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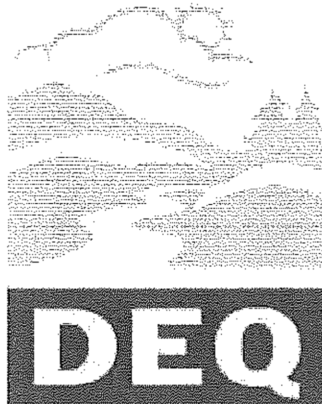
OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING MATERIALS



State of Oregon
Department of Environmental Quality

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AGENDA

Public Meeting

Oregon Environmental Quality Commission
October 24, 1975
Multnomah County Courthouse - Room 602
1021 S.W. Fourth - Portland, Oregon

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9:00 a.m.

A. Minutes of September 26, and September 29, 1975 EQC Meetings

B. September Program Activity Report

C. Tax Credit Applications

D. Proposal for Expanded Air Quality Data Base Study for Portland Metro Area (Slide Presentation)

E. Indirect Source Rule - Consideration of petition to repeal or amend

F. PGE Bethel Turbines - Staff response to issues raised at September 29 Public Hearing and during subsequent 15-day open record period

G. Requests for Variances
   1) Permaneer Corp., Dillard & White City plants - Consideration of variances to Department's particle board plant rule subject to approved compliance schedules

   2) Union Carbide Ferroalloy Division, Multnomah County - Proposed 90 day extension of variance from Department's opacity and particulate emission rules

   3) Salem Iron Works, Salem - Consideration of variance from Department's opacity rule and proposed compliance schedule extension to March 1976

H. Policy Pertaining to Log Handling in Oregon Waters - Proposed adoption of revised policy

I. Authorization for Public Hearings
   1) To consider adoption of emission standards and procedures for certified alternative methods to open field burning

   2) To consider housekeeping amendments to OAR 24-300 through 24-350, Motor Vehicle Emission Control Inspection Test Criteria, Methods and Standards

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Note: Because of the uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting.

The Commission will be meeting for breakfast and any of the items above may be discussed.

The Commission will breakfast and lunch at the Hilton Hotel. Breakfast will be at 7:30 a.m.

MINUTES OF SPECIAL MEETING

of the

OREGON ENVIRONMENTAL QUALITY COMMISSION

September 29, 1975

Pursuant to required notice and publication, the Environmental Quality Commission convened a special meeting on Monday, September 29, 1975 in the Salem City Council Chambers at 555 Liberty Street S. in Salem, Oregon.

Present were Commission Chairman, Mr. Joe B. Richards and Commissioners Morris K. Crothers, Grace S. Phinney and Ronald M. Somers. The Department of Environmental Quality was represented by its Director, Mr. Loren (Bud) Kramer and several additional staff members.

The purpose of the meeting being to receive public testimony for Commission policy review of the Department's proposed air contaminant discharge permit for the Portland General Electric (PGE) turbine generating plant at Bethel, Mr. John Hector of the Department's Noise Pollution Control Division presented a staff report with regard to the proposed permit.

Conclusions of the report were as follows:

1. The installed noise suppression equipment did not achieve the predicted amount of noise reduction in the 31.5 Hertz octave band; therefore, the Department's daytime noise standard is projected to be marginally met and the nighttime (10 p.m. to 7 a.m.) standard would be exceeded by 3dB during operation of both twin-pacs at base power load.

2. Noise generated by equipment associated with the substation and turbine auxiliary equipment do not exceed Department rules.

3. Subjective evaluation of community noise with one turbine twin-pac operating indicates that the noise has been reduced to near inaudibility; however, the addition of the second twin-pac operation will slightly increase perceived noise levels.

4. Subjective evaluation did not substantiate complaints that the substation and turbine supporting equipment constitutes a community problem.

5. Opposition to the PGE turbine facility continues from many citizens in the Bethel community due to the apparent high sensitivity of these people to relatively low-amplitude nearly inaudible low-frequency noise.

6. The Department will evaluate the ability of both twin-pacs to comply with the day/night noise standards and will, if necessary, impose appropriate operating limitations to insure compliance.

7. The Department must act on the proposed renewal air contaminant discharge permit for the Bethel facility since the MWVAPA did not issue this permit prior to disbanding of the Authority on August 1, 1975.

8. The proposed MWVAPA ACD permit condition requiring cessation of operation of the Bethel facility when the PGE Trojan nuclear plant becomes operational cannot be justified since PGE has demonstrated compliance with ACD permit conditions and Department ambient air quality standards.

9. The proposed MWVAPA ACD permit conditions requiring a 500 hour per year operating limitation cannot be justified at this time; however, an operating hour limitation does appear necessary to insure compliance with air quality standards and significant deterioration limits.

10. Limiting Bethel operations to emergency conditions, which are demonstrated to be emergencies to the satisfaction of the Department, will insure minimal operation of the facility and allow time for development of a justifiable operating hour limitation.

11. Oxides of nitrogen emission controls, when deemed practicable by the Department, should be installed on the Bethel facility if operation exceeds 200 hours per year.

12. The Department should review the Bethel operation on a yearly basis to determine the adequacy of the Department's noise standards relative to the Bethel noise problem, the need for NO_x control, justification of an operating hour limitation, and compliance with ACD permit limitation provisions so that necessary and prompt adjustments can be made in the ACD permit as may be warranted.

Commissioner Phinney was informed by Mr. John Kowalczyk of the Department's Air Quality Program that PGE, in its application for a permit, had indicated the facility at Bethel might be used in emergencies for up to 1000 hours per year.

Commissioner Somers asked what could be done to eliminate the low rumble noise indicated in a staff evaluation report of February 11, 1975. Mr. Hector reported that these noises were in the 31.5 Hertz Band and that muffling measures employed by PGE which were expected to reduce the rumbles by about 9 decibels (dB) had realized a reduction of about 5 dB.

It was Mr. Hector's opinion that additional measures for muffling were available. It was reported that, on September 23, the Department had taken measurements with both twin packs operating at base load (totaling about 110 or 111 megawatts) and, at the 31.5 Band, a noise level of 76.3 dB was present. This compared favorably with the Department's previous estimate of 77.7 ± 1 which was extrapolated from levels present with one twin pack operating at base load. Commissioner Somers was told that two identical sources emitting a pure tone in phase would result in 6dB more noise than one alone. Mr. Hector added, however, that the twin packs operating together increased noise less than 3dB over the level for one and were not in synchronization. The September 23 measurements, it was reported, were taken at a distance of 400 feet in a northeasterly direction from the turbines.

Mr. Warren Hastings, an attorney for Portland General Electric, expressed appreciation for the opportunity to have the Commission inspect the turbines in operation as had been done earlier in the afternoon. He stated Portland General Electric as prepared to accept the proposed permit with the exception of minor details. These included lack of provision for operation for one-half hour every two weeks for maintenance purposes and provisions for reporting quarterly on practicable NO_x control developments for turbines. In Mr. Hasting's view, the rate of development in the field of turbine NO_x emission reduction was not rapid enough to warrant quarterly reporting. He conceded annual or intermittent reporting schedules might be appropriate.

Mr. Hastings declined to estimate for Commissioner Phinney the number of annual emergency operating hours to be expected on the grounds that such operation was contingent upon the critical water conditions which affect the availability of alternate hydroelectric power. In turn, Mr. Hastings contended, critical water conditions are correlative to unpredictable acts of God.

Mr. Hastings stressed the speculative nature of energy demand forecasts in explanation of the earlier estimates that a two or three hundred megawatt surplus above peak demand would be available at the present time in the Northwest.

Mr. Hastings indicated to Commissioner Somers that PGE's efforts in providing mufflers and shotcreting to the turbines had been aimed at meeting the Commission's noise standards, not eliminating the noise entirely. These efforts he reported, had resulted in the 5 dB reduction previously mentioned. It was contended that the machines now meet the daytime standards and, with one twin pack running, meet or exceed night time standards.

Commissioner Somers contended that the Commission's standards are not adequate in that they permit a source of noise violent enough to cause ripples in a glass of water standing in a distant house. He cited a staff report of actions taken on September 23 to substantiate this occurrence, and asked if future measures might eliminate this problem.

Noting that the original installation conformed to the best technology of its time, Mr. Hastings expressed his hope that further noise reduction measures might become available.

Mr. Hastings received Chairman Richards' concurrence in his plan to call upon PGE air and noise experts present, should testimony by others indicate a need for elaboration of PGE's position.

State Representative Drew Davis (Dist. #20) reported his visit to the Bethel generating plant and homes nearby. While conceding there was an apparent problem with infrasound in the homes, he stressed the needs for electric power in a technological society. He noted the scarcity of acceptable areas for the construction of dams to provide hydroelectric power and the existence of a petition being circulated with an eye to the cessation of nuclear generation plant construction. Representative Davis reported that the present age was one of transfer to electrical power, in automobiles, and other areas.

It was his contention that residents near the plant should try to get used to the noise and tolerate it much in the same fashion as residents near I-205 learn to tolerate the freeway noise levels.

Representative Davis recommended that the proposed permit be granted to PGE.

Mr. Marshall D. Jones, a resident of Caplin (on MacClay Road) said he had heard reports that the noise emitted by the turbines is worse at a distance of two miles than at a shorter distance. Reporting his residence during the existence of the plant to have been at a two-mile distance, Mr. Jones disavowed any botheration to him from the noise.

Mr. Jones expressed his belief in free enterprise, freedom, America, and progress; his abhorrence for subsidies, tax write-offs, income tax, monopoly, and government socialism; and his apprehension that the power in his all electric home would be shut off.

Mr. Jones implied that Mrs. Frady (a resident in the neighborhood of the turbines) would not so appreciate her husband's assiduous efforts to terminate operations if they were directed at his own place of employ rather than the PGE installations.

Mr. Jones was in favor of granting the proposed permit.

(Mrs.) Mary Petzel a farmer, Women's Chairman of the Oregon Farm Bureau Federation Board of Directors, and Secretary to the Marion County Farm Bureau, addressed the Commission in favor of the proposed permit. She concurred in the staff's conclusions that the plant would meet all noise standards in the daytime and, with one twin pack running, could meet all standards at night. She opined that rapid convection of hot exhaust gases would readily disperse them and render them innocuous.

Mrs. Petzel called to the Commission's attention various electrical needs of farming operations throughout the Willamette valley, stressing that some of these needs, such as electrical brooding and refrigeration devices were critical and could brook no power interruption.

Mrs. Petzel called the Commission's attention to the magnitude of various farming and food processing activities in the Willamette valley and stressed their national importance in the food industry.

Chairman Richards informed those in attendance that three of the Commissioners had conducted a site inspection tour of the Bethel facility and experienced its operation at base powerload both on the site and in a position northeast of the plant about four hundred yards from the plant and in line with the Frady residence.

Mr. Charles Frady of Salem suggested that Mrs. Petzel's 500-acre farm would be a good location for the PGE facility and corrected Mr. Marshall's statement, contending that he is not employed by General Motors and has never been affiliated with that Corporation.

Mr. Frady alluded to his past public utterances with regard to the PGE Bethel facility and reaffirmed them. He declared PGE's attempt to muffle the turbines a failure, regardless of Departmental evaluations. He asserted that the thunder and vibration in his home continued as vexatiously as ever when the turbines run. He cautioned that he and his family could not and would not tolerate the noise further.

Commissioner Somers discussed with Mr. Frady the possibility that the people most disturbed by the sound of the installation might have some form of redress forthcoming due to litigation currently pending. Commissioner Somers noted that the thrust of his previous suggestion that PGE not operate in violation of ambient standards without obtaining noise easements from the affected property owners might be served by some form of damage award flowing from current litigation. He was informed by Mr. Frady that injunctive relief was now being sought and that damages might become an issue also.

Commissioner Somers inquired if the failure of a recent legislative bill which would have given the Commission regulatory power over the emission of certain low frequency noise could be taken as conclusively eliminating any express or implicit Commission jurisdiction over such emissions. It was suggested that Counsel might be consulted on this subject.

Commissioner Crothers obtained Mr. Hector's concurrence in the understanding that the defeated legislation dealt with inaudible noises (below 20 Hz) and did not remove Commission authority over noise which is audible. He added that it was his understanding from Mr. Hector's testimony that the offending noise from PGE was in the 31.5 Hz octave band, an audible range within Commission jurisdiction.

(Mrs.) Marlene Frady addressed the Commission with her concerns about the Department's conduct and that of PGE.

She felt it inappropriate to discuss the terms of the proposed permit at a time when litigation was pending which, in her hope, would resolve her grievances with regard to the facility in a fashion more adequate than has been forthcoming from the Department or the Legislature.

She concurred in Mr. Frady's contention that the efforts by PGE to muffle the sound has failed. She stated that low frequency rumble, infrasonic sound, and vibrations impact her home due to the PGE facility.

Further, it was noted that air turbulence, not yet measured by the Department to Mrs. Frady's knowledge, creates acoustic energy which may aggravate the problem.

Mrs. Frady argued that subjective evaluations by DEQ staff members in her home had insulted her intelligence and integrity and informed that their repetition would not be allowed. She reported that professional testing by third parties was being and would continue to be done in her home when the turbines run. She suggested that testing with equipment identical to that used by Towne and Associates in a previous test should

be conducted in the homes now that muffling efforts have been completed. She urged also that testing be done by the Department at bands other than 31.5.

Arguing that low frequency noises carry for great distances, Mrs. Frady noted that such noises are generated by cooling fans.

She alluded to public testimony by herself and her husband to the effect that previously unnoticed low frequency noises now disturb her and her family and that there are noise sources of a low frequency rumbling nature on or near the Bethel site that she hears almost constantly.

Mrs. Frady expressed her dissatisfaction with the Department's continual mention of standards as justification for its actions. Her contention was that a standard that does not address itself to serious problems of people is inadequate. She added that the noise is detrimental to her sleep and that of her husband and, therefore, deserving of remedial attention.

