PHILLIPINE SEA, then owned by Zidell, prior to dismantling.

10. A short time before the oil spill of September 6-7, 1973, Zidell personnel had to tighten a valve on a sea line which was leaking because a person or persons unknown had loosened the bolts on said valve. If these bolts had not been tightened and this sea line secured, river water would have flooded the ship, perhaps sinking it at that time, and causing an oil spill.

11. During the period April 13, 1973 to September 6, 1973, responsible Zidell personnel were fully aware of the fact that numerous trespassers were aboard the ship, that they were pilfering from the ship, that they were removing therefrom many items of nonferrous metal such as pipe, bonnets, valves, flanges, and replacement parts for the same, and that they were loosening bolts on said parts on various lines, some charged with water and some not.

12. Moreover, during said period responsible Zidell personnel knew, or should have known, that said pilfering and loosening of bolts might result in water from the Willamette River entering the ship, causing her to sink, and resulting in the discharge of oil from the ship into the river.

13. The oil spill of approximately 26,000 gallons was the largest in Oregon's history with respect to inland waters.

14. The record of Zidell from 1968 to September 6, 1973, with respect to its previous violations, is set forth in Department's Exhibit A, which is attached hereto and made a part hereof.

15. Zidell's notice to the Department with respect to the oil spill was timely.

16. Zidell's cleanup efforts were not only timely but were most effective, with no damage to wild foul, and with only approxi-

mately 1,000 gallons ultimately escaping into the Willamette River permanently, at a cost to it in excess of $300,000.

IV. CONCLUSIONS OF LAW

The Hearing Officer is of the opinion that the following conclusions of law are applicable:

1. The acts of Zidell in removing the Princeton from its guarded dock at Moody Street to an unguarded rented berth at the Medford dock, when it contained approximately 35,000 gallons of oil in open tanks in the stern section, constituted negligence within the meaning of ORS 449.995.

2. The acts of Zidell in leaving the PRINCETON at an unguarded, rented berth at the Medford dock, when it contained approximately 35,000 gallons of oil in open tanks, and when they knew -- or should have known -- that trespassers were removing, with simple hand tools, articles of nonferrous metal such as pipe, flanges, valves, and bonnets, which might well come from the lines charged with water and leading to the sea, constituted an additional act of negligence within the meaning of ORS 449.995.

3. The oil spill of September 6-7, 1973 was forseeable by Zidell in view of all of the above-described circumstances surrounding the April 3, 1973 to September 6, 1973 berthing of the boat at the Medford dock.

4. The above-described acts of negligence of Zidell Explorations, Inc. were the proximate cause of the oil spill of September 6-7, 1973, from its ship, the ex-USS PRINCETON, into the Wilamette River.

5. The unauthorized and illegal act of the person or persons unknown who removed the valve in question on September 5, 1973 from the PRINCETON was <u>not</u> superseding cause of the oil spill.

6. The factors now found in ORS 468.130(2) 1974 as being

appropriate for the Commission's consideration in imposing the civil penalty under ORS 449.993(3)(a) (now ORS 468.140, 1974) are not appropriate for consideration in judging the correctness of the amount of a civil penalty assessed for a violation occurring before October 4, 1973 and a penalty assessed before October 4, 1973, under former Oregon statute ORS 449.995.

7. The exception for sabotage found in ORS 449.157, which was in effect in September and October, 1973, is an exception to the application of ORS 449.157 itself and does not apply to the civil penalty assessed in this proceeding for a violation of ORS 449.995.

V. HEARING OFFICER'S CONCLUSION:

Based on all of the evidence introduced before him at the hearings on April 1,2,11, and 12, 1974, and on the above-specified findings of fact and conclusions of law, the undersigned Hearing Officer is of the opinion that the preponderance of the evidence shows that the Respondent, Zidell Explorations, Inc, negligently caused or permitted (within the meaning of former ORS 449.995) the discharge of oil into the Willamette River on September 6-7, 1973 from its ship, the ex-USS PRINCETON, and that accordingly, the civil penalty assessed by the Director of the Department of Environmental Quality on October 1, 1974, was valid.

The question of the appropriateness of the amount of the civil penalty (which was assessed by the Director at $20,000, the maximum) is for the discretion of the Environmental Quality Commission, as mitigation under ORS 449.970(3) is now up to the Commission itself. Although the Hearing Officer has concluded that in his opinion the appropriate factors, as a matter of law, to be considered by theCommission are only those specified in former ORS 449.995 and OAR 47-030, as then in effect in September, 1973 (and before October 4, 1974) that still does not change the fact

that it is the Commission's discretion which must determine whether there are mitigating factors and which must ultimately determine the dollar amount of the fine, up to the maximum of $20,000.

Accordingly, it is the opinion of the undersigned Hearing Officer that outside of making specific findings of fact with respect to the previous record of Zidell in complying with the appropriate statutes and the timeliness of its notice to the Department and of its cleanup efforts, along with the gravity of the violation and tht effectiveness of its cleanup efforts, the undersigned Hearing Officer should make no recommendation with respect to the dollar amount of the fine, since mitigation is not within his discretion.

VI. RECOMMENDED ULTIMATE FINDING OF FACT

The undersigned Hearing Officer hereby makes the following recommended ultimate finding of fact to the Environmental Quality Commission of the State of Oregon:

Zidell Explorations, Inc., the Respondent herein, negligently caused or permitted the discharge of oil into the Willamette River from its vessel, the ex-USS PRINCETON, on or about September 6-7, 1973, in violation of ORS449.995 (1971).

VII. RECOMMENDED ULTIMATE CONCLUSION OF LAW

The undersigned Hearing Officer hereby recommends to the Environmental Quality Commission of the State of Oregon the following ultimate recommended conclusion of law:

The $20,000 civil penalty assessed by the then Director of the Department of Environmental Quality of the State of Oregon on October 1, 1973, against Zidell Explorations, Inc., for the alleged violation of ORS 449.995, was and is valid, subject to appropriate mitigation under ORS 449.995 and under ORS 449.970(3), now ORS 468.130(3) (1974).

VIII. PROPOSED ORDER

Pursuant to ORS 449.995, there is hereby imposed a civil penalty in the amount of $20,000 against Zidell Explorations, Inc., for the September 6-7, 1973 oil spill into the Willamette River at the City of Portland, State of Oregon, from the company's vessel, the ex-USS PRINCETON.

DATED at Salem, Oregon, this 27th day of January, 1975.

Respectfully submitted,

William H. Dorsey

WILLIAM H. DORSEY
HEARING OFFICER

NOTICE:

No final order in this contested case will be made by the Environmental Quality Commission, State of Oregon, until each party adversely affected has been given an opportunity to file exceptions and present arguments to the Commission, pursuant to OAR 11-130, effective March 28, 1974.

Please make all further arrangements in this matter with the Environmental Quality Commission itself; however, the Hearing Officer would appreciate receiving a copy of any exceptions and arguments presented to the Commission.

WHD

WHD:jk

CERTIFICATE OF SERVICE BY MAILING

STATE OF OREGON

COUNTY OF MARION

I, William H. Dorsey, the Hearing Officer in the above-described contested case before the Environmental Quality Commission of the State of Oregon, do hereby certify that I served a copy of the above SUMMARY OF EVIDENCE, PROPOSED FINDINGS OF FACT AND PROPOSED CONCLUSION OR LAW AND A PROPOSED ORDER on the parties in this case by mailing a copy of the same by first-class mail, postage paid at the Main Post Office, State and Church Streets, Salem, Oregon, 97301 to their respective counsel as follows:

Robert L. Haskins
Assistant Attorney General
Department of Justice
State of Oregon
555 State Office Building
Portland, Oregon 97201

(Counsel for Department of Environmental Quality)

and

Kenneth E. Roberts, Esq.
Souther, Spaulding, Kinsey, Williamson & Schwabe
12th Floor, Standard Plaza
Portland, Oregon 97204

(Counsel for Zidell Explorations, Inc.)

DATED at Salem, Oregon, this 27th day of January, 1975.

William H. Dorsey

WILLIAM H. DORSEY
HEARING OFFICER

WHD:jk

# ENVIRONMENTAL QUALITY COMMISSION

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



MEMORANDUM

To : Environmental Quality Commission

From : Director

Subject: Agenda Item No. K, February 28, 1975 EQC Meeting

Brooks Scanlon, Inc. Bend, Oregon - Review of Proposed Program for Log Handling in Deschutes River and Request for Time Extension

## Background

1. Background information was presented in Agenda Item E at the October 25, 1974, EQC meeting in Portland. A copy of the Director's report is enclosed for reference.

2. During the October 25, 1974, meeting the Commission's action required Brooks-Scanlon to implement the previously approved channel change proposal by October 1, 1975 or review the log handling proposal and if revisions are required submit a new approvable proposal by January 15, 1975. Any plan still must be implemented by October 1, 1975.

3. Brooks-Scanlon submitted an alternate proposal on January 10, 1975 in accordance with the Commission's action. Because of economic conditions and approvals required the company additionally requested that the project completion date be extended from October 1, 1975 to December 31, 1976. (Refer to Exhibit D attached.)

## Evaluation

1. Conditions at the log handling area are essentially unchanged from the reported status on October 25, 1974.

2. Exhibit A and B clearly indicate that this has been an on-going effort for several years.

3. The alternate proposal was approved by letter dated February 13, 1975 (Exhibit E).

Director's Recommendation

It is the Director's recommendation that Brooks-Scanlon should be required to implement their January 1975 plan for removal of log handling activities from the Deschutes River immediately and that October 1, 1975 be maintained as the completion date for the project.

KESSLER R. CANNON
Director

JEB:bw

February 14, 1975

attachments:

1. Agenda Item No. E, October 25, 1974.
2. Exhibit A. - Permit Requirements and Compliance Dates.
3. Exhibit B. - Summary of Correspondence and Events.
4. Exhibit C. - Letter from Brooks-Scanlon requesting time extension (September 11, 1974)
5. Exhibit D. - Letter from Brooks-Scanlon submitting an alternate proposal and requesting time extension (January 10, 1975)
6. Exhibit E. - Letter from DEQ approving alternate proposal (February 13, 1975).

# ENVIRONMENTAL QUALITY COMMISSION

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





MEMORANDUM

To : Environmental Quality Commission

From : Director

Subject: Agenda Item No. E, October 25, 1974 EQC Meeting

Brooks Scanlon, Inc., Bend Oregon
Request for Time Extension for Log Handling
in Deschutes River

## Background

1. Brooks-Scanlon owns a large sawmill in Bend, Oregon.

2. The sawmill is located adjacent to the Deschutes River. A section of the river about 1/2-mile long is used for log unloading, storage, and general log pond operations.

3. Some of the logs are put into the river by cranes working from cold decks on the river banks. Others were dumped into the river at three brow log dumps, but today only one dump is in operation and it is scheduled for closure.

4. The company periodically dredges the river in the vicinity of the brow log dump. They also have a debris removal system below the log slip which removes floating bark debris from the river.

5. The only extensive cold decking area available to Brooks-Scanlon is on the opposite side of the river from the mill. A smaller area may be available to the south and east, but is in close proximity to residential properties.

6. The company has received five waste discharge permits since January 1968. Each has required various water quality improvements aimed at the removal of all log handling from the Deschutes River or the provision of an approved method of equivalent control. Refer to Exhibit A for specific requirements and dates.

7. The numerous time extensions and modifications enumerated in Exhibit A have been made by the Department of Environmental

Quality in response to various problems and objections voiced by Brooks-Scanlon. To this end, a final time extension was granted by the Department on December 18, 1973, which extended the time for compliance to October 1, 1975, but required an alternate proposal to the channel change by June 1, 1974. Rather than submit an alternate proposal, Brooks elected to submit a revised channel change proposal. The submittal was received on May 29, 1974. (Refer to Exhibit B for a summary of major relevant correspondence and events.)

8. In response to the Department's most recent requirement for dry log handling, the company submitted a proposal for a channel change on August 2, 1973. This proposal was deemed totally unacceptable by the Oregon Wildlife Commission and the Division of State Lands. The proposal was withdrawn.

9. Representatives from the Division of State Lands, the Oregon Wildlife Commission and the Department of Environmental Quality met with Brooks-Scanlon to work out the details of a more suitable channel change proposal. The major improvements included widening of the cross-section, creation of a natural stream bank in place of an engineered diversion, and plans for shoreline vegetation.

10. This and other meetings resulted in the submission of a revised channel change proposal by Brooks on October 29, 1973. The DEQ extended the implementation date to October 1, 1975 to conform with a realistic construction schedule.

11. After receiving tentative approval from the Division of State Lands, Brooks submitted a proposed construction timetable to the DEQ on May 29, 1974, in conformance with existing DEQ requirements. DEQ granted plan approval on August 7, 1974.

12. The Division of State Lands conducted a public hearing in Bend on August 20, 1974, concerning the proposal. Little adverse testimony was received.

13. On September 16, 1974, Brooks submitted to the DEQ a request for another time extension which is summarized below (refer to Exhibit C):

    a. Extend existing Waste Discharge Permit Date from 9-30-74 to 9-30-75.

    b. If extension granted, do not proceed with the DEQ approved plan.

    c. If extension granted:

        (1) maintain and operate existing debris control at maximum possible efficiency

        (2) terminate all brow log dumping and use easy let down by 10-1-74

(3) limit wet log volume to less than one million board feet by 11-1-74

(4) evaluate the effect of the new noise standards on present and proposed methods of operation

(5) retain an engineering firm to conduct a river study

(6) present preliminary study findings by 5-15-75 to DEQ and discuss alternative solutions

(7) submit by 9-1-75 a plan for removing all log handling from the Deschutes River or providing an alternative method of control by 10-1-76.

14. The Division of State Lands approved the channel change proposal on September 24, 1974.

Evaluation

1. The company's past log handling practices in the river have resulted in total blockage of the river surface in the area.

2. Brow log dumping generates significantly more debris than other, more acceptable methods; however, the company is phasing out brow log dumps.

3. A few improvements have been made to the surface debris collection system and substantial log decking has been implemented. Runoff waters from the decks have been diverted to a land disposal area.

4. The bark and debris removal system is relatively effective in removing surface floating bark and debris; however, significant quantities of sunken bark and debris can be seen escaping from the collection system at all times.

5. Investigation has revealed considerable bottom deposits of bark, debris, and logs in the vicinity of the log handling area and downstream through the City of Bend.

6. The company has been given nearly six years to solve its log debris problem; however, significant quantities of debris continue to escape the control devices, and large sludge deposits remain.

7. Complete utilization of the river for a log pond is not a proper use for a public waterway.

8. The Department has learned from experience that no debris control program is equivalent to dry log handling. The company has been granted numerous time extensions for formulating and implementing control programs. During the most recent extension, a removal/fill permit for the project was obtained from the Division of State Lands.

9. The environmental trade-offs, relative economics, and potential downstream impacts enumerated in Brooks-Scanlon's September 11, 1974, letter should have been thoroughly evaluated by Brooks during the many time extensions.

10. With regard to the noise regulations adopted by the Environmental Quality Commission, it has been demonstrated that the small log sawmill, a dry log facility, can operate in compliance with said standards. Noise complaints have consisted primarily of sources from the powerhouse, whistles, and air conveyance systems. Any proposal for dry log handling would involve an analysis of noise impacts.

Director's Recommendation

1. Brooks-Scanlon's request for a time extension from October 1, 1975 to October 1, 1976, should be denied.

2. Brooks-Scanlon should be instructed to proceed immediately with the approved plan for dry log handling.

3. Brooks-Scanlon should investigate the noise impacts of total dry log handling to determine what control measures may be needed.

(Recommendations modified by Commission on October 25, 1974)

KESSLER R. CANNON
Director

JEB:ss

attachments - 3

EXHIBIT A

Specific Permit Requirements and Compliance Dates

1. Temporary Permit Number TP-491

   Issued : 1-19-68
   Expired : 12-31-68
   Required: Operations of waste treatment facilities and control programs at maximum efficiency.

2. Waste Discharge Permit Number 376

   Issued : 2-28-69
   Expired : 9-30-70
   Required:
   a. Plans and timetable by 6-1-70 for termination of log handling in the Deschutes, or
   b. Provide year around control of debris equivalent to dry handling
      (1) Plans and timetable by 6-1-70
      (2) Implement by 7-31-70

3. Waste Discharge Permit Number 855

   Issued : 12-3-70
   Expired : 12-31-71
   Required:
   a. Submit feasibility study and report by 10-30-71 concerning feasibility of relocating Deschutes River
   b. If channel change feasible, include program for completion of change by 6-31-72
   c. If channel change not feasible, submit alternative program and timetable for fully effective debris control.

4. Waste Discharge Permit Number 1395

   Issued : 12-27-72
   Expired : 9-30-74
   Required:
   a. Immediately abandon upper log dump
   b. Remove all log handling from Deschutes or provide approved method of equivalent control
      (1) Plans by 10-1-73
      (2) Implement by 10-1-74
   c. Permit Addendum Number 1 modified item 6 above, as follows:
      (1) Plans by 11-1-73
      (2) Implement by 10-1-74

5. Special DEQ Extension Letter (12-18-73) modified Permit Addendum Number 1, above, by extending the required implementation date to 10-1-75.

EXHIBIT B

Summary of Major Relevant Correspondence and Events

| Event | Initiator | Recipient | Date | Subject |
|---|---|---|---|---|
| 1. | DEQ | Brooks | 11-30-67 | DEQ offers assistance in formulating plan |
| 2. | DEQ | Brooks | 6-30-68 | Notice of hearing in Klamath Falls re: Brooks log handling |
| 3. | Brooks | DEQ | 2-19-69 | Proposed initial debris control (booms and clean-up of accumulated debris) |
| 4. | DEQ | Brooks | 10- 1-69 | Inspection report |
| 5. | Brooks | DEQ | 6-29-70 | Summary of bark cleanup activities |
| 6. | Brooks | DEQ | 10-14-71 | Statement that channel change not feasible |
| 7. | DEQ | Brooks | 11- 9-71 | Requested details of Brook's feasibility study |
| 8. | Brooks | DEQ | 12-21-71 | Submitted feasibility study |
| 9. | DEQ | Brooks | 6- 8-72 | EQC Agenda Item |
| 10. | DEQ | DEQ | 12-12-72 | Hearing in Bend |
| 11. | DSL | Brooks | 6-27-73 | Desired channel change details |
| 12. | Brooks | DSL | 7- 2-73 | First channel change proposal |
| 13. | | | 8-29-73 | DEQ, OWC, DSL met with Brooks in Bend |
| 14. | | | 10-19-73 | DEQ, OWC met with Brooks in Bend |
| 15. | Brooks | DSL | 10-29-73 | Brooks submits second channel proposal |
| 16. | Brooks | DEQ | 12--3-73 | Requests extension of implementation date to 10-1-75 |
| 17. | DEQ | Brooks | 12-18-73 | Extension to 10-1-75 granted |
| 18. | Brooks | DEQ | 5-29-74 | Second channel change timetable modifications submitted |
| 19. | DEQ | Brooks | 7- 7-74 | Plan approval for channel change |
| 20. | | | 7-20-74 | DSL Hearing, Bend |
| 21. | Brooks | DEQ | 9-11-74 | Brooks requests time extension for further study |
| 22. | DSL | Brooks | 9-24-74 | Removal/Fill permit issued |

EXHIBIT C

September 11, 1974



Mr. John Borden
Department of Environmental Quality
State Office Building
N. Highway 97
Bend, Oregon 97701

Dear John:

Confirming and elaborating on the discussions in our office on Monday with you, Kessler Cannon, Fred Bolton, Hal Sawyer and Robert Schimmick, we request a one-year extension of our waste discharge permit #1395 from September 30, 1974 to September 30, 1975. If the Commission approves this request, we will not proceed with our plan, submitted to you on May 29, 1974 and approved by you on August 7, 1974, to move the Deschutes River in the coming year.

The reasons for this request at this late date are that we have recently become concerned about the downstream effects of moving the river and about the impact of the new DEQ noise standards on our proposed operation.

Specifically, our lawyers and engineers recommend that we do not proceed with the river move until we have completed a study of the Deschutes River to determine existing conditions and to project changes likely to be caused by the move. Such a study will either validate our concerns or will allow us to proceed with the move with confidence we will not cause adverse effects downstream.

Our river move proposal contemplated greatly increased dry log handling activity reasonably close to a residential area. We have not evaluated the impact of the new DEQ noise regulations on this proposed operation and we believe we must do so before proceeding.

In addition to our concerns about downstream effects and noise, which have only recently assumed importance, we remain opposed to moving the river for the following reasons:

1. Environmental Trade-Offs: In the past five years we have substantially reduced the amount of bark and debris we add to the Deschutes River. Against the complete elimination of debris must be weighed the negative impacts of increased noise and dust, dirtier fuel to our power house and its effect on air quality and our increased use of fuel for log stackers.

2. Economics: The project will cost us $1,250,000 initially and increase our log handling costs in the future by an estimated $100,000 per year with no offsetting benefits. Such economics are even more unattractive given the current condition of the highly competitive lumber industry.

If the Commission grants the one-year extension of our waste discharge permit, we would suggest the following conditions to the permit:

1. We will continue to maintain and operate our existing debris control equipment at maximum practical efficiency.

2. By October 1, 1974, we will cease the use of our one remaining brow log dump and will place all logs in the river either with a decking crane or a log stacker.

3. By November 1, 1974, we will limit the volume of logs in the river at any given time to less than one million board feet compared to a maximum volume in the river during the last two years of two million board feet and a maximum in 1970 of four million board feet.

4. In cooperation with the DEQ staff, we will evaluate the effect of the new noise standards on our present and proposed method of operation.

5. Brooks-Scanlon will retain an independent engineering firm to obtain data throughout the coming year on the Deschutes River from the rapids above the Brooks-Scanlon mill to the north unit diversion dam north of Bend. This data will include stream flow information, qualitative and quantitative analyses of bark, debris, suspended and dissolved solids in the river flow, and quantitative and qualitative analyses of river bed deposits.

   This study will define the present condition of the river, will allow us to determine the magnitude of the Brooks-Scanlon generated bark and debris problem and will enable us to project probable changes to this stretch of river to be caused by the river move or other potential solutions.

   Throughout this study, Brooks-Scanlon will communicate and cooperate with the DEQ staff.

6. By May 15, 1975, Brooks-Scanlon will present preliminary findings from these studies and discuss alternative solutions with the DEQ staff.

7. By September 1, 1975, Brooks-Scanlon will submit a plan for removing all log handling from the Deschutes River or providing an alternative method of control by October 1, 1976.

We believe this proposal makes sense for all concerned. We will be available to discuss it with you further at your convenience.

Sincerely,

Michael P. Hollern

Michael P. Hollern
President

MPH/cc

cc: William S. Cox
Division of State Lands

Hal Sawyer
Department of Environmental Quality

Brooks Scanlon, Inc

EXHIBIT D

January 10, 1975

Mr. John Borden
Department of Environmental Quality
State Office Building
North Highway 97
Bend, Oregon 97701

Dear John:

Enclosed as directed by the Environmental Quality Commission at its meeting on October 25, 1974 is our proposed plan to provide control of bark and debris at our plantsite on the Deschutes River. We believe the plan satisfies every objective of the Department.

We further believe we could complete the proposed project within six months of the time it is approved by all governmental agencies. We assume the DEQ will coordinate the process of gaining approval from appropriate state and federal agencies. Following state approval, we will submit the plan to the Deschutes County Planning Commission for its approval and rezoning as needed. We will exercise our best efforts to gain these approvals expeditiously.

Economic conditions in the lumber industry are worse right now than at any time since World War II. We were forced to shut down all lumber production between December 20, 1974 and January 6, 1975, idling approximately 400 employees. In addition, we have stopped the third shift in our small log mill for an indefinite period, putting 35 people out of work. We do not know when markets for our products will improve, but we do know this river project will cost an estimated $575,000, will provide no economic benefits and will increase our operating costs.

Under these conditions, we ask that the Commission approve the enclosed plan and require completion by December 31, 1976, subject to the approval of other governmental agencies.

Sincerely,

Michael P. Hollern

Michael P. Hollern
President

MPH/cc

Enclosures (3 sets)

cc: William S. Cox
Division of State Lands
(Enclosure - 2 sets)

Harold L. Sawyer
Department of Environmental Quality
(Enclosure - 1 set)

Post Office Box 1111 Bend, Oregon 97701 Phone: (503) 382-2511

EXHIBIT E

# DEPARTMENT OF ENVIRONMENTAL QUALITY

1234 S.W. MORRISON STREET • PORTLAND, OREGON • 97205 • (503) 229-5301

ROBERT W. STRAUB
GOVERNOR

KESSLER R. CANNON
Director

February 13, 1975

Mr. Michael P. Hollern, President
Brooks Scanlon, Inc.
Forest Products Group
Post Office Box 1111
Bend, Oregon 97701

IW-Brooks Scanlon, Bend
Deschutes County

Gentlemen:

The Department of Environmental Quality has reviewed revised plans submitted on January 10, 1975, to remove all log handling activities from the Deschutes River. This plan is submitted pursuant to the October 25, 1974, Environmental Quality Commission directive requiring implementation of the channel change proposal by October 1, 1975, or the submission of a new plan proposal by January 15, 1975, and implementation of this latter plan by October 1, 1975.

This proposal is significantly different from earlier proposals and is described as follows:

1. Construction of a separate log pond. (No discharge to the Deschutes River)
2. Construction of a water recirculation system in the log pond.
3. Modification of existing bark collection system.
4. Construction of an evaporation and seepage ponds for liquid wastes on the west side of the Deschutes River.
5. Construction of a bridge across the river.
6. Clean up of existing bark and debris accumulations on the river bank.

Except for your request for a time extension for completion from October 1, 1975, to December 31, 1976, this project is in compliance with your current Waste Discharge Permit, its subsequent amendments and the October 25, 1974, EQC directive and is herewith approved subject to the following:

1. Construction of the proposed project shall be in conformance to said approved plans. No deviations or changes shall be made without the prior written approval of the Department of Environmental Quality.

2. Construction activities shall not commence until approvals have been received from all participating state and local agencies or departments.

3. The construction of said project shall be under the supervision of and shall be thoroughly inspected by the design engineer or his authorized representative who at the completion of the project shall certify in writing to the Department of Environmental Quality that such construction was inspected by him and found to comply with the above requirements.

4. The bridge wingwalls, bridge piles, log pond dike, infeed pond dike, pressure line river crossing and other facilities in the Deschutes River shall be constructed in a manner which will minimize turbidity increases.

5. Embankments shall have an adequate freeboard and shall be adequately seeded or riprapped as needed to prevent or control erosion.

6. The soil in the bottom of the holding pond shall be compacted and be of relatively impervious material such that the annual average rate of seepage will not be more than one half (1/2) inch per day after correction for precipitation and evaporation.

I suggest that you present all submittals to the governmental agencies involved as soon as possible in order to expedite the project. Your request for a time extension for project completion from October 1, 1975 to December 31, 1976, will be considered at the February 28, 1975, meeting of the Environmental Quality Commission. The meeting will be held on the Main Floor, Harris Hall, 125 E. Eighth Street in Eugene. A tentative agenda is enclosed for your reference.

Cordially,

KESSLER R. CANNON
Director

JEB:vt
Enc.
cc: Water Quality
Central Region
Investigation and Compliance
Deschutes County Health Dept.
Deschutes County Planning Dept.
Oregon Wildlife Commission (Bend)
Division of State Lands
City of Bend

STATEMENT OF LEO M. HOPPER

PRESENTED TO ENVIRONMENTAL QUALITY COMMISSION
ON FEBRUARY 28, 1975

My name is Leo Hopper. I am the Vice President, Operations, for Brooks-Scanlon, Inc. I am here for two purposes.

First, I am here to seek, on behalf of Brooks-Scanlon, your approval of the revised plan submitted to the Department of Environmental Quality on January 10, 1975, which provides for removing all of our present log handling activities from the Deschutes River. This plan was developed following the October 25, 1974, meeting of this Commission at which you gave us the opportunity to develop an alternative to the previously approved plan which would have involved relocating the Deschutes River. This plan was developed after careful review with our lawyers and Century West Engineering Corporation.

The Century West Engineering representatives worked closely with John Borden of the Department of Environmental Quality staff in developing the plan. Because the staff has approved the plan subject to certain conditions which we believe we can meet, I will not go into the detailed merits of the plan. I believe it is sufficient to say that since the October meeting we were able to develop, with the aid of the Century West Engineering representatives and John Borden, several new concepts which have allowed us to present a plan which is, we believe, superior to our previous plan. It is superior not only in water quality protection, but also it is superior in other environmental trade offs which were of concern to us and to the staff.

In summary, the time since your last meeting has been very well spent.

My second purpose today is to explain why you should extend the completion date of the project.

Mr. Hollern briefly outlined the economic problems of the lumber industry in his letter of January 10 to Mr. Borden. I will not belabor this point, but it is our belief that at this time our limited capital should be spent with an objective of increasing productivity relative to cost, not decreasing it as this project will do.

The staff has also made its approval of our plan subject to the condition that:

> "Construction activities shall not commence until approvals have been received from all participating state and local agencies or departments."

From our experience in obtaining approvals on our prior plan involving the moving of the river, we have learned it is not always possible to predict how long it will take these agencies to issue their approvals nor to predict what modifications they may require.

It is primarily for this reason that we have requested an extension of time for completion of the project from October 1, 1975, until December 31, 1976. We realize you have, in the past, urged us to move more rapidly on the project. Perhaps you may wonder why we were not able to develop our present plan at an earlier time. I can assure you the plan we now have is less expensive than the plan we previously had. If anyone had thought of it earlier, we would have presented it earlier.

We also realize we have come before you on this subject on several previous occasions. Hopefully, this can be the last time you will be required to consider this project. We are confident it can be accomplished with all required approvals by December 31, 1976. We believe it <u>cannot</u> be

completed by October 1, 1975. We feel once approvals are obtained, a minimum of six months will be necessary to carry out the project.

If you are unwilling to give us the extension until December 31, 1976, we ~~require~~ request, at a minimum, that you give us in our permit an extension of six months after approvals have been received from all participating state and local agencies or departments.

If you have any questions, I would be pleased to try to answer them.

# ENVIRONMENTAL QUALITY COMMISSION

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

Robert W. Straub
GOVERNOR

B. A. McPHILLIPS
Chairman, McMinnville

GRACE S. PHINNEY
Corvallis

JACKLYN L. HALLOCK
Portland

MORRIS K. CROTHERS
Salem

RONALD M. SOMERS
The Dalles

KESSLER R. CANNON
Director


MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item L, February 28, 1975 EQC Meeting

Proposed Adoption of Rule - Reduction in Maximum Sulfur Content of Residual Fuel Oil

## Background

A public hearing was held at the January 24, 1975 EQC meeting to consider adopting a rule which would lower the maximum allowable sulfur content of residual fuel oils from 1.75% to 0.5% in Multnomah, Clackamas, Washington and Columbia Counties after January 1, 1979.

The adoption of the Clean Fuels Rule was considered by the Department to be a necessary requirement in order for the Department to consider issuing an Air Contaminant Discharge Permit for the Phase I, 50,000 barrel per day Columbia Independent Refinery, Inc. Considerable technical analysis was presented at the public hearing by the Department to support this position and identify the full impact of the proposed rule on future air quality in the Portland Metro Area (see the Director's report to the EQC Agenda Item No. J, January 24, 1975 EQC meeting).

Testimony given at the public hearing and received subsequently ranged from strong support to strong opposition to the proposed rule.

Those favoring the proposed rule generally cited the following reasons for support:

1. The proposed rule would allow more room for economic and industrial growth which means jobs at a time when unemployment in the area is increasing.

2. The proposed rule would aid the achievement and maintenance of air quality standards and help check deterioration of air quality in the Portland Metro Area.

Those opposing the proposed rule generally cited the following reasons for opposition:

1. The proposed rule should not be used as a tradeoff device to permit construction of the Columbia Independent Refinery, Inc., at the expense of imposing an economic burden on the rest of the community.

2. The proposed rule is more restrictive than is necessary to allow construction of CIRI.

3. The proposed rule is not warranted since sulfur dioxide is not an air quality problem.

4. The proposed rule would impose significant costs which would be detrimental to area fuel users and suppliers.

In addition to the proponents and opponents testimony, questions were raised as to the feasibility of the Department implementing the proposed rule in light of apparent federal authority to allocate fuel oils on a priority basis.

Analysis

The Department has examined all submitted testimony directed toward the proposed rule and the Department's responses to what are considered significant issues are as follows:

Issue - Clean fuels Rule should not be used as a tradeoff to allow new industrial growth.

Multnomah County, Shell Oil Company and Mrs. Sharon Rosso spoke against using emission tradeoffs derived from the proposed rule to allow construction of CIRI. Shell Oil Company specifically questioned the constutionality of imposing burdens on the community solely for the private benefit of another.

Department Response

The policy of allowing consideration of tradeoffs was specifically added by the EQC when it adopted the rule "Criteria for Approval of New or Expanded Air Contaminant Sources in the Portland Metropolitan Special Air Quality Maintenance Area." The tradeoff concept was supported by a

majority of testimony at public hearings held to consider adoption of the special maintenance area rule. In fact it now appears the tradeoff concept is gaining national support as a reasonable compromise between environmental objectives and economic wellbeing.

Although adoption of the proposed rule was considered a necessary prerequisite for the Department to consider issuance of an Air Contaminant Discharge Permit to CIRI, it is definitely felt that the clean fuels rule would be required at some time in the near future with or without CIRI in order to achieve and maintain air quality standards and allow continued growth and development. Many community benefits would also be derived from such a rule aside from the economic benefit of having a new industry in the area and a local producer of clean fuels.

These community benefits were identified in the Department's January 24, 1975 report to the EQC as providing a reduction in future projected particulate, SOx and NOx emissions which would aid in protecting public health and welfare from adverse effects of air pollution. Specific benefits identified included:

1. Improvements in particulate air quality in sufficient amount to prevent the annual particulate air quality standard from being exceeded at least through 1979.

2. Insuring continued compliance with $SO_2$ ambient air standards from some years to come despite growth.

3. Reducing adverse health effects associated with $SO_2$ and sulfate particulate.

4. Reduction of acid rain and its associated damaging effects.

5. Improved visibility by reducing the formation of sulfate particulates in the atmosphere.*

The benefits of improving particulate air quality by using lower sulfur fuel cannot be overstated. Recent microscopic and chemical analyses of air borne particulate in the Portland Metro area has strongly indicated that soot and flyash from fuel oil combustion has more of an impact on air quality than emission inventories or atmospheric dispersion modeling predicts.

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* See Attachment A which represents the latest atmospheric research directed towards identifying sources causing particulate air quality problems.

Specific air quality improvements (and their geographic location) that would be derived from the proposed Clean Fuels Rule will be more definitively identified upon completion (in July 1975) of long-term air quality maintenance area plans and upon completion of major improvements to the air quality data base (which will take from one to two years). Nevertheless, the Department is fully confident that significant air quality improvements will occur as a result of the proposed Clean Fuels Rule in poor air quality areas of downtown and northwest Portland since a major portion of residual fuel oil combustion occurs in these areas.

Since the entire local community as well as CIRI would benefit from the proposed Clean Fuels Rule, the Department firmly believes that consideration of tradeoffs and adoption of the proposed rule would not be in conflict with equal protection requirements of either the State or Federal constitutions.

Issue - Clean fuels rule does not have to be as restrictive as proposed.

Liquid Air Inc. and CIRI testimony indicated belief that a reduction in the maximum sulfur content in the residual fuel oil from 1.75 percent to 1.3 percent is sufficient to meet all requirements of the Department's Special Air Quality Maintenance Area Rule.

Department Response

The Department's analyses (contained in the January 24, 1975 report to the EQC) is contrary to beliefs of Liquid Air and CIRI. It is true that a 1.3% sulfur limit in residual fuel oil would allow CIRI to meet the emission limit portion of the special maintenance area rule. However, the ambient air impact section of the Department's special maintenance area rule provides that permit applicants shall be approved only to the extent ambient air quality standards will not be exceeded in areas where the Department's March 19, 1974, report on designation of AQMA's projects they would otherwise be in compliance. This report projects that annual particulate air quality in downtown Portland will be in compliance with air quality standards upon completion of the Oregon Clean Air Plan in 1975.

The Department's impact analysis of the CIRI project indicated that the annual particulate air quality standard would again be exceeded when CIRI becomes operational in 1979 unless particulate tradeoffs from a 0.5 percent sulfur content of residual fuel limit are realized. According to the Department's analysis the particulate tradeoffs from a 1.3 percent or a 1 percent sulfur content of residual fuel regulations, would not be sufficient to assure compliance with the annual air quality particulate standard in 1979.

Issue - The proposed Clean Fuels Rule is not warranted since $SO_2$ is not now an air quality problem

Dr. Tsongas testified at length that the proposed Clean Fuels Rule was not justified since $SO_2$ air quality is not yet an acute problem. He suggested that the proper time to act would be when $SO_2$ standards are violated or are about to be violated.

Department Response

Dr. Tsongas obviously did not recognize that the Department's intention of proposing the Clean Fuels Rule was to assure the necessary particulate emission tradeoffs to prevent violation of particulate air quality standards. The very important fact that lower sulfur fuels offer significant reduction in particulate emissions had apparently been overlooked by many who testified at the hearing.

It is true that the Portland Metro area does not have, in Dr. Tsongas terminology, an acute $SO_2$ problem at present ($SO_2$ air quality standards are not being violated). The Portland Metro area does have an acute particulate air quality problem (particulate air quality standards are being exceeded) and the proposed Clean Fuels Rule offers what is probably the most promising means of reducing or eliminating this problem.

The Department cannot subscribe to Dr. Tsongas' apparent position of waiting to treat $SO_2$ problems until after $SO_2$ standards are violated. Preventative pollution control is a primary goal of the Department and, in fact, the Department has identified potential occurrence of of $SO_2$ air quality standard violations as early as 1977 if abnormal growth and substantial gas curtailment causes greater use of high sulfur residual fuel oil. The $SO_2$ emission reductions that can be realized from the proposed clean fuels rule should provide dramatic improvements in particulate air quality and a comfortable margin of safety for accommodating future growth without violating $SO_2$ air quality standards.

Issue - The proposed rule would pose a significant economic detriment to local fuel users and suppliers in and outside the area affected by the rule

Western Environmental Trade Association, Shell Oil Company, and Dr. Tsongas expressed their concern as to the economic impact of the proposed Clean Fuels Rule. WETA feared plant closures. Shell Oil

Company indicated that it would be unable to continue to participate in the residual fuel oil market if the proposed Clean Fuels Rule is adopted. Dr. Tsongas felt that the Department's projected cost of $3 per capita per year to implement the Clean Fuels Rule was low. Dr. Tsongas also questioned where the Portland School District would raise $400,000 annually to purchase cleaner fuels.

Department Response

The Department cannot agree that the incremental cost in cleaner fuels would force closures of any facility. The costs of most pollution controls already borne by the local industries is in most cases in excess of the potential costs of cleaner fuels. As pointed out in the Department's January 24, 1975, report, industry would not bear the brunt of the clean fuels control program as industry uses less than 25 percent of residual fuel usage which would be affected by the proposed rule.

Shell Oil Company being the largest supplier of residual oil in the area has indicated it probably could not justify supplying the cleaner fuels required under the proposed rule. This is unfortunate. The Department has maintained that a clean fuels policy will be needed with or without local refining capacity in Oregon. Shell's position would appear to support the necessity of establishing local clean fuel refinery capacity in order to implement environmental objectives.

The fact should not be overlooked that Shell refineries which supply Oregon and Washington residual fuel markets are located in California. These California refineries already supply low sulfur oil to California markets which operate under a clean fuel rule which limits the sulfur content of fuel oils to a maximum 1/2 percent. The remaining high sulfur fuel produced at these California refineries is now shipped to Oregon and Washington. Since the proposed Clean Fuels Rule would affect only approximately 25 percent of the total residual fuel market in Oregon and considering that the Washington market for high sulfur fuel is nearly twice as large as the Oregon market, it would appear the majority of Shell's market would not be affected by the proposed Clean Fuels Rule.

Dr. Tsongas indicated that the Department's economic impact projections of the proposed clean fuels rule was very low. He did not, however, supply reliable facts to back this statement. The Department recognizes the uncertainties of projecting the economic impact of the proposed Clean Fuels Rule with today's rapidly changing economy and energy supply; however, the present estimate is still felt to be reasonably good. Dr. Tsongas also failed to recognize that local property taxes of over six million dollars annually from the CIRI Refinery could more than finance his estimated $400,000 added cost to the Portland School District for purchase of cleaner fuels.

Issue - Feasibility of implementing a new Clean Fuels Rule

Mr. Thomas Gilbert who neither supported nor opposed the proposed Clean Fuels Rule presented testimony which questioned whether a clean fuels policy could be implemented in light of Federal regulations which govern allocation and distribution of residual fuel oils.

Department Response

The Department has investigated this matter further and concludes that Federal regulations could preempt state or local action in many areas including fuel allocations. However, the thrust of such Federal regulations definitely appears to require action only under extreme emergency conditions. Even during the peak of the present energy crisis the Department is unaware of any major change in clean fuel oil distributions. The present long-range Federal energy policy is geared toward making this country energy self-sufficient by 1985. This policy is directly aimed at developing energy resources and supplies which will meet the projected demands of the country without imposition of emergency allocation and distribution procedures.

Shell Oil Company's testimony gives evidence to their long-range planning efforts which include completion of projects and studies of projects to enable all three of its West Coast refineries to comply with air pollution control regulations and meet market requirements for clean fuels. The fact that Shell may not be able to justify meeting Oregon's proposed Clean Fuels Rule must be construed as a purely economic decision based on today's uncertain situation. Shell's reluctance to supply Oregon's small market for clean fuels may well be due to commitments to meeting future demands for clean fuels in California.

It appears the Environmental Protection Agency must approve or disapprove any clean fuels policy adopted by the state under requirements from the Federal Energy Supply and Environmental Coordination Act (ESECA). Since the proposed Clean Fuels Rule is directed toward meeting requirements of Oregon's Clean Air Implementation Plan (a Federal requirement) and maintaining air quality standards (a Federal requirement) it would appear that EPA would have difficulty in not approving the proposed Clean Fuels Rule.

Other Issues

The Associated Oregon Industries proposed that the EQC not adopt a rule at this time but instead adopt a clean fuels policy which would signal the Department's intent to reduce sulfur content of residual fuels to not exceed 0.5 percent by January 1, 1979.

Department Response

The Department does not recommend adoption of a pollution control rule which is expressed as an intent rather than as a specific requirement particularly with respect to a clean fuels rule. Lead times from three to four years are required by new or existing oil refineries to engineer and construct fuel desulfurization facilities. It is unrealistic to expect any refinery to commit large capital expenditures for desulfurization equipment to meet air pollution regulations which are expressed as an intent.

The Department does agree with AOI that air quality problems and solutions in the Portland area will be better defined in the future as will the viability of proposed local refineries (should they receive environmental permits) and that a review of the adequacy of a Clean Fuels Rule should be considered prior to January 1, 1979.

Accordingly, it is recommended that a new section (4) be added to the proposed Clean Fuels Rule that would provide for a public hearing to review the continued adequacy of the rule by not later than July 1, 1977. Any changes that are found to be necessary or desirable could be made at that time.

Conclusions

1. Although adoption of the proposed Clean Fuels Rule is considered necessary to assure tradeoffs which in turn will allow the Department to consider issuance of an air contaminant discharge permit to CIRI, implementation of the proposed clean fuels rule will provide the local community with significant improvements in air quality.

2. The proposed Clean Fuels Rule requiring a maximum 0.5% sulfur content in residual fuel oil cannot be less restrictive, otherwise particulate emission tradeoffs needed to allow CIRI to meet the particulate ambient air impact requirement of the Department's special air quality maintenance area rule will not be assured.

3. The proposed Clean Fuels Rule is primarily needed to assist in attaining and maintaining particulate air quality standards. Sulfur dioxide air quality standards are not now being exceeded but the proposed rule can greatly assist in maintaining compliance with $SO_2$ air quality standards for some years to come despite growth.

4. Economic impact of the proposed Clean Fuels Rule is not considered to be significantly detrimental to area fuel oil users and suppliers.

5. Federal fuel oil allocation and distribution regulations could interfere with implementation of a Clean Fuels Rule in Oregon but the likelihood of this happening is considered remote particularly in the long run.

Director's Recommendation

It is the Director's recommendation that the attached proposed rule (Attachment B) be adopted. If Air Contaminant Discharge permits are not issued to at least one of the proposed refineries in Columbia County, then Columbia County should be deleted from the rule. If an Air Contaminant Discharge Permit is not issued to CIRI, then Multnomah, Clackamas and Washington County should be deleted from the rule. If permits are not issued to any of the three proposed refineries, the rule could be repealed and further rule making could be deferred (at least until the Air Quality Maintenance Area Plan for the Portland Metropolitan Area is developed for adoption, prior to June 18, 1975).

KESSLER R. CANNON
Director

JFK:lb
Attachment A
Attachment B

Science Center
Rockwell International
Sept. 1974

Attachment A

# EXECUTIVE SUMMARY

This report discusses the results from a major field study aimed at the characterization of aerosols in California (ACHEX) with particular emphasis in the South Coast Air Basin. The study was sponsored under California Legislative Bill No. 848.

Analysis and interpretation of observations taken between 1971 and 1973 showed the great importance of haze formation as a secondary process in urban air resulting from chemical reactions of $SO_2$ to produce sulfate, $NO_x$ to produce nitrate, and hydrocarbon vapors to produce organic particles. These conversion processes are enhanced in the polluted atmosphere by photochemically related reactions and involve ammonia and water in the air. The conversion of these constituents results in aerosol particle growth in the range of size most significant for visibility degradation and health hazard. The data analysis suggests that generally more than half of the aerosol sampled over the Los Angeles area is of secondary origin. Of the remainder, some 10% - 20% consists of aged background aerosol, with similar contributions coming equally from stationary and transportation sources.

To achieve the existing ambient air quality standards for aerosols in the South Coast Basin, controls on $SO_x$, $NO_x$ and certain hydrocarbon vapor emissions will be required. Arguments are presented that identify $SO_x$ emissions mainly with stationary sources, while $NO_x$ and hydrocarbon emissions are linked principally to transportation sources. The mass concentration of aerosols in the South Coast Basin is estimated to be heavily influenced by transportation sources and primary emissions such as smoke, soot or lead halide from auto exhaust. However, the analysis indicates that in the western portions visibility is degraded largely by stationary sources, while in the central area there is roughly an equal source contribution to visibility reduction. On the eastern side, primary emissions and transportation sources are deduced to be largely responsible for poor visibility.

A strategy for control indicates that highest priority should be given to control of $SO_x$ emissions for improvement of visibility. The reduction of photochemical activity in the Los Angeles air by reduction in $NO_x$ and hydrocarbon emissions from motor vehicles and stationary sources also should improve visibility markedly during the next few years because aerosol evolution is closely linked with the intensity of smog chemistry.

Continued monitoring, using 24-hour, high volume filter sampling, is needed to provide a minimum record of the long term trends in urban aerosol behavior. Chemical analyses for ammonium, sulfate, nitrate and a measure of total organic carbon also should be continued on the hi-vol samples with careful documentation of methods used. Although X-ray fluorescence shows promise for measuring sulfate as total sulfur, wet chemical methods for the anions remain the best procedures for analysis. A simple total carbon method by analyzing for fully combusted material as $CO_2$ is recommended for the organic particles. Monitoring for the mass contained in the submicron size range, using a size fractionation device (an impactor) on the high-volume filter, also is needed in combination with a continuous semi-quantitative measure of visibility such as provided by the integrating nephelometer.

Attachment B

PROPOSED RULE

Oregon Administrative Rules, Chapter 340
Section 22-010, Residual Fuel Oils

(3) After January 1, 1979, no person shall use or make available for use in Multnomah County, Clackamas County, Washington County or Columbia County any residual fuel oil containing more than 0.5 percent sulfur by weight.

(4) A public hearing shall be held by the Department no later than July 1, 1977 to review the adequacy of Section 22-010(3) and to adopt any revisions that may be necessary.

Attachment B

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Oregon Administrative Rules, Chapter 340
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(4) A public hearing shall be held by the Department no later than July 1, 1977 to review the adequacy of Section 22-010(3) and to adopt any revisions that may be necessary.

## ADOPTED RULE

Oregon Administrative Rules, Chapter 340, Section 22-010

(3) After January 1, 1979, no person shall use or make available for use in Multnomah County, Clackamas County, Washington County or Columbia County any residual fuel oil containing more than 0.5 percent sulfur by weight.

(4) A public hearing shall be held by the Department no later than July 1, 1977 to review the adequacy of Section 22-010(3) and to adopt any revisions that may be necessary.

# DEPARTMENT OF ENVIRONMENTAL QUALITY

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

ROBERT STRAUB
GOVERNOR

KESSLER R. CANNON
Director

March 24, 1975

Administrative Rules Division
Secretary of States Office
Salem, Oregon 97310

Attn: Mrs. Ione Hanson

Re: Adoption of Rule on Sulfur Content of Fuel Oils

Dear Mrs. Hanson

Enclosed is a certified copy of OAR Chapter 340, Section 20-010(3) and 20-010(4) as adopted by the Environmental Quality Commission in its February 28, 1975 meeting.

We request that this rule be published in the Secretary's Bulletin on April 15, 1975

Cordially,

KESSLER R. CANNON
Director

Peter W. McSwain
Hearings Officer

CERTIFICATION OF RULE ADOPTION

ENVIRONMENTAL QUALITY COMMISSION

I, Peter W. McSwain, certify that subsections (3) and (4) of OAR Chapter 340, Section 22-010 were adopted by the Environmental Quality Commission on February 28, 1975 and that attached hereto as Exhibit A is a copy of said subsections.

I further certify that I have compared Exhibit A with the original and it is a true and correct copy of said OAR Chapter 340, Section 22-010(3) and (4).

Dated this 24th day of March, 1975.

Peter W. McSwain
Hearings Officer

# ENVIRONMENTAL QUALITY COMMISSION

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



MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. L, February 28, 1975, EQC Meeting

Columbia Independent Refinery, Inc. - Proposed Issuance of Air Contaminant Discharge Permit

## Background

A public hearing was held at the January 24, 1975 EQC meeting to solicit testimony on a proposed Air Contaminant Discharge Permit for the Columbia Independent Refinery, Inc. (CIRI) Phase I, 50,000 barrel per day oil refinery.

Testimony given at the hearing and received subsequently was generally supportive of issuance of the permit for the following reasons:

1. CIRI would provide a significant economic benefit in terms of tax dollars and jobs to the local community while meeting all environmental standards.

2. CIRI would help assure an adequate supply of clean fuel to the area for use in meeting future growth needs and maintaining air quality standards.

Those opposed to issuance of the proposed CIRI Air Permit generally cited the following reasons for opposition:

1. Approving CIRI on the basis of tradeoffs is in conflict with equal protection requirements of the State and Federal Constitutions.

2. Federal regulations may pre-empt clean fuels produced by CIRI from being burned in Oregon.

3. Baseline air quality is not sufficiently defined to determine compliance with air quality standards and deterioration limits.

4. The Department may be forced to allow CIRI greater emissions if the facility does not operate as expected.

5. North Portland would experience a significant air quality impact despite tradeoffs from a clean fuels policy.

6. Best available water quality treatment and minimal water quality impact were not assured.

7. There was a lack of appropriate land use planning review for the CIRI site in Rivergate.

In addition to the proponent and opponent testimony, CIRI requested changes in the proposed permit to prevent what they considered to be unjustified and costly operation and monitoring requirements.

Analysis

The Department has considered all submitted testimony directed toward the proposed Air Contaminant Discharge Permit for CIRI. Significant issues and the Department's responses are as follows:

Issue - Approving CIRI on basis of tradeoffs is unconstitutional.

Department Response - This issue was discussed in the Department's February 28, 1975 report to the EQC regarding the proposed Clean Fuels Policy. The Department concluded that the use of tradeoffs for the benefit of allowing CIRI to be constructed would not be in conflict with equal protection requirements of either the State or Federal Constitution as the entire community would derive significant air quality improvement as well as economic benefits from the tradeoffs.

Issue - Clean fuels produced by CIRI may not be burned in Oregon.

Department Response - This issue was also discussed in the Department's report of February 28, 1975 to the EQC regarding the proposed Clean Fuels Policy. The Department concluded that although emergency federal regulations might pre-empt use of clean fuels produced by CIRI in Oregon, the likelihood of this occurring in the future was very remote. This conclusion is strengthened by the facts that CIRI will produce a relatively small quantity of clean fuels and that much of its distribution of products will be through direct pipeline to statewide petroleum distribution facilities in Northwest Portland. This latter fact alone would create an economic disincentive to transferring products to ships for long distance transport outside the state.

In addition, condition 13 of the proposed permit specifically requires CIRI to make available for use in the area up to 10,000 bbls/day of 0.5% sulfur residual fuel oil and in the absence of Federal pre-emption would be binding upon CIRI.

Issue - Baseline air quality is not sufficiently defined.

Mr. Tom Guilbert and Ms. Sharon Rosso contended that baseline air quality was not, or could not be, specifically defined and that CIRI emissions could cause violation of air quality standards and exceed significant deterioration limits.

Department Response - The Department considered baseline or background air quality when formulating recommendations for issuing an Air Contaminant Discharge Permit for CIRI; however, the background air quality data was not presented in the January 24, 1975 report to the Commission.

Table 1 which is attached (a revision of Table 3 contained in the Department's January 24, 1975 report to the EQC regarding CIRI) presents projected worst case air quality impact as a result of CIRI emissions with present and projected baseline or background air quality included. It is apparent from this data that CIRI would not cause violation of State or Federal air quality standards when operational in 1979 at the maximum impact point near the Rivergate Industrial Park (Linnton Hillside). Baseline air quality has been estimated due to lack of sufficient ambient monitoring data, difficulty in accurately projecting growth, and unavailability of an accurate dispersion model. However, background air quality data presented was developed using highest air quality levels recorded at stations nearest the maximum impact point.

Air quality impact of CIRI in downtown Portland is less than at the maximum impact point; however, background particulate levels are already exceeding standards downtown. The annual particulate air quality standard would not be violated in 1979 when CIRI would be operational providing the proposed Clean Fuels Rule is implemented. This analysis, including background air emissions, was presented in the Department's January 24, 1975 report to the EQC on the proposed Clean Fuels Rule.

Issue - The Department may be forced to allow greater air emissions from CIRI

Ms. Sharon Rosso contended it may be found that air emissions from CIRI are greater than projected once the facility is operational and that the Department would be forced to allow these greater emissions.

Department Response - Air emissions from CIRI are almost solely from the combustion of fuel in conventional process heaters or boilers. Documentation of emissions from the type of facilities that are proposed to be used is fairly extensive and techniques for projecting average emissions are considered reliable. CIRI has proposed emissions somewhat less than expected average emissions from fuel combustion; however, the Department has considered test data submitted by CIRI and recent information developed by EPA as sufficient justification of expected performance. Even if emissions from CIRI do, in fact, exceed current projections, there are means of reducing these emissions sufficiently to comply with existing permit levels. The most viable means would involve use of cleaner fuels which CIRI will be producing such as diesel fuel, propanes and butanes. A last resort would be to reduce the allowable production rate.

Issue - North Portland will receive significant air quality impact from CIRI despite tradeoffs.

Ms. Sharon Rosso contended that air emissions from CIRI will have a significant impact in North Portland despite tradeoffs from a clean fuels policy.

Department Response - The Department cannot predict the exact benefits North Portland might receive from the proposed Clean Fuels Rule until dispersion modeling now being developed for the Portland Metro area is completed. The Department is reasonably confident that North Portland will receive an equal and most probably greater air quality benefit from the proposed Clean Fuels Rule than the average benefit received for the Portland Area as a whole. The Department based this belief on the following:

1. Air emissions from residual fuel oil combustion in the Portland metro area are concentrated in the northwest and downtown Portland area. (About 25% of the Tri-county air emissions from residual fuel combustion are located within 15 square miles of Northwest and Downtown Portland.)

2. Maximum air quality impact of existing residual fuel oil combustion emissions is in the north-northwest Portland area. This is due to the fact that these emissions predominantly occur during wintertime heating and gas curtailment periods when prevailing southwesterly winds transport emissions towards the north-northwest Portland area.

3. Maximum improvement from a Clean Fuels Policy should occur in the north-northwest Portland area.

4. Maximum impacts from CIRI emissions are projected to occur adjacent to the plant site and on the west hills towards Linnton. Diffusion analysis indicates that CIRI emissions will have relatively small impact in the residential area of North Portland.

5. Emission reductions from the proposed Clean Fuels Policy substantially exceed emission increases from the CIRI facility.

Issue - Best available water quality treatment and minimal water quality impact are not assured

Mr. John L. Frewing representing the Oregon Clean Water Project raised questions about refinery water quality impact which applied to all of the three proposed oil refineries in Oregon. His basic concerns included:

1. Water permit hearings should be held before air permits are granted.

2. Refinery expertise has not been utilized to review design of waste water treatment facilities.

3. Water quality impacts have not been adequately studied, particularly in light of the unique wastewater contaminants discharged from refineries.

Department Response - The Department has considered Mr. Frewing's testimony and will respond at a later date to each of his comments, some of which are very constructive. The Department, however, does not at this time see any significant issues raised by Mr. Frewing which would warrant holding a public hearing on CIRI's proposed water permit or delaying action on CIRI's air permit.

The Department has prepared an NPDES Waste Discharge Permit for CIRI which will insure compliance with EPA effluent guidelines for new petroleum refineries. Meeting EPA's new source effluent guidelines should be some assurance that best available treatment will be applied. The Department will review detailed engineering plans and specifications for the wastewater treatment facility when they are available. Experts will be consulted at this time (including EPA personnel who developed the effluent guidelines) to insure that best available wastewater treatment and control are being provided.

Comments from CIRI on the proposed wastewater permit will be submitted to the Department shortly and after consideration by the Department, public notice will be given on the proposed permit. Further public comments will be considered and necessary changes will be made in the NPDES permit before issuance to CIRI. Final approval by the EPA is also required prior to issuance.

Water quality impacts have been projected by CIRI and considered by the Department. The amount of wastewater contaminants proposed to be discharged by CIRI are relatively insignificant and the Department does not believe special studies to assess impact are warranted. There is no evidence that refineries generate carcenogenic and phenolic wastes in any significant quantity that would be detrimental to the beneficial use of the Willamette River.

The Department will give special attention to prevention of oil spills. Compliance with the U. S. Coast Guard regulations and requirements related to the transportation and dockside facilities and procedures will be imposed as a minimum requirement. In addition, a detailed oil spill contingency plan, including spill prevention and containment facilities and procedures, which will meet EPA requirements as a minimum, will be required.

Issue - Lack of appropriate land use planning review for CIRI site in Rivergate

Mr. Douglas lee (representing Multnomah County), Mrs. Joyce Tsongas (representing Citizens for State Planning) and Mr. Al Shiel expressed concern that siting of a refinery in Rivergate had not received appropriate land use review for confirmation with CRAG, LCDC and North Portland Penninsula plans.

Department Response - The Department has faced the question of adequate planning review on many recent projects and generally prefers that planning agencies conduct their review and take action prior to environmental review by the Department. Unfortunately, most comprehensive planning efforts are still being launched and this policy cannot be adhered to in all cases. Such appears to be the case with the CIRI project.

The Department cannot legally defer action indefinitely on permit applicants while awaiting planning agency decisions which may in fact never be made. In the case of CIRI the Department is not aware of any major concern or inconsistency with existing or proposed planning guidelines. Appropriate planning agencies have been aware of the CIRI project for a considerable time and have been notified through Department public notice procedures as to proposed action on environmental permits.

Statewide land use criteria for siting refineries may be desirable but it would appear the major issue regarding siting of refineries would probably be environmental impact for which the Department and the Commission are fully responsible and, in the case of CIRI, for which comprehensive analyses have been made.

Other issues of concern to the community such as whether Rivergate should be developed with capital-intensive versus labor-intensive industry are beyond the jurisdiction of the Department and must be thrashed out by other levels of government, preferably before the Department is bound to act on environmental permit applications.

Issue - Requests for changes in proposed ACD permit

CIRI has formally requested 23 changes to the proposed ACD permit during their allowed 14 day review period.

Department Response - All requested changes in the ACD permit are considered by the Department to be minor. Most requested changes have been accommodated; however, there are 4 requested changes which the Department does not feel are justified.

A major concern raised by CIRI and others at the public hearing involved limiting production to the permit application figure of 50,000 bbl/day. The Department cannot subscribe to allowing average production to exceed permit application figures; however, the Department recognizes that daily fluctuations in production will occur. Therefore, the Department proposes to modify the initially proposed permit on page 1 to require the facility design to be limited to 50,000 bbl/day of crude oil capacity and on page 3 has limited monthly average production to no greater than 50,000 bbl/day. The Department does not intend to hinder future development of means of increasing production with existing equipment as long as it can be demonstrated that air emission will stay within permit limits and necessary steps are taken to get the permit formally and legally modified if greater production or productive capacity is proposed.

CIRI has indicated that the statement in permit condition 14 Section A which states that if the "project is not viable as determined by failure to adhere to the following schedule, the permit shall be subject to modification or revocation", will preclude the arrangement for financing of the project. The time schedule was required and included in order to enable the Department to assess viability of the project, initially and into the future, and to be able to re-allocate emissions to another facility if the CIRI project does not remain viable and also to adjust the new Clean Fuels Policy as necessary. The schedule incorporated in the proposed permit was stated by CIRI as maximum time projections. The Department believes that present permit wording allows CIRI flexibility to submit a revised schedule if necessary. If reasonable evidence is presented that the project is still viable, a permit amendment and time extension could then be obtained. The Department does not believe the proposed condition should hinder financing of the project.

Other changes in the permit of some significance are changes in emission testing and fuel quality monitoring which are considered reasonable to obtain data required by the Department while minimizing costs to CIRI of monitoring.

The remaining changes made in the proposed permit are considered very insignificant and do not affect emission limits or performance requirements.

Conclusions

1. Using emission tradeoffs from a new clean fuels rule to approve CIRI is not considered unconstitutional in-as-much as the entire community will derive significant air quality improvement and economic benefit.

2. The possibility of significant quantities of clean fuels produced by CIRI being burned outside of the State of Oregon appears very slim due to the relatively small quantity of fuel produced by CIRI and the economic penalty that would be encountered by long-distance transport of these fuels out of the state when they could be used in the state. In addition, the proposed permit requires CIRI to make up to 10,000 bbls/day of 0.5% sulfur residual fuel oil available for use in the area.

3. Air Quality Standards which are projected to be met after completion of the Oregon Clean Air Implementation Plan will not be violated by CIRI when the facility becomes operational considering tradeoffs from the proposed clean fuels policy and baseline or background air quality.