She invited the Commission to peruse her testimony before the Mid-Willamette Valley Air Pollution Authority and the Legislature if more information was needed.

Mrs. Frady declined to use the word "sensitized" to describe her consciousness of low frequency sounds. She told Commissioner Richards that she had become aware of an almost continual sound which distracts her from reading on all but a few days each year and that she had become perceptive of previously unperceived sounds such as those caused by distant railroad trains (on 12th Street).

A loss of peacefulness, she reported, had commenced simultaneously with the construction of the Bethel Plant in the neighborhood she had characterized as previously very quiet and peaceful.

Mr. Richard McDougal, a lifelong resident of North Salem and an intended candidate for City Council, spoke in favor of the permit, inviting the forty people near the Bethel site to move out of that neighborhood rather than endanger the interests of the eighty thousand in need of the Bethel facility. He termed the PGE plant a necessary evil which is there to serve the economy of Salem in emergencies. The dinner table in New York City was said to be dependent on the economy of Salem.

Mr. John Platt of the Northwest Environmental Defense Center drew upon his experiences with PGE's Harborton Generation plant and conversations with Dr. George Tsongas in addressing the Commission. He questioned the integrity of ignoring the noise standard and its previous violations in proposing a permit. The estimate (staff report) that the standard would be marginally met (± 1 dB) was not, in his view, sufficient justification for issuance of a permit. He felt this to be particularly true in view of the psychological and physical damage suffered by many of the neighbors. Mr. Platt decried the elimination of total yearly usage limitation and the provision for cessation upon the advent of power from the Trojan generating plant. These conditions were, in his recollection, the object of long strife on the part of those adversely affected by the plant.

He questioned the propriety of the permit in view of the land use questions regarding the plant.

He questioned PGE's integrity, charging that in Portland the company had applied for a conditional use permit under the pretense of seeking substation facilities with full intent to construct the Harborton Generating facility. He charged that PGE continued construction even though it was demonstrated that they were in violation of the zoning ordinance. He charged further that Turbo Power and Marine could have supplied NO_x emissions control equipment with the Harborton Turbines originally if they had been ordered. He suggested that the Department might have insufficient means to monitor PGE and determine if, given the complex network of service contracts and exchange agreements between utilities in the Northwest, emergencies really exist during operation periods. It was Mr. Platt's conjecture that the new Department of Energy might better accomplish this task.

Mr. Platt urged that, in lieu of refusing the permit outright, the Department should condition its granting upon PGE's cessation of operation at Bethel when Trojan power is available, limitation of operation to daytime hours for a maximum of 300 hours per year, and confinement of operations to emergency situations as determined by the state agency most competent to evaluate such situations.

In view of his understanding that the price of fuel for the Bethel plant resulted in power costs at least twice the amount chargeable to the customer, Commissioner Crothers inquired as to what incentive PGE would have to operate the facility other than in emergency periods. Mr. Platt found this incentive in the Public Utility Commission requirement that equipment be used and usable and in the fixed return on investment attainable by utilities sheltered from competition. In his view, the higher the investment, the higher the return to stock holders would be. He termed this an incentive to inefficiency.

(Mrs.) Jan Egger of the Oregon Environmental Council vehemently opposed the permit as unprotective of the residents near the plant. Recalling that one inhabited home some 800 feet from the plant was owned by PGE, Mrs. Egger took exception to the apparent failure to obtain the exception for source-owned noise sensitive property available under OAR Chapter 340, section 35-035(6)(d). She felt the Department's proposed permit did not adequately take account of the special provisions of OAR Chapter 340, section 35-035(1)(f)(A) imposing limits of 68 dBA and 65 dBA for day and night operation respectively (in the 31.5 Hertz octave band for sources in operation over six minutes per hour).

It was contended by Mrs. Egger the permit should be redrafted to require the noise emissions limits to be governed by the Statistical Noise Level Limitations not to be equaled or exceeded for more that 10% of any hour (L_{10} limits). She suggested that the permit require PGE to monitor noise and log the results in a fashion as intense as the air pollution monitoring requirements, to include intensity, frequency, time percentages, and diurnal readings.

She reminded the Commission that, in July of 1974, power levels and total operation hours were conditions of the permit at a time when the hope for sound muffling improvements were running high.

She criticized staff's subjective evaluations which ran counter to the complaints of neighbors such as the Fradys, the Bakkes and the Kupers and suggested that staff confine itself to objective evaluations based on technical measuring.

She requested that the Oregon Environmental Council's Noise Committee be given the data on infrasound leading to the staff's conclusion that the facility causes no significant peaks in the 2-20 Hertz range, so that Mr. James Lee, the Committee's acoustical physicist could review the data.

She urged that the Permit be withdrawn for further study, including octave band analysis within nearby homes, and measurement of infrasound.

She lamented the absence in the proposed permit of the Mid-Willamette Valley Air Pollution Control Authority's "cessation" condition, providing for shutdown of Bethel when Trojan power is available. Mrs. Egger found this particularly unfortunate in the light of the array of unfulfilled promises to the residents, promises including portable equipment to be moved if adverse to the environment, quiet operation, clean air, and legislative attention to the problem of infrasound. This last hope, she contended, was blocked during the last legislative session in a frustrating manner not appropriate for discussion in the present forum.

She urged that the long range "study" being conducted by PGE had produced symptoms in its subjects similar to those produced by EPA tests with short duration, high amplitude sound.

It was contended that the limits in the present rule with regard to lower frequency noises were selected arbitrarily in the absence of sufficient data for sound conclusions as to what levels would be protective. In view of the Bethel situation, Mrs. Egger found the limits obviously inadequate and urged their amendment so as to provide a rule which would address itself to the subjective complaints of the people regarding their health, the health of their animals, and their property.

In response to Chairman Richards, Mrs. Egger stated her dissatisfaction with hinging the question of Commission jurisdiction on an informal Attorney General's opinion of October 31, 1974 employing the Webster Dictionary definition of noise and advising that inaudible frequencies (including infrasound) are not noise and without Commission jurisdiction. It was Mrs. Egger's opinion that any frequency deleterious to individuals should be considered within Commission jurisdiction. She urged that the opinion be formalized so that it could be reviewed.

It was the understanding of Commissioners Somers and Richards that the informal opinion had led to the bill dealing with infrasound which failed in the 1975 legislative session.

Mr. Roy B. Hurlbut argued that the Bethel facility is needed neither for peaking nor for the conditions of Trojan outage, critical water shortage or severe weather-caused demand periods (as cited in a letter to the Director from Mr. Estes Snedecor). Mr. Hurlbut recalled that in 1973 the system peak for Portland General Electric was 2,492 megawatts with an assured capacity of 2,824 megawatts, leaving a 332 megawatt surplus. In 1974, he said the surplus was 582 megawatts, a 25% surplus. Mr. Hurlbut noted that the Federal Power Commission recommends a 10 to 15 percent surplus, well below the 1974 and 1973 surpluses enjoyed by PGE. In addition, he argued, PGE would soon add 650 megawatts to its system. Based on the previous peak, this would give a 35% surplus of assured capacity, an amount arguing, in Mr. Hurlbut's view, the superfluity of the 110 megawatt Bethel installation.

Mr. Hurlbut contended that the cost of operating the plant, 41 mils per kilowatt-hour, was an extremely high cost which could be manipulated to advantage in rate hearings.

Mr. Steve Anderson, Salem Attorney, contended that both subjective and technical evaluations demonstrate that infrasound has a deleterious effect on humans and other forms of life. He lamented the absence of Mr. James Lee who was said to be familiar with many studies on the effects of infrasound. He argued that foresight as to the problems that have occurred would have prevented the plant from ever coming into existence. Knowledge to which PGE had access, he charged, was not revealed to the public. He charged experts knew beforehand that the mufflers installed at PGE would be of negligible benefit, other than as a tactic for delay.

Mr. Anderson urged that a study of the need for power should be undertaken if PGE's rationale for granting the permit was a simple argumentum ad mendicum with regard to power need.

Mr. Anderson pointed out that, while some of the neighbors to the plant had been his clients with regard to related matters, his remarks were made not in their behalf, but of his own volition. He told Commissioner Somers that he had dropped out of pending litigation, deferring to a law firm in Portland.

Dr. Crothers was told that Mr. Anderson had no position with regard to the question of Commission jurisdiction over infrasound other than his hope that some regulatory authority exists somewhere. Mr. Anderson conjectured that the derailed legislative measure dealing with infrasound would not have failed but for the political power of PGE and the verbatim adoption of PGE views in a report from the President of the Senate.

Mr. Anderson told Commissioner Somers there was a possibility the courts might curb abuse of infrasound in the absence of regulatory authority in the executive branch. Commissioner Somers offered analogically the judicial reaction to the lack of a fluoride standard upon the commencement of the Martin-Marietta aluminum plant.

It was Mr. Anderson's view that courts have historically been called upon to correct abuses not corrected by recalcitrant legislatures with vested interests.

In answer to Commissioner Somers' inquiry, Mr. Anderson said he had not, during his representation of affected neighbors, suggested that PGE purchase noise easements from owners of affected property because PGE had never conceded any measure of damage whatsoever. He urged the Commission to make a finding regarding damaging effects of infrasound.

It was MOVED by Commissioner Crothers that the amended Director's recommendation (that the Department proceed to publish the proposed permit to allow 30 days for public comment and possible subsequent changes in the permit as may be warranted by public comment) be adopted.

This motion failed for lack of a second.

Commissioner Phinney, referring to the phrase "all other company generating resources" in PGE's letter clarifying "emergency" with regard to the permit operation limitation, questioned whether this meant company owned generating resources or had a broader meaning, such as resources available through exchange agreements. Mr. Hastings stated that it was PGE's intent to employ all other available resources, including those that PGE could purchase.

Mr. Kramer, in response to a question by Commissioner Richards, explained that the permit application is before the Department which can issue the permit without returning to the Commission for further advice.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and decided by favoring votes of Commissioners Somers, Crothers, Phinney, and Richards that the record be left open 15 days for written public comment to be evaluated upon the Commission's resumption of the matter in its October 24 regular meeting.

Commissioner Richards cautioned that it was not the intent of the Commission to conduct another public hearing on the matter on October 24, the oral hearing having been closed with the completion of testimony already received.

There being no further business, the meeting was adjourned.

MINUTES OF THE SEVENTY-SECOND REGULAR MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

September 26, 1975

Pursuant to the required notice and publication, the seventy-second regular Commission meeting was called to order at 10:00 a.m. on Friday, September 26 in the Oregon State University Marine Science Center at Newport, Oregon.

Commissioners present were as follows: Mr. Joe B. Richards, Chairman; Dr. Morris K. Crothers; and Dr. Grace S. Phinney.

Representing the Department were its Director, Mr. Loren (Bud) Kramer and several additional staff members including Mr. E.J. Weathersbee (Technical Programs), Mr. Harold L. Sawyer (Water Quality), and Mr. Frederick M. Bolton (Regional Operations). Also present was counsel to the Commission, Mr. Raymond Underwood.

MINUTES OF THE AUGUST 22, 1975 COMMISSION MEETING

It was MOVED by Commissioner Phinney, seconded by Commissioner Crothers, and carried by the favorable votes of all three Commissioners present that the minutes of the August 22, 1975 Commission meeting be approved as distributed.

There being only three Commissioners present, it was agreed that the requirement of a second to motions would be waived during the meeting.

AUGUST 1975 PROGRAM ACTIVITY REPORT

It was MOVED by Commissioner Crothers and carried with the favorable votes of the three Commissioners present that the August, 1975 Departmental Program Activity Report receive approval as recommended by the Director.

TAX CREDIT APPLICATIONS

Commissioner Crothers requested unanimous consent to approve the Director's recommendations with regard to 26 Tax Credit Applications as set forth in the staff report (Agenda Item C).

Mr. Harold Sawyer of the Department's Water Quality Program drew the Commission's attention to Application T-602 (Weyerhaeuser Company, Cottage Grove) whose denial was recommended by the Director. Mr. Sawyer reported the Company's request that the application be withdrawn from Commission consideration. He informed Commissioner Richards that the Department was without objection to such withdrawal.

It was a matter of curiosity to Commissioner Phinney why the applicant would not be eligible for a credit going to the difference in cost between old equipment and new. Mr. Sawyer conjectured that the applicant might wish to pursue that possibility.

Mr. Frederick Skirvin of the Department's Air Quality Program informed the Commission that Application Number T-699 had included $151,356 worth of equipment not currently in use for pollution control whose cost the applicant had agreed to delete from the application until such time as the equipment might be used.

Commissioner Crothers MOVED that the Director's recommendation be approved subject to the following amendments: Application T-602 be withdrawn from consideration and Application T-699 be reduced by the sum of $151,356. Commissioners Phinney, Crothers, and Richards approved the motion.

AMERICAN SOCIETY OF CIVIL ENGINEERS, OREGON SECTION: ENGINEER OF THE YEAR AWARD

Members of the Commission recognized Mr. Kenneth Spies, head of the Department's Land Quality Program for his having been chosen as Engineer of the Year from among nominees submitted by the 800 member Oregon Section of the American Society of Civil Engineers. Commissioner Phinney noted the award was based on Mr. Spies' contributions to his profession and his pollution control leadership in Oregon.

PUBLIC FORUM

Mr. Kramer informed Commissioner Richards that staff members had prepared some remarks with regard to the Department's activities in Lincoln County.

Mr. Harold Sawyer of the Department's Water Quality Program addressed himself to the sewage disposal/water quality problems in Lincoln County. He reported that the Department had been busy for a number of years securing permanent solutions to the County's sewage disposal problem.

Mr. Sawyer pointed out that time-consuming steps, including the formation of public agencies to evaluate and plan sewage facilities and the engineering evaluation of alternatives, were involved. The most critical step presently subject to Department efforts was reported to be the securing of maximum federal funds to assist in construction of the desired facilities.

Over the last five years, Mr. Sawyer said, the steps necessary for provision of sewage facilities had become more difficult, due to new federal laws, regulations, court rulings, and new state laws. He cited the 75% federal grant and the State's comprehensive land use planning law as critical to the process.

While decisions on construction used to be based almost solely on technical/economic considerations, considerations of planning with regard to environmental and social factors were now necessary, he said, including the demonstration of each project's consistency with state land use planning goals. He said demonstration of consistency was not easily done due to the transitional nature of implementing the State's land use planning law.

While some would favor cessation of all projects until such time as each jurisdiction has an approved comprehensive land use plan, the Department, Mr. Sawyer informed, had adopted the view that projects now needed should go forward.

A source of contention to the Department and others was reported to be the potential requirement for an Environmental Impact Statement (EIS) prior to the federal government's grant of monies for a project found acceptable along every relevant dimension. This factor was said to be in play in Lincoln County and to be expected in other areas, though few projects had yet been delayed by the requirement of an EIS.

With regard to the Southwest Lincoln County Sanitary District (formed in October of 1973), Mr. Sawyer said the Department's thrust had been to use the limited federal funds available to sustain projects prepared for commencement of construction along with the use of the State loan funds for the preparation of facility plans. In April of 1974, the Department had reached agreement with the District, Mr. Sawyer recalled, only to encounter delay based on the District's inability to secure its loan in an acceptable manner. With the matter resolved in June of 74, he said, initial payments for the planning work were made in July of 1974. He recalled that in early 1975, with the study completed, new federal funding was available which would repay up to 75% of the monies spent. (It was noted that current federal requirements will not allow this for new projects). It was expected that a federal grant for the next step of the project would be accompanied by reimbursement for the initial step (planning the facility).

Grant priority lists in '74 and '75, Mr. Sawyer explained, had been oriented toward projects ready for construction, resulting in the exclusion of Southwest Lincoln County. The Priority List for FY '76, he noted however, included the District in a ranking assuring funding.

Plan elements for the District's project were completed in April of '75 for submission to DEQ and EPA, Mr. Sawyer informed, and were informally indicated as requiring of an EIS prior to the grant of federal funds.

In August 1975, EPA, he noted, had formally indicated its requirement of an EIS for the project, leading to the Department's decision to delay its formal approval of the plan elements and the beginning of the two-year federal reimbursement of monies spent on the initial planning, pending federal clearance of the project. Mr. Sawyer reported that the Department considers the plan approvable.

Bay to Bay Sanitary District, running from south of Yaquina Bay to Alsea Bay, was cited as in a position analogous to that of the Southwest Lincoln County District. EPA, it was reported, desires to perform a joint EIS for both District projects. Major delay in the Bay to Bay District (whose facility plan is nearing completion) might be in the offing, he conjectured.

Carmel-Foulweather Sanitary District (running from north of Agate Beach to and including Otter Rock) was said to be faced with the burden of serving the concentrated community in and around Otter Rock. The project, Mr. Sawyer recalled, had been certified to EPA for a facilities planning grant. He expressed the hope that completion of the facilities plan would not be followed by an EIS requirement.

Agate Beach was reported as desirous of forming a sanitary district in the hope of connecting to the north end of the Newport sewer system. Mr. Sawyer felt EPA concerns were diminished by the lack of new development that might be fostered by such a connection.

The Road's End Sanitary District in Lincoln City was said to be about to embark on the design of sewerage facilities. First, it was reported, the 35th Street pumping station would have to be improved to serve both Lincoln City and the Roads End District. Public hearings had preceded an EPA decision to declare that an EIS for the improvement grant is not required, Mr. Sawyer explained. Shortly, grants to complete the facilities plan for Roads End would be sought, he said.

In response to inquiry from Dr. Crothers, Mr. Sawyer explained that a Negative Declaration was required as a reaction to an applicant's environmental impact assessment if the EPA proposes not to require an EIS pursuant to the National Environmental Policy Act. A Negative Declaration would be preceded, he explained, by the Notice of Intent to Issue, based on a determination that the applicant had adequately described the impact and the interests of the National Environmental Policy Act would be served without an EIS. Interested persons were free to challenge the Notice, he added.

Depot Bay and Gleneden were said to have experienced some of the most severe problems. These communities were reportedly now hooking up to a completed sewer which, in Mr. Sawyer's estimate, would eliminate some of the repeatedly documented problems.

Salishan was said to be petitioning the County for formation of a Sanitary District whose formation could be followed by negotiations with Gleneden and Depot Bay for use of their system and elimination of the discharge into Siletz Bay.

Another recently completed sewage treatment plant was said to be that at Yachats.

Mr. Sawyer denied a newspaper report that an eleven month extension granted Georgia Pacific for completion of certain facilities amounted to the Department's "backing down" from enforcement of its regulations. It was noted that the Company had proposed a system of in-plant waste treatment and reuse rather than the construction of treatment facilities, a bold proposal based on untried technology and aimed at results preferable to discharge. In light of the failure to accomplish this, the Company had

promptly proceeded with plans to construct a treatment facility, he said. The Department's grant of an extension of time, he explained, was based on the Company's elimination of all discharges from the pulp mill to Yaquina Bay, the use of an ocean outfall, and the Company's diligent pursuit of its current plants. Such an extension, Mr. Sawyer contended, was in keeping with the Department's long-standing policy of extending compliance schedules to good faith applicants based on circumstances beyond their control. Mr. Sawyer noted in passing that Georgia Pacific had been assessed one $5,000 penalty.

Finally, Mr. Sawyer reported that odors in the area of Salishan and Siletz Bay had been investigated and attributed to the mud flats during low tide as opposed to the sewage treatment plant.

Mr. Jack Osborne of the Department's Subsurface Sewage Disposal responded to news articles in the Salem Capital Journal indicating Lincoln County officials would prefer subsurface sewage disposal regulation on a local level, as opposed to the Department level. Mr. Osborne explained that State law preempts local regulation in this field. He added that the Department has authority to enforce civil penalties or seek injunctive relief from violations. It was said to be the province of the local District Attorney to bring criminal actions from violations.

Mr. Osborne added that the Department could delegate authority to a county agency to issue notice of violation but not authority to ultimately enforce a civil penalty. It was legal counsel's opinion, Mr. Osborne reported, that statewide uniformity in subsurface sewage regulations was a legislative intent which preempts even those county ordinances more restrictive than the Department's rules.

Mr. Osborne disputed the notion that seepage pits had only recently been allowed by Commission rule. He recalled that seepage pits have been countenanced since at least 1959 and are currently allowed only where specifically approved by the Department (normally to be preceded by request of the county sanitarian and subsequent evaluation). It was added that the Department had allowed only five in Lincoln County of which two were based on prior approval of the county authority, and one on a need for repairs. All other applications had been turned down, he reported.

Mr. Osborne noted that Lincoln County had recently formed its own Utilities, Permits, and Resources Department authorized to regulate subsurface sewage on contract with the Department and independently of the County Health Department which was previously having some difficulty with subsurface sewage regulation. Mr. Lester Fultz, head of the new Department, with the help of two registered sanitarians was said to be running the program smoothly and in a manner for which the county commissioners, in Mr. Osborne's view, are to be commended.

Mr. Lester Fultz, Director of Lincoln County's Utilities, Permits, and Resources Department addressed the Commission concerning the operation of his department. He indicated that efforts to bring common sense to the interpretation of regulations had been drawn from his broad background in construction experience and his empathy for installers' and developers' problems as well as those of the citizen.

Referring to the EPA decision to require an EIS prior to funding of the Southwest Lincoln County Sanitary District sewer project, Mr. Fultz lamented the potential delay and charged that the District, in light of its commendable efforts to react to a blistering media campaign encouraging solution of its sewage disposal problems, had been treated unfairly. The reward for this commendable effort would be, in Mr. Fultz' view, only delay and increased costs due to a requirement not imposed on similar projects in the State.

It was Mr. Fultz' contention that pressure from within the Department was partially responsible for the EPA decision and he requested that the matter be reviewed and the EPA be requested to withdraw its requirement of an EIS.

Speaking in his capacity as a citizen of Oregon, Mr. Fultz argued that the project of the Cloverdale Sanitary District in Tillamook County has a cost of $800,000, will support eighty connections, is in a community with an assessed valuation of only 1.5 million dollars, and is not justified in the light of the community's failure to pass a bond measure and habitation of low income families.

He questioned the Department's approval of an expensive treatment system where a more economical one would be available and suitable to the rural Cloverdale community. He called for an investigation of what appears to him to be a gross waste of public monies, and a callous disregard for the interests of the community on the part of the Department.

Mr. Fultz elaborated on his remarks for Commissioner Richards, stressing the widely varying demand for treatment (as much as ten times) in the community which, he felt, should be taken into consideration in designing a project. Mr. Fultz denied having predicted that completion of the Southwest Lincoln County and Bay to Bay projects would result in the entire area's resemblance to Lincoln City. It had been Commissioner Richards' conjecture that such a concern was appropriately addressed by an EIS. Mr. Fultz said the Southwest Lincoln County project had not been included with those predicating his prediction.

PUBLIC HEARING: PROPOSED POLICY PERTAINING TO LOG HANDLING IN OREGON WATERS

Mr. Harold Sawyer of the Department's Water Quality Program mentioned that the proposal had been modified for purpose of clarity and in response to public comments made in the August 22 Commission meeting.

The revised proposal, he reported, had been mailed to all known interested parties. A letter of response from the City of Toledo's City Manager was read which expressed the City Council's concern that a requirement that log storage operations be phased out in certain areas might not be preceded by the appropriate environmental evaluation of the alternatives. It was of major concern to the Council that present log storage in that area should not be exchanged for an increase in city logtruck traffic by some fifty daily trips. Such an eventuation would, in the Council's view, result in hazard, and unsightly storage areas.

In addition to the amendments suggested in the staff report, Mr. Sawyer suggested that the Commission might wish to assuage the concerns of the City of Toledo (as echoed in a phone call from Georgia Pacific) and add to the provision that a phaseout schedule be imposed where significant damage to aquatic life or water quality is evidenced at a storage site involving grounding of logs (item 3 of the Statement of General Policy). Suggested was that "unless specific authorization for continuance is granted by the Commission in consideration of environmental tradeoffs" might be added to the controversial sentence.

Commissioner Richards suggested that changes as follows might be in order:

1. Page 2 of the Proposal (IMPLEMENTATION PROGRAM), opening paragraph, last line: Insert "or are likely to occur" between "exist" and "that will."

2. Page 2 of the Proposal, item 3, line 2: Delete "environmental trade-offs" and insert "the impact of alternate methods upon the environment" in its place.

3. Page 2 of the Proposal (STATEMENT OF GENERAL POLICY), add new paragraph stating, "The Department does acknowledge that transportation and storage of logs is one of the appropriate uses of the public waters in the State under controlled conditions."

4. Page 3 of the Proposal (STATEMENT OF GENERAL POLICY), item 3, line 5: Delete "significant" and substitute "more than nominal." (Commissioner Richards found the word "significant" too weak possibly meaning of State or area-wide significance only).

5. Page 3, item 6: Add "considering market conditions and the quality of the water at the storage site." to the sentence.

6. Page 4: Add sentence reading essentially "Discontinuance of use for a period of five years shall be prima facie evidence of permanent termination."

With regard to suggestion number 5, Commissioner Richards stressed the need to retain water quality along with marketing conditions as a criterion for determining how long logs may be kept in storage in the water. His sixth suggestion, he said, was based on the number of cases where termination had occurred so long before cleanup that it was difficult to determine who had used the facilities and should bear the cost of cleanup.

It was the hope of Commissioner Richards that the policy would evolve into a definite but flexible one readily available to the industry and the public.

Mr. Harold Hartman of the Industrial Forestries Association commented on the proposal on behalf of the Association's log handling and storage

committee. He stressed his committee's interest in cooperation with the Department and requested that the statement of William B. Hagenstein before the Commission on August 22, 1975 be made part of the hearing record regarding log handling in public waters. He opined that most of the objections voiced previously had been addressed in the current Director's recommendation sufficiently to make the proposed policy a workable document. Mr. Hartman urged the Commission to consider the various geographic considerations which might be addressed by subsequent speakers.

He suggested that the policy contain a preamble stating log handling transportation and storage in public waters of Oregon are legitimate uses for transportation, navigation, and commerce, so far as it cannot be demonstrated to be detrimental to the public, health, safety, and economic welfare of the citizens of the State. Such a preamble, in Mr. Hartman's view, would set a proper tone for the policy and be in alignment with existing statutory policy statements. He encouraged the Commission to proceed to adopt the policy so that staff might begin to work with individual operators recognizing the unique aspects of each operation. This should be done, he said, with an eye to the physical, social, and economic aspects of the environment.

Commissioner Phinney and Mr. Hartman agreed that his suggested preamble might well take into account the environmental welfare of citizens also.

Mr. Clifford Shaw of the Bay Area Council on Environment and Trade cited his Association's award from the Oregon Lung Association for efforts to abate air pollution caused by non-water handling of lots. Noting his Association's past suggestions during the policy's draft stages, Mr. Shaw informed that two areas of the policy were still of major concern.

He argued for a preamble to the policy recognizing the legitimacy of log storing and handling in the public waters to insure that future Commission and staff members would not misinterpret the policy to the prejudice of interested parties.

With regard to item three of the STATEMENT OF GENERAL POLICY, it was contended by Mr. Shaw with reference to referring to the storage of logs where they might go aground during tidal change or low tide flow, that the requirement that such operations be phased out where there is evidence of significant damage poses an undue threat to operations in the Coos Bay area. He alluded to staff philosophy as indicated in the January, 1975 staff report as indicating that the measure of what is significant might be against an inappropriately pristine background. This danger, in Mr. Shaw's view, accentuates the need for a preamble as suggested.