4. In the event CIRI air emissions would tend to be greater than now projected, alternative means are available to keep emissions to within projected levels (such as requiring CIRI to burn more of the cleaner fuels produced in the refinery).

5. Air quality impact in North Portland as a result of CIRI emissions is not considered to be significant as air quality improvements from a clean fuels policy should have maximum beneficial tradeoff effects in north and northwest Portland.

6. Best available waste water treatment and compliance with EPA discharge criteria will be assured through permit issuance and detailed plan review procedures once engineering plans are completed and submitted to the Department.

Water quality impact of CIRI is not considered significant since water pollution discharges are relatively small. The Department is not aware of any unique problems that may result from discharge of properly treated refinery wastewaters into the Willamette River.

7. The Department is unaware of any significant conflict that the CIRI project may have with planning agency guidelines and requirements. Specific planning agency siting criteria for refineries does not exist but would probably relate heavily to environmental factors which are the responsibility of the Department and the Commission and which have been thoroughly considered for the proposed CIRI project.

8, Minor changes in the proposed CIRI Air Discharge Permit have been made at the request of CIRI. These changes are considered reasonable to prevent unjustified costly requirements primarily in the area of monitoring air emissions and product quality. None of the changes affect emission limits or performance requirements.

Director's Recommendation

It is the Director's recommendation that the attached proposed Air Contaminant Discharge Permit for the CIRI Phase I facility, which has been slightly modified from the initial draft permit proposed at the January 24, 1975 public hearing, be issued.

KESSLER R. CANNON
Director

Attachments:
Table 1
Proposed, Modified Permit

lb: 2/19/75

TABLE 1

CIRI 1979 Maximum Impact (Linnton Hillside)

($\mu g/m^3$)

| | Estimated AQ Background[1] | Phase I (50,000 BPD) Without Background | Phase I (50,000 BPD) With Background | Air Quality Significant Deterioration Criteria: Class I (Clean Air) | Class II (Moderate Growth) | Class III (National Air Quality Standards) |
|---|---|---|---|---|---|---|
| **Particulate Matter** | | | | | | |
| Annual Geometric Mean | 43 (49)[4] | 0.44 (4%)[3] | 43.4 | 5 | 10 | 60 |
| Maximum 24 hour average | 112 (131)[4] | 4.0 (13%)[3] | 116 | 10 | 30 | 150 |
| **Sulfur Dioxide** | | | | | | |
| Annual Arithmetic Mean | 15.6 (23)[4] | 5.0 (33%)[3] | 20.6 | 2 | 15 | 80 (60)[2] |
| Maximum 24 hour Average | 106 (156)[4] | 23 (23%)[3] | 129 | 5 | 100 | 365 (260)[2] |
| 3 hour maximum | 380 (559)[4] | 32 (4%)[3] | 412 | 25 | 700 | 1300 |

[1] Based on 0.5% residual oil fuel combustion emissions

[2] State of Oregon Air Quality Standards which are more restrictive than National Air Quality Standards

[3] Indicates percent of Class II deterioration used by CIRI

[4] Existing Air Quality (1974)

PRELIMINARY DRAFT

Permit Number:
Expiration Date: 12/31/79
Page 1 of 15
Revised 2/19/75

# AIR CONTAMINANT DISCHARGE PERMIT

**Department of Environmental Quality**
**1234 S.W. Morrison Street**
**Portland, Oregon 97205**
**Telephone: (503) 229-5696**
**Issued in accordance wth the provisions of**
**ORS** 468.310

ISSUED TO:

Columbia Independent Refinery Inc.
P. O. Box 1689
Portland, Oregon 97207

PLANT SITE:

Rivergate Industrial Park
Portland, Oregon

ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY

Kessler R. Cannon, Director — *Date*

REFERENCE INFORMATION

Application No. 275, 276, 277

Date Received April 3, 1974

Other Air Contaminant Sources at this Site:

| | Source | SIC | Permit No. |
|---|---|---|---|
| (1) | | | |
| (2) | | | |

**SOURCE(S) PERMITTED TO DISCHARGE AIR CONTAMINANTS:**

| Name of Air Contaminant Source | Standard Industry Code as Listed |
|---|---|
| Petroleum Refining 50,000 BBL/day Capacity | 2911 |
| Fuel Burning Equipment - Residual and Distillate oil both exceeding 250 million BTU/hr. (63 million kg-cal/hr.) heat input | 4961 |
| Incinerators 40 lbs/hr to 2,000 lbs/hr (18 kg/hr to 907 kg/hr capacity) | None |

Permitted Activities

Until such time as this permit expires or is modified or revoked, Columbia Independent Refinery Inc. is herewith permitted in conformance with the requirements, limitations and conditions of this permit to construct a petroleum refinery with a design capacity of no greater than 50,000 BBL/day in the Rivergate Industrial Park, Portland, Oregon and to discharge air contaminants therefrom.

Compliance with the specific requirements, limitations and conditions contained herein shall not relieve the permittee from complying with all rules and standards of the Department and the laws administered by the Department.

Section A: Petroleum Refining
Section B: Fuel Burning Equipment
Section C: Incinerator

**For Requirements, Limitations and Conditions of this Permit, see attached Sections**

Columbia Independent Refinery Inc.

## SECTION A - PETROLEUM REFINING

### Performance Standards and Emission Limits

1. The permittee shall at all times maintain and operate all air contaminant generating processes and all air contaminant control equipment at full efficiency and effectiveness such that the emissions of air contaminants are kept at the lowest practicable levels.

2. Emissions of air contaminants from petroleum refining and all associated air contaminant control equipment shall not exceed any of the following:

   a. An opacity equal to or greater than twenty (20) percent opacity for a period or periods aggregating more than thirty (30) seconds in any one hour from any single non fuel burning source of emissions.

   b. An emission of particulate matter which is larger than 250 microns in size provided such particulate matter does or will deposit upon the real property of another person.

3. The permittee shall not cause or permit the emissions of odorous matter in such a manner as to contribute to a condition of air pollution or exceed:

   a. A scentometer No. 0 odor strength or equivalent dilution in residential and commercial areas.

   b. A scentometer No. 2 odor strength or equivalent dilution in all other land use areas.

Scentometer Readings

| Scentometer No. | Concentration Range No. of Thresholds |
|---|---|
| 0 | 1 to 2 |
| 1 | 2 to 8 |
| 2 | 8 to 32 |
| 3 | 32 to 128 |

4. The permittee shall not sell, distribute or make available for use any distillate fuel oil, in the entire state of Oregon, containing more than the following percentages of sulfur: (OAR, Chapter 340, Sections 22-005, 22-010, 22-025).

   a. ASTM Grade 1 fuel oil - 0.3 percent by weight

   b. ASTM Grade 2 fuel oil - 0.5 percent by weight

5. The permittee shall not sell, distribute or make available for use in the entire state of Oregon any residual fuel oil (oil meeting the specifications of ASTM Grade 4, Grade 5, or Grade 6 fuel oil), containing more than 1.75 percent sulfur by weight (OAR, Chapter 340, Sections 22-005, 22-010, 22-025).

6. After January 1, 1979, if the Department so requires by rule, the permittee shall not sell or distribute for use in Multnomah, Washington, Clackamas and Columbia counties of Oregon any residual fuel oil (oil meeting the specifications of ASTM Grade 4, Grade 5 or Grade 6 fuel oil) containing more than 0.5 percent sulfur by weight. (OAR, Chapter 340, Sections 22-005, 22-015, 22-025).

Special Conditions

7. The permittee shall operate the refinery such that the monthly average crude oil processing capacity does not exceed 50,000 BBL/day and shall, prior to construction, submit detailed plans and specifications to the Department for review and approval for at least the following: All petroleum storage and loading equipment, sulfox plant, by-product sulfur handling, storage and shipment facilities, cooling tower, vapor recovery system and the flaring system. Said refinery shall incorporate highest and best practicable treatment and control facilities and procedures throughout.

8. The permittee shall handle, transfer, store and subsequently load for shipment all by-product sulfur as a liquid unless otherwise approved by the Department in writing. If because of process equipment breakdown it becomes necessary for the sulfur by-product to be stored in a solid form, it shall be stored in a completely enclosed area. All displaced air from this enclosed area must pass through an air pollution control system, approved by the Department before being discharged into the atmosphere.

9. The permittee shall be subject to the following provisions with regards to the unloading, transferring, storage and loading of all petroleum liquids.

   a. Petroleum liquid having a true vapor pressure of 78 mm Hg or less shall be stored in vessels equipped with a conservation vent or equivalent.

   b. Petroleum liquid having a true vapor pressure in excess of 78 mm Hg but not greater than 570 mm Hg shall be stored in vessels equipped with a floating roof or equivalent.

   c. Petroleum liquid having a true vapor pressure in excess of 570 mm Hg shall be stored in vessels equipped or tied in with a vapor recovery system or its equivalent.

   d. All hatch covers must be kept in good operating condition and must be closed at all times except during actual gauging operations.

   e. Shall, as a minimum requirement, comply with all applicable conditions of OAR, Chapter 340, Section 28-050).

10. The permittee is prohibited from discharging any treated or untreated water to any public waterway unless such discharge is the subject of a valid Waste Discharge Permit issued by the Department of Environmental Quality.

11. The permittee shall comply with all applicable Department noise control regulations and demonstrate compliance no later than 90 days after facility start-up.

12. The permittee shall cover all API gravity separators to control hydrocarbon emissions.

13. The permittee shall make available for use after January 1, 1979 in Multnomah, Washington, and Clackamas counties within the State of Oregon at least 10,000 barrels per day of residual fuel oil with a maximum sulfur content of 0.5 percent by weight.

14. The permittee shall submit to the Department written documentation of the following increments of progress by no later than the dates indicated below, that the proposed oil refinery is a viable project and is proceeding towards completion. If at any time it is apparent that the project is not viable as determined by failure to adhere to the following schedule, the permit shall be subject to modification or revocation.

| | | |
|---|---|---|
| a. | Complete engineering predesign, update construction estimates and amend feasibility studies | October 1, 1975 |
| b. | Obtain crude supply, marketing and financial commitments | January 1, 1976 |
| c. | Let engineering contract | April 1, 1976 |
| d. | Issue purchase orders for major process equipment | July 1, 1976 |
| e. | Begin site preparation | January 1, 1977 |
| f. | Initiate construction | April 1, 1977 |
| g. | Start up refinery | January 1, 1979 |

15. The permittee shall submit for Department review and approval prior to start-up of the refinery, the analytic methods that will be used by the refinery to determine sulfur, ash and nitrogen content (percent by weight).

16. Operation of the flares shall be considered a breakdown condition and therefore subject to general condition number 11 of this permit.

17. Continuous monitoring of specific emissions and emission points may be required by the Department after review of final engineering plans and specifications.

18. The permittee shall provide within three months of commencing commercial operation, easily accessible sampling ports and platforms on all emission exhaust stacks. The location and design of these sampling ports and platforms must be reviewed and approved by the Department.

Emission Reduction Plan

19. The permittee shall implement the emission reduction plan stated in Section B of this permit.

Compliance Schedule

20. None required.

Monitoring and Reporting

21. The permittee shall effectively monitor the operation and maintenance of the facility and associated air contaminant control equipment. A record of all such data shall be maintained for a period of one year and be available at the plant site at all times for inspection by the authorized representatives of the Department. At least the following parameters shall be monitored and recorded at the indicated interval unless otherwise approved by the Department in writing:

| | Parameter | Minimum Monitoring Frequency |
|---|---|---|
| a. | Amount of sulfur by-product reclaimed and/or sold | Weekly |
| b. | Any observable increase in particulate, sulfur dioxide, or odorous emissions from the facility, suspected reason for such increased emission and projected date of any action to reduce the emission increase | Daily |
| c. | Operating schedule (hours/day) of the sulfur by-product transferring and shipment facility | Monthly |
| d. | Amount of crude oil processed | Daily |
| e. | Analysis of all residual and distillate fuel oil produced for sulfur, ash and nitrogen content (percent by weight). Samples shall be taken prior to shipment from each final storage tank containing residual and distillate fuel oil. | Each time additional product is added to the tank or each time after a quantity of oil equal to the holding capacity of the tank has passed through the tank. |
| f. | Purchasers name, date of purchase, type of fuel oil, quantity of shipment, final destination, sulfur, ash and nitrogen content (percent by weight). | Each individual shipment of distillate and residual fuel oil. |
| g. | The date of inspection and/or type of maintenance performed on the petroleum and sulfur by-product storage and handling facilities, cooling tower, flaring system, vapor recovery system and tail gas plant. | As performed |

22. The permittee shall submit the following recorded information to the Department in writing at the indicated intervals:

| Parameter | | Interval |
|---|---|---|
| a. | Tons of sulfur by-product reclaimed | Quarterly |
| b. | Operating hours of the sulfur by-product handling, storage and shipment facility | Quarterly |
| c. | Purchasers name, date of purchase, type of fuel oil, quantity of shipment, final destination, sulfur, ash and nitrogen content (percent by weight). | Monthly |
| d. | Amount of crude oil processed | Monthly |

## SECTION B - FUEL BURNING EQUIPMENT

### Performance Standards and Emission Limits

1. The permittee shall at all times maintain and operate all fuel burning devices and related equipment at full efficiency such that the emissions of air contaminants are kept at the lowest practicable levels.

2. Emissions of air contaminants from fuel burning equipment shall not exceed any of the following:

   a. Visible emissions shall not equal or exceed 20% opacity for a period or periods aggregating more than three (3) minutes in any one (1) hour.

   b. Particulate emissions shall not exceed smoke spot numbers as measured by ASTM D 2156-65 "Standard Method to test for Smoke Density", as follows:

| Types of Fuel | Smoke Spot Number |
|---|---|
| Residual | 4 |
| Distillate | 2 |

   c. Emissions of particulate, sulfur dioxide and nitrogen oxides shall not exceed the following emission rates for the specific fuels listed:

| Types of Fuels | Emission Rate Limitations lbs/mm BTU (kg/kg-cal) | | |
|---|---|---|---|
| | Particulate | SO2 | NOX |
| Refinery gas | 0.014 (.025) | 0.034 (.061) | 0.2 (0.4) |
| Distillate | 0.017 (.031) | 0.10 (.18) | 0.3 (0.5) |
| Residual | 0.042 (.076) | 0.55 (.99) | 0.3 (0.5) |

d. The maximum hourly emissions from all fuel burning equipment shall not exceed:

| Pollutant | Emission Rate lbs/hr (kg/hr) | |
|---|---|---|
| Particulate | 24.4 | (11.1) |
| Sulfur dioxide | 237.4 | (107.7) |
| Nitrogen oxides | 285 | (129.3) |

e. The maximum yearly emissions from all fuel burning equipment shall not exceed:

| Pollutant | Emissions-tons/year (kg/year) | |
|---|---|---|
| Particulate | 107 | (97,049) |
| Sulfur dioxide | 1040 | (943,280) |
| Nitrogen oxides | 1248 | (1,131,936) |

f. When a combination of fuels are used in any one fuel burning device then the applicable emission limits in 2b, 2d and 2e shall be determined by proration of the specific fuel emission rate limitations in proportion to the actual fuel mix.

3. Sulfur content of fuel oil burned shall be limited as follows:

a. The permittee shall not use any residual fuel oil containing more than 0.5 percent sulfur by weight.

b. The permittee shall not use any distillate fuel oil containing more than 0.1 percent sulfur by weight.

4. The permittee shall not cause or permit the emission of any particulate matter which is larger than 250 microns in size provided such particulate matter does or will deposit upon the real property of another person.

Special Conditions

5. The permittee shall submit detailed plans and specifications for all fuel burning equipment for Department review and approval prior to commencing construction. Said fuel burning equipment shall incorporate highest and best practicable emission control and technology.

6. The permittee shall not operate the fuel burning devices in such a manner as to exceed a total of 981,280,000 BTU's/hour (247,283,000 kg-cal/hr) of heat input, except during start-up.

7. The permittee shall have particulate, oxide of nitrogen and sulfur dioxide emission tests conducted on at least one exhaust stack for each class of similar fuel burning equipment that has similar burner types, fuel types and firebox configurations. Determination of equipment classes shall be approved by the Department. Tests shall be conducted no sooner than three months but no later than six months after commencing commercial operation. In conjunction with the

above tests for particulate emissions, smoke spot tests shall be taken for each fuel burning device. The tests must be performed in accordance with methods on file at the Department or in conformance with recognized applicable standard methods approved in writing in advance by the Department. The test results shall be submitted to the Department within sixty (60) days of completion of the tests.

8. The permittee shall provide within three months of commencing commercial operation, easily accessible sampling ports and platforms on all fuel burning exhaust stacks. The location and design of these sampling ports and platforms must be reviewed and approved by the Department.

9. The permittee shall provide fuel sampling facilities on all feedlines to each fuel burning device (valve for taking a sample of fuel).

10. The permittee shall burn only refinery gas, distillate, residual or combination of the three fuels in the fuel burning equipment in a manner such that the emissions do not exceed the limitations set forth in this permit.

11. If the permittee desires to burn other fuels or combinations of fuels not approved within this permit, acceptable source test reports must be submitted to the Department for review and approval and a permit ammendment must be obtained prior to use of such other fuel.

12. The permittee is prohibited from discharging any treated or untreated water to any public waterway unless such discharge is the subject of a valid Waste Discharge Permit issued by the Department of Environmental Quality.

13. The permittee shall comply with all applicable Department noise control regulations and demonstrate compliance no later than 90 days after facility starts up.

Emission Reduction Plan

14. The permittee shall implement the following emission reduction plan during air pollution episodes when so notified by this Department:

| Notice Condition | Action to be Taken by Permittee |
|---|---|
| a. Alert | 1. Boiler and process heater lancing or soot blowing if required shall be performed only between the hours of 12 noon and 4:00 p.m. |
| b. Warning | 1. Continue alert measures<br>2. Minimize emissions by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage<br>3. Burn the cleanest available fuels possible<br>4. Prepare for immediate shutdown of the process heaters |
| c. Emergency | 1. Upon notification from the Department, immediately cease operation of the process heaters until notified by the Department that the condition has passed. |

Columbia Independent Refinery Inc.

Compliance Schedule

15. None required.

Monitoring and Reporting

16. The permittee shall effectively monitor the operation and maintenance of all fuel burning equipment and associated air contaminant control facilities. A record of all such data shall be maintained for a period of one year and be available at the refinery site at all times for inspection by the authorized representatives of the Department. At least the following parameters shall be monitored and recorded at the indicated interval:

| Parameter | Minimum Monitoring Frequency |
|---|---|
| a. Operating schedule (hours/day) of the steam boiler | Daily |
| b. Operating schedule (hours/month) of all other fuel burning equipment not previously mentioned in (a) | Daily |
| c. Any observable increase in particulate and/or sulfur dioxide emissions from the fuel burning equipment, suspected reason for such increased emission and projected date of any action to reduce the emission increase | Daily |
| d. Quantity of distillate and/or residual fuel oil and/or refinery gas burned for each process heater and boiler | Daily |
| e. The sulfur, ash, nitrogen (percent by weight) and BTU content of every fuel or fuel mix used in each process heater and boiler | After any change in fuel or fuel mix or significant chang (as defined by the Department) in sulfur, ash, nitrogen or BTU content of each fuel |
| f. Particulate, sulfur dioxide and nitrogen oxide emission rates for a process heater, boiler and fuel mix chosen by the Department | Semi-annually |
| g. A description of any maintenance to the fuel burning equipment | As performed |
| h. Smoke spot for each fuel oil burning device | Monthly or after any change in fuel mix |

17. The permittee shall submit the following recorded information to the Department in writing at the indicated intervals:

| Parameter | | Interval |
|---|---|---|
| a. | Operating hours of the fuel burning equipment | Quarterly |
| b. | Quantities of distillate (diesel) fuel oil and/or refinery gas burned for each process heater and boiler | Quarterly |
| c. | Average sulfur, ash, nitrogen (percent by weight) and BTU content of every fuel or fuel mix used in each process heater and boiler | Quarterly |
| d. | Results of the emission test required in 16f | Semi-annually |

## SECTION C - INCINERATOR

### Performance Standards and Emission Limits

1. The permittee shall at all times maintain and operate the waste sludge incinerator and associated air pollution control equipment at full efficiency and effectiveness such that the emissions of air contaminants are kept at the lowest practicable levels.

2. Emissions of air contaminants from the waste sludge incinerator and associated air pollution control equipment shall not exceed any of the following:

   a. An opacity equal to or greater than twenty (20) percent opacity for a period or periods aggregating more than three (3) minutes in any one (1) hour from the incinerator or associated air pollution control device.

   b. An emission of particulate matter which is larger than 250 microns in size provided such particulate matter does or will deposit upon the real property of another person.

   c. An emission of particulate matter which does not exceed 0.43 lbs/hr. (0.20 kg/hr).

### Special Conditions

3. The permittee shall submit detailed plans and specifications for the waste sludge incinerator and associated air pollution control equipment for Department review and approval prior to commencing construction. Said incinerator shall incorporate highest and best practicable treatment and emission control and technology.

4. The maximum capacity of the waste sludge incinerator shall not exceed 166 lbs/hr (75.3 kg/hr) of wet sludge.

5. The permittee shall have emission tests of exhaust from the electrostatic precipitator conducted no sooner than three months but not later than six months after commencing commercial operations. The results must be submitted to this office within thirty (30) days of the source test. The tests must be performed in accordance with methods on file at the Department of Environmental Quality or in conformance with recognized applicable standard methods approved in writing in advance by the Department. Tests shall be performed while equipment is operating at maximum capacity or under such conditions that emissions to the atmosphere will tend to be maximized. The Department shall be notified of the date of the tests so that a staff member can be present to observe the testing.

6. The permittee shall provide within three months of commencing commercial operation, easily accessible sampling ports and platform on the exhaust stack of the electrostatic precipitator. The location and design of the sampling ports and platform must be reviewed and approved by the Department.

7. The permittee shall obtain written approval from the Department for each general type of waste sludge proposed to be incinerated.

8. The permittee shall burn as auxilary fuel only refinery gas and/or distillate fuel oil in the waste sludge incinerator in a manner such that the emissions do not exceed the limitations set forth in this permit.

9. The permittee shall handle and store material collected by the electrostatic precipitator in a manner such that this material would not be subject to entrainment into the atmosphere. Disposal of the collected material must be conducted in a manner approved by the Department in writing.

10. The permittee shall comply with all applicable Department noise control regulations and demonstrate compliance no later than 90 days after refinery starts up.

Emission Reduction Plan

11. The permittee shall implement the following emission reduction plan during air pollution episodes when so notified by this Department.

| Notice Condition | Action to be Taken by Permittee |
|---|---|
| a. Alert | 1. Immediately inspect all air pollution control equipment to insure that the systems are providing the best possible control |
| b. Warning | 1. Prepare for the immediate shutdown of the waste sludge incinerator<br>2. Burn the cleanest available fuels possible |

| Notice Condition | Action to be Taken by Permittee |
|---|---|
| c. Emergency | 1. Upon notification from the Department, immediately cease operation of the waste sludge incinerator until notified by the Department that the condition has passed |

Compliance Schedule

12. None required

Monitoring and Reporting

13. The permittee shall effectively monitor the operation and maintenance of the waste sludge incinerator and associated air contaminant control facilities. A record of all such data shall be maintained for a period of one year and be available at the refinery site at all times for inspection by the authorized representatives of the Department. At least the following parameters shall be monitored and recorded at the indicated intervals:

| Parameter | Minimum Monitoring Frequency |
|---|---|
| a. Operating schedule (hours/day) of the waste sludge incinerator | Daily |
| b. Any observable increase in particulate emissions from the waste sludge incinerator or electrostatic precipitator, suspected reason for such increased emission and projected date of any action to reduce the emission increase | Daily |
| c. Quantity of waste sludge incinerated | Weekly |
| d. Quantity of material collected by the electrostatic precipitator | Weekly |
| e. A description of any maintenance to the waste sludge incinerator and/or electrostatic precipitator | As performed |
| f. Quantity of distillate fuel oil and/or refinery gas burned | Weekly |
| g. The sulfur, ash, nitrogen (percent by weight) and BTU content of every fuel used in the incinerator | After any change in fuel mix or significant change (as defined by the Department) in sulfur, ash, nitrogen or BTU content of each fuel |
| h Emission of air contaminants specified by the Department in writing from the waste sludge incinerator | Annually |

| Parameter | Minimum Monitoring Frequency |
|---|---|
| i. Smoke spot | Monthly or after any change in fuel mix |

14. The permittee shall submit the following recorded information to the Department in writing at the indicated intervals:

| Parameter | Interval |
|---|---|
| a. Operating hours of the waste sludge incinerator | Quarterly |
| b. Quantity of distillate fuel oil and/or refinery gas burned | Quarterly |
| c. Quantity of sludge incinerated | Quarterly |
| d. Average sulfur, ash, nitrogen (percent by weight) and BTU content of every fuel mix used in the incinerator | Quarterly |
| e. Results of emission tests required in 13h. | Annually |
| f. Quantity of collected electrostatic precipitator material | Annually |

General Conditions

G1. A copy of this permit or at least a copy of the title page and an accurate and complete extraction of the operating and monitoring requirements and discharge limitations shall be posted at the facility and the contents thereof made known to operating personnel.

G2. This 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. The permittee is prohibited from conducting any open burning at the plant site or facility.

G4. The permittee is prohibited from causing or allowing discharges of air contaminants from source(s) not covered by this permit so as to cause the plant site emissions to exceed the standards fixed by this permit or rules of the Department of Environmental Quality.

G5. The permittee shall at all times conduct dust suppression measures to meet the requirements set forth in "Fugitive Emissions" and "Nuisance Conditions" in OAR, Chapter 340, Section 21-050.

G6. (NOTICE CONDITION) The permittee shall dispose of all solid wastes or residues in manners and at locations approved by the Department of Environmental Quality.

G7. 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.

G8. The permittee, without prior notice to and written approval from the Department of Environmental Quality, is prohibited from altering, modifying or expanding the subject production facilities so as to affect emissions to the atmosphere.

G9. 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.

G10. 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.

G11. The permittee shall notify the Department by telephone or in person within one (1) hour of any scheduled maintenance, malfunction of pollution control equipment, upset or any other conditions that cause or may tend to cause a significant increase in emissions or violation of any conditions of this permit. Such notice shall include:

a. The nature and quantity of increased emissions that have occurred or are likely to occur,

b. The expected length of time that any pollution control equipment will be out of service or reduced in effectiveness,

c. The corrective action that is proposed to be taken, and

d. The precautions that are proposed to be taken to prevent a future recurrence of a similar condition.

G12. Application for a modified or renewal of this permit must be submitted not less than 60 days prior to permit expiration date. A filing fee and Application Investigation and Permit Issuing or Denying Fee must be submitted with the application.

G13. The permittee shall submit the Annual Compliance Determination Fee to the Department of Environmental Quality according to the following schedule:

| Amount Due | Date Due |
|---|---|
| $ 615.00 | December 31, 1975 |
| 615.00 | 1976 |
| 615.00 | 1977 |
| 615.00 | 1978 |
| (see G12) | December 31, 1979 |

# ENVIRONMENTAL QUALITY COMMISSION

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

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. L, February 28, 1975, EQC Meeting

Charter Energy Company - Proposed Issuance of Air Contaminant Discharge Permit

## Background

A public hearing was held at the January 24, 1975 EQC meeting to solicit testimony on a proposed Air Contaminant Discharge Permit for the Charter Energy Company 52,400 barrel per day oil refinery.

The small amount of testimony given at the hearing and received subsequently supported issuance of the proposed permit.

The only significant issues raised regarding the proposed Charter Energy Company facility were the following:

1. Baseline air quality is not sufficiently defined to determine compliance with air quality standards and deterioration limits.
2. Citing of refineries should be more comprehensively reviewed on a state-wide basis.
3. Best available water quality treatment and minimal water quality impact were not assured.
4. Plant production rate should not be restricted.

In addition to the testimony cited above, Charter Energy Company requested several changes in the proposed permit.

## Analysis

The Department has considered all submitted testimony directed towards the proposed Air Contaminant Discharge Permit for Charter Energy Company. Significant issues and the Department's responses are as follows:

Issue - Baseline Air Quality is not Sufficiently Defined.

Mr. Tom Guilbert contended that baseline Air Quality was not specifically defined and that although Class II significant deterioration limits would be met, Air Quality standards could be exceeded.

Department Response

The Department considered baseline or background air quality when formulating recommendations for issuing an Air Contaminant Discharge Permit to Charter Energy Company, however, the background air quality data was not presented in the January 24, 1975 report to the EQC.

Table 1 (a revision of Table 3, contained in the Department's January 24, 1975 report to the EQC regarding Charter), attached hereto, presents projected worst case air quality impact as a result of Charter's emissions using present background air quality data. It is apparent from this data that Charter will not cause violation of State or Federal Air Quality standards.

Using 1974 background air quality data from nearby sampling sites is considered a conservative approach considering that Columbia County and vicinity air emissions will be further reduced in 1975 upon completion of the Oregon and Washington Clean Air Plans.

Issue - Siting of Refineries Should be More Comprehensively Reviewed on a State-wide Basis

Mrs. Joyce Tsongas, representing Citizens for State Planning, raised the issue regarding a need for state-wide refinery siting criteria and planning agency review regarding all three proposed refineries in the state.

Department Response

The issue of refinery siting and planning review was discussed at length in the Department's February 28, 1975 report to the EQC regarding CIRI. The same response is appropriate to the Charter facility.

In the case of Charter, the Department is not aware of any major concern or inconsistency with existing or proposed planning guidelines.

Issue - Best Available Water Quality Treatment and Minimal Water Quality Impact are not Assured.

Mr. John L. Frewing representing the Oregon Clean Water Project raised questions about refinery water quality impact which applied to all three refineries in the state.

Department Response

The general water quality issues regarding refinery wastewater treatment and discharge raised by Mr. Frewing were discussed at length in the Department's February 28, 1975 report to the EQC regarding CIRI. The same response is appropriate to the Charter facility. In addition, there appears no feasible way to implement off channel berthing at the Charter site. Charter wastewater flows and other parameters will meet EPA effluent guidelines - a specific concern that Mr. Frewing had.

Issue - Charter Request for Changes in Proposed Air Contaminant Discharge Permit.

Charter has formally requested thirteen changes in the proposed Air Contaminant Discharge permit.

Department Response

A major concern raised by Charter and others at the public hearing concerned limiting production to the permit application figure of 52,400 BBL/day. The Department recognizes that fluctuations in production will occur but the Department cannot subscribe to allowing average production to exceed permit application figures since air quality impact analysis was based on air emissions corresponding to this production rate and air impact just met EPA Class II significant deterioration limit. Restricting production rate and fuel combustion rate are the only two available means of continually monitoring and regulating operating variables which affect air emissions. Consequently, to insure air emission and deterioration limits are not exceeded, it is mandatory to restrict and monitor production and fuel combustion rates.

The Department has modified the initially proposed permit on page 1 to require the Charter facility to be designed to process a maximum 52,400 BBL/day of crude oil and has limited monthly average production to no greater than 52,400 BBL/day.

The Department does not intend to hinder development of means of increasing production with existing equipment as long as it can be demonstrated that air emissions will stay within permit limits. Permit amendments could be made upon satisfactory documentation that changes in production or fuel combustion rate limitations can be made while maintaining compliance with emission and ambient air standards.

Charter requested that a reduction in the maximum sulfur content of residual fuels by adoption of a Clean Fuels Rule be done in steps to 0.5% to forestall costly installation of desulfurization facilities. The Department is requiring Charter to make available a very small quantity (2,000 BBL/day) of 0.5% sulfur residual oil compared to the total plant output. This requirement will not require additional large capital expenditures and the Department firmly believes Charter would have a large local market outside the Clean Fuels Rule area which it could supply with higher sulfur oil.

Charter requested modification in the proposed permit monitoring and reporting sections to minimize costs. The Department agrees with some of the requested changes and has modified the proposed permit to require monitoring and reporting identical to the requirements in the revised proposed air permit for CIRI.

Charter has indicated that it may request authorization to discharge more particulate emissions than is presently proposed to be allowed if improved air modelling indicates lesser air quality impact, or deterioration limits are relaxed. The Department has changed Charter's proposed permit to require plant site meteorological and air quality monitoring prior to plant operation so that the Department will have adequate data to evaluate such a request if and when it may be made.

Remaining changes made in the proposed permit are considered very insignificant and do not involve any of the previously proposed emission or performance requirements.

Conclusions

1. There were no significant objections raised to issuance of an Air Contaminant Discharge Permit to Charter Energy Company at the January 24, 1975 public hearing or in subsequent testimony from the public or planning agencies.

2. Air quality standards would not be violated by Charter air emission when baseline or background air quality is considered.

3. Best available water quality treatment and control would be assured through permit issuing procedures and detailed plan review once engineering plans are completed and submitted to the Department.

4. Water quality impact is not considered significant since water pollutant discharges after treatment are relatively small. Oil spill prevention and containment will be required to meet U.S. Coast Guard and EPA regulations as a minimum.

5. Charter's production rate must be restricted as this is a primary means of monitoring compliance with air emission and air quality standards and deterioration limits. An increase in production rate above 52,400 BBL/day cannot be considered at this time since EPA air quality deterioration limits are projected to be exceeded at a higher production rate and corresponding higher emission rate.

6. An air quality and meteorological plant site monitoring program would be required prior to operation of the Charter refinery to provide data for evaluating potential requests for future changes in permit limits.

7. Minor changes in the proposed Air Contaminant Discharge permit as requested by Charter can be made without changing emission or performance requirements contained in the initially proposed permit.

Director's Recommendations

It is the Director's recommendation that the attached proposed Air Contaminant Discharge Permit for the Charter Energy Company facility, which has been slightly modified from the permit proposed at the January 24, 1975 public hearing be issued.

KESSLER R. CANNON
Director

KRC:pld

Attachments: Table 1
Proposed Permit

TABLE 1
Charter Maximum Air Quality Impact
($\mu g/m^3$)

| | 1974 Air Quality Background[3] | Charter (52,400 BPD) Without Background | Charter (52,400 BPD) With Background | Air Quality Significant Deterioration Criteria Class I (Clean Air) | Class II (Moderate Growth) | Class III (National Air Quality Standards) |
|---|---|---|---|---|---|---|
| **Particulate Matter** | | | | | | |
| Annual Geometric Mean | 27 | 4.2 (42%)[1] | 31.2 | 5 | 10 | 60 |
| Maximum 24 Hour Average | 118 | 30 (100%)[1] | 148 | 10 | 30 | 150 |
| **Sulfur Dioxide** | | | | | | |
| Annual Arithmetic Mean | 20 | 13 (87%)[1] | 33 | 2 | 15 | 80 (60)[2] |
| Maximum 24 Hour Average | 45 | 94 (94%)[1] | 139 | 5 | 100 | 365 (260)[2] |
| 3 Hour Maximum | 520 | 520 (74%)[1] | 1040 | 25 | 700 | 1300 |

[1] Indicates percent of Class II deterioration used by Charter
[2] State of Oregon Air Quality Standards which are more restrictive than National Air Quality Standards
[3] Estimate from closest air sampling sites

PRELIMINARY DRAFT

Permit Number:
Expiration Date: 12/31/79
Page 1 of 15
Revised 2/10/75

# AIR CONTAMINANT DISCHARGE PERMIT

**Department of Environmental Quality**
**1234 S.W. Morrison Street**
**Portland, Oregon 97205**
**Telephone: (503) 229-5696**
**Issued in accordance wth the provisions of**
**ORS** 468.310

ISSUED TO:

Charter Energy Company
666 Camino Aguajito
Monterey, California 93940

PLANT SITE:

North Columbia River Highway
St. Helens, Oregon 97051

ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY

Kessler R. Cannon
Director

*Date*

REFERENCE INFORMATION

Application No. 323, 341

Date Received September 11, 1974

Other Air Contaminant Sources at this Site:

| Source | SIC | Permit No. |
|---|---|---|
| (1) | | |
| (2) | | |

**SOURCE(S) PERMITTED TO DISCHARGE AIR CONTAMINANTS:**

| Name of Air Contaminant Source | Standard Industry Code as Listed |
|---|---|
| Petroleum Refining 52,400 BBL/Day capacity | 2911 |
| Fuel Burning Equipment, Distillate oil exceeding 250 million BTU/hr. (63 million kg-cal/hr) heat input | 4961 |
| Incinerator (greater than 2,000 lbs/hr (907 kg/hr) capacity | None |

Permitted Activities

Until such time as this permit expires or is modified or revoked, Charter Energy Company is herewith permitted in conformance with the requirements, limitations and conditions of this permit to construct a petroleum refinery with a design capacity no greater than 52,400 BBL/day on the North Columbia River Highway, St. Helens, Oregon and to discharge air contaminants therefrom.

Compliance with the specific requirements, limitations and conditions contained herein shall not relieve the permittee from complying with all rules and standards of the Department and the laws administered by the Department.

Section A: Petroleum Refining
Section B: Fuel Burning Equipment
Section C: Incinerator

## SECTION A - PETROLEUM REFINING

### Performance Standards and Emission Limits

1. The permittee shall at all times maintain and operate all air contaminant generating processes and all air contaminant control equipment at full efficiency and effectiveness such that the emissions of air contaminants are kept at the lowest practicable levels.

2. Emissions of air contaminants from petroleum refining and all associated air contaminant control equipment shall not exceed any of the following:

   a. An opacity equal to or greater than twenty (20) percent opacity for a period or periods aggregating more than thirty (30) seconds in any one hour from any single non fuel burning source of emissions.

   b. An emission of particulate matter which is larger than 250 microns in size provided such particulate matter does or will deposit upon the real property of another person.

3. The permittee shall not cause or permit the emissions of odorous matter in such a manner as to contribute to a condition of air pollution or exceed:

   a. A scentometer No. 0 odor strength or equivalent dilution in residential and commercial areas.

   b. A scentometer No. 2 odor strength or equivalent dilution in all other land use areas.

Scentometer Readings

| Scentometer No. | Concentration Range No. of Thresholds |
|---|---|
| 0 | 1 to 2 |
| 1 | 2 to 8 |
| 2 | 8 to 32 |
| 3 | 32 to 128 |

4. The permittee shall not sell, distribute or make available for use any distillate fuel oil, in the entire state of Oregon, containing more than the following percentages of sulfur: (OAR, Chapter 340, Sections 22-005, 22-015, 22-025).

   a. ASTM Grade 1 fuel oil - 0.3 percent by weight

   b. ASTM Grade 2 fuel oil - 0.5 percent by weight

5. The permittee shall not sell, distribute or make available for use in the entire state of Oregon any residual fuel oil (oil meeting the specifications of ASTM Grade 4, Grade 5, or Grade 6 fuel oil), containing more than 1.75 percent sulfur by weight. (OAR, Chapter 340, Sections 22-005, 22-015, 22-025).

6. After January 1, 1979, if the Department so requires by rule, the permittee shall not sell or distribute for use in Multnomah, Washington, Clackamas and Columbia counties of Oregon any residual fuel oil (oil meeting the specifications of ASTM Grade 4, Grade 5 or Grade 6 fuel oil) containing more than 0.5 percent sulfur by weight. (OAR, Chapter 340, Sections 22-005, 22-015, 22-025).

Special Conditions

7. The permittee shall operate the refinery such that the monthly average crude oil processing capacity does not exceed 52,400 BBL/day and shall, prior to construction submit detailed plans and specifications to the Department for review and approval, for at least the following: All petroleum storage and loading equipment, claus and tail gas plant, by-product sulfur handling, storage and shipment facilities, cooling tower, vapor recovery system and the flaring system. Said refinery shall incorporate highest and best practicable treatment and control facilities and procedures throughout.

8. The permittee shall handle, transfer, store and subsequently load for shipment all by-product sulfur as a liquid unless otherwise approved by the Department in writing. If because of process equipment breakdown it becomes necessary for the sulfur by-product to be stored in a solid form, it shall be stored in a completely enclosed area. All displaced air from this enclosed area must pass through an air pollution control system, approved by the Department before being discharged into the atmosphere.

9. The permittee shall be subject to the following provisions with regards to the unloading, transferring, storage and loading of all petroleum liquids.

   a. Petroleum liquid having a true vapor pressure of 78 mm Hg or less shall be stored in vessels equipped with a conservation vent or equivalent.

   b. Petroleum liquid having a true vapor pressure in excess of 78 mm Hg but not greater than 570 mm Hg shall be stored in vessels equipped with a floating roof or equivalent.

   c. Petroleum liquid having a true vapor pressure in excess of 570 mm Hg shall be stored in vessels equipped or tied in with a vapor recovery system or its equivalent.

   d. All hatch covers must be kept in good operating condition and must be closed at all times except during actual gauging operations.

   e. Shall, as a minimum requirement comply with all applicable conditions of OAR, Chapter 340, Section 28-050.

10. The permittee is prohibited from discharging any treated or untreated water to any public waterway unless such discharge is the subject of a valid Waste Discharge Permit issued by the Department of Environmental Quality.

11. The permittee shall comply with all applicable Department noise control regulations and demonstrate compliance no later than 90 days after facility start-up.

12. The permittee shall cover all API gravity separators to control hydrocarbon emissions.

13 The permittee shall submit to the Department written documentation of the following increments of progress by no later than the dates indicated below, that the proposed oil refinery is a viable project and is proceeding towards completion. If at any time it is apparent that the project is not viable as determined by failure to adhere to the following schedule, the permit shall be subject to modification or revocation.

| | | |
|---|---|---|
| a. | Decision made to proceed with project | September 1, 1975 |
| b. | Let engineering contract | December 1, 1975 |
| c. | Complete site aquisition | December 1, 1975 |
| d. | Issue purchase order for critical long lead time items | July 1, 1976 |
| e. | Obtain crude supply, marketing and financial commitments | March 1, 1977 |
| f. | Issue purchase orders for remaining equipment | March 1, 1977 |
| g. | Initiate construction | March 1, 1977 |
| h. | Start up refinery | December 31, 1979 |

14. The permittee shall submit for Department review and approval prior to start-up of the refinery, the analytic methods that will be used by the refinery to determine sulfur, ash and nitrogen content (percent by weight).

15. Operation of the flares shall be considered a breakdown condition and therefore subject to general condition number 11 of this permit.

16. Continuous monitoring of specific emissions and emission points may be required by the Department after review of final engineering plans and specifications.

17. The permittee shall provide within three months of commencing commercial operation, easily accessible sampling ports and platforms on all emission exhaust stacks. The location and design of these sampling ports and platforms must be reviewed and approved by the Department.

18. The permittee shall when in commercial operation but no sooner than January 1, 1979 make available for use in Columbia county, at least 2,000 barrels per day of residual fuel oil with a maximum sulfur content of 0.5 percent by weight.

19. The permittee shall install, maintain and operate an air quality monitoring system at least one year prior to expected operation of the refinery which has been approved by the Department in writing.

20. The permittee shall install, maintain and operate a meteorological monitoring station within 180 days of issuance of this permit. The meteorological instrumentation, recording equipment and reporting procedures shall be approved by the Department prior to installation and implementation. The meteorological monitoring station shall consist of the following:

    a. 100 foot (30.5 meter) tower which will remain intact for the life of the plant.

    b. Wind speed, direction and temperature sensing at the 100 foot (30.5 meter) level of the tower.

    c. Temperature sensing at the 33 foot (10 meter) level of the tower.

    d. Continuous recording of all meteorological parameters.

Emission Reduction Plan

21. The permittee shall implement the emission reduction plan stated in Section B of this permit.

Compliance Schedule

22. None required.

Monitoring and Reporting

23. The permittee shall effectively monitor the operation and maintenance of the facility and associated air contaminant control equipment. A record of all such data shall be maintained for a period of one year and be available at the plant site at all times for inspection by the authorized representatives of the Department. At least the following parameters shall be monitored and recorded at the indicated interval:

| Parameter | Minimum Monitoring Frequency |
|---|---|
| a. Amount of sulfur by-product reclaimed and/or sold | Daily |
| b. Any observable increase in particulate, sulfur dioxide, or odorous emissions from the facility, suspected reason for such increased emission and projected date of any action to reduce the emission increase | Daily |
| c. Operating schedule (hours/day) of the sulfur by-product transferring and shipment facility | Monthly |
| d. Amount of crude oil processed | Daily |

| Parameter | | Minimum Monitoring Frequency |
|---|---|---|
| e. | Analysis of all residual and distillate fuel oil for sulfur, ash and nitrogen content (percent by weight). Samples shall be taken from each final (prior to shipment) storage tank containing residual and distillate fuel oil | Each time additional product is added to the tank or each time after a quantity of oil equal to the holding capacity of the tank has passed through the tank |
| f. | Purchasers name, date of purchase, type of fuel oil, quantity of the shipment, destination, sulfur, ash and nitrogen content (percent by weight) | Each individual shipment of distillate and residual fuel oil |
| g. | The date of inspection and/or type of maintenance performed on the petroleum and sulfur by-product storage and handling facilities, cooling tower, flaring system vapor recovery system, and tail gas plant | As performed |

24. The permittee shall submit the following recorded information to the Department in writing at the indicated intervals:

| Parameter | | Interval |
|---|---|---|
| a. | Tons of sulfur by-product reclaimed | Quarterly |
| b. | Operating hours of the sulfur by-product handling, storage and shipment facility | Quarterly |
| c. | Amount of crude oil processed | Monthly |
| d. | Purchasers name, date of purchase, type of fuel oil, quantity of the shipment, destination, sulfur, ash and nitrogen content (percent by weight) | Monthly |

## SECTION B - FUEL BURNING EQUIPMENT

### Performance Standards and Emission Limits

1. The permittee shall at all times maintain and operate all fuel burning devices and related equipment at full efficiency such that the emissions of air contaminants are kept at the lowest practicable levels.

2. Emissions of air contaminants from fuel burning equipment shall not exceed any of the following:

   a. Visible emissions shall not equal or exceed 20% opacity for a period or periods aggregating more than three (3) minutes in any one (1) hour.

b. Particulate emissions shall not exceed smoke spot numbers as measured by ASTM D 2156-65 "Standard Method to test for Smoke Density", as follows:

| Types of fuel | Smoke Spot Number |
|---|---|
| Distillate (Diesel) | 2 |

c. Emissions of particulate, sulfur dioxide and nitrogen oxides shall not exceed the following emission rates for the specific fuels listed:

| Types of Fuels | Emission Rate Limitations lbs/mm BTU (kg/kg-cal) | | |
|---|---|---|---|
| | Particulate | SO2 | NOX |
| Refinery gas | 0.02 (.04) | 0.02 (.04) | 0.2 (.4) |
| Distillate (Diesel) | 0.08 (0.14) | 0.11 (.20) | 0.28(.50) |

d. The maximum hourly emissions from all fuel burning equipment shall not exceed:

| Pollutant | Emission Rate lbs/hr (kg/hr) | |
|---|---|---|
| Particulate | 34.8 | (15.8) |
| Sulfur dioxide | 109.5 | (49.7) |
| Nitrogen oxides | 285.7 | (129.7) |

e. The maximum yearly emissions from all fuel burning equipment shall not exceed:

| Pollutant | Emissions-tons/year (kg/year) | |
|---|---|---|
| Particulate | 146 | (132,568) |
| Sulfur dioxide | 460 | (417,680) |
| Nitrogen oxides | 1200 | (1,089,600) |

f. When a combination of fuels are used in any one fuel burning device then the applicable emission limits in 2d and 2e shall be determined by proration of the specific fuel emission rate limitations in proportion to the actual fuel mix.

3. The permittee shall not burn any distillate (diesel) fuel oil containing more than 0.1 percent sulfur by weight.

4. The permittee shall not cause or permit the emission of any particulate matter which is larger than 250 microns in size provided such particulate matter does or will deposit upon the real property of another person.

Special Conditions

5. The permittee shall submit detailed plans and specifications for all fuel burning equipment for Department review and approval prior to commencing construction. Said fuel burning equipment shall incorporate highest and best practicable emission control and technology.

6. The permittee shall not operate the fuel burning devices in such a manner as to exceed a total of 934,000,000 BTU's per hour of heat input.

7. The permittee shall have particulate, oxide of nitrogen and sulfur dioxide emission tests conducted on at least one exhaust stack for each class of similar fuel burning equipment that has similar burner types, fuel types and fire box configurations. Determination of equipment classes shall be approved by the Department. Tests shall be conducted no sooner than three months but not later than six months after commencing commercial operation. In conjunction with the above tests for particulate emissions, smoke spot tests shall be taken for each fuel burning device to correlate particulate emission rates with smoke spot numbers for each class of fuel burning equipment. The tests must be performed in accordance with methods on file at the Department or in conformance with recognized applicable standard methods approved in writing in advance by the Department. The test results shall be submitted to the Department within sixty (60) days of completion of the tests.

8. The permittee shall provide within three months of commencing commercial operation, easily accessible sampling ports and platforms on all fuel burning exhaust stacks. The location and design of these sampling ports and platforms must be reviewed and approved by the Department.

9. The permittee shall provide fuel sampling facilities on all feedlines to each fuel burning device (valve for taking a sample of fuel).

10. The permittee shall burn only refinery gas and/or distillate (diesel) or combination of the two fuels in the fuel burning equipment in a manner such that the emissions do not exceed the limitations set forth in this permit.

11. If the permittee desires to burn other fuels or combinations of fuels not approved within this permit, acceptable source test reports must be submitted to the Department for review and approval and a permit ammendment must be obtained prior to use of such other fuel.

12. The permittee is prohibited from discharging any treated or untreated water to any public waterway unless such discharge is the subject of a valid Waste Discharge Permit issued by the Department of Environmental Quality.

13. The permittee shall comply with all applicable Department noise control regulations and demonstrate compliance no later than 90 days after facility starts up.

Emission Reduction Plan

14. The permittee shall implement the following emission reduction plan during air pollution episodes when so notified by this Department:

| Notice Condition | Action to be Taken by Permittee |
|---|---|
| a. Alert | 1. Boiler and process heater lancing or soot blowing if required shall be performed only between the hours of 12 noon and 4:00 p.m. |

| Notice Conditions | Action to be Taken by Permittee |
|---|---|
| b. Warning | 1. Continue alert measures<br>2. Minimize emissions by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage<br>3. Burn the cleanest available fuels possible<br>4. Prepare for immediate shutdown of the process heaters |
| c. Emergency | 1. Upon notification from the Department, immediatel cease operation of the process heaters until notified by the Department that the condition has passed |

Compliance Schedule

15. None required.

Monitoring and Reporting

16. The permittee shall effectively monitor the operation and maintenance of all fuel burning equipment and associated air contaminant control facilities. A record of all such data shall be maintained for a period of one year and be available at the refinery site at all times for inspection by the authorized representatives of the Department. At least the following parameters shall be monitored and recorded at the indicated interval:

| Parameter | Minimum Monitoring Frequency |
|---|---|
| a. Operating schedule (hours/day) of the steam boiler | Daily |
| b. Operating schedule (hours/month) of all other fuel burning equipment not previously mentioned in (a) | Daily |
| c. Any observable increase in particulate and/or sulfur dioxide emissions from the fuel burning equipment, suspected reason for such increased emission and projected date of any action to reduce the emission increase | Daily |
| d. Quantity of distillate (diesel) fuel oil and/or refinery gas burned for each process heater and boiler | Daily |
| e. The sulfur, ash, nitrogen (percent by weight) and BTU content of every fuel or fuel mix used in each process heater and boiler | After any change in fuel or fuel mix or significant chang (as defined by the Department) in sulfur, ash, nitrogen or BTU content of each fuel |

| Parameter | | Minimum Monitoring Frequency |
|---|---|---|
| f. | Particulate, sulfur dioxide and nitrogen oxide emission rates for a process heater, boiler and fuel mix chosen by the Department | Semi-annually |
| g. | A description of any maintenance to the fuel burning equipment | As performed |
| h. | Smoke spot for each fuel oil burning device | Monthly or after any change in fuel mix |

17. The permittee shall submit the following recorded information to the Department in writing at the indicated intervals:

| Parameter | | Interval |
|---|---|---|
| a. | Operating hours of the fuel burning equipment | Quarterly |
| b. | Quantities of distillate (diesel) fuel oil and/or refinery gas burned for each process heater and boiler | Quarterly |
| c. | Average sulfur, ash, nitrogen (percent by weight) and BTU content of every fuel or fuel mix used in each process heater and boiler | Quarterly |
| d. | Results of the emission test required in 16f. | Semi-annually |

## SECTION C - INCINERATOR

### Performance Standards and Emission Limits

1. The permittee shall at all times maintain and operate the waste sludge incinerator and associated air pollution control equipment at full efficiency and effectiveness such that the emissions of air contaminants are kept at the lowest practicable levels.

2. Emissions of air contaminants from the waste sludge incinerator and associated air pollution control equipment shall not exceed any of the following:

   a. An opacity equal to or greater than twenty (20) percent opacity for a period or periods aggregating more than three (3) minutes in any one (1) hour from the incinerator or associated air pollution control device.

   b. An emission of particulate matter which is larger than 250 microns in size provided such particulate matter does or will deposit upon the real property of another person.

   c. An emission of particulate matter which does not exceed 0.03 grains per dry standard cubic foot corrected to 12% $CO_2$.

Special Conditions

3. The permittee shall submit detailed plans and specifications for the waste sludge incinerator and associated air pollution control equipment for Department review and approval prior to commencing construction. Said incinerator shall incorporate highest and best practicable treatment and emission control and technology.

4. The maximum capacity of the waste sludge incinerator shall not exceed an average of 2,300 lbs/hr (1044 kg/hr) of wet sludge.

5. The permittee shall have emission tests of exhaust from the air pollution control system conducted no sooner than three months but not later than six months after commencing commercial operations. The results must be submitted to this office within thirty (30) days of the source test. The tests must be performed in accordance with methods on file at the Department of Environmental Quality or in conformance with recognized applicable standard methods approved in writing in advance by the Department. Tests shall be performed while equipment is operating at maximum capacity or under such conditions that emissions to the atmosphere will tend to be maximized. The Department shall be notified of the date of the tests so that a staff member can be present to observe the testing.

6. The permittee shall provide within three months of commencing commercial operation, easily accessible sampling ports and platform on the exhaust stack of the electrostatic precipitator. The location and design of the sampling ports and platform must be reviewed and approved by the Department.

7. The permittee shall obtain written approval from the Department for each specific waste sludge proposed to be incinerated.

8. The permittee shall burn as auxilary fuel only refinery gas and/or distillate fuel oil in the waste sludge incinerator in a manner such that the emissions do not exceed the limitations set forth in this permit.

9. The permittee shall handle and store material collected by the air pollution control equipment in a manner such that this material would not be subject to entrainment into the atmosphere. Disposal of the collected material must be conducted in a manner approved by the Department in writing.

10. The permittee shall comply with all applicable Department noise control regulations and demonstrate compliance no later than 90 days after refinery starts up.

11. The permittee is prohibited from discharging any treated or untreated water to any public waterway unless such discharge is the subject of a valid Waste Discharge Permit issued by the Department of Environmental Quality.

Charter Energy Company

Emission Reduction Plan

12. The permittee shall implement the following emission reduction plan during air pollution episodes when so notified by this Department.

| Notice Condition | Action to be Taken by Permittee |
|---|---|
| a. Alert | 1. Immediately inspect all air pollution control equipment to insure that the systems are providing the best possible control |
| b. Warning | 1. Prepare for the immediate shutdown of the waste sludge incinerator<br>2. Burn the cleanest available fuels possible |
| c. Emergency | 1. Upon notification from the Department, immediately cease operation of the waste sludge incinerator until notified by the Department that the condition has passed |

Compliance Schedule

13. None required

Monitoring and Reporting

14. The permittee shall effectively monitor the operation and maintenance of the waste sludge incinerator and associated air contaminant control facilities. A record of all such data shall be maintained for a period of one year and be available at the refinery site at all times for inspection by the authorized representatives of the Department. At least the following parameters shall be monitored and recorded at the indicated intervals:

| Parameter | Minimum Monitoring Frequency |
|---|---|
| a. Operating schedule (hours/day) of the waste sludge incinerator | Daily |
| b. Any observable increase in particulate emissions from the waste sludge incinerator or air pollution control equipment, suspected reason for such increased emission and projected date of any action to reduce the emission increase | Daily |
| c. Quantity of waste sludge incinerated | Daily |
| d. Quantity of material collected by the air pollution control system | Weekly |

| Parameter | | Minimum Monitoring Frequency |
|---|---|---|
| e. | A description of any maintenance to the waste sludge incinerator and/or air pollution control equipment | As performed |
| f. | Quantity of distillate fuel oil and/or refinery gas burned | Weekly |
| g. | The sulfur, ash, nitrogen (percent by weight) and BTU content of every fuel used in the incinerator | After any change in fuel mix or significant change (as defined by the Department) in sulfur, ash, nitrogen or BTU content of each fuel |
| h. | Emission of air contaminants specified by the Department in writing from the incinerator | Annually |
| i. | Smoke spot | Monthly or after any change in fuel mix |

15. The permittee shall submit the following recorded information to the Department in writing at the indicated intervals:

| Parameter | | Interval |
|---|---|---|
| a. | Operating hours of the waste sludge incinerator | Quarterly |
| b. | Quantity of distillate fuel oil and/or refinery gas burned | Quarterly |
| c. | Quantity of sludge incinerated | Quarterly |
| d. | Average sulfur, ash, nitrogen (percent by weight) and BTU content of every fuel mix used in the incinerator | Quarterly |
| e. | Results of emission tests required in 14h. | Annually |
| f. | Quantity of collected material | Annually |

General Conditions

G1. A copy of this permit or at least a copy of the title page and an accurate and complete extraction of the operating and monitoring requirements and discharge limitations shall be posted at the facility and the contents thereof made known to operating personnel.

G2. This 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. The permittee is prohibited from conducting any open burning at the plant site or facility.

G4. The permittee is prohibited from causing or allowing discharges of air contaminants from source(s) not covered by this permit so as to cause the plant site emissions to exceed the standards fixed by this permit or rules of the Department of Environmental Quality.

G5. The permittee shall at all times conduct dust suppression measures to meet the requirements set forth in "Fugitive Emissions" and "Nuisance Conditions" in OAR, Chapter 340, Section 21-050.

G6. (NOTICE CONDITION) The permittee shall dispose of all solid wastes or residues in manners and at locations approved by the Department of Environmental Quality.

G7. 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.

G8. The permittee, without prior notice to and written approval from the Department of Environmental Quality, is prohibited from altering, modifying or expanding the subject production facilities so as to affect emissions to the atmosphere.

G9. 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.

G10. 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.

G11. The permittee shall notify the Department by telephone or in person within one (1) hour of any scheduled maintenance, malfunction of pollution control equipment, upset or any other conditions that cause or may tend to cause a significant increase in emissions or violation of any conditions of this permit. Such notice shall include:

a. The nature and quantity of increased emissions that have occurred or are likely to occur,

b. The expected length of time that any pollution control equipment will be out of service or reduced in effectiveness,

c. The corrective action that is proposed to be taken, and

d. The precautions that are proposed to be taken to prevent a future recurrence of a similar condition.

G12. Application for a modified or renewal of this permit must be submitted not less than 60 days prior to permit expiration date. A filing fee and Application Investigation and Permit Issuing or Denying Fee must be submitted with the application.

G13. The permittee shall submit the Annual Compliance Determination Fee to the Department of Environmental Quality according to the following schedule:

| Amount Due | Date Due |
|---|---|
| $545.00 | December 31, 1975 |
| 545.00 | 1976 |
| 545.00 | 1977 |
| 545.00 | 1978 |
| (see G12) | December 31, 1979 |

# ENVIRONMENTAL QUALITY COMMISSION

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

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. L, February 28, 1975, EQC Meeting

Cascade Energy Inc. - Proposed Issuance of Air Contaminant Discharge Permit

## Background

A public hearing was held at the January 24, 1975 EQC meeting to solicit testimony on a proposed Air Contaminant Discharge Permit for the Cascade Energy Inc. 30,000 barrel per day oil refinery.

The small amount of testimony given at the hearing and received subsequently supported issuance of the proposed permit.

The only significant issues raised regarding the proposed Cascade Energy Inc. facility were the following:

1. Baseline air quality is not sifficiently defined to determine compliance with air quality standards and deterioration limits.
2. Siting of refineries should be more comprehensively reviewed on a state-wide basis.
3. Best available water quality treatment and minimal water quality impact were not assured.

In addition to the testimony cited above, Cascade Energy Inc. requested several changes in the proposed permit.

## Analysis

The Department has considered all submitted testimony directed towards the proposed Air Contaminant Discharge Permit for Cascade Energy Inc. Significant issues and the Department's responses are as follows:

Issue - Baseline Air Quality is not Sufficiently Defined.

Mr. Tom Guilbert contended that baseline Air Quality was not specifically defined and that although Class II significant deterioration limits would be met, Air Quality standards could be exceeded.

Department Response

The Department considered baseline or background air quality when formulating recommendations for issuing an Air Contaminant Discharge Permit to Cascade Energy Inc., however, the background air quality data was not presented in the January 24, 1975 report to the EQC.

Table 1 (a revision of Table 3, contained in the Department's January 24, 1975 report to the EQC regarding Cascade), attached hereto, presents projected worst case air quality impact as a result of Cascade's emissions using present background air quality data. It is apparent from this data that Cascade will not cause violation of State or Federal Air Quality standards.

Using 1974 background air quality data from nearby sampling sites is considered a conservative approach considering that Columbia County and vicinity air emissions will be further reduced in 1975 when completion of the Oregon and Washington Clean Air Plans.

Issue - Siting of Refineries Should be More Comprehensively Reviewed on a State-wide Basis

Mrs. Joyce Tsongas, representing Citizens for State Planning, raised the issue regarding a need for state-wide refinery siting criteria and planning agency review regarding all three proposed refineries in the state.

Department Response

The issue of refinery siting and planning review was discussed at length in the Department's February 28, 1975 report to the EQC regarding CIRI. The same response is appropriate to the Cascade facility.

In the case of Cascade, the Department is not aware of any major concern or inconsistency with existing or proposed planning guidelines.

Issue - Best Available Water Quality Treatment and Minimal Water Quality Impact are not Assured.

Mr. John L. Frewing representing the Oregon Clean Water Project raised questions about refinery water quality impact which applied to all three refineries in the state.

Department Response

The general water quality issues regarding refinery wastewater treatment and discharge raised by Mr. Frewing were discussed at length in the Department's February 28, 1975 report to the EQC regarding CIRI. The same response is appropriate to the Cascade facility. In addition, there appears no feasible way to implement off channel berthing at the Cascade site.

Issue - Cascade Request for Changes in Proposed Air Contaminant Discharge Permit.

Cascade has formally requested nine changes in the proposed Air Contaminant Discharge permit.