Citing information obtained from four of six major wood products industries on the Coos Bay estuary, Mr. Shaw informed that disallowance of water storage would result in land storage of 136 million board feet per year, involving a capital outlay of 11.6 million dollars, annual operating costs of 1.1 million dollars, increased fuel usage totalling 750 thousand gallons per year, and 4.8 thousand tons of dry waste per year. In all likelihood, Mr. Shaw said, some or all of the mills would have to discontinue operation in the face of such costs.

Mr. Shaw reminded the Commission that the Coos Bay area currently suffers 12 to 17 percent unemployment.

It was his view that the social and economic dislocation to result from discontinuing water storage far outweighs the minor environmental gains to be had. He added that land use considerations weigh against allocation of large areas of the State's shorelands for land storage of logs.

Mr. Shaw recommended the addition of the words "provided that any phase-out problems shall not be implemented without full consideration of the environmental and economic tradeoffs" be added to the sentence prescribing an approved schedule for phaseout of grounding storage operations where significant damage to aquatic life or water quality is evidenced.

He contended that page 12 of the January 1975 staff report (attachment B) was inaccurate in reporting that, unknown to the Department, the Port of Coos Bay and local timber industries had received monies from the U.S. Economic Development Administration to study the economic and environmental impacts of alternates to water storage of logs. He stated that his association had applied for the money with full knowledge of the Department, adding that the Department had assisted in planning the study and had given EDA necessary approval of the study prior to the grant of monies.

Mr. Shaw informed Commissioner Crothers that the suggestion of Commissioner Richards with regard to the acknowledgement of log transportation and storage as a legitimate water use would serve his wishes on the issue.

Mr. Jerry Harper, Environmental Manager for Weyerhaeuser operations in Oregon, emphasized the points made by Mr. Shaw with regard to the basic legitimacy of log operations in the public waters and the environmental trade-offs relevant to any phaseout. He urged that these two matters be resolved and that the policy be adopted.

Mr. Harper was unable to give any figures as to the economic impact of the Weyerhaeuser conversions to dry land storage in two of its operations.

Mr. B.L. Higgins, Mayor of the city of North Bend, delivered his City Council's opposition to the basic premise that water handling or storage of logs is detrimental to the environment and to be prohibited for new wood product plants and phased out in many existing instances. He asked that the potential problems to Coos Bay and North Bend be considered by the Commission before adoption of the policy, listing them as follows:

1. Conversion to dry land storage and its attendant depletion of lands available for economic expansion and reforestation.

2. Redevelopment and development costs which would discourage new or replacement plant facilities.

3. Discontinued operation for plants unable to gain an exemption from phaseout requirements.

4. Aggravation of an already severe unemployment rate.

5. Additional truck traffic (50 truckloads per eliminated tugboat trip) and its impact on the community in terms of inadequate roads, scarce petroleum resources, noise pollution, and air pollution.

He urged a policy that would both recognize that state waters should be used for log storage and handling and require consideration of the economic and environmental consequences of alternatives.

Commissioner Crothers asked to what degree the suggestions of Commissioner Richards would serve the wishes of Mr. Higgins and learned that Mr. Higgins was satisfied with the suggestions.

Mr. Ernest Nemy representing the Coos-Curry-Douglas Economic Improvement Association alluded to the previous resolution of his Board of Directors and delivered a second resolution by the Executive Committee of the Board of Directors. The resolution called for a socio-economic impact study prior to public hearing on the policy.

It was argued in the resolution that a task force assigned by the Department of Environmental Quality and the Pacific Northwest Pollution Control Council was instructed to determine the impacts of revised log dumping and handling practices on both industry and the total environment. This was never accomplished by the task force, according to the resolution.

It was further argued that a study by Mr. Alec Jackson, a consultant, had yielded the conclusion that most alternatives would detract from environmental quality and adversely impact both the forest products industry and the regional economy.

It was resolved by the Executive Committee that a public hearing should be held on the socio-economic impacts statement sought by the Committee.

Mr. Nemy declined to evaluate the suggested amendments of Commissioner Richards, explaining to Commissioner Crothers that he was not authorized to do so.

Mr. Thomas Greif, an attorney representing the Columbia River Towboat Association, informed the Commission on behalf of Mr. Alex Parks, Executive Secretary of the Columbia River Towboat Association of the Association's concern that the policy might result in eventual elimination of log storage areas and waterborne log transportation. Consideration of the following was urged:

1. The history of dumping, storage, and transportation of logs in the Northwest. Mr. Greif's information was that now only 15 log dumping stations remain on the Columbia River as opposed to 150 some fifty years ago. In view of this, Mr. Greif argued that the environmental problems have already been greatly reduced.

2. The flow pattern of logs from harvest to entering the mill. What are the implications of changing this?

3. Whether all operations should be considered on a case by case basis. Mr. Greif conceded this point is mentioned in the draft policy and asked for further assurances.

4. Factors to be considered where environmental damage is proven, including economic impact of changes, pollution caused by alternate methods, and the impact of increased log traffic on the highway and street systems (he said all current shipments to Camas, if shipped by truck would bring a truck into Camas every twenty-three seconds and the same conditions in Coos Bay would bring a truck in every thirty seconds).

5. The total water acreage used for log storage as compared to the total available for all other uses.

6. The most beneficial use of the waterways for the public benefit.

Mr. Greif informed Commissioner Phinney that his figures regarding the reduction of log dumps along the Columbia were supplied by Captain Homer Shaver of Shaver Transportation Company. Mr. Greif was unable to supply figures on the total number of board feet handled but offered to supply them later.

Mr. Dale Snow of the Oregon Department of Fish and Wildlife urged the Commission to adopt a stronger policy, criticizing the current proposal as weakened by redrafting, lacking in direction, and unspecific with regard to time frames.

Mr. Snow suggested a time frame be adopted for staff review of each problematic site with a three year ceiling on implementation of the final control program.

Addressing specific elements of the proposal, Mr. Snow recommended a time frame of three years for any control program to phase out existing operations unless otherwise approved by the Commission (STATEMENT OF GENERAL POLICY; item 2), three years for any phaseout of log storage involving grounding where a longer period is not Commission approved, (item 3), and one year for the length of storage of logs in the water unless exceptions are granted by the Department (item G).

Mr. Snow suggested the amendment of item three of the STATEMENT OF GENERAL POLICY as follows:

1. Line 5: Delete "damages to;" after "aquatic life," add "or potential for reestablishing aquatic life;" and after "and/or," insert "reduction to water quality."

Mr. Snow further recommended that all existing free-fall log dumps be phased out in one year.

He offered the assistance of his staff in planning and implementing the policy.

Mr. Snow informed Commissioner Richards that grounding of stored logs during low tide causes damage to aquatic life where clam beds or eelgrass are present. He estimated some areas where grounding occurs might suffer insignificant damage and urged a case by case review.

Mr. Bryan Johnson, Consulting Engineer to Kevin Murphy who operates a lumber mill on the Siuslaw estuary, applauded the proposed draft as one which would allow the staff to use their training and experience to arrive at correct decisions regarding implementation. Mr. Johnson estimated that staff would be heavily burdened in making the manifold evaluations with regard to phasing out estuarian storage areas where low water grounding occurs. He voiced his support for the proposal.

Mrs. Sandra Diedrich of the Coos-Curry Council of Governments cautioned that the policy, even with the "legitimate use" clause suggested by Commissioner Richards, would mandate alternatives to current practices when insufficient consideration has been given to the impact of such change, including its economic significance. She cited air pollution problems, energy use problems, and traffic circulation problems as attendant to the change to other methods.

On behalf of her Council, Mrs. Diedrich called for Commission review of the consequences in other areas of environmental concern prior to the adoption of any policy which would limit log storage and handling in the public waters. She urged the Commission to direct the Department to assess the environmental impacts of the alternatives to present practice.

Commissioner Crothers asked if Mrs. Diedrich subscribes to the proposition that all policy decisions should await an assessment of all the possible ramifications flowing from them. Mrs. Diedrich replied that this degree of evaluation was required of many public bodies, that she did not suggest it be followed in every case, and that it would be appropriate in the present case.

Commissioner Crothers contended that the wording suggested by Commissioner Richards adequately addresses the concern regarding the economic impact of alternatives.

Commissioner Richards acknowledged a letter from the Southwest Oregon Chapter of the Northwest Steelheaders Association urging ultimate termination of all water log handling and storage and siting damage in Coos Bay as a continuing problem. Commissioner Richards mentioned also a letter from the League of Women Voters of Coos County lamenting a lack of adequate notice prior to the meeting.

It was MOVED by Commissioner Crothers that the record be left open for ten days for the Department to receive written comment on the policy in general and on Commissioner Richards' suggested amendments in particular and that the staff make Commissioner Richards' proposals available in written form for public study.

The General Manager of Astoria Plywood, Mr. Smokey Olson informed that he learned of the meeting only the previous evening and that his mill is entirely dependent on water handling and storage and without any alternative but shutdown. Commissioner Richards suggested that evidence of similar circumstances had been presented to the Commission and that the policy had been drafted with Mr. Olson's problem in mind.

Mr. Harold Sawyer explained that efforts had been made to inform all timber companies with a potential interest along with interested associations and members of a general mailing list. He added that Astoria Plywood might conceivably have been omitted from the mailing.

Commissioner Phinney wished those in attendance to know that voluminous suggestions from industry and the public had preceded the present hearing. While conceding that she and other public officials probably ought to know more about the actions they take, she cautioned that the proposal was not to be considered a one-sided draft on the part of staff.

Commissioner Crothers' motion carried with the support of Commissioners Phinney, Crothers, and Richards.

OREGON CUP AWARDS

Mr. Jim Swenson, the Department's Public Information Officer informed the Commission that the Oregon CUP Award Screening Committee had voted to recommend renewal of the award to Publishers Paper Company, American Can Company for their Halsey plant, Willamina Lumber Company, ESCO Corporation, and Cascade Construction Company for their Abernethy plant.

It was MOVED by Dr. Crothers and carried with the favorable votes of all three Commissioners present that the recommendation be approved.

FIELD BURNING

Mr. Scott Freeburn, head of the Department's field burning program, reported to the Commission that as of September 20, 68% of allowable acreage had been burned in the North Willamette Valley and 77% of allowable acreage had been burned in the South Valley, amounting to 74% of total allowable acreage. Complaints, he reported, totalled about five hundred for the season with about half of them coming during one bad day. Mr. Freeburn predicted that about 90% of the total acreage to be burned had been burned due to the decision of many farmers not to burn acreage by reason if its having been greened by excessive summer rains, the desirability of sowing increased acreage to wheat, and the reluctance to pay $3.00 per acre when unsatisfactory fire conditions might yield only marginal sanitation.

VARIANCE REQUESTS TO CONTINUE OPEN BURNING OF GARBAGE AT DISPOSAL SITES IN CLATSOP, TILLAMOOK, LINCOLN, COOS, AND CURRY COUNTIES

Mr. Robert L. Brown of the Department's Solid Waste Management staff presented the staff report to the Commission, explaining that staff had worked with three of the counties involved to help them prepare their requests so as to permit this order of business to come before the Commission with all requests consolidated in one agenda item.

The conclusions of staff were that the Counties of Clatsop, Tillamook, Lincoln, Coos and Curry are now dependent on open burning to dispose of solid wastes, have no alternative short of an entire new program, can not immediately come into compliance with the Department's regulations, are working on a program including phasing out of open burning at the dump sites, and should be granted variances with the exception of sites at Coquille and Toledo.

With regard to these latter two sites, it was concluded that the Coquille site would be bothersome to neighbors and that the Coquille and Toledo sites were not necessary in that viable alternatives are present.

Granting of the variances, it was added, would not result in violation of applicable ambient air standards.

The Director's recommendation was as follows:

1. Variances be denied to continue or commence open burning at the following sites:

   Toledo (Lincoln County) for the reason that an alternative disposal site is reasonably available.

   Coquille (Coos County) because of uncertain acceptability to adjacent land owners and continued operation at the existing Fairview site may be reasonably available and should be pursued.

2. Variances to expire October 1, 1977, be granted from the Department's Solid Waste and Air Quality regulations to allow continued open burning at the following disposal sites:

Clatsop County	Seaside Cannon Beach
Tillamook County	Manzanita Tillamook Pacific City
Lincoln County	North Lincoln Waldport
Coos County	Myrtle Point Powers
Curry County	Brookings Nesika Beach

3. The Department immediately proceed with drafting and issuance of regular Solid Waste Disposal Permits for the disposal sites under variance with compliance schedules requiring maximum reasonable physical and operational upgrading in the interim and closure of each site on or before October 1, 1977.

4. Each county submit semi-annual status reports documenting the progress toward phasing out the dump sites given variances, said reports to become due March 1, 1976, October 1, 1976, and March 1, 1977.

Mr. Brown cited ORS 459.225 and ORS 468.345 as authority for the Commission to grant the variances requested. Seaside, North Lincoln, and Coquille were reported to be in Special Air Quality Control Areas. Mr. Brown cautioned that findings were required by statute and proposed a finding that strict compliance would result in closing of the site and no alternative facilities or alternative method is yet available.

Mr. Brown reported that on September 18, the Coos County Commissioners had met and, due to controversy, had postponed action on the conditional use permit which would be required to reopen the Coquille site. An official notice from the Bureau of Land Management was reported to require that Coos County close down its Fairview site (an alternative to the Coquille site) by October of 1976.

Finally, Mr. Brown advised that the State's Citizens' Solid Waste Advisory Committee had voted to support the Director's recommendation.

Mr. Larry Trumbull, Project Manager for the Coos-Curry Solid Waste Management Study recalled that the Study was commenced in the spring of 1973 with DEQ funds and that in early 1975 he was hired to coordinate information gathered and to formulate an interim program. He offered into the record four reports, required by the conditions of the funding: an "Interim Solid Waste Management Program" for each of the two counties and an "Interim Operating Plan for Disposal Sites" in each of the two counties.

The variances were termed a small but vital part of the interim plans which, Mr. Trumbull reported, had been assembled only after vast citizen input.