Department Response

Cascade requested modification in the proposed permit monitoring and reporting sections to minimize costs. The Department agrees with some of the requested changes and has modified the proposed permit to require monitoring and reporting identical to the requirements in the revised proposed air permit for CIRI.

Cascade requested authorization to discharge more air emissions than is presently proposed to be allowed. Cascade requested that intermittent controls (switch to cleaner fuels during advice meteorology) be allowed to enable Cascade to burn more residual fuel under favorable meteorological conditions and save some $1600 per day in operating costs.

The Department restricted the Cascade fuel mix to essentially distillate fuel primarily based on Cascade dispersion modelling to insure compliance with significant air quality deteoriation limits. Cascade conducted further refinements in modelling and presented them in January 24, 1975 public hearing in hopes of showing that the restricted fuel mix was not necessary. Results of Cascade's refined modelling did not show a lesser air quality impact but did indicate adverse impact occured for a relatively short period of time.

The Department would be amenable to considering changing fuel mix requirements to minimize economic impact on Cascade providing sufficient assurance is given that deterioration limits would not be exceeded. Such assurance must be in the form of most realistic modelling analysis. This can only be done, in the Department's opinion, after sufficient meteorological data is collected at the plant site. E.D.I. (Cascade's consultant) recognized this conclusion by stating "It must be accepted that only a very detailed meteorological and monitoring study of plume behavior in the specific locality can determine with any reliability what effect of the plant may be . . .".

E.D.I.'s revised impact analysis based on Longview, Washington's meteorological information indicated that adverse impact occurred under rare conditions (three hours out of 7116 hours). Whether, in

fact these adverse conditions are rare or that other unforseen problems may result from fuel switching can only be resolved in the Department's opinion by plant site meteorological monitoring. E.D.I. also generally acknowledged this fact by recognizing "the uncertainty in direct application of Longview wind data to the actual Cascade site".

The Department recognizes the economic benefit in the Cascade fuel switch proposed and would encourage installation of duel fuel capabilities. However, at this time the Department does not believe that enough sound information is available to approve the fuel switching proposal and feels that this proposal can only be evaluated after at least one year's worth of plant site meteorological information is attained. By that time more definitive information should also be available from EPA regarding hillside plume impacts and modelling on such impacts in relation to evaluating significant air quality deterioration.

Cascade requested change in their construction schedule stated in permit condition 13 to make construction progress dates latest expected. Since the start-up date of the entire refinery is still not beyond January 1, 1979, the date when the proposed Clean Fuels Rule would become effective, the Department had no objection to revising the construction schedule as requested. Remaining changes made in the proposed permit are considered very insignificant and do not involve any of the previously proposed emission or performance requirements.

Conclusions

1. There were no significant objections raised to issuance of an Air Contaminant Discharge Permit to Cascade Energy Inc. at the January 24, 1975 public hearing or in subsequent testimony from the public or planning agencies.

2. Air quality standards would not be violated by Cascade air emission when baseline or background air quality is considered.

3. Best available water quality treatment and control would be assured through permit issuing procedures and detailed plan review once engineering plans are completed and submitted to the Department.

4. Water quality impact is not considered significant since water pollutant discharges after treatment are relatively small. Oil spill prevention and containment will be required to meet U.S. Coast Guard and EPA regulations as a minimum.

5. An air quality and meteorological plant site monitoring program must be immediately implemented to provide data for evaluating Cascade's requests for allowing greater emissions than presently proposed.

6. Minor changes in the proposed Air Contaminant Discharge permit as requested by Cascade can be made without changing emission or performance requirements contained in the initially proposed permit.

Director's Recommendations

It is the Director's recommendation that the attached proposed Air Contaminant Discharge Permit for the Cascade Energy Inc. facility, which has been slightly modified from the permit proposed at the January 24, 1975 public hearing, be issued.

KESSLER R. CANNON
Director

KRC:pld

Attachments: Table 1
Proposed Permit

TABLE 1
Cascade Maximum Air Quality Impact
($\mu g/m^3$)

| | 1974 Air Quality Background[3] | Cascade (30,000 BPD) Without Background | Cascade (30,000 BPD) With Background | Air Quality Significant Deterioration Criteria: Class I (Clean Air) | Class II (Moderate Growth) | Class III (National Air Quality Standards |
|---|---|---|---|---|---|---|
| **Particulate Matter** | | | | | | |
| Annual Geometric Mean | 30 | 10 (100%)[1] | 40 | 5 | 10 | 60 |
| Maximum 24 Hour Average | 117 | 30 (100%)[1] | 147 | 10 | 30 | 150 |
| **Sulfur Dioxide** | | | | | | |
| Annual Arithmetic Mean | 26 | 15 (100%)[1] | 41 | 2 | 15 | 80 (60)[2] |
| Maximum 24 Hour Average | 100 | 100 (100%)[1] | 200 | 5 | 100 | 365 (260)[2] |
| 3 Hour Maximum | 300 | 300 (43%)[1] | 600 | 25 | 700 | 1300 |

[1] Indicates percent of Class II deterioration used by Cascade
[2] State of Oregon Air Quality Standards which are more restrictive than National Air Quality Standards
[3] Estimate from closest air sampling sites

PRELIMINARY DRAFT

Permit Number:
Expiration Date: 12/31/79
Page 1 of 12
Revised 2/19/75

# AIR CONTAMINANT DISCHARGE PERMIT

**Department of Environmental Quality**
**1234 S.W. Morrison Street**
**Portland, Oregon 97205**
**Telephone: (503) 229-5696**
**Issued in accordance wth the provisions of**
**ORS 468.310**

ISSUED TO:
Cascade Energy Inc.
P. O. Box 227
Rainier, Oregon 97048

PLANT SITE:

Same as above

ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY

Kessler R. Cannon, Director — *Date*

REFERENCE INFORMATION

Application No. 294

Date Received May 31, 1974

Other Air Contaminant Sources at this Site:

| Source | SIC | Permit No. |
|---|---|---|
| (1) | | |
| (2) | | |

**SOURCE(S) PERMITTED TO DISCHARGE AIR CONTAMINANTS:**

| Name of Air Contaminant Source | Standard Industry Code as Listed |
|---|---|
| Petroleum Refining 30,000 BBL/day Capacity | 2911 |
| Fuel Burning Equipment - Residual and Distillate oil both exceeding 250 million BTU/hr. (63 million kg-cal/hr) (heat input) | 4961 |

Permitted Activities

Until such time as this permit expires or is modified or revoked, Cascade Energy Inc. is herewith permitted in conformance with the requirements, limitations and conditions of this permit to construct a petroleum refinery with a design capacity no greater than 30,000 BBL/day in Rainier, Oregon and to discharge air contaminants therefrom.

Compliance with the specific requirements, limitations and conditions contained herein shall not relieve the permittee from complying with all rules and standards of the Department and the laws administered by the Department.

Section A: Petroleum Refining
Section B: Fuel Burning Equipment

## SECTION A - PETROLEUM REFINING

### Performance Standards and Emission Limits

1. The permittee shall at all times maintain and operate all air contaminant generating processes and all air contaminant control equipment at full efficiency and effectiveness such that the emissions of air contaminants are kept at the lowest practicable levels.

2. Emissions of air contaminants from petroleum refining and all associated air contaminant control equipment shall not exceed any of the following:

   a. An opacity equal to or greater than twenty (20) percent opacity for a period or periods aggregating more than thirty (30) seconds in any one hour from any single non fuel burning source of emissions.

   b. An emission of particulate matter which is larger than 250 microns in size provided such particulate matter does or will deposit upon the real property of another person.

3. The permittee shall not cause or permit the emissions of odorous matter in such a manner as to contribute to a condition of air pollution or exceed:

   a. A scentometer No. 0 odor strength or equivalent dilution in residential and commercial areas.

   b. A scentometer No. 2 odor strength or equivalent dilution in all other land use areas.

Scentometer Readings

| Scentometer No. | Concentration Range No. of Thresholds |
|---|---|
| 0 | 1 to 2 |
| 1 | 2 to 8 |
| 2 | 8 to 32 |
| 3 | 32 to 128 |

4. The permittee shall not sell, distribute or make available for use any distillate fuel oil, in the entire state of Oregon, containing more than the following percentages of sulfur: (OAR, Chapter 340, Sections 22-005, 22-015, 22-025).

   a. ASTM Grade 1 fuel oil - 0.3 percent by weight

   b. ASTM Grade 2 fuel oil - 0.5 percent by weight

5. The permittee shall not sell, distribute or make available for use in the entire state of Oregon any residual fuel oil (oil meeting the specifications of ASTM Grade 4, Grade 5, or Grade 6 fuel oil), containing more than 1.75 percent sulfur by weight. (OAR, Chapter 340, Sections 22-005, 22-015, 22-025).

6. After January 1, 1979, if the Department so requires by rule, the permittee shall not sell or distribute for use in Multnomah, Washington, Clackamas and Columbia counties of Oregon any residual fuel oil (oil meeting the specifications of ASTM Grade 4, Grade 5 or Grade 6 fuel oil) containing more than 0.5 percent sulfur by weight. (OAR, Chapter 340, Sections 22-005, 22-015, 22-025).

Special Conditions

7. The permittee shall operate the refinery such that the monthly average crude oil processing capacity does not exceed 30,000 BBL/day and shall, prior to construction submit detailed plans and specifications to the Department for review and approval, for at least the following: All petroleum storage and loading equipment, sulfox plant, by-product sulfur handling, storage and shipment facilities, cooling tower, vapor recovery system and the flaring system. Said refinery whall incorporate highest and best practicable treatment and control facilities and procedures throughout.

8. The permittee shall handle, transfer, store and subsequently load for shipment all by-product sulfur as a liquid unless otherwise approved by the Department in writing. If because of process equipment breakdown it becomes necessary for the sulfur by-product to be stored in a solid form, it shall be stored in a completely enclosed area. All displaced air from this enclosed area must pass through an air pollution control system, approved by the Department before being discharged into the atmosphere.

9. The permittee shall be subject to the following provisions with regards to the unloading, transferring, storage and loading of all petroleum liquids.

   a. Petroleum liquid having a true vapor pressure of 78 mm Hg or less shall be stored in vessels equipped with a conservation vent or equivalent.

   b. Petroleum liquid having a true vapor pressure in excess of 78 mm Hg but not greater than 570 mm Hg shall be stored in vessels equipped with a floating roof or equivalent.

   c. Petroleum liquid having a true vapor pressure in excess of 570 mm Hg shall be stored in vessels equipped or tied in with a vapor recovery system or its equivalent.

   d. All hatch covers must be kept in good operating condition and must be closed at all times except during actual gauging operations.

   e. Shall, as a minimum requirement comply with all applicable conditions of OAR, Chapter 340, Section 28-050.

10. The permittee is prohibited from discharging any treated or untreated water to any public waterway unless such discharge is the subject of a valid Waste Discharge Permit issued by the Department of Environmental Quality.

11. The permittee shall comply with all applicable Department noise control regulations and demonstrate compliance no later than 90 days after facility start-up.

12. The permittee shall cover all API gravity separators to control hydrocarbon emissions.

13 The permittee shall submit to the Department written documentation of the following increments of progress by no later than the dates indicated below, that the proposed oil refinery is a viable project and is proceeding towards completion. If at any time it is apparent that the project is not viable as determined by failure to adhere to the following schedule, the permit shall be subject to modification or revocation.

| | | |
|---|---|---|
| a. | Proceed with preliminary on site engineering | March 1, 1975 |
| b. | Final decision to build refinery in two phase or in one phase | March 1, 1976 |
| c. | Complete engineering contracts for major process design | April 1, 1976 |
| d. | Obtain crude supply, marketing and financial commitments | March 1, 1976 |
| e. | Commence construction of preliminary site work | May 1, 1976 |
| f. | Order major delivery items | May 1, 1976 |
| g. | Orders complete for balance of process equipment | April 1, 1978 |
| h. | Start up of 15,000 BBL/day refinery | July 1, 1978 |
| i. | Start up of 30,000 BBL/day refinery | January 1, 1979 |

14. The permittee shall submit for Department review and approval prior to start-up of the refinery, the analytic methods that will be used by the refinery to determine sulfur, ash and nitrogen content (percent by weight).

15. Operation of the flares shall be considered a breakdown condition and therefore subject to general condition number 11 of this permit.

16. Continuous monitoring of specific emissions and emission points may be required by the Department after review of final engineering plans and specifications.

17. The permittee shall provide within three months of commencing commercial operation, easily accessible sampling ports and platforms on all emission exhaust stacks. The location and design of these sampling ports and platforms must be reviewed and approved by the Department.

18. The permittee shall when in commercial operation but no sooner than January 1, 1979 make available for use in Columbia county, at least 2,000 barrels per day of residual fuel oil with a maximum sulfur content of 0.5 percent by weight.

19. The permittee shall install, maintain and operate an air quality monitoring system at least one year prior to expected operation of the refinery, which has been approved by the Department in writing.

20. The permittee shall install, maintain and operate a meteorological monitoring station within 180 days of issuance of the permit. The meteorological instrumentation, recording equipment and reporting procedures shall be approved by the Department prior to installation and implementation. The meteorological station shall consist of the following:

    a. 100 foot (30.5 meter) tower which will remain intact for the life of the plant.

    b. Wind speed, direction, and temperature sensing at the 100 foot (30.5 meter) level of the tower.

    c. Temperature sensing at the 33 foot (10 meter) level of the tower.

    d. Continuous recording of all meteorological parameters.

Emission Reduction Plan

21. The permittee shall implement the emission reduction plan stated in Section B of this permit.

Compliance Schedule

22. None required.

Monitoring and Reporting

23. The permittee shall effectively monitor the operation and maintenance of the facility and associated air contaminant control equipment. A record of all such data shall be maintained for a period of one year and be available at the plant site at all times for inspection by the authorized representatives of the Department. At least the following parameters shall be monitored and recorded at the indicated interval:

| Parameter | Minimum Monitoring Frequency |
|---|---|
| a. Amount of sulfur by-product reclaimed and/or sold | Weekly |
| b. Any observable increase in particulate, sulfur dioxide, or odorous emissions from the facility, suspected reason for such increased emission and projected date of any action to reduce the emission increase | Daily |
| c. Operating schedule (hours/day) of the sulfur by-product transferring and shipment facility | Monthly |
| d. Amount of crude oil processed | Daily |

| Parameter | | Minimum Monitoring Frequency |
|---|---|---|
| e. | Analysis of residual and distillate fuel oil for sulfur, ash and nitrogen content (percent by weight) Samples shall be taken from each final (prior to shipment) storage tank containing residual and distillate fuel oil | Each time additional product is added to the tank or each time after a quantity of oil equal to the holding capacity of the tank has passed through the tank |
| f. | Purchasers name, date of purchase, type of fuel oil, quantity of the shipment, destination, sulfur, ash and nitrogen content (percent by weight) | Each individual shipment of distillate and residual oil |
| g. | The date of inspection and/or type of maintenance performed on the petroleum and sulfur by-product storage and handling facilities, cooling tower, flaring system vapor recovery system, and the tail gas plant | As performed |

24. The permittee shall submit the following recorded information to the Department in writing at the indicated intervals:

| Parameter | | Interval |
|---|---|---|
| a. | Tons of sulfur by-product reclaimed | Quarterly |
| b. | Amount of crude oil processed | Monthly |
| c. | Operating hours of the sulfur by-product handling, storage and shipment facility | Quarterly |
| d. | Analysis of residual and distillate fuel oil for sulfur, ash and nitrogen content (percent by weight). Samples shall be taken from each final (prior to shipment) storage tank containing residual and distillate fuel oil | Monthly |

## SECTION B - FUEL BURNING EQUIPMENT

### Performance Standards and Emission Limits

1. The permittee shall at all times maintain and operate all fuel burning devices and related equipment at full efficiency such that the emissions of air contaminants are kept at the lowest practicable levels.

2. Emissions of air contaminants from fuel burning equipment shall not exceed any of the following:

a. Visible emissions shall not equal or exceed 20% opacity for a period or periods aggregating more than three (3) minutes in any one (1) hour.

b. Particulate emissions shall not exceed smoke spot numbers as measured by ASTM D 2156-65 "Standard Method to test for Smoke Density", as follows:

| Types of Fuel | Smoke Spot Number |
|---|---|
| Residual | 4 |
| Distillate | 2 |

c. Emissions of particulate, sulfur dioxide and nitrogen oxides shall not exceed the following emission rates for the specific fuels listed:

| Types of Fuels | Emission Rate LImitation lbs/mm BTU (kg/Kg-cal) | | |
|---|---|---|---|
| | Particulate | SO2 | NOx |
| Refinery gas | 0.02 (0.04) | 0.05 (0.09) | 0.2 (0.4) |
| Distillate | 0.02 (0.04) | 0.20 (0.36) | 0.3 (0.5) |
| Residual | 0.08 (0.14) | 0.55 (0.99) | 0.3 (0.5) |

d. The maximum hourly emissions from all fuel burning equipment shall not exceed:

| Pollutant | Emission Rate lbs/hr (kg/hr) |
|---|---|
| Particulate | 34 (15.4) |
| Sulfur dioxide | 163 (74.0) |
| Nitrogen oxides | 313 (142.0) |

e. The maximum yearly emissions from all fuel burning equipment shall not exceed:

| Pollutant | Emissions-tons/year (kg/year) |
|---|---|
| Particulate | 150 (136,077) |
| Sulfur dioxide | 715 (648,634) |
| Nitrogen oxides | 1370 (1,242,837) |

f. When a combination of fuels are used in any one fuel burning device then the applicable emission limits in 2b, 2d and 2e shall be determined by proration of the specific fuel emission rate limitations in proportion to the actual fuel mix.

3. Sulfur content of fuel oil burned shall be limited as follows:

a. The permittee shall not use any residual fuel oil containing more than 0.5 percent sulfur by weight.

b. The permittee shall not use any distillate fuel oil containing more than 0.3 percent sulfur by weight.

4. The permittee shall not cause or permit the emission of any particulate matter which is larger than 250 microns in size provided such particulate matter does or will deposit upon the real property of another person.

Special Conditions

5. The permittee shall submit detailed plans and specifications for all fuel burning equipment for Department review and approval prior to commencing construction. Said fuel burning equipment shall incorporate highest and best practicable emission control and technology.

6. The permittee shall not operate the fuel burning devices in such a manner as to exceed an average total of 780,000,000 BTU/hour (196,560,000 kg-cal/hour) of heat input.

7. The permittee shall have particulate, oxide of nitrogen and sulfur dioxide emission tests conducted on at least one exhaust stack for each class of similar fuel burning equipment that has similar burner types, fuel types and firebox configurations. Determination of equipment classes shall be approved by the Department. Tests shall be conducted no sooner than three months but not later than six months after commencing commercial operation. In conjunction with the above tests for particulate emissions, smoke spot tests shall be taken for each fuel burning device. The tests must be performed in accordance with methods on file at the Department or in conformance with recognized applicable standard methods approved in writing in advance by the Department. The test results shall be submitted to the Department within sixty (60) days of completion of the tests.

8. The permittee shall provide within three months of commencing commercial operation, easily accessible sampling ports and platforms on all fuel burning exhaust stacks. The location and design of these sampling ports and platforms must be reviewed and approved by the Department.

9. The permittee shall provide fuel sampling facilities on all feedlines to each fuel burning device (valve for taking a sample of fuel).

10. The permittee shall burn only refinery gas, distillate, residual or combination of the three fuels in the fuel burning equipment in a manner such that the emissions do not exceed the limitations set forth in this permit.

11. If the permittee desires to burn other fuels or combinations of fuels not approved within this permit, acceptable source test reports must be submitted to the Department for review and approval and a permit ammendment must be obtained prior to use of such other fuel.

12. The permittee is prohibited from discharging any treated or untreated water to any public waterway unless such discharge is the subject of a valid Waste Discharge Permit issued by the Department of Environmental Quality.

13. The permittee shall comply with all applicable Department noise control regulations and demonstrate compliance no later than 90 days after facility starts up.

Emission Reduction Plan

14. The permittee shall implement the following emission reduction plan during air pollution episodes when so notified by this Department:

| Notice Condition | Action to be Taken by Permittee |
|---|---|
| a. Alert | 1. Boiler and process heater lancing or soot blowing if required shall be performed only between the hours of 12 noon and 4:00 p.m. |
| b. Warning | 1. Continue alert measures<br>2. Minimize emissions by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage<br>3. Burn the cleanest available fuels possible<br>4. Prepare for immediate shutdown of the process heaters |
| c. Emergency | 1. Upon notification from the Department, immediately cease operation of the process heaters until notified by the Department that the condition has passed |

Compliance Schedule

15. None required.

Monitoring and Reporting

16. The permittee shall effectively monitor the operation and maintenance of all fuel burning equipment and associated air contaminant control facilities. A record of all such data shall be maintained for a period of one year and be available at the refinery site at all times for inspection by the authorized representatives of the Department. At least the following parameters shall be monitored and recorded at the indicated interval:

| Parameter | Minimum Monitoring Frequency |
|---|---|
| a. Operating schedule (hours/day) of the steam boiler | Daily |
| b. Operating schedule (hours/month) of all other fuel burning equipment not previously mentioned in (a) | Daily |
| c. Any observable increase in particulate and/or sulfur dioxide emissions from the fuel burning equipment, suspected reason for such increased emission and projected date of any action to reduce the emission increase | Daily |

| Parameter | | Minimum Monitoring Frequency |
|---|---|---|
| d. | Quantity of distillate and/or residual fuel oil and/or refinery gas burned for each process heater and boiler | Daily |
| e. | The sulfur, ash, nitrogen (percent by weight) and BTU content of every fuel or fuel mix used in each process heater and boiler | After any change in fuel or fuel mix or significant chang (as defined by the Department in sulfur, ash, nitrogen or BTU content of each fuel |
| f. | Particulate, sulfur dioxide and nitrogen oxide emission rates for a process heater, boiler and fuel mix chosen by the Department | Semi-annually |
| g. | A description of any maintenance to the fuel burning equipment | As performed |
| h. | Smoke spot for each fuel oil burning device | Monthly or after any change in fuel mix |

17. The permittee shall submit the following recorded information to the Department in writing at the indicated intervals:

| Parameter | | Interval |
|---|---|---|
| a. | Operating hours of the fuel burning equipment | Quarterly |
| b. | Quantities of distillate and/or residual fuel oil and/or refinery gas burned for each process heater and boiler | Quarterly |
| c. | Average sulfur, ash, nitrogen (percent by weight) and BTU content of every fuel or fuel mix used in each process heater and boiler | Quarterly |
| d. | Results of emission test required in 16f. | Semi-annually |

General Conditions

G1. A copy of this permit or at least a copy of the title page and an accurate and complete extraction of the operating and monitoring requirements and discharge limitations shall be posted at the facility and the contents thereof made known to operating personnel.

G2. This 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. The permittee is prohibited from conducting any open burning at the plant site or facility.

G4. The permittee is prohibited from causing or allowing discharges of air contaminants from source(s) not covered by this permit so as to cause the plant site emissions to exceed the standards fixed by this permit or rules of the Department of Environmental Quality.

G5. The permittee shall at all times conduct dust suppression measures to meet the requirements set forth in "Fugitive Emissions" and "Nuisance Conditions" in OAR, Chapter 340, Section 21-050.

G6. (NOTICE CONDITION) The permittee shall dispose of all solid wastes or residues in manners and at locations approved by the Department of Environmental Quality.

G7. 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.

G8. The permittee, without prior notice to and written approval from the Department of Environmental Quality, is prohibited from altering, modifying or expanding the subject production facilities so as to affect emissions to the atmosphere.

G9. 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.

G10. 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.

G11. The permittee shall notify the Department by telephone or in person within one (1) hour of any scheduled maintenance, malfunction of pollution control equipment, upset or any other conditions that cause or may tend to cause a significant increase in emissions or violation of any conditions of this permit. Such notice shall include:

a. The nature and quantity of increased emissions that have occurred or are likely to occur,

b. The expected length of time that any pollution control equipment will be out of service or reduced in effectiveness,

c. The corrective action that is proposed to be taken, and

d. The precautions that are proposed to be taken to prevent a future recurrence of a similar condition.

G12. Application for a modified or renewal of this permit must be submitted not less than 60 days prior to permit expiration date. A filing fee and Application Investigation and Permit Issuing or Denying Fee must be submitted with the application.

G13. The permittee shall submit the Annual Compliance Determination Fee to the Department of Environmental Quality according to the following schedule:

| Amount Due | Date Due |
|---|---|
| $565.00 | December 31, 1975 |
| 565.00 | 1976 |
| 565.00 | 1977 |
| 565.00 | 1978 |
| (see G 12) | December 31, 1979 |

State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

To: Norma Jean Germond

Date: March 5, 1975

From: Pete McSwain

Subject: Commission action on Kruse Way

The Commission (and Department) was involved with Kruse Way in two fashions:

1) Was an Indirect Source permit required?

2) Could the Department issue a Determination of Consistency with the Clean Air Implementation Plan of our State?

The revised projection of Average Daily Traffics along Kruse Way ten years after its build date (as reduced by predicted increase in Tri-Met ridership) fell below the 20,000 ADTs which would require a permit. The Department "signed the project off" as one not requiring a permit.

Federal regulations (highway I believe) require a state level determination of consistency with the State's Implementation Plan as a prerequisite to the final Environmental Impact Statement (and beginning of construction).

The Department felt itself constrained to "tunnel vision" on this latter issue, having jurisdiction to consider only environmental ramifications of the project taken alone.

The Commission, on the other hand, was believed to be in a position to consider the project's effect on the neighboring residential areas (creation of an air quality problem here to alleviate one there) both in terms of air quality and other factors (safety, convenience, etc.)

On this basis, the Commission ordered the Department to issue a determination that Kruse Way, coupled with appropriate dead-ending of streets (Bonita I think) and limited access (with the exception of Carmen Drive), would be consistent with the State's Implementation Plan.

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portland, oregon 97204
(503) 226-3921

February 27, 1975

Mr. B.A. McPhillips, Chairman
Environmental Quality Commission
1234 S.W. Morrison
Portland, Oregon

RE: Cascade Energy, Inc., Agenda Item 1, February 24 EQC Meeting

Dear Mr. McPhillips:

We have reviewed the staff report and revised draft permit for the Cascade Energy oil refinery and are still not satisfied that our client is receiving a completely fair shake.

We are pleased and appreciative that our recommendations regarding the post-construction compliance testing and monitoring program were accepted for the most part. From the standpoint of these details, it is a good tight permit for both DEQ and the applicant.

Where we still disagree with staff is in the critical matter of whether Cascade will be required to burn a large amount of No. 2 oil. As it now stands, they will have to burn roughly half No. 2 and half low sulfur residual oil to supply the refinery's external energy requirements.

As a consultant, I must admit to being disturbed about the selective disregard given by the staff report to a very laborious and conscientious effort by EDI to provide information to DEQ in the form of our supplementary analysis dated January 23, which I presented at the public hearing. The staff report statement on page 3, paragraph 5 that "Cascade's refined modeling did not show a lesser air quality impact but did indicate adverse impact occurred for a relatively short period of time" is a rather serious misstatement of fact. The results of our additional studies in fact showed major reductions in the projected refinery impacts at all ground level receptors: as an example, the peak 24-hour impacts went

from 30 $\mu g/m^3$ to 7 for particulate, and from 100 to 42 $\mu g/m^3$ for $SO_2$. I find the presence of these higher numbers, which appeared in the January staff report, in Table 1 of the current one, most objectionable. The additional study was done at the staff's request, and according to methods approved in advance by them--and yet the results are ignored when all is done.

I would suggest that the agency has an obligation to give a reason for discounting important information submitted in good faith.

The same kind of selective disregard is given to our proposed solution to the potential problem of our "flagpole sitter" receptors on the hill above the refinery. You will recall we stated that we did not believe there was likely to be a real problem, but readily admitted to uncertainty in the analysis and therefore the potential for a problem to exist--for a very small number of hours a year. But you will also recall we went a step further, and proposed a solution to the potential problem. In my opinion this solution is practical, economic, and adequately protective of the environment. It assures standards will be met.

What the staff report states with respect to this is that "the Department does not believe that enough sound information is available to approve the fuel switching proposal," and then lays on a requirement to conduct a one year pre-construction monitoring program to produce more data. I fail to understand the reasoning behind this response--the results of such a study would only confirm how frequently the fuel switching will have to be done. Whether it's 3 hours or 300 hours, Cascade is committed to burning No. 2 whenever the wind blows toward the hill at night, and common sense tells you it will work. It would be a real mistake to force Cascade to waste high quality diesel oil the year around for no reason other than that your staff wants to resolve all uncertainties, regardless of whether they are relevant or not.

The economic consequences of the staff recommendation are not entirely clear. Most of the weather equipment required will be needed for the fuel switching system anyway, except for the $1,000 tower. The data collection, analysis, and the modeling it would lead to are estimated at $20,000. Keep in mind, however, the staff

recommendation is open-ended in that it sets no conditions or criteria for what information will be "adequate" to justify approval of the fuel-switching proposal.

Our client has informed us that he is uncertain whether operation of the refinery using No. 2 fuel oil is economically feasible. Our first estimate is that it will add from $1,200 to $1,600/day, or $430,000 to $580,000/year to the refinery operating costs.

I would strongly urge the Commission to consider this matter carefully before acting on the Cascade permit. We believe we have presented a realistic proposal based on sound technical analysis and that no good reason has been given for rejecting it. Unless such reasons--with a high level of technical validity and persuasiveness--are forthcoming at this meeting, our client has informed us of his intention to demand a formal hearing under the procedures of ORS 447.733. We are confident that such a hearing, held before a hearings officer with rules of testimony and cross-examination of witnesses, will allow the technical fact and speculation to be separated in such a way that the Commission will be able to render an equitable decision.

Thank you for your consideration. I appreciate that this detail may seem less important to you than the larger question of a fuels policy and permits for 3 refineries at the same time, but I can assure you it is of no small consequence to our client, and as a matter of equity and policy is worthy of great thoughtfulness on your part.

Yours very truly,

F. Glen

F. Glen Odell, P.E.
President

FGO/mbk

cc: Commissioner Morris K. Crothers
Commissioner Jacklyn L. Hallock
Commissioner Grace S. Phinney
Commissioner Ronald M. Somers
Mr. Kessler R. Cannon
Mr. E.J. Weathersbee

**INTERNATIONAL PAPER COMPANY**

LONG-BELL DIVISION

BOX 43, GARDINER, OREGON 97441, PHONE (503) 271-2151

February 27, 1975

Environmental Quality Commission
1234 S. W. Morrison
Portland, Oregon 97205

Gentlemen:

We have reviewed the Director's memoranda of January 24 and February 28, concerning the Cascade, Charter and Columbia Independent Refineries and the proposed Clean Fuels Policy.

International Paper Company owns a large industrial site at Longview, Washington. Air sampling data collected over the past few years indicate that suspended particulate concentration in this area may be so close to the maximum allowed by state and federal primary air standards that future industrial expansion may be threatened. Because of this concern, the major industries in Longview have committed themselves to expensive air pollution control programs which should significantly reduce particulate emissions by the end of 1977. We are, therefore, concerned about the construction of refineries or any other sources of particulate emission that threaten to nullify the air quality gain expected from these programs.

International Paper Company neither supports nor opposes the issuance of permits to the three refineries. We feel that there is room for industrial growth in Longview - Rainier - Portland area if necessary requirements and standards are met. The purpose of the following comments is to raise questions about certain issues that have not been appropriately addressed in the Director's memoranda.

The permitted emission rates for sulfur dioxide and particulate for each of the three refineries are not proportional to production capacity. Also, Charter is being required to burn 0.1% sulfur fuel while the other two may burn fuel with up to 0.5% sulfur content. Since it is the intent of the Commission to require best available control technology for all three refineries, an explanation is in order as to why the same standards do not apply equally.

The "trade-off" approach which the Department is proposing to take appears to require that existing users of residual fuel oil pay the cost of cleaning the air so that the new refineries may be accommodated without violating Class II non-degradation criteria. This would not be true only if low sulfur residual fuel be made available at the same price as the unprocessed high sulfur fuel. The Department memoranda did not discuss the economic impact of the clean fuel policy on existing sources.

It is questionable whether or not the new refineries would result in lower fuel prices in the surrounding area. Gasoline prices in Oregon, and particularly in the Columbia - Willamette area, are the lowest on the West Coast. If there is a ~~coalition~~ correlation between gasoline and residual fuel prices, then it appears that little, if any, price reduction will be realized. The Department's memoranda again did not discuss this issue.

On page 9 of the Directors' memorandum (Agenda Item J) of January 24, the statement is made that "the Department has recently proposed guidelines for not allowing any significant air contaminant emission sources to locate within the Longview - Rainier - Portland airshed..." One reason being that "on most poor ventilation, poor air-quality days, winds from the northwest carry emissions from Longview - Rainier corridor toward downtown Portland." The conclusion is that "Since the Cascade and Charter Oil companies propose oil refineries to be located in Columbia County, since there are major air contaminant emission sources...it is considered appropriate to maintain the Department guideline policy by reducing the maximum sulfur content of residual fuels used in Columbia County ..." The Department recognizes the significance of the proposed sources on the Portland air quality, yet does not discuss the combined impact of the three refineries on the air quality. Only the effects of the CIRI refinery on Portland air are considered. The Department needs to address the full, combined impact of these sources on the Longview - Rainier - Portland airshed.

The Department's position concerning sulfur dioxide emissions are straightforward and appear reasonable; however, those concerning particulate emissions are speculative. If fuel sulfur content and particulate emissions are, as stated, proportional, then why is not the ratio of particulate to sulfur dioxide emissions for each refinery the same when adjusted to a common fuel sulfur content? The predictions are based on projected growth rate in the Portland area and indicate that by the time all the refineries come on-line, the ambient particulate concentration will be greater than at present, although $SO_2$ levels will be significantly lower. According to the Director's memorandum (Agenda Item L) of February 28, page 5, the principal goal of the Clean Fuel Proposal is to reduce particulate levels and that reduction of sulfur dioxide emission is necessary insofar as such reduction will result in reduced particulate levels. This theory needs further clarification since it is a key issue in the Department's recommendation.

In summary, we are anxious that the above questions be answered satisfactorily before the Commission takes action on the refinery and clean fuel proposal. We understand that a dispersion model for the Longview - Rainier - Portland airshed is now being developed and will be available with a few months. It is our opinion that the Commission should withhold approval of the refinery discharge permits until this model can be applied. This will provide important data for determining the impact of the three refineries on the air quality of the entire airshed.

Sincerely yours,

Oliver A. Fick

OLIVER A. FICK
Coordinator, Environmental Services

OAF:md/b

# ENVIRONMENTAL QUALITY COMMISSION

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



TO: Environmental Quality Commission

FROM: Director

SUBJECT: February 28, 1975 EQC Meeting

Mayor Neil Goldschmidt's Concerns on the Proposed Clean Fuels Rule

Mayor Goldschmidt's concerns in a letter dated February 19, 1975, regarding economic impact of the proposed Clean Fuels Rule are understandable. Mayor Goldschmidt's specific concerns regard:

1. Accuracy of economic impact projections.

2. Need to identify consumers specifically affected by the proposed Clean Fuels Rule and the direct cost to these consumers.

3. Consideration of an exemption provision for certain fuel users who should not be subjected to further pollution control costs.

While the Department agrees with the Mayor that present economic impact projections are not as good as desired, the Department feels that economic data desired by all will be available by July, 1977 when a public hearing would be held to review the adequacy of the proposed Rule.

The Department does believe it has more information to assess economic impact even at this time than may be recognized (since the Department has not published all of its information).

For instance, the Department identified the potential increased costs of a one-half percent sulfur residual fuel as representing a $3.00 per capita per year impact in the Portland area. The Department also expressed this cost as equivalent to $1.00 per barrel, or 2.4 cents per gallon, which would represent about a seven percent increase in fuel costs based on present-day thirty-five cents per gallon costs.

There are many factors which previously have not been discussed which could reduce the projected cost even to the point that no increase might be incurred by requiring use of lower sulfur residual fuel. These include:

1. With local refineries producing low-sulfur residual oil the added production costs may partially or totally be offset by eliminating present long-distance ship transportation costs of bringing high-sulfur residual fuel into Oregon from Washington or California.

2. Existing high-sulfur residual fuel oils have been approaching costs of presently supplied distillate fuels (which meet a one-half percent sulfur limit). Continuation of this trend would keep distillate fuels as a competitor to low-sulfur residual fuels, thereby tending to discourage significant price increases in low-sulfur residual fuel.

3. Significant economic benefits can be derived from improved air quality through the use of cleaner fuels, such as reduced incidences of certain diseases and rates of soiling and corrosion. A recent study conducted by the University of Chicago and Argon Labs on the effect of the Chicago Clean Fuels Policy indicated an estimated 23.4 million dollar savings to the community due to cleaner air.

The Department, through its permit system, for all residual oil fired boilers has identified facilities affected by the proposed Clean Fuels Rule. A summary of the Department's permit data indicates:

1. There are approximately 1,900 boiler installations in the Portland area.

2. Average residual fuel consumption of these boilers is approximately 19,000 gallons per year.

3. Average direct cost increases to each of these facilities would be $400 per year compared to a present average fuel bill of nearly $8,000 per year.

It is also apparent from Department data that the majority of residual fuel users represent the public sector as presented in the following table.

Residual Fuel Use in the Portland Metro Area

| | |
|---|---|
| Industrial | 24% |
| Schools | 10% |
| Apartments | 20% |
| Hospitals | 2% |
| Other Commerical Establishments | 44% |

It is obvious that to realize projected air quality improvements from the proposed Clean Fuels Rule, the public sector will have to bear the majority of any costs related to the use of clean fuels.

In cases where costs of such air pollution controls would present a bonafide economic hardship, the Department rules provide for a variance. The Department has, and would be expected to continue, a policy of considering variances on a case-by-case basis, rather than a broad category of sources.

In summary, Mayor Goldschmidt's concerns and comments are relevant and constructive. The Department's recommended course of action on the proposed Clean Fuels Rule which includes holding a public hearing by July, 1977 to provide interim review of the Rule would allow time to gather facts needed to fully consider and analyze these issues and make further adjustments, as may be appropriate in light of the additional information, prior to implementation of the Rule in January 1979.

KESSLER R. CANNON
Director

JFK:cs
2/27/75

THE CITY OF
PORTLAND
OREGON

OFFICE OF
THE MAYOR
NEIL GOLDSCHMIDT
MAYOR

1220 S. W. FIFTH AVE.
PORTLAND, OR. 97204
503 248-4120



February 19, 1975

Kessler Cannon
Director
Department of Environmental Quality
1234 S. W. Morrison
Portland, OR 97204

Dear Mr. Cannon:

February 4, I delivered to your office a letter indicating a general concern with the proposed Clean Fuels Policy and stating that a subsequent letter would more precisely spell out the nature and scope of that concern. While I recognize that this letter is much too late for inclusion in the public record of the Environmental Quality Commission's consideration of this issue, nonetheless, it is my hope that the issue which I raise will be called to the Commission's attention and will be useful to the Commission in its final determination of the Clean Fuels Policy.

The basic conclusion which comes from a thorough technical staff review and careful policy analysis of the available data and information is that any Clean Fuels Policy must take cognizance of and be sensitive to unequal and socially undesirable costs inflicted by such a policy. Therefore, we strongly urge that any Clean Fuels Policy contain an exemption provision, with applicability standards, for residual fuel users in high priority categories. At a minimum, such categories should include schools and hospitals. We would also urge that consideration be given to making this regulation prospective in nature only or designed to protect older users or residual dependent uses which would be placed at a severe economic disadvantage in the market place as a result of this kind of regulatory intervention.

We make this recommendation after exhaustive staff work by the staff of the City Bureau of Planning. Significantly, after analyzing a wealth of material, staff indicated that the most important consideration was not the amount of data available, but rather the amount of data, and answers,

which were not available. For example, Department of Environmental Quality staff estimates that the Clean Fuels Policy would result in a $3.00 per year per capita increase in costs is not based on market information relating to the time cost of delivering clean fuel to the Portland consumer, but rather to the estimated cost to the refiner to purify his product to the desired .5% surplus level. It is clear that this estimate, therefore, provides no real reliable indication of the time or net cost to any consumer of the Clean Fuels Policy.

Furthermore, even in the absence of reliable cost data, DEQ staff has been unable to allocate the available cost data by sector in any accurate manner. On the contrary, the available cost data have been assigned to the market sector in a virtually arbitrary manner. Since it is not my intention to fault DEQ staff for this (since it is hard to imagine how costs could have been assigned accurately without significantly greater staff work and expense), nonetheless it does point out the need for judicious consideration of a policy, the economic impacts of which are, essentially, an unknown. It would be prudent as well as useful to undertake a comprehensive survey of the Portland Metropolitan Area to determine as accurately as possible the true impacts of such a policy. This survey could be the joint responsibility of the Department of Environmental Quality, the School District, the City, County, Chamber of Commerce, and other relevant public and private agencies.

In that regard, I would suggest that the proposed Clean Fuels Policy is unlike many of the most successful of the Environmental Quality Commission's regulatory interventions, in which either a specific polluter or category of polluters are provided with an opportunity to submit a compliance schedule where the economic impacts are known or, as the case of the Air Quality Improvement Plan, in which the full range of affected firms, individuals, and interest groups are afforded the chance actually to participate in the development of a strategy. Rather, in the case of the Clean Fuels Policy, there is the broadest of applicability with the least knowledge of specific economic impact. We know only that the policy will result in cost increases. We do not know how much to whom.

Thus, in view of both that which is known and, as importantly, that which is not known, it is my conclusion and recommendation that a Clean Fuels Policy must contain an exemption provision, with applicability standards, for residual fuel users in priority categories.

Sincerely,

Neil Goldschmidt

NG:awc

HOME ADDRESS
DICK MAGRUDER
RT. 2, BOX 36
CLATSKANIE, OREGON 97016

COLUMBIA, WASHINGTON
COUNTIES

COMMITTEES
CHAIRMAN:
JUDICIARY
MEMBER:
STATE INSTITUTIONS

HOUSE OF REPRESENTATIVES
SALEM, OREGON
97310

February 28, 1975

STATEMENT SUPPORTING PROPOSED EQC EXTENSION OF LAND CLEARING BURNING BAN FROM JULY 1974 to JULY 1977

Gentlemen:

My name is Dick Magruder and I represent most of Columbia County in the Oregon House of Representatives. I regret that I cannot appear in person but my legislative duties preclude a personal appearance.

I have asked Mr. Wally Gainer, Jr., from the Port of St. Helens, to read my statement to you and enter it into the records of this hearing.

I fully support the extension of the burning ban. In fact, I would support a proposal to continue burning indefinitely - at least for Columbia County.

We do not have the environmental problems that face the metropolitan counties. All too often, Columbia County is included in programs that are designed to solve strictly urban problems that simply do not apply to us. It is time the state recognizes that Columbia County is not a suburb of Portland. We have our own unique problems that are best dealt with on a local level.

I sincerely hope that you will take these considerations into account when deciding on any burning proposal. It is important to me, to the citizens of Columbia County, and ultimately to the state, that the right to dispose of land debris not be restricted so as to result in hardship for those involved.

While I have the opportunity to address this body, I would also like to offer my support for the construction of an oil refinery in Columbia County. This would be a tremendous boost to the economic base of our county as well as a big plus for the state.

I hope you will give this matter careful thought and consider which area can best absorb future industrial growth.

# Multnomah County Oregon

BOARD OF COUNTY COMMISSIONERS
(503) 248-3304 • ROOM 605, COUNTY COURT HOUSE • PORTLAND, OREGON • 97204

February 27, 1975

Chairman
Environmental Quality Commission
State Office Building
Portland, Oregon

Dear Sir:

Be it remembered, that at a meeting of the Multnomah County Board of Commissioners held February 20, 1975, the following action was taken:

In the matter of declaring policy regarding the proposed Rivergate oil refinery and maintenance of air quality in the Portland Air Quality Maintenance Area — RESOLUTION

Commissioner Clark moved that the Board of Commissioners go on record as advising the Environmental Quality Commission prior to its February 28th meeting that no diminishment of current air quality in the community should be given by special permit to add additional pollutants to the air. Motion duly seconded by Commissioner Buchanan, and it is so

ORDERED, Commissioner Mosee and Commissioner Corbett voting No.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS

By Nancy W Gilliam
Clerk of Board

nwg
cc: Kessler Cannon

PETE
cc

# ENVIRONMENTAL QUALITY COMMISSION

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



February 24, 1975

Mr. Marvin B. Durning
Law Offices
Durning and Smith
1411 14th Avenue
Seattle, Washington 98101

Re: Camran Corporation's Open Burning Presentation.

Dear Mr. Durning:

I have been asked to respond, on behalf of Chairman McPhillips, to your correspondence of February 20, 1975.

Unfortunately, we cannot honor your request on behalf of your client, Camran Corporation. We reluctantly take this position because members of the staff have enjoyed presentations by Mr. Weholt on previous occasions and are well aware of the considerations he has forwarded. Secondly, the Commission has before it an unusually full day's business which does not permit an hour's presentation by any one participant. We would note that other groups/individuals have expressed a desire to speak on the Open Burning issue.

In lieu of your client's proposal to make a one hour presentation, we would suggest that he feel welcome to make a short (ten minute) presentation before the Commission. The opportunity to submit written materials as copious as might be felt necessary insures your client the right to have his views presented in full to the Commission. With regard to legal argument, this latter channel of communication is felt to be particularly appropriate.

Once again, we regret we are unable to comply with your request and hope that you will understand our reasons for this action.

Sincerely,

Peter McSwain

Peter McSwain,
Hearings Officer

PWM:kok

State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

To: Kess

Date: 2-21-75

From: Pete

Subject: Open Burning

Input from Camran Corp of Seattle (requesting an hour's time) and from John Hitchcock of the Environment and Energy Committee in Salem indicates an hour may be too short for the hearing. After lunch, Zidell and Brooks-Scanlon should take much less than one hour. It might be well to plan on returning to the Open burning issue then. Breakfast file ?

Also, it occurs that Camran might wish an answer to their request---at least a tentative one.

DISCUSS WITH BARNEY

LAW OFFICES
DURNING & SMITH
FOURTEEN ELEVEN FOURTH AVENUE
SEATTLE, WASHINGTON 98101

MARVIN B. DURNING
PALMER SMITH
JERE M. RICHARDSON
JOHN W. LUNDIN
JEFFREY D. GOLTZ



AREA CODE 206
MAIN 4-8901

February 20, 1975

Mr. B. A. McPhillips
Chairman
Environmental Quality Commission
P.O. Box 571
McMinnville, Oregon 97128

Re: Proposed Open Burning Regulations

Dear Mr. McPhillips:

We represent The Camran Corporation, a Seattle based company which has developed "mobile air curtain combustion systems" to burn wood wastes with no visible emissions. The Camran systems eliminate almost all particulate pollution from open burning of land clearing wood waste. These systems involve a new technology and help solve a major environmental problem in forested areas like the Northwest. It is economical to operate, and, moreover, works well with increased utilization of most of the wood for chips.

We plan to make a presentation at the Environmental Quality Commission hearings in Eugene on Friday, February 28th. We are troubled by the fact that testimony on the controversial and important issue of open burning regulations has been scheduled for 11:00 a.m., which likely would permit one hour for hearings. We plan to submit comprehensive written testimony with supporting documents in opposition to the proposed regulations. However, at least two parts of our testimony must be summarized orally. The first summary is that of Mr. Raymond L. Weholt, President of the Camran Corporation. His summary will include a slide presentation and talk, which would cover at least the following:

1. Health costs and other costs of open burning.

2. Economics of open burning.

3. Incentives in the private sector to devise alternatives to open burning.

4. Present state of alternate technologies to open burning; and

5. Types of resource recovery that are possible with alternates to open burning.

We anticipate that this summary, including slide presentation, would last at least one-half hour. In addition, we, as attorneys for Camran, plan to summarize orally our written testimony on how other states have handled the open burning problem (including the recent decision of the Washington Pollution Control Hearings Board finding the existence of alternate technologies to open burning and terminating open burning in some cases) and regarding how open burning relates to the law on "no significant deterioration of the environment" as defined in Sierra Club v. Ruckelshaus, 344 F. Supp. 253, 4 ERC 1205 (D.D.C.), aff'd per curiam, 4 ERC 1815 (D.C. Cir. 1972), aff'd sub nom. Fri v. Sierra Club, 412 U.S. 541, 5 ERC 1417 (1973) (per curiam), and in the new EPA Regulations published in 39 Federal Register 42510 (Dec. 5, 1974). In all, we could fill an entire hour giving only a summary of our written testimony. We also understand that several environmental groups, including the Oregon Environmental Council, plan to give oral testimony.

Because of the public interest in the proposed open burning regulations, we urge you to consider one of the following alternatives:

1. Postpone the hearings on the open burning regulations until the next meeting of the EQC so that ample time can be alloted to the issue,

2. Extend the time in the February 28th meeting so that all interested persons with relevant and helpful information may be heard.

Open burning of wood waste is a critical issue to the people of Oregon, as well as to Camran. Any change in the existing regulations on open burning should be based on complete information. Enclosed is a fact sheet we have prepared. If you have any questions, please contact Jeff Goltz in our office. Mr. Goltz has already contacted Mr. McSwain of your office and will contact him again before the hearings about our requests in this letter.

Sincerely,

Marvin B. Durning

MBD:db

Enclosures
cc: Dr. Morris Crothers
Ms. Grace Phinney
Ms. Jacklyn Hallock
Mr. Ronald Somers
Mr. Kessler Cannon
Mr. Peter McSwain

OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM 97310

ROBERT W. STRAUB
GOVERNOR

February 24, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
FEB 26 1975
OFFICE OF THE DIRECTOR

Marvin B. Durning, Esq.
Durning & Smith
1411 Fourth Avenue
Seattle, Washington 98101

Dear Marvin:

Thank you for sending a fact sheet with respect to wood waste burning in Oregon. I am forwarding copies of your letter and the fact sheet to the Director of our Department of Environmental Quality and to the five members of our Environmental Quality Commission.

I appreciate your sending me the material.

Sincerely,

Janet

Janet McLennan
Assistant to the Governor
Natural Resources

JMc/jh
cc: Mr. Kessler Cannon
Mr. B. A. McPhillips
Morris K. Crothers, M. D.
Grace S. Phinney, Ph.D.
Mr. Ronald M. Somers
Mrs. Jacklyn L. Hallock

LAW OFFICES

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MARVIN B. DURNING
PALMER SMITH
JERE M. RICHARDSON
JOHN W. LUNDIN
JEFFREY D. GOLTZ

February 18, 1975

Ms. Janet McLennan
Office of the Governor
Salem, Oregon

Dear Ms. McLennan:

We represent The Camran Corporation, a Seattle based company which has developed "mobile air curtain combustion systems" to burn wood wastes with no visible emissions. The Camran systems eliminate almost all particulate pollution from open burning of land clearing wood waste. These systems involve a new technology and help solve a major environmental problem in forested areas like the Northwest. It is economical to operate, and, moreover, works well with increased utilization of most of the wood for chips.

Everywhere, however, Camran must fight against the construction industry's desire to go on polluting and the tendency of regulatory agencies to remove or postpone regulations under industry pressure. That is threatened in Oregon now, for the D.E.Q. proposes to open up open burning of wood wastes over a large part of the state.

Enclosed is a fact sheet we have prepared. We hope you will help fight this backward step.

Ending open burning aids Camran -- it also aids the people of Oregon. There can be no new and better environmental technology as long as pollution is permitted. Environmental organizations in Oregon and Washington have long fought open burning.

If you have any questions, please contact Jeff Goltz of our office.

Sincerely,

Marvin B. Durning (DG)

Marvin B. Durning

MBD:lw
Encl.

FACT SHEET

OREGON D.E.Q. PROPOSES TO OPEN UP AIR POLLUTION

FROM WOODWASTE BURNING IN OREGON

The Oregon Department of Environmental Quality has proposed new regulations which would remove present restrictions on open burning of woodwaste and permit substantially increased pollution of major parts of the state. The Environmental Quality Commission will hold hearings on the proposed rollback of anti-pollution laws on Friday, February 28, 1975 at ~~1:30 p.m.~~ 11:00 a.m. at Harris Hall, 125 East Eighth Street, in Eugene.

1. BACKGROUND

In response to the widespread pollution of the air over America, Congress passed the Clean Air Act of 1970. This Act set nationwide primary (public health) and secondary (economic and welfare) standards for a number of serious pollutants. Among these is particulate matter, one of the major sources of which is smoke from the open burning of woodwaste.

Open burning of organic wastes includes agricultural field burning, slash burning associated with clear cutting, and burning of commercial land clearing debris. Each is regulated separately under Oregon law. The D.E.Q.'s presently proposed regulations affect only open burning of commercial land clearing debris, which, however, by itself is a major source of particulate matter in the air of Northwestern states. See Testimony of EPA before Washington State Department of Ecology, In re Certification of Alternatives to Open Burning (May 23, 1974):

> "It has been estimated that open burning of these land clearing debris wastes generates approximately 4,000 tons of particulate matter annually in the State of Washington."

Elimination of open burning of land clearing debris was one of the important strategies included in Oregon's Clean Air Implementation Plan which was approved by the EPA in 1972. The Plan and the present regulations ban open burning of land clearing debris in "Special Control Areas" including the Umpqua Basin, the Rogue Basin, and within three miles of cities of 4,000 people or more. The proposed D.E.Q. regulations would roll back these restrictions and once again allow open burning of land clearing debris in substantial areas of the state including the Umpqua Basin, the Rogue Basin, and areas within three miles of cities of 4,000 people or more (outside the Portland Metropolitan area and the Willamette Valley).

The Rogue River and Umpqua Basins were chosen for special protection as especially clean air areas of national and regional importance for recreational and scenic purposes. They were designated also because pollution in these basins would seriously affect the Willamette Valley and other pollution problem areas. The rest of Oregon to be opened up to pollution from wood waste burning would also contribute to the pollution load moving into downwind areas and across the country.

The adoption of these regulations would have a substantial negative impact on the quality of the Oregon environment, and would stifle the development of improved technology for increased wood resource recovery.

2. OPEN BURNING IS HARMFUL TO HEALTH

Wood smoke consists of very large numbers of submicron particles (0.002 to 0.3 micron). Although particles larger than one micron may settle within a short distance of the burn, submicron particles remain in the atmosphere for long periods of time, may travel long distances, and are exposed to and absorb industrial gases also present in the atmosphere. These particles when breathed can be very damaging to the lungs. See National Air Pollution Control Administration, Air Quality Criteria for Particulate Matter (1969) (Summary in BNA, Environment Reporter - Federal Laws 31:2101 (1970)); Testimony of James McCarroll, M.D., before Directors of the Puget Sound Air Pollution Control Agency (Feb.9, 1972).

3. OPEN BURNING BRINGS WIDESPREAD DAMAGE, ECONOMIC AND AESTHETIC, AND PREVENTS THE USE OF NEW TECHNOLOGY

In addition to adverse effects on human health, open burning of land clearing debris is one of the most visible sources of air pollution. It causes widespread damage to property through soiling, damage to vegetation, nuisance, and loss of sunlight and desirable views. Although many of these costs are difficult to quantify, total costs (including health) have been estimated at $16.1 billion nationwide for 1968 (National Environmental Research Center, EPA, Cost of Air Pollution Damage: A Status Report viii (February 1973)), and if left unchecked would grow to $24.9 billion by 1977. Council on Environmental Quality, Fourth Annual Report (1973).

Relaxing the restrictions on open burning would inhibit the development or use of new technologies for utilization and disposal of land clearing debris. Demand for new technology must precede supply; government regulation can create that demand and induce the development of new technology for the public interest. In the case of land clearing debris, the new technology exists and only awaits use in Oregon.

4. REASONABLE AND PRACTICAL ALTERNATIVES TO OPEN BURNING EXIST

Reasonable and practical alternatives to open burning exist. The best is improved utilization of woodwaste, supplemented by disposal of the unused remainder by chipping, land fill, or the Camran Air Curtain Combustion System. The Camran System, which burns woodwaste with almost no emission of particulate matter, was described in 1972 by Mr. L. B. Day, then Director of the DEQ, as the "highest and best practicable method" for disposal of land clearing waste and building demolition materials. Letter to Al Pierce Lumber Co., November 8, 1972. The Camran System has received similar praise from the Mid-Willamette Air Pollution Authority (letter to Camran Corp. from Victor H. Pradehl, October 3, 1972) and from environmental agencies in a number of states including Washington, Montana, Ohio and New York.

Banning open burning not only stops pollution, it brings increased utilization of wood resources. A recent demonstration

of this result occurred in the Corps of Engineers Lost Creek Reservoir Clearing Project in the Rogue River Basin of Oregon. This project was bid in August 1974 on the assumption that debris from 2200 acres of land would be open burned (in violation of the Oregon Regulations on Special Control Areas). Following protest by The Camran Corporation, the project was rebid in October 1974 under specifications eliminating open burning on the entire project in compliance with Oregon law. The low bid based on open burning was $887,000 while the low bid based on no open burning was just $1,141,000, only $100 per acre more to eliminate open burning on the project. The per acre increase would have been more than $100 per acre (but still quite moderate) but more wood waste was planned for utilization as chips. This project demonstrates that when a contractor is faced with additional disposal costs above that of open burning he merchandises a maximum amount of wood waste and disposes only that portion which has no commercial value. Alternatives such as the Camran System encourage better resource utilization. The convenience and minimum first cost of open burning discourages resource utilization.

5. COSTS OF ELIMINATING POLLUTANTS FROM OPEN BURNING ARE LESS THAN THE COSTS OF ELIMINATING POLLUTANTS FROM OTHER SOURCES

The Washington State Department of Ecology has analyzed the costs of removal of pollutants from various industrial processes and has reached the following conclusions:

1. There are approximately 100 pounds of pollutants per ton of wood waste disposed of by open burning.

2. The costs of pollutant removal for industry range from 1¢ per pound for an asphalt batch plant to approximately 15¢ per pound for a small ferrosilica furnace.

3. The average cost to the industry appears to be 5¢ per pound of pollutant. See Testimony of Duane Goodman Before Washington State Department of Ecology, In re Certification of Alternatives to Open Burning at 8-10 (May 23, 1974).

The Lost Creek Reservoir Clearing Project discussed above demonstrates that alternatives to open burning cost substantially less than this. The difference in cost of $100 per acre (with no open burning), when applied to an average density of wood waste of approximately 100 tons per acre could result in an increased cost of approximately $1 per ton of wood waste or 1¢ per pound of pollutant removed.

6. OPENING UP OF OPEN BURNING WOULD LEAD TO A SIGNIFICANT DETERIORATION OF AIR QUALITY

The federal courts have interpreted the Clean Air Act of 1970 to allow no significant deterioration of the quality of the ambient air. Sierra Club v. Ruckelshaus, 344 F.Supp. 253, 4 ERC 1205 (D.D.C.), aff'd per curiam, 4 ERC 1815 (D.C. Cir.1972), aff'd sub nom. Fri v. Sierra Club, 412 U.S. 541, 5 ERC 1417 (1973) (per curiam). Pursuant to these decisions, the EPA recently has promulgated regulations attempting to define "no significant deterioration". 39 Federal Register 42510 (Dec. 5, 1974). While these regulations are themselves under legal attack as being too permissive, they allow states to classify lands as Class I, II, or III, according to the nature of the land and the anticipated growth.

Almost no deterioration would be allowed in Class I areas; some deterioration would be allowed in Class II areas; deterioration up to the ambient air quality standards would be allowed in Class III areas.

No relaxation of open burning rules should take place for it will lead to significant deterioration of the quality of the air in presently clean air areas of Oregon. Rather than relax environmental standards that could lead to a deterioration of air quality, Oregon should protect the quality of its air.

Furthermore, disregarding the requirements of non-deterioration in the federal law, the Oregon regulations state:

> "20-001 HIGHEST AND BEST PRACTICABLE TREATMENT AND CONTROL REQUIRED. Notwithstanding the general and specific emission standards and regulations contained in this division, the highest and best practicable treatment and control of air contaminant emissions shall in every case be provided so as to maintain overall air quality at the highest possible levels, and to maintain contaminant concentrations, visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. In the case of new sources of air contamination, particularly those located in areas with existing high air quality, the degree of treatment and control provided shall be such that degradation of existing air quality is minimized to the greatest extent possible." OAR Ch. 340, §20-001 (Emphasis added).

Opening up wood waste burning will violate these Oregon requirements.

7. THE EFFECTS OF THE PROPOSED REGULATIONS WOULD CONTRADICT THEIR OWN STATED PURPOSES

Section 23-025 of the proposed regulations states the following policy:

> "In order to restore and maintain the quality of the air resources of the State in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state, it is the policy of the Environmental Quality Commission: to eliminate open burning disposal practices where alternative disposal methods are feasible and practicable; to encourage the development of alternative disposal methods; to emphasize resource recovery; to regulate specified types of open burning; to encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible; and to require specific programs and timetables for compliance with these rules." (Emphasis added.)

The substantive sections of these regulations would not accomplish these worthy objectives. Rather, recoverable resources would be wasted, use of alternate disposal methods would be prevented, and costly emissions from open burning of land clearing debris would be increased.

8. OREGON SHOULD NOT ABANDON ITS POSITION AS A LEADER AMONG THE STATES IN MAINTAINING AND IMPROVING THE QUALITY OF THE ENVIRONMENT AND IN ENCOURAGING MAXIMUM UTILIZATION OF RESOURCES

Oregon has a well-deserved reputation as a leader in cleaning up the environment and encouraging the full utilization of natural resources. The proposed regulations make a mockery of this leadership. The special control area regulations in Oregon were adopted in 1972 to take effect on July 1, 1974; they finally have taken effect. The proposed regulations are simply a collapse before special interest political pressure. Polluters never want to stop polluting. The public interest requires that the open burning of land clearing wood wastes finally stop in Oregon.

If you agree, please help:

1. Write your opposition to the members of Oregon Environmental Quality Commission:
   Dr. Morris Crothers
   Jackie Hallock
   B.A. "Barney" McPhillips
   Grace Phinney
   Ron Somers

2. Appear and testify in opposition at the hearings on Friday, February 28, at Harris Hall, 125 East Eighth Street, in Eugene.

3. Contact your friends and other interested organizations -- ask their help.

4. Contact your newspapers and other media. Give them a statement of your opposition. Ask them to report it. Ask them to editorialize against the relaxation of the regulations.

For further information call:

Jeff Goltz
(206) 624-8901
Durning & Smith
Attorneys for The Camran Corporation

For further information on open burning of wood waste in Washington, contact:

Martin Baker
Executive Director
Washington Environmental Council
107 S. Main
Seattle, Washington
(206) 623-1483

DEPARTMENT OF ENVIRONMENTAL QUALITY

PROPOSED RULES FOR OPEN BURNING

January 13, 1975

OAR Chapter 340, Sections 23-005 through 23-020 and 28-005 through 28-020 are repealed and new Sections 23-025 through 23-050 and 28-006 are adopted in lieu thereof.