Mr. Trumbull assured the Commission that, where practicable, sites were being upgraded and the best landfill practices were being used. He reminded the Commission that the interim plan would cost twice as much as had been spent last year and would come during economic adversity for the Counties.

Mr. Eldred Henderson, Senior Sanitarian for Curry County noted that the Commissioners of his County were unable to attend and alluded to their letter requesting a variance.

Addressing himself to the current status of sites in Curry County, Mr. Henderson noted that since the first of the year one of four operating sites in Curry County had been closed down and incorporated into a transfer station (the Agnes site). The Port Orford site, he said, had been changed to a modified landfill with fencing, full time attendance, and coverage two to three times per week. Conditions at Gold Beach and Brookings prohibited burning, it was reported. Gold Beach, ten acres in area, was said to be almost full and subject to compulsory evacuation in one year and a half. This circumstance Mr. Henderson reported, necessitated minimum usage of the site. The Brookings

site was reported inadequate because of low remaining capacity and a contractual obligation requiring burning.

Efforts to find other areas were said to be in process despite the possibility of a joint recovery program with Coos County.

Mr. Henderson informed Commissioner Richards that he would support the recommendation for variances in his county.

Mr. Don Wisely owner of land contiguous to the Coquille site argued against its reopening on the grounds of an insufficient highway access to the site. He reported a dangerous highway curve, a common access road, and a narrow road with no turnarounds to the dump site. In addition, he argued against reopening because the County proposed only limited access hours and the imposition of fees.

The remarks that Mr. Wisely wished to make, he recalled, had been delivered to the Coos County Planning Commission also.

He regretted the lack of time for him to comment on the drainage and air problems to be expected and emphasized his belief that the County had given no consideration to other temporary sites.

Mr. Wisely informed Commissioner Crothers that he knew of no specific alternative sites but was sure some existed.

Mr. S. Tony Zarbono, former owner of the Wisely property, told the Commission that Mr. Trumbull had not contacted any of the citizens adjacent to the dump with regard to the decisions contemplated regarding it.

He added that, during his tenure on the Wisely property, the site had proven offensive to water quality in a creek which runs deep and wide during the winter and empties into the Coquille river after use as a water supply by grazing animals.

Mr. Zarbono argued that the County should be required to use the Fairview site which, he contended, would be open until November of 1976, only a month less than the tenure sought for the Coquille site. It was Mr. Zarbono's contention that reopening of the dump would be a backward step.

Commissioner Richards asked if he understood correctly that the variance request went to burning only and that reopening without burning would not require a variance.

Mr. Zarbono, in the light of Commissioner Richard's inquiry, wished the Commission to be aware that, aside from the burning question, the City of Coquille had been under long-standing orders to cover and seed the site and had not done so. The only interest the City had taken, he argued, was to recoup the salvage value of old car bodies in the dump.

Mr. Kramer informed that the use of a landfill with or without burning would be a Commission concern.

Mr. Eddie Waldrop, Coos County Commissioner, delivered a resolution of his Commission in support of the Solid Waste Plan as developed by the Coos-Curry Solid Waste Planning Council. The resolution, he reported, had been adopted at a September 25 emergency meeting. It was based on Findings by the Board of Commissioners that implementation of the plan is imperative to the citizens of Coos County and that the Variances requested of the Environmental Quality Commission are imperative. The Coos County Board of Commissioners, Mr. Waldrop informed, had adopted a motion in support of the Variance requests for the Powers, Myrtle Point, and Coquille sites.

Mr. Waldrop offered to the record a letter from the United States Bureau of Land Management (owners of the Fairview site) which constituted written notice to Coos County that the Fariview site would have to be relinquished as a landfill by November 26, 1976, or sooner and could not be expanded in the interim.

Mrs. Irene Johnson, Coos County Commissioner, pointed out that the interim Solid Waste Management Plan had been adopted after extensive conference with the Department staff and requires the attention of the Environmental Quality Commission because it provides for open burning on three landfill sites as stated by Commissioner Waldrop. She formally requested the reopening of the Coquille site and allowance of open burning there and at the Powers and Myrtle Point sites. She said the decision to request variances had been preceded by consideration of all aspects of the problem. The expense of operating the Fairview site to a desirable level was said to be prohibitive. Commissioner Johnson noted that a long range program was well underway and improvements in all phases of Solid Waste Management had been accomplished, including full time attendance, required covering practices, and the cleanup and closing of several small dumps.

Commissioner Crothers inquired about the expense of operating the Fairview site. Commissioner Johnson was unaware of the exact figures but offered the contention that the soil and wind problems were too expensive to pursue and that the Bureau of Land Management might evict the County sooner than November of 1976.

Mr. Tom Weldon. of the City of Coquille, presented a letter from Mayor Bryan of the City of Coquille urging acceptance of the interim plan based on the need for a readily accessible dump site for the 8,000 residents of the Coquille-Fairview area. Three advantages of reopening the Coquille site were offered: It is close to the population centers. It will result in reduced transportation costs for garbage collectors. It will save the City the expense of closing the site because the County would close it upon completion of the interim plan. It was estimated that closing the site in conformance with Departmental requirements would cost $32,000, a sum almost prohibitive to the City. The City's public works crew was said to be unable to do the job and the National Guard was reportedly indifferent to the project.

Mr. Weldon as a representative of the Board of Directors of the Coquille Chamber of Commerce, cited a letter from the President of the Chamber to Mr. John Mingus of the Coos County Solid Waste Advisory Committee in support of the interim plan.

Responding to earlier remarks, Mr. Weldon contended that alternatives to the plan to reopen the Coquille site had been thoroughly investigated by the Department, the Committee, and private consultants. Mr. Weldon assured that the County Highway Department would correct the road deficiencies. He also gave assurance that disposal practices, in contrast to what had gone before, would be tightly controlled modern practices and would result in diminished water pollution.

In response to inquiry by Commissioner Richards, Mr. Weldon reported that the site would serve about 8,000 people and that he had no position with regard to the staff's suggestion that gate fees might serve the financial needs of the Fairview Site.

Mrs. Sandra Diedrich of the Coos-Curry Council of Governments, offered her Council's support of the interim plan, including the open burning variances. Her support, she said, was based on the admirable citizen participation and intergovernmental cooperation which had preceded the plan.

Mr. John Mingus, Chairman of the Coos County Solid Waste Advisory Committee, argued strongly for the variances. He recalled that the policy of the Department, as set forth in its administrative rules had been pursued actively for almost four years by his Committee and the affected governmental units. By 1983, it was reported, 90% recovery of solid waste was hoped for under the program. To do this, Mr. Mingus argued, the variances are necessary. With the variances, he reported, the Menasha plan could be invoked to achieve 90% recovery by use of a recovery plant to provide fuel for expanded boiler capacity at the Menasha Plant. Menasha, he cautioned, requires immediate assurance that the recovery plant will be available. Thus, it was argued, delay might mean defeat of the long range goal. It was contended that federal regulation could, at any time, result in the termination of activities at the Fairview site. He argued that a variance for Coquille is essential and that it would be followed by professional operation and cleanup at County expense.

The alternative to the long range plan, he argued would be opening the Bandon Site and requiring all residents to use it, an alternative which, Mr. Mingus predicted, would result in unauthorized, random dumping counter to the policies of the Department.

Asked to specify the reasons why reopening the Coquille site would be essential to the long range program, Mr. Mingus told Commissioner Phinney that the Department had required that the variances (including a variance for the Coquille site) be acquired as a condition of the Department's approval of the interim plan. This approval, he argued, was essential to successful dealings with Menasha regarding the proposed recovery plant.

Mr. Mingus further informed Commissioner Phinney that unavailability of both the Coquille and Fairview sites would result in a chain reaction in which the Myrtle Point and Shingle Slough Sites would rapidly be filled, resulting in use of Bandon Site by former users of Fairview, Myrtle Point, and Shingle Slough.

Mr. Mingus reiterated Menasha's impatience for assurances of a fuel supply. He recalled that a previous opportunity to implement the Menasha plan had gone by the boards due to market conditions.

Commissioner Crothers asked Mr. Mingus for the date when hauling to the Coquille site could be assuredly terminated. The reply was preceded by reiteration of the preceding statements made by Mr. Mingus with regard to Departmental approval of the interim plan and the anxieties of Menasha management. Mr. Mingus added as an inducement to the Commission his offer of solicitude for the cares of Mr. Wisely.

Mr. Mingus declined Commissioner Richard's invitation of an estimate of the cost of running Coquille as a landfill on the ground that there was no plan to do so. The soonest possible evacuation of Coquille was said to be his goal.

Mr. Trumbull,asked for a cost figure on both Coquille and Fairview, demurred that neither site has soils suitable for operation as a sanitary landfill.

Mr. Ernest A. Schmidt, of the Department's Solid Waste Program, was unaware of any requirement that the variance be granted for approval of the interim plan. He added that some type of acceptable site for the Coquille area was requisite to approval and that operation of the Coquille site to fill this need would require open burning. He noted that operation of the Fairview site would require upgrading if that alternative were chosen. It was the staff's position that use of the remaining capacity of the Fairview site was more acceptable than reopening Coquille, he explained.

Commissioner Phinney was told that the regional plan calls for a transfer station which could hopefully supplant Fairview and serve during the interim between exhaustion of Fairview and the inception of the recovery plant. Transfer to Bandon would be accomplished in the meantime, Mr. Schmidt reported. He conceded that a major transfer facility would be required to serve the 8,000 people involved.

Mr. Schmidt declined to change the staff's recommendation in light of the letter from BLM and stated the Fairview site should be used as long as possible. In default of an acceptable alternative prior to closing of the Fairview site, he noted, staff would reconsider recommending an open burning operation at Coquille.

He told Dr. Crothers that approval of the interim plan could occur with or without the Coquille site and was unable to explain Mr. Mingus' understanding to the contrary.

Mr. Trumbull offered clarification to the Commission regarding information which the Commission had sought in vain. In response to Commissioner Richards' request for Mr. Trumbull's understanding as to whether or not the Coquille site was essential to interim plan approval, Mr. Trumbull noted that the plan to use the Coquille site called for $100,000 more than was currently in the County budget. The cost of operating Fairview, he reported, would be prohibitive in light of the improvements that would be required. Mr. Trumbull

again declined Commissioner Richards' request for cost figures. He reiterated Fairview's inadequacy as a modified landfill. Mr. Trumbull did volunteer the information that, whatever the cost, it covered weekly or bi-weekly visits to the site by two men and a bulldozer.

He offered further that, aside from three months worth of contrived capacity, the Fairview site was now filled to the maximum allowed by its current Departmental permit.

Commissioner Richards succeeded in eliciting from Mr. Trumbull an estimate that, with the required improvement, and excluding the costs of hauling, Fairview could be operated for $1.40 per yard or about $14.00 per ton. No one present was able to assist with further cost information pertaining to either Fairview or Coquille.

Mr. Mingus, reiterating his earlier statements in part, informed Commissioner Crothers that the origin of his understanding that staff would not approve the interim plan without a variance for the Coquille site had been a staff member from North Bend. Commissioner Crothers assured Mr. Mingus that the staff was not authorized to speak for the Commission in this matter.

Mr. Schmidt informed the Commission that staff had never discussed with officials from Coos County the expense involved in operating Fairview at Bureau of Land Management standards, an expense which now seemed, in his view, to be the principal concern of the County.

Mr. Paul Brookhyser, of the Lincoln County Solid Waste Advisory Committee voiced his Committee's support of the three variances requested for his county. He took issue with the staff's recommendation that a variance for the Toledo site should not be granted because Agate Beach was a reasonable alternative. In Mr. Brookhyser's view, burning at the Toledo site affects no residents and is desirable to eliminate the site's inhabitation by scavenging animals which, in turn, might pose a health hazard to residents. He conceded that the burning was of concern from a standpoint of fire hazard in the nearby forest but argued that cut back of the forest and the maintenance of acceptable fire prevention practices would be less expensive than hauling the waste 11 miles to Agate Beach and paying a fee to use Agate Beach. The cost, he reported, would have to be borne entirely by the 6,000 residents now using the Toledo site.

In response to inquiry by Commissioner Crothers, Mr. Schmidt estimated that, regardless of the variance request, approval of the interim plan for Coos County could be forthcoming within two weeks. He noted, however, that the County was, in his understanding, unsure of its ability to proceed with an interim plan involving the upgraded use of Fairview due to cost considerations.

It was Commissioner Phinney's understanding that the following of staff's recommendation would not prejudice the County's right to resubmit a variance request for the Coquille site when sufficient information is assembled to answer the unresolved concerns of the Commissioners.

Mr. Kramer agreed, adding that, as yet, the County did not have the necessary zoning permit and could not proceed even if the Commission granted a variance today.

Mr. Mingus suggested that, if the Commission could do no more, it might at least grant a variance conditioned on the County's obtaining approval of operating the Coquille site from the staff, the adjacent property owner, the planning commission, and any other appropriate sources.

Mr. Schmidt said staff would have no objection to such a proposal.

Mr. Richards found merit in Mr. Mingus' suggestion in that it would afford to the adjacent property owners an opportunity to protect themselves and compel the county to bear the cost of its own pollution through adequate safeguards to protect the neighbors.

Commissioner Crothers MOVED that the variance for the Toledo site to permit open burning there for one year be granted, conditioned upon the approval of the Coos County Planning Commission and the approval of the owner of the property adjoining the Coquille site. The motion was carried with the support of Commissioners Crothers, Phinney and Richards.

Commissioner Crothers MOVED that the Director's recommendation as amended by the previous motion be adopted. The motion carried with the support of all three Commissioners present.