23-025 POLICY

In order to restore and maintain the quality of the air resources of the State in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state, it is the policy of the Environmental Quality Commission: to eliminate open burning disposal practices where alternative disposal methods are feasible and practicable; to encourage the development of alternative disposal methods; to emphasize resource recovery; to regulate specified types of open burning; to encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible; and to require specific programs and timetables for compliance with these rules.

23-030 DEFINITIONS. As used in this Section, unless the context requires otherwise:

(1) "Commercial Waste" means waste produced by business operations such as retail and wholesale trade or service activities, transportation, warehousing, storage, merchandising, packaging, or management including offices, office buildings, governmental establishments, schools, hospitals, and apartment houses of more than four (4) family units.

(2) "Commission" means the Environmental Quality Commission.

(3) "Demolition Material" means any waste resulting from the complete or partial destruction of any man-made structures such as houses, apartments, commercial buildings or industrial buildings.

(4) "Department" means the Department of Environmental Quality.

(5) "Director" means the Director of the Department of Environmental Quality or his delegated representative pursuant to ORS 468.045 (3).

(6) "Domestic Waste" means non-putrescible wastes consisting of combustible materials such as paper, cardboard, yard clippings, wood, and similar materials generated by a dwelling housing four (4) families or less.

(7) "Forced-air Pit Incineration" means any method or device by which burning of wastes is done in a subsurface pit or above ground enclosure with combustion air supplied under positive draft or air curtain and controlled in such a manner as to optimize combustion efficiency and minimize the emission of air contaminants.

(8) "Industrial Waste" means waste resulting from any process or activity of manufacturing or construction.

(9) "Land Clearing Debris" means waste generated by the removal of debris, logs, trees, brush, or demolition material from any site in preparation for land improvement or a construction project.

(10) "Open Burning" means burning conducted in open outdoor fires, common burn barrels or backyard incinerators, or burning conducted in such a manner that combustion air may not be effectively controlled and that combustion products are not vented through a stack or chimney.

(11) "Population" means the annual population estimate of incorporated cities within the State of Oregon issued by the Center for Population Research and Census, Portland State University, Portland, Oregon.

(12) "Population Center" means areas within incorporated cities having a population of four thousand (4,000) or more and within three (3) miles of the corporate limits of any such city. If the resulting boundary touches or intersects the corporate limits of any other smaller incorporated city, the affected smaller city shall be considered to be a part of the population center which shall then extend to three (3) miles beyond the corporate limits of the smaller city.

(13) "The Rogue Basin" means the area bounded by the following line: Beginning at the NE corner of T32S, R2E, W.M.; thence South along Range line 2E to the SE corner of T39S; thence West along Township line 39S to the NE corner of T40S, R7W; thence South to the SE corner of T40S, R7W; thence West to the SE corner of T40S, R9W; thence North on Range line 9W to the NE corner of T39S, R9W; thence East to the NE corner of T39S, R8W; thence North on Range line 8W to the SE corner of Sec. 1, T33S, R8W on the Josephine-Douglas County line; thence East on the Josephine-Douglas and Jackson-Douglas County lines to the NE corner of T32S, R1W; thence East along township line 32S to the NE corner of T32S, R2E to the point of beginning.

(14) "Special Control Area" means:

a. Population Center

b. The Rogue Basin

c. The Umpqua Basin

d. The Willamette Valley

(15) "Special Restricted Area" means those areas established to control specific practices or to maintain specific standards.

(a) In Columbia, Clackamas, and Washington Counties, Special Restricted Areas are all areas within rural fire protection districts, including the areas of incorporated cities within or surrounded by said districts.

(b) In Multnomah County, the Special Restricted Area is all area west of the Sandy River.

(16) "The Umpqua Basin" means the area bounded by the following line: Beginning at the SW corner of Sec. 2, T19S, R9W, W.M., on the Douglas-Lane County lines and extending due South to the SW corner of Sec. 14, T32S, R9W, on the Douglas-Curry County lines; thence Easterly on the Douglas-Curry and Douglas-Josephine County lines to the intersection of the Douglas, Josephine and Jackson County lines; thence Easterly on the Douglas-Jackson County line to the intersection of the Umpqua National Forest boundary on the NW corner of Sec. 32, T32S, R3W; thence Northerly on the Umpqua National Forest boundary to the NE corner of Sec. 36, T25S, R2W; thence West to the NW corner of Sec. 36, T25S, R4W; thence North to the Douglas-Lane County line; thence Westerly on the Douglas-Lane County line to the point of beginning.

(17) "Waste" means unwanted or discarded solid or liquid materials.

(18) "The Willamette Valley" means all areas within the following counties or portions thereof as indicated:

1. Benton
2. Clackamas
3. Columbia
4. Lane, all areas east of Range Nine (9) West of the Willamette Meridian.
5. Linn
6. Marion
7. Multnomah
8. Polk
9. Washington
10. Yamhill

(1) No person shall cause or permit to be initiated or maintained any open burning which is specifically prohibited by any rule of the Commission.

(2) Open burning in violation of any rule of the Commission shall be promptly extinguished by the person in attendance or person responsible upon notice to extinguish from the Department, or other public official.

(3) No open burning shall be initiated on any day or time when the Department advises fire permit issuing agencies that open burning is not permitted because of adverse meteorological or air quality conditions.

(4) No open burning shall be initiated in any area of the State in which an air pollution alert, warning, or emergency has been declared pursuant to OAR Chapter 340, Sections 27-010 and 27-025 (2), and is then in effect.

(5) Open burning of any waste materials which normally emit dense smoke, noxious odors, or which may tend to create a public nuisance such as, but not limited to plastics, wire insulation, auto bodies, asphalt, waste petroleum products, rubber products, animal remains, and animal or vegetable wastes resulting from the handling, preparation, cooking, or serving of food is prohibited.

(6) Open burning authorized by these rules does not exempt or excuse any person from liability for, consequences, damages, or injuries resulting from such burning, nor does it exempt any person from complying with applicable laws, ordinances, or regulations of other governmental agencies having jurisdiction.

23-040 OPEN BURNING PRACTICES

(1) Industrial Waste

Open burning of industrial waste is prohibited.

(2) Commercial Waste

Open burning of commercial waste is prohibited within Special Control Areas.

(3) Solid Waste Disposal Sites

Open burning at solid waste disposal sites is governed by OAR Chapter 340 Sections 61-005 through 61-085.

(4) Land Clearing Debris

Open burning of land clearing debris is prohibited:

(a) Within population centers of The Willamette Valley.

(b) Within the Special Restricted Areas of Columbia, Multnomah, and Washington Counties.

(c) In Clackamas County within control areas established as:

1. Any area in or within three (3) miles of the boundary of any city of more than 1,000 population, but less than 45,000 population.

2. Any area in or within six (6) miles of the boundary of any city of 45,000 or more population.

3. Any area between areas established by this rule where the boundaries are separated by three (3) miles or less.

4. Whenever two or more cities have a common boundary, the total population of these cities will determine the control area classification and the municipal boundaries of each of the cities shall be used to determine the limits of the control area.

5. Whenever the boundary of a control area passes within the boundary of a city, the entire area of the city shall be deemed to be in the control area.

(d) After July 1, 1977 in The Willamette Valley.

(5) Domestic Waste

No person shall cause or permit to be initiated or maintained any open burning of domestic waste within Special Restricted Areas except such open burning of domestic waste as is permitted:

(a) In Columbia County until July 1, 1977, excluding the area within the Scappoose Rural Fire Protection District.

(b) In the Timber and Tri-City Rural Fire Protection Districts, of Washington County until July 1, 1977.

(c) In the following rural fire protection districts of Clackamas County until July 1, 1977:

1. Clarkes Rural Fire Protection District;
2. Estacada Rural Fire Protection District No. 69;
3. Colton-Springwater Rural Fire Protection District;
4. Molalla Rural Fire Protection District;
5. Hoodland Rural Fire Protection District;
6. Monitor Rural Fire Protection District;
7. Scotts Mills Rural Fire Protection District;
8. Aurora Rural Fire Protection District.

(d) In all other Special Restricted Areas until July 1, 1977 for the burning of wood, needle, or leaf materials from trees, shrubs, or plants from yard clean-up of the property at which one resides, during the period commencing with the last Friday in October and terminating at sundown on the third Sunday in December, and the period commencing the second Friday in April and terminating at sundown on the third Sunday in May. Such burning is permitted only between 7:30 a.m. and sunset on days when the Department has advised fire permit issuing agencies that open burning is permitted.

(6) Emergency Conditions

To prevent or abate environmental emergency problems such as but not limited to accumulations of waste caused by:

(a) Log jams, storms or floods, the Director may upon request of an operator, owner, or appropriate official, give approval for burning of wastes otherwise prohibited by these rules;

(b) Oil spills, the Director may upon request of an operator or appropriate official, approve the burning of oil soaked debris generated by an oil spill.

All such requests and approvals shall be confirmed in writing. The Director may require whatever degree of control he deems appropriate under the circumstances.

23-045 FORCED-AIR PIT INCINERATION

(1) Forced-air pit incineration may be approved as an alternative to open burning prohibited by this regulation, provided it is demonstrated to the satisfaciton of the Department that:

(a) No feasible or practicable alternative to forced-air pit incineration exists;

(b) The facility is designed, installed, and operated in such a manner that visible emission standards set forth in OAR Chapter 340, Section 21-015, are not exceeded after thirty (30) minutes of operation from a cold start.

(2) Authorization to establish a forced-air pit incineration facility shall be granted only after a Notice of Construction and Application for Approval is submitted pursuant to OAR Chapter 340, Sections 20-020 through 20-030.

23-050 EXCEPTIONS

These rules do not apply to:

(1) Fires set for traditional recreational purposes and traditional ceremonial occasions when a campfire or bonfire is appropriate using fuels customarily associated with this activity.

(2) Barbecue equipment used in connection with any residence.

(3) Fires set or permitted by any public agency when such fire is set or permitted to be set in the performance of its official duty for the purpose of weed abatement, prevention, or elimination of a fire hazard, or instruction of employes in the method of fire fighting, which in the opinion of the agency is necessary.

(4) Fires set pursuant to permit for the purpose of instruction of employes of private industrial concerns in methods of fire fighting, or for civil defense instruction.

(5) Open burning as a part of agricultural operations which is regulated by OAR Chapter 340, Division 2, Subdivision 6, (Agricultural Operations).

28-006 DEFINITIONS

As used in this subdivision:

(1) "Fuel burning equipment" means a device which burns a solid, liquid, or gaseous fuel, the principal purpose of which is to produce heat, except marine installations and internal combustion engines that are not stationary gas turbines.

(2) "Odor" means the property of a substance which allows its detection by the sense of smell.

MINUTES OF THE SIXTY-SIXTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

February 28, 1975

Pursuant to the required notice and publication, the sixty-sixth meeting of the Oregon Environmental Quality Commission was called to order at 9:00 a.m. on Friday, February 28, 1975. The meeting was convened on the main floor of Harris Hall at 125 East 8th Street, Eugene, Oregon.

Commissioners present included: Mr. B.A. McPhillips, Chairman; Dr. Morris Crothers; Dr. Grace S. Phinney; (Mrs.) Jacklyn L. Hallock; and Ronald M. Somers.

Department staff members present included Kessler R. Cannon, Director; Ronald L. Myles, Deputy Director; and three assistant directors, Frederick M. Bolton (Enforcement), Harold M. Patterson (Air Quality), and Harold L. Sawyer (Water Quality). Chief Counsel, Raymond P. Underwood and several additional staff members were present.

MINUTES OF THE JANUARY 24, 1975 COMMISSION MEETING

It was MOVED by Mr. Somers, seconded by Mrs. Hallock, and carried that the minutes of the January 24, 1975 EQC meeting be adopted as distributed.

MOTION RE: KRUSE WAY

Commissioner Somers noted that in June of 1973, the Department received an application for Kruse Way. The application from Clackamas County came before the Commission in September of 1973 and had been subsequently tabled due to the problem of the intersection of Highways 217 and I-5, Mr. Somers stated. The latter road presently stops at Bangy Road, forcing motorists to take a right and follow Bangy to Bonita and causing excess traffic on that road, Carmen Drive, and Boones Ferry, he reported. Citing the two to five thousand trips per day presently causing a serious air quality problem in this area, causing inconvenience to nearby homes, and endangering the children of the area, Mr. Somers noted that Kruse Way might pose a solution to this problem which should be sought prior to the expiration of Clackamas County's funding opportunities in July of this year. It was recalled that the Department was unable to approve the plan as submitted, Kruse Way being a proposal which, taken alone, would be inconsistent with the State's implementation plan. In Mr. Somers' view, a trade of one inconsistent situation for another less inconsistent situation might be both worthwhile and within the Commission's jurisdiction to effectuate.

The implementation of the Kruse Way plan, coupled with appropriate cul-de-sacing and limitation of access, was seen as a possible tradeoff which would be favored by Clackamas County and the residents of the affected area. Such an arrangement would, in Mr. Somers' view, confine the ambient air problems to the freeway area, alleviating the problem in the residential area.

Mr. Dick Vogt of the Department's Air Quality Division addressed the problem, stating that under federal highway regulations, the final environmental impact statement could not be published prior to the Department's determination of the project's consistency with Oregon's Clean Air Implementation Plan. He reported that the Department had jurisdiction to oversee only the clean air aspects of the problems, remaining oblivious to considerations of traffic safety and efficient traffic flow. Without the consistency report from the Department, in Mr. Vogt's view, the project could not go forward. Perhaps, Mr. Vogt noted, the Commission might have jurisdiction to view those aspects of the projects other than clean air and make a policy directive based on its view. Mr. Cannon and Mr. Vogt concurred that the indirect source regulations applied only to those proposals which, within ten years of building, would result in at least twenty thousand Average Daily Traffics and that the Kruse Way had originally been expected to fall within this category. Subsequent projection of ridership of Tri-Met buses along the proposed roadway, however, indicated reduced Average Daily Traffics of 18,200 within ten years of building. It was reported that, since learning of the reduced average daily traffic expectation, the Department had "signed off" the project as not requiring an Indirect Source Permit.

Mr. Somers felt it would be appropriate for the Commission to take an action which would, in effect, amount to a comment on the consistency statement for Kruse Way. Mr. Somers and Mr. Vogt agreed that the proposal would violate ambient air standards only on rare occasions, if at all. It was MOVED by Mr. Somers, seconded by Mrs. Hallock and carried that the Commission direct the staff to draft a letter to the Oregon State Highway Division with a determination that Kruse Way is consistent with the Clean Air Implementation Plan if the following restrictions were placed:
1) provision for adequate traffic control measures on Bonita Road (such as a cul-de-sac) and maintenance of low traffic volumes on that roadway;
2) provision that Kruse Way be a limited access road (with the exception of Carmen Drive) so as to prevent the formation of excessive feeder streets along Kruse Way.

MID WILLAMETTE VALLEY CLEAN AIR AWARD

Dr. Grace Phinney was congratulated by Chairman McPhillips, the Commission members, and others present for having received jointly with Dr. Richard Boubel the first annual Mid-Willamette Valley Clean Air Award as presented by the Mid-Willamette Valley Air Pollution Authority and the Oregon Lung Association.

PROGRAM ACTIVITY REPORT FOR JANUARY 1975

Mr. Somers, inquiring of Mr. McSwain, asked if it were possible for the reports in the future to delineate between applications in terms of their longevity (such as thirty, sixty, and ninety days). Mr. Somers noted that the Legislature's Subcommittee on Trade and Economic Development had called the Commission to task for completed permit applications which were unprocessed. It was lamented that the Subcommittee did not understand federal regulations governing some permit applications and preventing faster processing of the Department's permit workload, in many instances quite current (such as in the case of Air Contaminant Discharge Permits). It was Mr. Somers' view that the Commission's attention should be directed to those permits whose applications were complete, to the exclusion of areas where applications were requiring more information for their completion. Mr. Cannon, noting that the Department had expended a good deal of time to provide all air contaminant discharge permit applicants with at least a temporary permit, suggested that the Department provide the Commission with a summary of all major complete permit applications still before the Department. It was noted that the temporary permits dealt with existing sources and that new sources had to be qualified under the Significant Deterioration requirements.

It was MOVED by Mr. Somers, seconded by Mrs. Hallock, and carried that the January 1975 program activity report be approved by the Commission. (See Attachment A).

TAX CREDIT APPLICATIONS

Mr. Somers commended Mr. Hal McCall of Bohemia, Inc. for its bark utilization plant, an item on the list of tax credit applications. This, in Mr. Somers' view, was the type of activity needed in the State. Having assured himself that Bohemia's benefits were properly scheduled under the tax credit provisions, Mr. Somers MOVED that the tax credit applications be approved in accord with the Director's recommendation. The motion was seconded by Mrs. Hallock and carried by the Commission as follows:

| App. No. | Applicant | Claimed Cost |
|---|---|---|
| T-566 | Stayton Canning Company, Co-op Brooks Plant #5 | $ 14,641.60 |
| T-567 | Stayton Canning Company, Co-op Brooks Plant #5 | 413,711.58 |
| T-596 | Atlantic Richfield Company | 121,141.48 |
| T-623 | Bohemia, Incorporated Bark Utilization Plant | 4,521,276.00 |

AUTHORIZATION RE: PUBLIC HEARING ON NOISE SCHEDULE AMENDMENT TO THE RULES OF CIVIL PENALTIES

It was MOVED by Mr. Somers, seconded by Mrs. Hallock, and carried to authorize the Department to hold a public hearing to consider a noise control schedule amendment to the rules pertaining to civil penalties.

VARIANCE REQUESTS RE: FOREST FIBER PRODUCTS COMPANY AND BARKER MANUFACTURING COMPANY

Addressing himself to the application for an extension of its compliance schedule by Barker Manufacturing Company in Multnomah County, Mr. Tom Bispham of the Department's Northwest Regional Office reported that the applicant had suffered an employees' strike in the latter part of 1974 which created a cash flow problem, necessitating an extension of its compliance schedule with regard to particulate emissions until July 15, 1975. It was reported that a compliance date prior to this time would result in shut down of the plant. Mr. Bispham noted that Hyster employees whose cars are subject to the wood particulate fallout from the Barker cyclones had indicated a great deal of satisfaction with Barker's self-monitoring program. It was MOVED by Mr. Somers, seconded by Dr. Phinney, and carried that the requested variance be granted Barker Manufacturing Company in accord with the Director's recommendations.

Turning to the application for an extension presented by Forest Fiber Products Company and noting that the company suffered from cash flow problems due to the current slump in the lumber industry, Mr. Bispham recommended that the variance be granted and the applicant be given a new compliance date of on or before June 1, 1975. It was MOVED by Mr. Somers, seconded by Mrs. Hallock and carried that the Forest Fiber Products Company be granted the variance as recommended by the Director.

ADOPTION OF PROPOSED AMENDMENTS TO THE INDIRECT SOURCE RULES

Chairman McPhillips noted that a public hearing on the proposed Indirect Source Rules had taken place and that further public comment, except in answer to inquiry by the Commission, would be inappropriate in today's meeting.

Mr. Dick Vogt of the Department's Air Quality Division directed the Commission's attention to a large wall map on which were marked those parking facilities affected by the rule.

Citing the testimony of local governments and of the Mid-Willamette Valley Air Pollution Authority, Mrs. Hallock stated that she would prefer that the rule be left as it stands, affecting Indirect Source parking facilities of fifty or more spaces. She based her reasoning on the numerous quantity of "fifty and over" lots and the fear that a proliferation of "ninety-nines" would be the result of the proposed rule. To adopt a 100 space facility as the threshold, she opined, were to ask the Multnomah County authorities to set up an air pollution authority of its own to handle the "gap." Mrs. Hallock inquired of staff if staff had enough manpower to process applications under the "fifty threshold" rule. Mr. Harold Patterson, head of the Department's Air Quality Division, pointed out that the processing of the Indirect Source permits had not yet been reduced to a routine. Mr. Patterson held out to the Commission the possibility that additional staff might be required to process permits under the present rule.

Mrs. Hallock expressed support for the local government "check offs" written into the proposed rule in its section 20-030(9).

Dr. Crothers objected that there was no measurable effect on air quality outside of core areas attributable to the parking facilities under regulation. He asked Mr. Verne Adkison of the Lane Regional Air Pollution Authority to comment on this objection. Mr. Adkison reported that, in his experience, the only significant effect on ambient air quality attributable to parking lots was experienced along freeways near interchanges where the emptying of parking lots caused a slowdown in vehicular traffic. This, it was conceded, was but an indirect influence of the parking lots themselves. Learning that Mr. Adkison's jurisdiction had never refused application for a parking facility of 100 spaces or less, Dr. Crothers decried the futility of requiring permits in cases where permits were never denied.

Mr. Somers expressed his view that even on a rural two-lane road a small parking lot (or small parking lots) could have an effect on the ambient air along the roadside. He went on to state that small parking lots in a grouping might result in daily violations at intersections on nearby highways causing ambient air standard violations which were of legitimate concern to the Commission.

Mr. Adkison noted that the Lane Regional Air Pollution Authority's processing of applications for parking facilities had been done with an eye to aiding the land use planner and encouraging ridership in the Lane mass transit buses. Mr. Adkison further stated the problem was the automobile itself and the use of the automobile in all its aspects would have to be included in the problem's resolution.

Dr. Crothers stated that the basic concepts of land use planning called for further congestion of population and, therefore, further congestion in vehicular traffic while the considerations of air quality called for greater sparcity in the use of the automobile. It was Dr. Crothers' view that the resolution of this conflict was called for along with a clear demarcation between land use planning concerns and environmental air quality concerns. Mr. Vogt pointed out that the rule contained a provision for screening of applications by local land use planning authorities prior to Departmental review, a provision which, in his view, would afford the Department an opportunity to align itself with land use planning concerns.

It was MOVED by Mrs. Hallock, seconded by Dr. Phinney, and carried that the Indirect Source rule be amended as follows:

The Director's recommendation that the threshold moving the rule's jurisdiction from facilities of fifty and over to facilities of 100 and over would not be accepted. That is: that Section 20-115(2)(a)(i) not be adopted; Section 20-129(1)(b) not be adopted; and that the proposed amendment Section 20-030(9) add the following language:

"An Indirect Source construction permit application shall not be considered complete until the applicant has provided to the

Department evidence that the Indirect Source in question is not in violation of any landuse ordinance or regulation enacted or promulgated by a constitutive local governmental agency having jurisdiction over the subject real property."

Further, additional minor changes proposed for the clarification of the rule were adopted by the motion. These include:

a) Section 20-110(10)(b) ("Facilities" capitalized);
b) Section 20-110(14), line 3 (addition of the words "in designated Parking Spaces");
c) Section 20-115(5) (renumbered to 20-115(3);
d) Section 20-115(6) (renumbered to 20-115(4);
e) Section 20-125(1)(a)(iv), line 1 (the deletion of the word "of" and the insertion of "and quantity of Parking Spaces at the Indirect Source and");
f) Section 20-125(1)(a)(vii), line two (the deletion of the word "spaces"); and
g) Section 20-129(1)(a)(vi), line 2 (the insertion of "concurrent with or" and also the insertion of a comma after "the result of").

Dr. Crothers voted against the above motion.

VARIANCE REQUEST RE: INTERNATIONAL PAPER (GARDINER KRAFT PULP MILL)

Mr. Charles Clinton presented the staff report along with the Director's recommendation that International Paper Company be granted a variance for lime kiln particulate emissions and smelt dissolving tank vent particulate emissions with an extension of the final compliance date for installation of the non-condensible gas incinerator. The final compliance demonstrations were as follows: For the lime kiln particulate, January 21, 1976; for the smelt tank particulate, March 1, 1976; and for the non-condensible gas incinerator, May 21, 1975. It was MOVED by Mr. Somers, seconded by Mrs. Hallock and carried that the variance request be granted in accord with the Director's recommendation.

DEMONSTRATION PROJECT FOR HIGH-OCCUPANCY VEHICLE LANES (BANFIELD FREEWAY)

Mr. Dick Vogt of the Department's Air Quality Division presented the staff report along with the recommendation that the Commission conceptually approve the Oregon State Highway Division's proposed Banfield Freeway (I-80N) High Occupancy Vehicle Lane Demonstration Project.

Mr. Somers heartily endorsed the project, while reiterating his view that the appropriate curtailment of ingress (7:00 a.m. to 9:00 a.m.) and egress (3:00 p.m. to 6:00 p.m.) on the freeway from town to Hood Village would be an appropriate manner of reducing congestion on the Banfield Freeway. This ingress and egress curtailment would not apply to buses, emergency vehicles, or other high occupancy vehicles. It was MOVED by Mr. Somers, seconded by Mrs. Hallock, and carried that the Director's recommendation be approved.

STATUS REPORT: DEPARTMENT OF ENVIRONMENTAL QUALITY V. ZIDELL EXPLORATIONS, INC.

It was MOVED by Mr. Somers, seconded by Dr. Phinney, and carried that the Director's recommendation to set this matter for review on the agenda of the regularly scheduled Commission meeting of March 28, 1975 be approved.

VARIANCE REQUEST, BROOKS-SCANLON, INC. (BEND, OREGON)

The staff report regarding Brooks-Scanlon proposed a program for log handling in the Deschutes River and included the Director's recommendation that Brooks-Scanlon should be required to implement their January 1975 plan immediately and that October 1, 1975 be maintained as the completion date for the project.

Mr. Leo Hopper, speaking on behalf of Brooks-Scanlon, alluded to the revised plan of January 10, 1975 providing for removal of all log handling activities from the Deschutes River area. It was argued for the plan that several new concepts incorporated therein could result not only in superior water quality protection but in other environmental improvements. The plan demonstrated, in Mr. Hopper's view, time well spent since the October 25, 1974 Commission meeting.

Mr. Hopper went on to recommend that the Commission extend the compliance deadline for implementation of the plan until either December 31, 1976 or, in the alternative, at least six months after approvals are received from all required state and local agencies. Both the time involved in obtaining the above approvals and present economic conditions in the industry were cited as reasons for the extension request.

In response to Mr. Somers inquiry, Mr. Hopper conceded that none of the requisite permits had been applied for to date. He noted that the State Land Board, in consultation with the Game Commission, would be required to approve, along with the Deschutes County Planning Board (a zoning change would be required). Mr. Somers, noting that the request in issue had been mailed to the Department in January, inquired as to why the other agencies had not been presented with the requisite applications at that time. Mr. Hopper replied that application was not made because Brooks-Scanlon was awaiting Commission action on the instant application for a variance. Mr. McPhillips inquired of Mr. Hopper why Brooks-Scanlon was requesting a twenty-one month delay when it was possible to complete the project within six months after receiving all of the required agency approvals. He questioned whether it would take fifteen months to obtain the necessary approvals. In answer, Mr. Hopper stated that economic conditions made a twenty-one month extension desirable while the minimum requirement would be six months after all necessary approvals.

Mr. McPhillips noted his disappointment with the reasoning based on economics, recalling that when the log-handling problem was first encountered the lumber industry was healthy and Brooks-Scanlon was financially able to implement any reasonable plan. Without its history of procrastination in this matter, the Chairman felt Brooks-Scanlon would not presently be facing economic problems with regard to implementation of the log handling plan.

Noting that the Commission's patient indulgence herein dated back to November of 1967 and had been rewarded by undue inertia on the part of the applicant, Mr. Somers MOVED that the Director's recommendation be adopted and that no further extension be granted to Brooks-Scanlon absent a showing before the Commission of undue delays in agency processing of requisite approvals. The motion was seconded by Dr. Crothers and carried.

CLEAN FUELS POLICY

Chairman McPhillips ruled out further public comment on the Clean Fuels Policy (as well as public comment on any of the three Air Contaminant Discharge Permit applications for oil refineries) on the ground that the public hearing had been conducted and all interested parties had received ample opportunity to participate.

Mr. John Kowalczyk of the Department's Northwest Regional Office agreed with Mr. Somers' understanding that the Clean Fuels Policy would not be implemented until January 1979 and that a public hearing on the matter would be required by July 1, 1977. Mr. Somers noted that there was a substantial margin of time in which to review the Clean Fuels Policy between the present time and its effective date.

Mr. McPhillips noted that the Commission's information from the Federal Energy Office did not give cause for apprehension that federal allocation of low sulphur fuels would result in frustration of the purpose of the Clean Fuels Policy.

Mr. Somers added that, even after the rule's implementation in 1979, a variance procedure would be available in those cases where the rule proved inappropriate. Citing recent discoveries that atmospheric formation of particulates resulted from $SO_2$ emissions, Dr. Phinney inquired of Mr. Kowalczyk what the relative advantages in reduction of particulates were with low sulphur fuels as opposed to low ash fuels. Mr. Kowalczyk replied that sulphur, both in terms of source particulate emissions and in terms of atmospherically formed particulate emissions was a far more substantial culprit than either ash or nitrogen, though standards with regard to these latter two conditions were desirable.

In response to Dr. Crothers' inquiry Mr. Kowalczyk stated ash emissions to be primarily metallic in type and no larger than sulphate particulate emissions.

At Mrs. Hallock's request, Mr. Kowalczyk responded to the apprehensions of Mayor Goldschmidt and the Multnomah County Commissioners that a Clean Fuels Policy would have an economic impact more detrimental than was supposed by the Department. Mr. Kowalczyk, while conceding that the Department's economic analysis of the Clean Fuels Policy was not compendious, averred that sufficient information was available to the Department to justify its recommendation of the Clean Fuels Policy. Mr. Kowalczyk went on to state that the possible benefits both from decreased atmospheric corrosion and

soiling of property and from decreased health problems in the community should not go unnoticed in the evaluation of the Policy. He noted also that economic benefits from reduced transportation of high sulphur fuels to the metropolitan area were to be expected. The narrowing price gap between distillate and residual fuels was cited as market competition which could keep the price of low sulphur residual fuel in check in coming years. Mr. Kowalczyk alluded to a recent study indicating that the Chicago community had saved 23.4 million dollars as a result of its Clean Fuels Policy. Those savings were listed in terms of diminished damage to property and diminished health problems. It could be expected he noted, that by the July 1977 public hearing more complete economic data would be available with which to evaluate Mayor Goldschmidt's skepticism. Dr. Phinney welcomed the information in regard to Chicago's Clean Air Policy, lamenting the circumstance whereby savings are identified as too infrequent and seldom accompanying the ubiquitous references to the cost of abatement equipment required to effectuate environmental controls. Mr. Kowalczyk held open the possibility that future benefits of this nature in the Portland area could be identified with an appropriate study. Dr. Crothers, opining that a Clean Fuels Policy would be needed in all areas in the future, MOVED that the Clean Fuels Policy as recommended by the Director be adopted. The motion was seconded by Mr. Somers.

Addressing himself to Mayor Goldschmidt's suggestion that fuel burners in primary categories (schools, hospitals, etc.) be given less strict requirements than other users, Mr. McPhillips questioned the sagacity of "watering down" the Clean Fuels Policy during its genesis. In response to Dr. Phinney's inquiry, Mr. Underwood expressed doubt as to whether the Commission would have statutory authority to grant preference to users in primary categories. Mr. McPhillips went on to state that hospitals and schools caused pollution in their use of high sulphur fuels just as other users did. Mrs. Hallock questioned whether cheaper high sulphur fuel would be available even if a small group of variances were permitted in primary categories. Mr. Kowalczyk predicted availability of the dirtier fuels from Washington State in such a pass. The above-mentioned motion to adopt the Clean Fuels Policy was unanimously carried by the Commission.

AIR CONTAMINANT DISCHARGE PERMIT (COLUMBIA INDEPENDENT REFINERY, INC. (CIRI))

Mr. Kowalczyk noted that, in drafting the three oil refinery permits, the staff had acquiesced in Dr. Phinney's patient and persistent request for metric equivalents to measurements where appropriate. It was further noted that "barrels" were measured the same internationally. Dr. Phinney applauded the staff's effort.

Mr. Kowalczyk mentioned that minor changes would be incorporated into all three refinery permit proposals. He then presented staff's conclusion with regard to the Air Contaminant Discharge Permit application of CIRI.

Conclusions

1. Using emission tradeoffs from a new clean fuels rule to approve CIRI is not considered unconstitutional inasmuch as the entire community will derive significant air quality improvement and economic benefit.

2. The possibility of significant quantities of clean fuels produced by CIRI being burned outside of the State of Oregon appears very slim due to the relatively small quantity of fuel produced by CIRI and the economic penalty that would be encountered by long distance transport of these fuels out of the state when they could be used in the state. In addition, the proposed permit requires CIRI to make up to 10,000 bbls/day of 0.5% sulfur residual fuel oil available for use in the area.

3. Air Quality Standards which are projected to be met after completion of the Oregon Clean Air Implementation Plan will not be violated by CIRI when the facility becomes operational considering tradeoffs from the proposed Clean Fuels Policy and baseline or background air quality.

4. In the event CIRI air emissions would tend to be greater than now projected, alternative means are available to keep emissions to within projected levels (such as requiring CIRI to burn more of the cleaner fuels produced in the refinery).

5. Air Quality impact in North Portland as a result of CIRI emissions is not considered to be significant as air quality improvements from a Clean Fuels Policy should have maximum beneficial tradeoff effects in north and northwest Portland.

6. Best available waste water treatment and compliance with EPA discharge criteria will be assured through permit issuance and detailed plan review procedures once engineering plans are completed and submitted to the Department.

   Water quality impact of CIRI is not considered significant since water pollution discharges are relatively small. The Department is not aware of any unique problems that may result from discharge of properly treated refinery wastewaters into the Willamette River.

7. The Department is unaware of any significant conflict that the CIRI project may have with planning agency guidelines and requirements. Specific planning agency siting criteria for refineries does not exist but would probably relate heavily to environmental factors which are the responsibility of the Department and the Commission and which have been thoroughly considered for the proposed CIRI project.

8. Minor changes in the proposed CIRI Air Discharge Permit have been made at the request of CIRI. These changes are considered reasonable to prevent unjustified costly requirements primarily in the area of monitoring air emissions and product quality. None of the changes affect emission limits or performance requirements.

Mr. Kowalczyk concluded with the Director's recommendation that the Air Contaminant Discharge Permit for the CIRI phase one facility, as slightly modified from the initial draft permit, be issued.

Mr. Kowalczyk drew the Commission's attention to CIRI's request that Section B, Paragraph 3, Subparagraph B (page 7) of the proposed permit be altered to allow the permittee to use distillate fuel oils containing not more than 0.3% sulphur by weight. Noting that this would increase the allowable sulphur weight by .2 of a percent, Mr. Kowalczyk went on to say that several product mixes would become available to the permittee under the requested limitation whose use would not be detrimental to air quality. On this ground, he recommended that the request be honored.

In response to inquiry from Mr. Somers, Mr. Kowalczyk conceded that, based on data currently available to the Department, the permittee's proposal would avail the permittee of 25% of the allowable pollution allocation in the Portland Metropolitan Special Air Quality Maintenance Area. He went on to note, however, that future modeling might reveal information indicating that the permittee would be using less than the 25%. On this basis, Mr. Somers opined, the Commission was being called upon to make not only an environmental decision but also an economic decision. Mr. Kowalczyk noted that the Department had granted what was projected to be 25% to Oregon Steel Mills and what was projected to be 15% of the allowable amount to Cooke Industries. Mr. Kowalczyk expressed the opinion to Dr. Crothers that the proposed permit would not be inconsistent with the Commission's policy with regard to allocating pollutants in the airshed.

Dr. Crothers then requested that the record show his opinion that the Commission was being thrust into the middle of a quarrel between planning agencies and charged with economic decision making beyond the Commission's appropriate activities. It was Dr. Crothers' view that, given such a task, the Commission ought simply to make its decisions to the best of its ability based on environmental considerations alone, leaving other considerations to planning agencies.

Commissioner Somers, noting that the Commission was "appropriating air" along the same fashion that water rights were appropriated in the country's developing years, expressed concern that the Commission was moving headlong into a position of entertaining applications which, in the aggregate, would leave no allocable airshed left. Should the Commission, he asked, adopt the position that he with the oldest permit has first rights to pollute the air? Recalling that in the September meeting the Commission had directed the Department to go ahead in processing five major permits in the airshed, Mr. Somers noted that the Commission was, in effect, adopting a policy similar to the above. He went on to state a need for adoption, by rule or otherwise, of a clearcut method for establishing priorities. Asked for his reaction to this positon, Mr. Underwood stated this to be a problem to which the Commission was coming. Mr. McPhillips cautioned against undue delay in addressing the problem. Mr. Cannon noted the Department had no authority to consider permit applications in other than chronological order and had no authority to measure them against criteria other than those set forth by the Commission. Mr. Somers saw

in the offing a policy based on date of application and good faith diligence in processing permits. Mr. Kowalczyk noted that each of the permits in question before today's meeting had written into it a date limitation for its use. Mr. Somers requested that Mr. Underwood give this problem some thought for the next Commission meeting.

Mr. Cannon noted that he and Mr. Kowalczyk met with the Multnomah County Commissioners and discovered that the property upon which the applicant proposed to build his refinery needed no rezoning of any type in order to accommodate the proposed installation. He added that, prior to the commencement of construction, Multnomah County would have to issue a building permit. This, in Mr. Cannon's view, represented a lever which would give to the local agency an opportunity to exercise control over the economic development of the area, relieving the Commission of inappropriate concerns over economic development. Coordination between the various jurisdictions involved in project approvals was badly needed, Mr. Cannon stated. Mr. Somers noted that, historically, zoners had often called upon the Commission to block a project which conformed to requirements of their own making. While it was Mr. Underwood's view that the interim rule for the Portland airshed constituted a start in the direction of ordering priorities, Mr. Somers felt that this did not go far enough and understood the statutory authority as requiring the Commission to adopt rules which would guarantee fair and equal treatment to all those in the area requesting permits. Mr. Underwood noted that, while a rule on the subject of chronological priorities did not exist, practice and procedure of the Department had been to process in chronological order. He alluded to the compliance schedules within the permits as assurance that each permittee would proceed with diligence to use the allocation he had received. Mr. McPhillips concurred in the view that the Commission and the Department were constrained to entertain applications as they are received.

In reply to questions by Dr. Phinney, Mr. Kowalczyk noted that, while the CIRI installation would have flexibility of production, the ten thousand barrels per day of low sulphur residual fuel required by the proposed permit would come close to the maximum low sulphur residual fuel output. He noted that a lesser "barrels per day" figure appearing in an earlier staff report as the output of the proposed installation was an average of the low and high range of outputs projected by the applicant. He thought that the proposed installation would be capable of producing about thirteen thousand barrels per day as a maximum.

It was MOVED by Dr. Crothers, seconded by Dr. Phinney, and carried that the proposed Air Contaminant Discharge Permit for Columbia Independent Refineries, Inc. be issued with the modification recommended by the staff. Commissioner Somers voted against the motion. Commissioner Hallock noted that her vote in favor of the motion was done with reservation on the ground that, while in her view CIRI was a good firm, an oil refinery did not really belong in Rivergate. Commissioner Somers noted that, in his view, the installation was an example of best application but was proposed on the wrong site.

AIR CONTAMINANT DISCHARGE PERMIT (CHARTER ENERGY COMPANY)

Mr. Kowalczyk drew the Commission's attention to the staff report which recommended that the Air Contaminant Discharge Permit for Charter Energy Company, slightly modified since the last EQC meeting, be issued.

In response to inquiry by Mr. Somers, Mr. Kowalczyk agreed that the proposed facility in question was outside of any critical air quality area. Mr. Kowalczyk noted, however, that federal requirements with regard to Significant Deterioration actually imposed cleaner air standards on the Charter facility than would be required for the CIRI facility.

It was Charter's contention, Mr. Kowalczyk reported, that to reach the desired fifty-two thousand four hundred barrels per day over a yearly average, the facility would have to be allowed up to fifty-six thousand four hundred barrels per day as a maximum rate for any given day. This provision would be necessary in view of the predicted two to three week yearly shut down of the installation. It was staff's view that, with the proper fuel mix, this increase over the proposed daily maximum of fifty-two thousand four hundred barrels could be permitted without incurring violation of the permit conditions or of ambient air standards. If adopted, this proposal would result in amendments to pages one and three of the proposed permit with regard to allowable monthly average crude oil processing capacity (Section A, Special Condition #7). It was MOVED by Mr. Somers, seconded by Dr. Crothers, and carried that the proposed Air Contaminant Discharge Permit of Charter Energy Company be issued with the modifications recommended by the staff.

AIR CONTAMINANT DISCHARGE PERMIT (CASCADE ENERGY, INC.)

Mr. Kowalczyk called to the Commission's attention the staff report and conclusions with regard to the proposed permit.

Dr. Crothers noted that the Department and the applicant remained in disagreement over certain terms of the proposed permit and questioned whether the Commission should act on a proposal which had not been deemed acceptable to the applicant. Further, Dr. Crothers noted, he was not satisfied with Mr. Odell's testimony with regard to the problems to be encountered when the refinery was operating close to a nearby bluff with private dwellings on it. Mr. Kowalczyk summarized the history of this application, indicating that a second modeling done by the applicant indicated lower emissions around the plant site and higher emissions on the hillside. In view of this, it was staff's position that the applicant should proceed with tighter restrictions than were desired by the applicant and conduct meteorological monitoring at the plant site to provide data on which to base future permit conditions. Mr. Odell, the applicant's engineering representative, was cited as in disagreement with the staff about the results to be expected from plant site monitoring. Noting the futility of Commission action on an application unacceptable to the applicant, Dr. Crothers MOVED that the matter be deferred until such time as the

disagreement between the applicant and the Department either came to impasse or resolution. His motion was seconded by Dr. Phinney. Mr. McPhillips referred to a letter from International Paper Company in which concern was expressed regarding the effect of the two proposed refineries in Columbia County on the Longview airshed of the Washington side of the river. Mr. McPhillips' response was to assure the writer that no action taken by the Commission could be expected to worsen the present state of deterioration of the Longview airshed.

The Commission was recessed for luncheon.

PUBLIC HEARING RE: PROPOSED RULES ON OPEN BURNING

Chairman McPhillips noted the outset that the rules under discussion did not pertain to field burning. He stated that the record would be open for ten days after the hearing in order to afford those interested an opportunity to submit written materials to the Commission on the proposed rules.

Mr. Doug Brannock of the Department's Air Quality Division gave the staff report. He noted that, under current rules, open burning of land clearing debris within most Special Control Areas of the state and open burning of domestic waste in Clackamas, Columbia, Multnomah, and Washington Counties was prohibited after July 1, 1974. Mr. Brannock stated that, at the request of several governmental agencies, the Director recommended a variance to the rules for 120 days to allow the burning of domestic wastes in sections of Columbia, Clackamas and Washington Counties. This variance was granted, Mr. Brannock reported, in action taken by the Commission on June 21, 1974. The proposed rules now subject to a public hearing were drafted to resolve previous valid objections, he explained. The Commission was told the rule would consolidate all rules pertaining to non-agricultural open burning in a single section of the Oregon Administrative Rules. In addition it was noted that the rule would extend cut-off dates for open burning of certain domestic wastes in the four-county metropolitan area, extend the time allowed for burning of yard cleanup materials, prohibit burning of land clearing debris within population centers of the Willamette Valley, allow burning of land clearing debris elsewhere in the state subject to EQC authority to issue daily burning classifications, provide "Emergency Conditions" handling of problems caused by log jams, storms, etc., expand the definition section, and provide an open burning policy statement. It was noted that at least two parties had requested that a hearing be conducted in the Portland area prior to the adoption of any Open Burning Rule affecting that area.

Mr. Brannock presented the staff's recommendation that the proposed rules be adopted subject to any testimony entertained by the Commission. Mr. Brannock went on to state that the staff agreed with the State Forester's proposal that section 20-050 of the rule has a Paragraph (6) added to it reading: "Burning on forest land permitted under the Smoke Management Plan filed pursuant to ORS 477.515."

The Commission's attention was called to the petition by several residents of Vernonia, Clatskanie, and Rainier school district to have their area excluded from the definition of Willamette Valley and from the Special Control Area designation in the proposed rule. In response to inquiry from Mr. McPhillips, Mr. Brannock indicated that orchard trimmings were subject to agricultural burning rules and would be subject to the proposed Open Burning Rule only in the case of a limited number of trees in conjunction with a single family dwelling.

Mr. Stewart Wells of the State Forestry Department addressed the Commission expressing satisfaction with the staff recommendation that the rule specifically permit burning pursuant to a Smoke Management Plan under ORS 477.515. Mr. Wells noted for the benefit of Commissioner Somers that, absent the paragraph proposed by staff, the rule would not affect burning under the Smoke Management Plan and explained that the change in wording was requested simply for the purposes of clarification. Mr. Somers asked whether Mr. Wells expected an increase in alternative uses of slash to avoid the necessity of its being burned in the open. Mr. Wells replied that good strides in this area were being made prior to the current slump in the lumber industry and that he hoped more progress would occur in the future.

Mr. Ray Wiley of the Oregon Environmental Council cautioned the Commission against relaxing standards below those required by the state's Implementation Plan, argued that during the previous ban on open burning ample time had been allowed for the development of alternatives, and beseeched the Commission not to pull threads from the fabric of the state's clean air provisions.

Mr. McPhillips called to the Commission's attention the position of Representative Dick Magruder of Columbia County. Representative Magruder, by letter, urged the Commission not to restrict open burning in Columbia County, not to regard Columbia County as a suburb of Portland, and not to restrict the right to burn land clearing debris in Columbia County. Chairman McPhillips noted that other individuals and groups from Columbia County had asked not to be included within the same rule restrictions applied to Multnomah County.

Mr. Fred Foshaug of the Columbia County Board of Commissioners opined that ninety-eight percent of the population of Columbia County was in accord with the above position and noted that Columbia County's principal pollution problem had its source across the river in Longview, a circumstance which would tend to nullify the benefits to be gained by open burning restrictions applying to Columbia County itself. He stated that the prevailing winds rendered very seldom those occasions on which open burning in Columbia County would have a detrimental effect on the airshed over Multnomah County.

The Columbia County Board of Commissioners had urged by letter that Columbia County, except for St. Helens, was not in need of open burning restrictions.

Since he had another engagement, Chairman McPhillips at this point turned the meeting over to Vice Chairman Crothers.

Mr. Jeffrey Goltz, attorney for the Camran Corporation in Seattle, addressed the Commission. He noted that the Commission had received written materials from his firm and added to them additional comment dealing with what, in his opinion, constituted a potential legal problem connected with the proposed rule on open burning. He alluded to a recent decision of the Washington Pollution Control Hearings Board in the State of Washington which held that there are alternatives to open burning which are less harmful to the environment and economically feasible. Mr. Goltz opined that more alternatives to open burning would appear on the market place if given the incentive of rules restricting open burning. Mr. Goltz went on to say that Oregon enjoyed a position of leadership in the field of environmental protection which would be diminished by relaxation of the Open Burning Rules. He agreed to make himself available to Commission counsel to discuss any questions that might arise with regard to the materials submitted.

Mr. Ray Weholt of the Camran Corporation presented the Commission with a written statement and addressed the Commission with his concerns. He stated the Camran Corporation to be in the field of providing technology which was of public interest, and thus to be divorced from industry in general in its overall interests. He noted, however, that his presence before the Commission was not for the purpose of selling Camran Corporation's alternative to open burning. For the benefit of Dr. Crothers, he described Camran Corporation's system as a relatively simple system which maintained the burning temperature at approximately fifteen hundred degrees and provided proper ventilation. The system, he reported, was easily moved to job sites. Referring to a clearing job which was bid in the Rogue River Basin Special Control Area after July of 1974, Mr. Weholt noted that the original bids were based on performance through open burning while subsequent bids were based on performance through alternatives to open burning. The price differential was reported to have been less than a hundred dollars per acre for the differing bids on the twenty-two hundred acre clearing task. Faced with the additional expense in eliminating waste, the contractor on that job, Mr. Weholt reported, merchandised more of the waste than he otherwise would have, providing resource recovery beneficial to the economy. Recovered resources totaled twenty million board feet of timber in Mr. Weholt's estimation and were augmented by five additional man-years of federally funded Oregon labor. In addition twenty million pounds of pollutants were said to have been prevented. In response to inquiry by Dr. Crothers, Mr. Weholt opined that, under the proposed rule, open burning of the aforementioned twenty-two hundred acre project in the Rogue River Basin would have been permitted.

Mr. Brannock noted that under the proposed rule open burning of land clearing debris in any area would still remain subject to the daily burning classification requirements. Addressing Dr. Crothers curiosity as to whether restriction of open burning in the Willamette Valley and

relaxation of the requirements elsewhere would result in increased application of systems such as that of Camran Corporation, Mr. Brannock noted that little or no open burning takes place in the Willamette Valley due to restrictions imposed by the Mid-Willamette Valley Air Pollution Authority.

Mrs. Hallock questioned whether the rule was geared to the convenience of large land clearing operators and away from concerns of air quality and resource recovery. Mr. Weholt reported that, while there was no technology available to deal with the problem of the small backyard burner, the technology was available to abate the problem of open burning on a large scale. He noted that, while his system did not involve resource recovery, the cost of using it made resource recovery desirable, providing incentive for land clearers to engage therein. Mr. Brannock affirmed Mr. Somers' impressions that the Rogue and Umpqua Basins were within the rule's Special Control Areas but were not within the rules Special Restricted Areas. Mr. Somers noted that the rule would permit the burning of domestic wastes in Special Control Areas until July 1, 1977. Mr. Cannon, dealing with the problem of land clearing debris burning, noted that the primary thrust of the rule was to relax land clearing debris burning restrictions in areas of the state outside of the population centers of the Willamette Valley and the Portland metropolitan area. It was then conceded that, under the rule as proposed, the twenty-two hundred acre project to which Mr. Weholt previously alluded could be open burned. Dr. Crothers expressed curiosity as to why the Rogue River basin would suddenly become an airshed with no problems and, conversely the Willamette Valley would suddenly become a problem area. He wished to know why Medford was neglected in the rule simply because it did not lie in the Willamette Valley. Mr. Rich Reiter, Administrator of the Department's Southwest Regional Office, was asked to comment on this circumstance. He explained that, asked for views on the rule formation, he was concerned by the difficulty in enforcing open burning restrictions in the Southwest Region. Slash and agricultural burning were cited as major sources which were not under control at the present time. Mr. Reiter decried the inconsistency in controlling small sources emitted by small private land clearing operations while gross sources went uncontrolled. It was Mr. Somers' view that the Commission lacked jurisdiction to deal with slash burning on government lands and with agricultural burning. He opined that the problem should be brought to the attention of legislators by the residents in the area. Dr. Crothers cautioned that "a foolish consistency is the hob goblin of small minds". Mrs. Hallock reminded Mr. Reiter that the policy statement in the rule included emphasizing resource recovery and encouraging the development of alternative disposal methods. Mr. Reiter contended that, while other considerations were involved, air quality was the primary consideration. He went on to contend that the population concentrations in the Rogue and Umpqua Valleys were differing from those in the Willamette Valley and requiring of different regulations. Dr. Crothers suggested that it might be appropriate to restrict open burning only in the Population Centers of the Rogue and Umpqua Valleys. Mr. Reiter found this suggestion unobjectionable but predicted that its impact would be minimal as, in his estimation, very little open burning takes place in the Population Centers of the Rogue and Umpqua Valleys.

Mr. Somers noted the irony of restricting the plywood industry's source emissions to ten percent opacity in an area where gross open burning sources go unchecked. He inquired as to whether the Commission would have jurisdiction to deal with the slash burning problem through a Class I designation of the affected forest areas. Mr. Patterson responded that the baseline data for such a classification was gathered in 1974, a time during which slash burning of a magnitude similar to the present slash burning was conducted routinely. Mr. Reiter concluded that something ought to be done to deal with the gross sources first, bringing the Commission's attention to the historical fact that the Commission had always proceeded against the gross sources first, making it easier to enlist public support for subsequent control of lesser sources. In response to questions by Mr. Somers, Mr. Cannon and Mr. Reiter agreed that the exemption of the burning of forest slash was a matter of state law and that ownership of the land did not play in the determination of jurisdiction. It was noted that in the twenty-two hundred acre project to which Mr. Weholt alluded, the initial determination was that it was a "forestry operation," a determination succeeded by a later decision that, forestry operation or not, land clearing (not slash burning) was involved. It was this latter aspect which brought the matter under the Department's jurisdiction.

Responding to Dr. Crothers' inquiry, Mr. Weholt stated that the solution to backyard burning would have to begin with restrictions which would pose an incentive to the installation of devices which could receive wastes for burning in given areas.

Mr. Weholt went on to say that in Washington and Oregon the U.S. Forest Service burns enough wood waste each year to supply over fifty percent of the needs of the pulp and paper industry. He guaranteed that the U.S. Forest Service would never do any better on its present budget and with the present laxity in the rules.

Mr. Somers and Dr. Crothers agreed that increased restrictions over slash burning should be sought.

Finally, Mr. Weholt suggested to the Commission that section 23-040(4) of the proposed rule, entitled Land Clearing Debris be amended by the deletion of sub-paragraphs A-D.

In response to Mrs. Hallock's inquiry, Mr. Cannon noted that the staff would evaluate whether it were desirable to hold further hearings on the Open Burning Rule in the Portland area as was requested by several parties.

The hearing was closed.

There being no more business before the Commission, Dr. Crothers adjourned the meeting.

MINUTES OF THE SIXTY-SIXTH MEETING

of EQC

February 28, 1975

APPENDIX A

Water Quality Control - Water Quality Division (21)

| Date | Location | Project | Action |
|---|---|---|---|
| 1-2-75 | Central Pt. | Hall Subn Sewers (revised plans) | Prov. Approval |
| 1-3-75 | USA (Durham) | C.O. No. 1 STP Contract | Approved |
| 1-6-75 | Madras | C.O. No. 1 STP Contract | Approved |
| 1-8-75 | Portland | C.O. No. 2 STP Contract | Approved |
| 1-8-75 | Florence | Replat of Lot 303 - Greentrees-Sewers | Prov. Approval |
| 1-20-75 | Toledo | Water Treatment Plant Sewer | Prov. Approval |
| 1-20-75 | Metolius | C.O. No. 1 - STP Project | Approved |
| 1-20-75 | Hood River | Contract Documents - Sludge Truck Acquisition | Prov. Approval |
| 1-20-75 | USA (Beaverton) | Sr. Adult Leisure Center Sewer | Prov. Approval |
| 1-20-75 | Corvallis | Contract Documents - Comminutor | Prov. Approval |
| 1-24-75 | Josephine Co. | Revised Plans - South Allen Creek Sewer | Prov. Approval |
| 1-24-75 | North Bend | Newark St. & Donnely - Lombard St. Sewers | Prov. Approval |
| 1-27-75 | Yachats | C.O. #8 STP Contract | Approved |
| 1-28-75 | Coos Bay | C.O. #2 STP (#1) Contract | Approved |
| 1-28-75 | Portland | C.O. #9 STP Contract | Approved |
| 1-28-75 | Gresham | C.O. #1,2&3 STP Outfall Contract | Approved |
| 1-28-75 | Portland | C.O. #1 - Grit Facilities Willow Creek Int. Sewer - Sect. 3 | Approved |
| 1-28-75 | Corvallis | N.W. 9th St. Sewer (#175) | Prov. Approval |
| 1-29-75 | Astoria | C.O. No. 10 STP Project | Approved |
| 1-29-75 | Salem (Willow Lake) | Sludge Truck Purchase Contract Documents | Prov. Approval |

Water Quality Control -Water Quality Division - Industrial Projects

| Date | Location | Project | Action |
|---|---|---|---|
| 1-6-75 | Clackamas Co. | Yoder Twin Silo Farms - Manure Control & Disposal Facilities | Prov. Approval |
| 1-7-75 | Clackamas Co. | Mr. James Madsen - Manure Control & Disposal Facilities | Prov. Approval |

Water Quality Control - Northwest Region (14)

| Date | Location | Project | Action |
|---|---|---|---|
| 1-2-75 | USA (Tigard) | S.W. Landlover Sanitary Sewer System | Prov. Approval |
| 1-3-75 | Portland | N.W. Front Ave. Sanitary Sewer System | Prov. Approval |
| 1-7-75 | CCSD#1 | Woods Terrace Subdivision Sanitary Sewer System | Prov. Approval |
| 1-15-75 | CCSD #1 | Beekke's Addition | Prov. Approval |
| 1-15-75 | USA (Denny Rd.) | E.J. Cole Sanitary Sewer extension near S.W. 88th & S.W. Jamieson | Prov. Approval |
| 1-20-75 | Salem (Willow) | Battlecreek Estates Sanitary Sewer System | Prov. Approval |
| 1-20-75 | USA (Tigard) | Terrace Trails Sanitary Sewer System | Prov. Approval |
| 1-20-75 | USA (Aloha) | Cross Creek No. 4 Sanitary Sewer System | Prov. Approval |
| 1-20-75 | East Salem Sewage & Drainage Dist #1 | Wagon Rd. Estates C.O. (Sub. A. C. Pipe in lieu of Armco Truss Pipe) | Approved |
| 1-23-75 | USA (Tigard) | Farmers Ins. Group Office Park Sanitary Sewer System | Prov. Approval |
| 1-23-75 | Salem | Glen Creek Trunk-Phase II Proposal | Submitted to Marion-Polk Co. Local Gov. Boundary Commission |
| 1-28-75 | Salem (Willow) | Sanitary Sewer Trunkline - Railroad Trunk - Phase II | Prov. Approval |
| 1-28-75 | Woodburn | Lincoln Street Sanitary Sewer System | Prov. Approval |
| 1-28-75 | Wood Village | N.E. Sandy Rd.-off N.E. 238 Drive Sanitary Sewer System | Prov. Approval |

Water Quality Control - Industrial Projects - Northwest Region

| Date | Location | Project | Action |
|---|---|---|---|
| 1- -75 | Dallas | Animal Waste Disposal System & Holding Tank for Joe Brateng | Approved |
| 1- -75 | McMinnville | Linfield College Boiler Room Drainage System | Reviewing-Completion prior to 3/1/75 |
| 1- -75 | Brooks | Stayton Canning Co. Wastewater Irrigation System | Reviewing-Completion Prior to 3/1/75 |
| 1- -75 | Stayton | Stayton Canning Co. Wastewater Irrigation System | Reviewing-Completion Prior to 3/1/75 |
| 1- -75 | Astoria | Astoria Fish Factors Permit requirements/ Sewer Connect | Reviewing-Completion Prior to 3/1/75 |
| 1-6-75<br>1-15-75 | Hammond | Point Adams Packing Co. Wastewater Screening Process | Reviewed and more Information Requested |
| 1-15-75 | Wilsonville | Joe Bernert Towing Co. Gravel Plant Recycling Water and Operation Modification | Reviewed and notified To Submit Engineering Plans on Approved Concept |
| 1-14-75 | Warrenton | Pacific Shrimp, Inc. Wastewater Screening & Discharge System | Reviewing-Completion Prior to 3/1/75 |

Air Quality Control - Air Quality Division

| Date | Location | Project | Action |
|---|---|---|---|
| 1-2-75 | Jackson | Timber Products Co. Source Test on Boiler | Approved |
| 1-6-75 | Deschutes | Brooks Willamette, Bend Source Test on Dryers, Boilers & Roof Vents | Approved |
| 1-6-75 | Multnomah | Argay Square - 154 space shopping Center Parking Facility | Req. Additional Information |
| 1-10-75 | Multnomah | Pietro's Pizza Parlor-108 Space Joint Use Parking Facility | Approved With Conditions |
| 1-13-75 | Multnomah | Jantzed Beach Village Apartments 108 Space Residential Park. Fac. | Approved With Conditions |
| 1-14-75 | Multnomah | Shilo Inn-53 Space Motel Parking Facility | Completed Preliminary Evaluation |
| 1-16-75 | Multnomah | Sommerwood-588 Space Residential Parking Facility | Approved With Conditions |
| 1-21-75 | Umatilla | Babler Bros.-Source Test on Asphalt Plant | Approved |
| 1-21-75 | Klamath | Weyerhaeuser Co.-Source Test on hog Fuel Boiler | Approved |
| 1-23-75 | Multnomah | Tri Met-75 Space Bus Parking Facility | |
| 1-24-75 | Multnomah | Mt. Hood Comm. Col. Marycrest 450 Space Modification to Park. Facility | Req. Additional Information |
| 1-24-75 | Lincoln | Farwest Paving, Waldport-Source Test Report on Asphalt Plant | Approved |
| 1-24-75 | Deschutes | Deschutes Ready Mix Sand & Gravel Source Test on Asphalt Plant at Princeton | Approved |
| 1-27-75 | Deschutes | Brooks Willamette, Bend Plant Emission Test Report | Req. Additional Information |
| 1-27-75 | Klamath | Weyerhaeuser Co.-Source Test on Boiler | Rejected |
| 1-28-75 | Coos | Coos Co. Rd. Dept. Source Test Report on Asphalt Plant | Approved |
| 1-28-75 | Lake | Fremont Sawmill-Source Test Rep. on Hog Fuel Boiler | Approved |
| 1-29-75 | Clackamas | Fred Meyer Home Improvement Ctr. Modificaiton of Existing Facility No Change in Number of Spaces | Completed Preliminary Evaluation |
| 1-29-75 | Multnomah | 1st Church of the Open Bible-31 Space Add. to Existing Facility | Completed Preliminary Evaluation |
| 1-30-75 | Coos | Georgia Pacific Corp.-Source Test on Hog Fuel Boiler | Approved |
| 1-30-75 | Baker | Ore. Portland Cement- Notice of Construction of Electrostatic Precipitator on Kiln 2 and Bag House on Finish Grind Dept. | Approved |

Air Quality Control - Northwest Region

| Date | Location | Project | Action |
|---|---|---|---|
| 1-8-75 | Clackamas | Hall Process Co. Pipe Coating & Wrapping | Reviewing Submitted Information |
| 1-13-75 | Multnomah | Cargill, Inc.-Control of Barge Unloading & Ship Loading Fac. | Drafting Approval Letter |
| 1-20-75 | Clackamas | Caffall Bros. Const. Portable Rock Crusher | Accepted for Filing 1-23-75 |
| 1-27-75 | Multnomah | Chevron Asphalt Co. Crude Oil Storage Tank | Awaiting Additional Information on Storage Tank Specifications |

Land Quality - Solid Waste Management Division

| Date | Location | Project | Action |
|---|---|---|---|
| 1-2-75 | Crook County | Crook Co. Sanitary Landfill Existing Site-Operational Plan | Approved |
| 1-9-75 | Lane County | Marcola Transfer Station-New Site Construction & Operational Plans | Approved |
| 1-17-75 | Douglas | Tiller Transfer Station New Site Construction& Operational Plans | Approved |
| 1-17-75 | Morrow County | Eastern Ore. Farming Company | Letter |