In addition to the motion with regard to the Toledo site, the Commission action denied a variance to continue or commence open burning at the Toledo solid waste disposal site in Lincoln County for the reason that an alternative disposal site is reasonably available, and granted variances to expire October 1, 1977 from the Department's Solid Waste and Air Quality regulations to allow continued open burning at the following disposal sites:

Clatsop County	Seaside and Cannon Beach
Tillamook County	Manzanita, Tillamook, and Pacific City
Lincoln County	North Lincoln and Waldport
Coos County	Myrtle Point and Powers
Curry County	Brookings and Nesika Beach

In addition, the Commission provided that the Department immediately proceed with drafting and issuance of regular Solid Waste Disposal Permits for the disposal sites under variance with compliance schedules requiring maximum reasonable physical and operational upgrading in the interim and closure of each site on or before October 1, 1977 (with the exception of the Toledo site which was granted a one year variance). The recommendation provided further that each county submit semi-annual status reports documenting the progress toward phasing out the dump sites given variances, said reports to become due March 1, 1976, October 1, 1976 and March 1, 1977.

VARIANCE REQUEST: STARNER LUMBER COMPANY, LOSTINE, WALLOWA COUNTY, OREGON

Mr. Frederic Skirvin of the Department's Air Quality Program presented the staff report. He reported the applicant's small plant to be near Lostine, Oregon, in operation to serve the local community with lumber products; and operated by three persons. The variance was sought, he informed, for a small wigwam burner with an 18" underfire blower which is not modified in accord with Departmental requirements. Operation with continuous fuel feed to the burner was concluded to be impractical, though the only fashion in which the burner would operate in compliance with the visible emissions limitations.

It was further concluded that operation with an intermittent feed system was causing no violation of ambient standards.

The variance could issue, he reported, due to the impractical nature of imposing strict requirements of OAR chapter 340, section 25-020(1) and (2), and pursuant to ORS 468.345.

It was the Director's recommendation that a five year variance from Oregon Administrative Rules, Chapter 340, Section 25-015 (1), 25-020(1) and (2), and 25-025 (1) (2) and (3) be granted to Starner Lumber Company for the period September 1, 1975, through September 1, 1980; under the following conditions:

1. The flow of waste wood material to the burner will be conveyed to the wigwam burner in a continuous manner as much as practicable.

2. The underfire fan will be operated whenever the wigwam burner is being used.

3. Non wood waste materials will not be disposed of in the wigwam waste burner.

4. Wood wastes shall be sold as much as practicable whenever markets exist.

5. The operation of the wigwam burner shall cease if other methods of disposal become available.

6. This variance may be revoked if the Department determines that any of the above conditions are violated, or that the operation of the wigwam burner causes local nuisance conditions.

It was MOVED by Commissioner Phinney that the Director's recommendation be approved with the exceptions that the variance would run for only three years and commence on September 26, 1975. The motion, supported by Commissioners Phinney, Richards, and Crothers, carried.

VARIANCE REQUEST: PERMANEER CORPORATION, WHITE CITY AND DILLARD

Mr. Frederic Skirvin of the Department's Air Quality Control Program presented the staff report wherein it was explained that the applicant's source was now idle but, when operating, emits some 265 pounds per hour of particulates, 205 pounds per hour over the applicable standards which are achievable through available technology. The variance request submitted by the applicant was described as lacking in a comprehensive compliance attainment program. Mr. Skirvin added that the White City and Medford areas are non-attainment areas with regard to particulates and that the applicant's source, when operating, is the major emitter of particulates in the area. He reminded the Commission that a variance was being requested in an area where the Commission might soon be asked to consider a revised control strategy for particulates.

It was the Director's recommendation that (1) the Environmental Quality Commission deny the current variance request by the Permaneer Corporation which requests an extension of all compliance dates in Air Contaminant Discharge Permit No. 15-0027 for the White City plant.

(2) The Commission reconsider a variance request when such variance request is submitted with a control strategy, including the five (5) increments of progress for each source, i.e.,

INCREMENTS OF PROGRESS FOR COMPLIANCE ATTAINMENT PROGRAM

1. By no later than ____*____ the permittee will submit a final control strategy, including detailed plans and specifications, to the Department of Environmental Quality for review and approval.

2. By no later than ____*____ the permittee will issue purchase orders for the major components of emission control equipment and/or for process modification work.

3. By no later than ____*____ the permittee will initiate the installation of emission control equipment and/or on-site construction or process modification work.

4. By no later than ____*____ the permittee will complete the installation of emission control equipment and/or on-site construction or process modification work.

5. By no later than ____*____ the permittee will demonstrate that the ________**________ is capable of operating in compliance with the applicable Air Quality Rules and Standards.

* Date to be supplied by company.
** Indicate air pollution sources.

Mr. Skirvin informed the Commission of the presence of Larry Anderson and Mr. Lowell Fronick, representatives of the applicant.

Mr. Larry Anderson, chief engineer for the Western Division of Permaneer's Building Materials Department explained that the request for a variance had been made due to the source's financial posture. He indicated willingness to pursue the financial status of his company in executive session before the Commission, stating that materials placed before the Commission were of confidential nature.

It was impossible, due to the present financial picture of the applicant, he said, for Permaneer to commit itself to definite dates with regard to the five increments of progress sought by the staff.

In response to Commissioner Crother's inquiry, Mr. Anderson estimated current stock value to be 1 and 3/8. Commissioner Crothers received Mr. Anderson's concurrence that this figure was down from 10 and expressed his credulity for the allegation of financial difficulty.

Mr. Skirvin explained that, though the current permit does not expire until June of 1978, the applicant would be subject to civil penalties if he tried to start up again without a variance. He indicated that the company would be willing to develop dates using best available figures on the understanding that they might well have to ask for an extension.

Commissioner Richards felt some time estimates would be appropriate even if they later prove inadequate and requiring of revision. Commissioner Crothers agreed, as did Mr. Anderson. Mr. Anderson noted that the White City and Dillard plants are in identical circumstances and cautioned that dates for compliance for both would be highly speculative.

It was MOVED by Commissioner Crothers, and carried that the matter of Permaneer's variance requests for plants at Dillard and White City be tabled until the next Commission Meeting. The motion was carried with the support of all three Commissioners present.

RULE ADOPTION: CIVIL PENALTIES SCHEDULE FOR VIOLATION OF NOISE STANDARDS

Mr. Fred Bolton of the Department's Regional Operations program recalled objection to the wording of Section (2) of the proposal in an August 22 Commission Hearing on the matter and noted that the word "threatens" had been replaced by "will probably cause." Also as a result of the hearing, the word "substantially" was placed in front of "contributes to," he added. Since the hearing, he reported, a letter from the Oregon Motorcycle Dealers Association was received. The Association had recommended the civil penalty proposal not be adopted prior to a period of public education on the standards.

A letter from the Oregon Environmental Council was cited as in support of the proposal and containing argument from staff attorney Mr. Roy Hemmingway that the proposal is both statutorily supported and necessary to an effective program.

It was the Director's recommendation that the Commission adopt the proposed amendment to the civil penalty schedule for violation of noise emission standards.

Mr. Raymond Underwood was asked to comment on the necessity of punishing sources which substantially contribute to the excesses mentioned in Section (2) when the proposal would also punish a source which causes such excess. It was Commissioner Richards' concern that "substantially contributes to" might be indistinguishable from "causes."

Commissioner Richards explained that, as a matter of law, a cause far removed from the result would not constitute that degree of causality necessary to impose liability, i.e. proximate cause.

Commissioner Crothers asked if the words "substantially contributes to" would apply to an emission which is violative only in conjunction with a background of ambient noise.

Mr. Underwood felt the result of the proposal would relieve the Department from having to prove a given source causes the violation if it can be shown that the source was at least a substantial contributor.

He noted that there would have to be a violation of some substantive rule prior to any penalty being imposed for a violation which would "probably cause..." This was in response to Commissioner Richards' concern that no one should incur liability simply because they might do something in the future. Commissioner Crothers estimated that the origin of the language lies in other regulations where certain acts are prohibited because they might pollute the water.

Mr. Jack Weathersbee, Assistant Director in charge of the Department's Technical Programs, noted that some substantive rules prohibit tampering with noise abatement equipment, such as mufflers. Mr. Underwood stressed that, to result in liability based on probable future results, such tampering would already have to be a violation of some regulation.

Mr. Thomas Donaca expressed his satisfaction with Commission's indication on August 22, 1975 that the civil penalty provision be invoked only after cooperative efforts to achieve compliance have failed. He added that this policy would relieve, somewhat, the burden on staff. The Program, he contended, had not been funded adequately by the legislature.

Commissioner Crothers MOVED that the Director's recommendation be followed. The motion carried with the favorable votes of Commissioners Phinney, Crothers, and Richards.

RULE ADOPTION: PROPOSED RULE BROADENING THE EXEMPTIONS FROM REQUIREMENT OF A SURETY BOND PRIOR TO CONSTRUCTION OF CERTAIN SUBSURFACE DISPOSAL SYSTEMS

Mr. Harold Sawyer of the Department's Water Quality Program presented the staff report, recommending adoption, as a temporary rule, of the proposed amendments to OAR Chapter 340, sections 15-010 and 15-015, dealing with the requirement of a surety bond before construction of facilities for the collection, treatment, or disposal of sewage and the exemptions therefrom.

It was MOVED by Commissioner Phinney that the Commission accept the Director's recommendation. The motion was carried with the favorable votes of Commissioners Phinney, Crothers, and Richards. The Director's recommendation was as follows:

It is the Director's recommendation that the Commission:

(1) Enter a finding that failure to act promptly in this matter will result in serious prejudice to the public interest or the interest of parties concerned for the specific reason stated in the report.

(2) Adopt as a temporary rule to be filed promptly with the Secretary of State to become effective upon filing the proposed amendments contained in Attachment A, and authorize a public hearing to be held as soon as possible for the purpose of adopting them as a permanent rule within 120 days thereafter.

RULE ADOPTION: TEMPORARY RULE TO ALLOW FALL OPEN YARD BURNING IN LINN, BENTON, MARION, POLK AND YAMHILL COUNTIES

Mr. Frederic Skirvin of the Department's Air Quality Program presented the staff report recommending that the Mid Willamette Valley Air Pollution Authority's open burning rules be amended temporarily to permit fall burning of yard cleaning debris in the five counties of the Mid Willamette Valley. It was noted that such an action would relieve the strained capabilities of solid waste disposal operations in the counties affected and would permit open burning during the same period as now permitted for the Portland area under the Commission's rules.

Support from the Commissions of the several counties, certain municipalities, from some solid waste management organizations, and fire marshals was cited by Mr. Skirvin. While the fire chief of Woodburn supports the rule, he said, the proposed burning period was criticized as too late in the year.

Commissioner Crothers was informed that choice of a burning period other than the one allowed in the Portland area had previously resulted in confusion from conflicting radio broadcasts regarding burning days.

It was added that the staff intends to review the rules in detail and possibly return to the Commission with a proposal for a permanent rule specifying an earlier burning period to take better advantage of the weather.

Commissioner Phinney cited the conflicting views of fire officials from Yamhill and Marion Counties. The former preferred a late, wet burning period for fire control and the latter wanted an early, dry period to enhance burning efforts.

Mr. Kramer noted that adoption of a period conflicting with that provided for Portland might result in increased confusion in that the Department would now announce burning periods for both areas, whereas the Mid Willamette Valley Authority had previously been the source of the rule for the mid valley.

On the understanding that the Department would reconsider imposing earlier dates for both the mid Valley and Portland areas, Commissioner Crothers MOVED that the Director's recommendation be approved. The motion carried with the support of all three Commissioners in attendance.

The Dirctor's recommendation was that the Commission:

1. Adopt as a temporary rule, the proposed amendment which is attached as a part of the report, to be made a part of the MWVAPA rules and regulations, section 33-005 (1) (a), and

2. Make a finding that failure to act promptly in adopting the proposed amendment would result in serious prejudice to the public interest for the specific reason that such failure to act would substantially impair the Fall open burning period as proposed in the amendment, and would result in conditions detrimental to existing solid waste disposal sites and acceptable disposal methods.

AUTHORIZATION FOR PUBLIC HEARING ON FEE SCHEDULE FOR AIR CONTAMINANT DISCHARGE PERMITS

It was the Director's recommendation that the Commission authorize a public hearing on the revision of the Air Contaminant Discharge Permit fee schedule and permit regulations on a date to be determined by the Director after the staff has met with industrial representatives and a final proposed rule is available.

It was MOVED by Commissioner Crothers and carried by Commissioners Phinney, Crothers, and Richards that the Director's recommendation be adopted.

PETITION FOR REVIEW OF SUBSURFACE SEWAGE REGULATION REGARDING VISTA VIEW SUBDIVISION IN JACKSON COUNTY

Mr. Jack Osborne of the Subsurface sewage program informed the Commission that Vista View subdivision contains forty lots of which twenty-six remain vacant. Two of the vacant lots were said to have a well and septic tank installed while eight of them were reported to be owned by a developer. With regard to the petition as filed by the Jackson County Board of Commissioners, the Director's recommendation was that the Commission deny the petition while advising the Board of Commissioners that the subdivider may request a contested case hearing which, if he prevails on the merits, would be dispositive of the dispute with regard to all the vacant lots. It was added that the Board of Commissioners should be advised that the "prior approvals" rule had been thoroughly considered by the Commission and the Citizen's Task Force on Subsurface Sewage and that the Commission deems it unwise to amend the rule as requested. Finally, it was recommended the Board of Commissioners be reminded that any party agrieved by an order might still apply for a variance from the Commission's regulations.

A MOTION by Commissioner Crothers that the Director's recommendation be accepted carried with the support of Commissioners Phinney, Crothers and Richards.

Commissioner Richards noted that the question of whether the Commission exceeded its authority in reducing the acreage allowable for field burning was not before the Commission since the Legislative Counsel Committee's findings in this regard had been communicated to the Commission only through media reports.

There being no further business, the meeting was adjourned.

ENVIRONMENTAL QUALITY COMMISSION

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Salem

RONALD M. SOMERS
The Dalles

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item B, October 24, 1975, EQC Meeting

September 1975 Program Activity Report

Discussion

Attached is the September 1975 Program Activity

Recommendation

It is the Director's recommendation that the Commission give confirming approval to the Department's plan/permit action for September 1975.

LOREN KRAMER
Director

PWM:vt
10/14/75
Attached

Contains
Recycled
Materials

DEQ-46

DEPARTMENT OF ENVIRONMENTAL QUALITY
Technical Programs

Plan & Permit Actions

September, 1975

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Land Quality Program:		
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Department of Environmental Quality
Technical Programs

Monthly Activity Report

Water Quality (Program) — September 1975 (Month and Year)

PLAN ACTIONS COMPLETED (118)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sewerage Projects - (97)			
BCVSA Jackson	Antelope Road Sewer	9/2/75	Provisional Approval
Eugene Lane	Hwy 99 & Side St. Sewer	9/2/75	Provisional Approval
Eugene Lane	Delta Hwy & Green Acres Rd. Sewers	9/2/75	Provisional Approval
Portland (Tryon) Multnomah	S.W. Huber St. & Quail Post Rd. Sewer	9/2/75	Provisional Approval
McMinnville Yamhill	Howard Addn. Sewers	9/2/75	Provisional Approval
The Dalles Wasco	Port of The Dalles Yacht Basin Sewer	9/2/75	Provisional Approval
Corvallis Benton	N.W. Green Circle Sewers	9/2/75	Provisional Approval
Corvallis Benton	Forest Hts. First Addn. Sewer	9/2/75	Provisional Approval
Keizer S.D.#1 Marion	Eden Estates Sewers	9/2/75	Provisional Approval
USA (Durham) Washington	C.O. #11 STP Project	9/3/75	Approved
USA (Rock Cr.) Washington	Add. # 1, Contr. 13 & Add. #2 Contr. 14 & 14B	9/3/75	Approved
Albany Linn	Cloverdale Farms Pressure Line & P. S.	9/3/75	Provisional Approval
C.C.S.D. #1 Clackamas	Phase III, Johnson City Sewers	9/3/75	Provisional Approval
Springfield Lane	Royal Gardens Sewers	9/3/75	Provisional Approval
Springfield Lane	Bee-Sun 1st Addn. Sewers	9/3/75	Provisional Approval

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Water Quality (Program) | September 1975 (Month and Year)

PLAN ACTIONS COMPLETED (118 - con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sewerage Projects - Continued			
Enterprise Wallowa	Alvin Kuhn Property Sewer	9/3/75	Provisional Approval
Multnomah Co.	N.E. 158th Ave. Pump Station	9/4/75	Provisional Approval
Corvallis Benton	Add. #1 - STP Project	9/4/75	Approved
Florence Lane	C.O. #1, 2 & 4 N.Florence Sewer	9/5/75	Approved
Bend Deschutes	Experimental Sewer Construction (Vacuum & Pressure Systems)	9/8/75	Provisional Approval
Salem (Willow) Marion	Hill Villa Hts. Sewer	9/8/75	Provisional Approval
Lake Oswego Clackamas	Bryant Woods #5 Subdn. Sewers	9/8/75	Provisional Approval
Waldport Lincoln	Main "A" Sewer Extension	9/9/75	Provisional Approval
Corvallis Benton	Add. #2 STP Project	9/9/75	Approved
Depoe Bay Lincoln	C.O. Nos. 1 - 4 Sewers; C.O. Nos. 1 & 2 STP	9/9/75	Approved
La Grande Union	Sunnyhill Acres Subdn. Sewers	9/9/75	Provisional Approval
La Grande Union	Y Ave. Sewer	9/9/75	Provisional Approval
NTCSA Tillamook	C.O. #A-2 Sch. III Sewer Project	9/11/75	Approved
USA (Aloha) Washington	Perrowood Subdn. Sewers	9/11/75	Provisional Approval

Monthly Activity Report

Water Quality (Program) — September 1975 (Month and Year)

PLAN ACTIONS COMPLETED (118 - con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sewerage Projects - Continued			
Prineville Crook	Loper Ave. Sewer.	9/12/75	Provisional Approval
N. Umpqua S.D. Douglas	Broad St. San. Sewer	9/12/75	Provisional Approval
Philomath Benton	Woodsman Tavern Sewer Ext.	9/12/75	Provisional Approval
La Grande Union	Coalwell Subdn. Sewers	9/12/75	Provisional Approval
Prairie City Grant	Pump Station & Force Main - Depot Pk. Subdn.	9/12/75	Provisional Approval
Gresham Multnomah	A & Z Development Subdn. Sewers	9/15/75	Provisional Approval
West Linn Clackamas	Village Park Place Subdn. Sewers	9/15/75	Provisional Approval
Hillsboro Washington	Minter Br. Rd. Sewers	9/15/75	Provisional Approval
Hillsboro Washington	Eastwood No. 2 Subdn. Sewers	9/15/75	Provisional Approval
Bend Deschutes	Central Oregon Comm.College Septic Tank & Chlorination	9/15/75	Provisional Approval
Bend Deschutes	Add. #1 Pressure Sewers	9/16/75	Approved
Portland Multnomah	C.O. #3 Columbia Blvd. STP Grit Facilities	9/16/75	Approved
Grants Pass Josephine	10 Misc. Change Orders	9/17/75	Approved
Inverness Multnomah	Raygo - Wagner Sewer	9/17/75	Provisional Approval
Ashland Jackson	Clover Lane Sewer	9/17/75	Provisional Approval

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Water Quality (Program) — September 1975 (Month and Year)

PLAN ACTIONS COMPLETED (118 - con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sewerage Projects - Continued			
Wilsonville Clackamas	Wilsonville Business Park Sewer	9/17/75	Provisional Approval
Milwaukie Clackamas	Rowe Hts. Subdn. Sewers	9/17/75	Provisional Approval
Keizer S.D. #1 Marion	Riverview North, Ph. 1 Subdn Sewers	9/17/75	Provisional Approval
C.C.S.D. #1 Clackamas	Coventry Hill Subdn. Sewers	9/17/75	Provisional Approval
USA (Forest Gr.) Washington	Camelot Care Center Sewer	9/18/75	Provisional Approval
USA (Metzger) Washington	Robinson Property Sewer	9/19/75	Provisional Approval
USA (Metzger) Washington	Sorrento Ridge No. 1 Sewer	9/19/75	Provisional Approval
Corvallis Benton	Addendum #4 STP	9/19/75	Approved
USA (Forest Gr.) Washington	Forest Gale Heights #6	9/19/75	Provisional Approval
Canby Clackamas	Phase II South Douglas St.	9/19/75	Provisional Approval
Milton-Freewater Umatilla	McBride Sewer	9/22/75	Provisional Approval
Lake Oswego Clackamas	3 Projects	9/22/75	Provisional Approval
Gresham Multnomah	N.E. 197th Ave. Sewer	9/22/75	Provisional Approval
BCVSA Jackson	Diamond St. Sewer	9/22/75	Provisional Approval

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PLAN ACTIONS COMPLETED (118 - con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sewerage Projects - Continued			
Salem (Wallace Rd.) Marion	Glen Creek Trunk Phase II	9/22/75	Provisional Approval
USA (Aloha) Washington	Ron Geiger Sewer	9/23/75	Provisional Approval
Lafayette Marion	C.O. #3 for STP	9/23/75	Approved
Bend Deschutes	Addendum No. 2 Bend R & D Project	9/23/75	Approved
USA (Metzger) Washington	2 Projects	9/23/75	Provisional Approval
Oak Lodge S.D. Clackamas	Chris Subdivision Sewers	9/23/75	Provisional Approval
Gresham Multnomah	Sugarbush Sewer	9/23/75	Provisional Approval
USA (Rock Cr.) Washington	Add. #1 Contr. 15 STP	9/24/75	Approved
McMinnville Yamhill	N.W. Cozine - Shadowood San. Sewer	9/25/75	Provisional Approval
USA (Rock Cr.) Washington	C.O. #1, Contr. 2-A	9/25/75	Approved
USA (Rock Cr.) Washington	C.O. #1, Contr. 9	9/25/75	Approved
USA (Forest Gr.) Washington	C.O. #5 STP Project	9/25/75	Approved
Corvallis Benton	Add. #3 STP Project	9/25/75	Approved
Inverness Multnomah	Argay Square Sewers	9/26/76	Provisional Approval

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PLAN ACTIONS COMPLETED (118 - con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sewerage Projects - Continued			
Gresham Multnomah	Fairlawn Nursing Home	9/26/75	Provisional Approval
St. Helens Columbia	Shore Drive Sewer	9/26/75	Provisional Approval
USA (Metzger) Washington	Wilson Park No. 10 Subdn. Sewers	9/26/75	Provisional Approval
McMinnville Yamhill	Shadowood Subdn. Sewers	9/29/75	Provisional Approval

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PLAN ACTIONS COMPLETED (118 - con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Industrial Waste Sources - (21)			
Portland Multnomah	Rhodia Inc. Plant Drainage Preliminary Plans	9/3/75	Approved
Clackamas Clackamas	Lee Schweitzer - Animal Waste	9/4/75	Approved
Corbett Multnomah	Kerslake Bros. - Animal Waste	9/4/75	Approved
Lowell-Jasper Lane	Brand S, Natron Division Veneer Dryer Waste Water Recirculation	9/4/75	Approved
Woodburn Marion	Robert Davenport - Animal Wastes	9/5/75	Approved
West Linn Clackamas	Paul Weber Farm - Animal Waste	9/5/75	Approved
Independence Polk	Franklin Swede Oil Recovery System	9/5/75	Approved
Philomath Benton	Hobin Lumber Co. Storm Drainage Improvements	9/8/75	Approved
Albany Linn	Teledyne-Wah Chang Neutralization Improvements	9/9/75	Approved
Portland Multnomah	Liquid Air, Inc. Waste Water Treatment Facilities	9/9/75	Approved
Portland Multnomah	Phillips Petroleum Co. - Oil/Water Separator Modification	9/10/75	Approved
North Plains Washington	Hans Schoch - Animal Wastes	9/11/75	Approved
Rural Klamath	William DeJong - Animal Waste	9/15/75	Approved

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PLAN ACTIONS COMPLETED (118 - con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Industrial Waste Sources - Continued			
Eugene Lane	Green Brothers Packing Waste Storage Pond	9/16/75	Approved
Albany Linn	Willamette Industries Duraflake - Waste Water Elimination	9/22/75	Approved
Toledo Lincoln	Georgia Pacific Scrubber Water Recirculation	9/24/75	To Air Quality for Action
Portland Multnomah	Oregon Steel Mills Rivergate Waste Water Treatment	9/25/75	Approved
McKenzie River Lane	Oregon Fish & Wildlife Cleaning Waste Preliminary Plans	9/29/75	Approved
Vaughn Lane	International Paper Veneer Dryer Waste Water Recirculation	9/30/75	Condition deleted from permit.
Roseburg Douglas	Nordic Veneers Inc. Diversion Storm Water	9/30/75	Approved
Portland Multnomah	Portland Willamette Plating Waste Treatment	9/30/75	Approved

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PLAN ACTIONS PENDING (25)

City and County	Name of Source/Project/ Site & Type of Same	Date Received	Status
Municipal Sewerage Projects - (20)			
Curry	Harbor SD - Holly Lane Sewer	2/4/75	Held pending construction of Harbor SD System. Response dated 2/19/75.
Douglas	Spendthrift Mobile Park STP	2/14/75	Plans approvable waiting for bond required by ORS 454.425. Letter 6/27/75.
Lincoln	Starfish Cove Motel STP	4/25/75	Review completed, letter to engineer 9/16/75. Bond unresolved, licensing unresolved, property under receivership & ownership questionable.
Linn	Pioneer Villa Motel STP Expansion Preliminary	7/15/75	Requested additional information & required the services of a P.E. in phone call to Mr. Robert Stulrs 7/18/75.
Douglas	Ranch Road Pressure Sewer System	8/19/75 Revised 9/25/75	Under review. (Review completion 10/17/75).
Chiloquin Klamath	Chiloquin STP	9/4/75	Under review. (Review completion 10/3/75).
Corvallis Benton	Western View Subdivision 2nd Addition Sewers	9/22/75	Under review. (Review completion 10/6/75).
Ontario Malheur	Treasure Valley Mobile Village	9/24/75	Under review. (Review completion 10/8/75).
USA (Aloha) Washington	Cross Creek South Subdivision Sewers	9/25/75	Under review. (Review completion 10/2/75).
McMinnville Yamhill	N. W. Cozine-Shadowood	9/25/75	Under review. (Review completion 10/1/75).
Klamath Falls Klamath	College Park Industrial Park Sewer	9/25/75	Requested resubmission by phone 9/26/75.
Ontario Malheur	Eastside Lift Station	9/25/75	Under review. (Review completion 10/7/75).
Milwaukie Clackamas	Cole Addition Sewers	9/26/75	Under review. (Review completion 10/6/75).

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PLAN ACTIONS PENDING (25 - con't)

City and County	Name of Source/Project/ Site & Type of Same	Date Received	Status
Municipal Sewerage Projects - Continued			
Eugene Lane	Beltline Rd. Sewer	9/26/75	Under review. (Review completion 10/3/75)
Woodburn Marion	Mt. Hood Ave. Sewer	9/26/75	Under review. (Review completion 10/8/75)
Glendale Douglas	Montgomery St. Sewer	9/26/75	Under review. (Review completion 10/9/75)
Salem Marion	Hurl Acres Subdivision Sewers	9/29/75	Under review. (Review completion 10/10/75)
Gladstone Clackamas	Oatfield Rd. Sewer	9/30/75	Waiting review. (Review completion projected 10/13/75)
Portland Multnomah	S. W. Flower Pl.Sewer	9/30/75	Waiting review. (Review completion projected 10/15/75)
Gold Hill Jackson	Lela Hatton Subdivision Sewers	9/30/75	Waiting review. (Review completion projected 10/16/75)
Industrial Waste Sources - (5)			
Klamath Falls Klamath	Weyerhaeuser Bark & Debris Control	4/24/75	Held pending review of log handling policies
Astoria Clatsop	Astoria Plywood Boiler Blowdown Water Lagoon	8/29/75	Review completion projected 10/6/75
Trask River Bridge Tillamook	Oregon State Highway Painting Methods	9/11/75	Review completion projected 10/6/75
Drain Douglas	Drain Plywood Waste Collection	9/29/75	Resubmitted - review completion projected 10/10/75
Portland Multnomah	Ameron Pipe Products Waste Treatment Facilities	9/30/75	Review completion projected 10/21/75

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PERMIT ACTIONS COMPLETED (34)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sources (10)			
Reedsport Douglas	Spendthrift Mobile Home Park Sewage Disposal	9/5/75	State Permit Renewed
Bend Deschutes	City of Bend Sewage Disposal	9/5/75	State Permit Renewed
Phoenix Jackson	City of Phoenix Sewerage System	9/5/75	State Permit Issued
Rufus Sherman	City of Rufus Sewage Disposal	9/5/75	State Permit Issued
Wasco Sherman	City of Wasco Sewage Disposal	9/5/75	State Permit Renewed
Metolius Jefferson	City of Metolius Sewage Disposal	9/5/75	State Permit Issued
- Deschutes	Brooks Resources Corp. Black Butte Ranch	9/9/75	State Permit Renewed
Corvallis Benton	City of Corvallis Airport Lagoon	9/18/75	NPDES Permit Modified
Chiloquin Klamath	City of Chiloquin Sewage Disposal	9/18/75	NPDES Permit Modified
Prineville Crook	City of Prineville Sewage Disposal	9/18/75	MPDES Permit Modified
Industrial & Commercial (20)			
Tygh Valley Wasco	Tygh Valley Sand & Gravel Aggregate Plant	9/5/75	State Permit Renewed
Browntown Josephine	North Star Mining Co. Placer Mine	9/5/75	State Permit Issued
White City Jackson	Royal Oak Charcoal Co. Medford Division	9/5/75	State Permit Renewed
Wilsonville Clackamas	Joe Bernert Towing Co. Aggregate Plant	9/5/75	State Permit Renewed

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City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Industrial & Commercial - Continued			
The Dalles Wasco	Muirhead Canning Co. Fruit Processing	9/5/75	State Permit Renewed
Portland Multnomah	Widing Transportation Portland Terminal	9/5/75	State Permit Issued
Oak Grove Hood River	Luhr Jensen & Sons Metal Plating	9/9/75	State Permit Issued
Redmond Deschutes	Brooks Willamette Redmond Plywood	9/9/75	State Permit Issued
Metolius Jefferson	Gourmet Food Products Potato Processing	9/9/75	State Permit Renewed
Sheridan Yamhill	Sheridan Packing Co. (Formerly Simmons Packing)	9/16/75	State Permit Transferred
Dundee Yamhill	Gray & Company (Formerly Norpac Growers)	9/16/75	NPDES Permit Transferred
Dundee Yamhill	Gray & Company (Formerly Westnut Inc.)	9/16/75	NPDES Permit Transferred
Astoria Clatsop	Barbey Packing (Formerly Union Sea Foods)	9/16/75	NPDES Permit Transferred
Grants Pass Josephine	SWF Plywood Co. (Formerly Carolina Pacific)	9/16/75	State Permit Transferred
Progress Washington	Willamette Hi-Grade Concrete Progress Plant	9/18/75	NPDES Permit Modified
Gardiner Douglas	International Paper Co. Gardiner	9/18/75	NPDES Permit Modified
Lakeside Coos	Lakeside Water District Water Filtration Plant	9/18/75	NPDES Permit Modified
Coquille Coos	Georgia Pacific Corp. Coquille Plywood Plant	9/18/75	NPDES Permit Modified
Barton Clackamas	Barton Sand & Gravel Aggregate Plant	9/18/75	State Permit Issued
Sutherlin Douglas	Mt. Mazama Plywood Co. (Formerly Nordic Plywood)	9/24/75	State Permit Renewed

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PERMIT ACTIONS COMPLETED (34 - con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Agricultural (4)			
- Benton	Dept. of Fish & Wildlife Alsea Hatchery	9/18/75	NPDES Permit Modified
- Deschutes	Dept. of Fish & Wildlife Fall River Hatchery	9/18/75	NPDES Permit Modified
- Wasco	Dept. of Fish & Wildlife Oak Springs Hatchery	9/18/75	NPDES Permit Modified
- Jefferson	Dept. of Fish & Wildlife Round Butte Hatchery	9/18/75	NPDES Permit Modified

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PERMIT ACTIONS PENDING (169)

City and County	Name of Source/Project/ Site & Type of Same	Date of Initial Appl.	Date of Completed Appl.	Type of Action and Status
Municipal and Industrial Sources (41 NPDES)				
NPDES Permits				
Rainier Columbia	Cascade Energy Oil Refinery	4/11/74	11/20/74	(N) Director's Final Review
Astoria Clatsop	Sundown SD Sewage Plant	4/24/74	-	(E) Applicant Review
Columbia City Columbia	Charter Energy Oil Refinery	9/13/74	11/30/74	(N) Director's Final Review
Portland Multnomah	CIRI Oil Refinery	11/1/74	11/30/74	(N) Director's Final Review
Lebanon Linn	Pineway Apartments Sewage Plant	3/6/75		(E) EPA Final Review
Baker Baker	Parkerville Placers Placer Mining	3/25/75	4/24/75	(N) Permit not Required until 1976
Bandon Coos	Ocean Spray Cranberries Proposed New Facility	4/3/75	5/1/75	(E) Public Notice
Portland Multnomah	Chempro of Oregon Disposal of Oil & Chemicals	4/4/75	5/1/75	(N) EPA Final Review
Springfield Lane	Parker & Son Tire Co. Truck Wash	4/8/75	5/1/75	(E) Hold request by applicant
Springfield Lane	SWF Plywood Log Pond Overflow	4/9/75	5/1/75	(R) Applicant Review
Elgin Union	Boise Cascade Wood Products	4/30/75	5/1/75	(R) Drafted
Amity Yamhill	City of Amity	5/13/75	5/23/75	(N) EPA Final Review
Drain Douglas	City of Drain Sewage Plant	5/19/75	5/23/75	(E) EPA Final Review

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PERMIT ACTIONS PENDING (169 - con't)

City and County	Name of Source/Project/ Site & Type of Same	Date of Initial Appl.	Date of Completed Appl.	Type of Action and Status
NPDES Permits - Continued				
Arlington Gilliam	PGE - Pebble Springs Proposed Nuclear Facility	5/21/75	6/23/75	(N) Agency Review
Lane	Lane County Parks Camp Lane Sewage	5/27/75	5/30/75	(R) Drafted
Shady Cove Jackson	Shady Vista Mobile Park Sewage Plant	5/27/75	5/30/75	(E) EPA Final Review
Sutherlin Douglas	Roseburg Lumber Co.	5/30/75	6/2/75	(E) EPA Final Review
Ashland Jackson	Don Callahan's, Inc.	6/2/75	6/4/75	(E) EPA Final Review
Merrill Klamath	Klamath Potato Potato Washing	6/3/75	6/4/75	(E) To be Drafted in October
Sheridan Yamhill	John C. Taylor Lumber Wood Preserving	6/13/75		(E) Drafted
Portland Multnomah	Harbor - 1 Moorage Sewage Disposal	6/16/75		(E) EPA Final Review
Portland Multnomah	Columbia River Yacht Club - Sewage Disposal	6/20/75	6/20/75	(E) EPA Final Review
Portland Multnomah	Stevens Moorage Sewage Disposal	6/23/75	6/23/75	(E) EPA Final Review
Portland Multnomah	Cosmopolitan Airtel Sewage Disposal	7/7/75	7/8/75	(R) Drafted
Lane	Dept. of Fish & Wildlife McKenzie River Salmon Hatchery	7/15/75	7/16/75	(N) New Facility Draft In October
Milton-Freewater Umatilla	Rogers Walla Walla Vegetable Processing	7/15/75	7/17/75	(R) Drafted
Powers Coos	City of Powers Sewage Disposal	7/17/75	7/17/75	(R) Applicant Review

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City and County	Name of Source/Project/ Site & Type of Same	Date of Initial Appl.	Date of Completed Appl.	Type of Action and Status
NPDES Permits - Continued				
Port Orford Curry	City of Port Orford Sewage Disposal	7/17/75	7/17/75	(R) Renew before 11/30/75
Ashland Jackson	City of Ashland Sewage Disposal	7/18/75	7/23/75	(R) Applicant Review
Harrisburg Linn	City of Harrisburg Sewage Disposal	7/18/75	7/23/75	(R) Drafted
Hillsboro Washington	City of Hillsboro Rock Creek STP	7/18/75	7/23/75	(R) Renew before 12/31/75
Lincoln City Lincoln	City of Lincoln City Sewage Plant	7/21/75	7/23/75	(R) Drafted
Hillsboro Washington	Unified Sewerage Agency Rock Creek Plant	7/23/75	7/25/75	(N) Proposed Plant
Hermiston Umatilla	City of Hermiston Sewage Plant	7/25/75	7/25/75	(R) Drafted
Portland Multnomah	Anodizing, Inc. Aluminum Anodizing	8/8/75	8/11/75	(R) Renew before 12/31/75
Portland Multnomah	T & W Equipment Co.	8/7/75	8/11/75	(R) Renew before 12/31/75
Corvallis Benton	Bermico Company Corvallis Plant	8/21/75	8/22/75	(R) Renew before 12/1/75
Eugene Lane	Coca Cola Bottling Co. Eugene	9/8/75	9/9/75	(E) Applicant Review
Oregon City Clackamas	South Fork Water Board Water Filtration Plant	8/28/75	8/28/75	(E) To Draft in October
- Morrow	Portland General Elec. Boardman Steam Electric Plant	8/19/75	9/9/75	(N) Proposed Facility
Portland Multnomah	Schnitzer Investment Corp. - International Terminals Division	9/5/75	9/15/75	(N) Proposed Facility

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City and County	Name of Source/Project/ Site & Type of Same	Date of Initial Appl.	Date of Completed Appl.	Type of Action and Status
Modifications (85) - 2/				
Various	12 NPDES Permit Modifications	Various	Various	Pencil Draft
Various	22 NPDES Permit Modifications	Various	Various	Applicant Review
Various	21 NPDES Permit Modifications	Various	Various	Public Notice
Various	30 NPDES Permit Modifications	Various	Various	EPA final Review
State Permits Pending (43)				
Various	33 State Permits	Various	Various	Not Drafted 1/
Various	7 State Permits	Various	Various	Pencil Drafts
Various	3 State Permits	Various	Various	Applicant Review

1/ Most of these applications are for renewal of existing permits. The old permit remains in force until the new permit is drafted.

(N) Refers to an application for a new facility.

(E) Refers to an existing facility which either has a new discharge or has been operating without the proper permit.

(R) Refers to renewal of an existing permit.

2/ Pending modification actions were not included in previous reports.

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PLAN ACTIONS COMPLETED (12)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Direct Stationary Sources (12)			
Tigard, Washington	Columbia Hardwood & Moulding new 30 unit Peerless wood sawdust storage bin	9/4/75	Approved
Portland, Multnomah	Supreme Perlite Co., new baghouse for existing furnace	9/4/75	Approved
Portland, Multnomah	Gilmore Steel (Direct Reduction Div.), expansion of bentonite unloading building	9/11/75	Approved
Pendleton, Umatilla	St. Anthony Hospital, new pathological incinerator	9/11/75	Approved
Lake Oswego, Clackamas	Oregon Portland Cement, conversion of #4 kiln from oil to coal-fired	9/17/75	Approved
Portland, Multnomah	Atlantic Richfield, new steam boiler (residual fuel oil fired)	9/17/75	Approved
Dillard, Douglas	Round Prairie Lumber, new shavings cyclone	9/18/75	Approved
Tigard, Washington	Georgia-Pacific Corporation new Bayco Burnout oven for the machine shop	9/23/75	Approved
Salem, Marion	Fairview Hospital & Training Center, new 50 lb/hr pathological incinerator	9/24/75	Approved
Portland, Multnomah	Port of Portland, bulk commodity rail shipping, receiving and ship loading and unloading facility	9/29/75	Approved

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PLAN ACTIONS COMPLETED (12 con't).

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Direct Stationary Sources (continued)			
Clatskanie, Columbia	Kaufmann Chemical Corporation bulk sulfur rail receiving and ship loading facility	9/29/75	Canceled
Portland, Multnomah	Oregon Steel Mills, Rivergate modifications to fume control system for both electric arc furnaces	9/30/75	Approved
Indirect Sources (0)			

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PLAN ACTIONS PENDING (11)

City and County	Name of Source/Project/ Site & Type of Same	Date Received	Status
Direct Stationary Sources (11)			
Salem, Marion	Boise Cascade, new countercurrent pulp washers. 1/	7/7/74	Review completed. Expect approval by 10/10/75.
Eagle Creek, Clackamas	Eagle Foundry Co., two new induction furnaces and associated grinding equipment. 1/	5/27/75	Additional information received 9/28/75. Expect completion of review by 10/10/75.
Umatilla, Umatilla	Western Farmers Asso., new bulk fertilizer blending plant 2/	6/9/75	Requested additional information on 6/18/75. 3/
Toledo, Lincoln	Georgia-Pacific scrubber on hog fuel boilers Nos. 3 & 4. 1/	6/16/75	Scrubber determined inadequate. Department requested that G-P withdraw application by 9/17/75.
Beaverton, Washington	D.G. Shelter Products, new baghouse for control of sanderdust. 1/	8/8/75	Additional information received 9/23/75. Expect completion of review by 10/10/75.
Newport, Lincoln	Pacific Communities Hospital, new 200 lb. batch fed incinerator. 1/	9/1/75	Review completed. Expect approval by 10/10/75.
Central Point, Jackson	Hilton Fuel, two new cyclones to handle wood waste. 1/	9/11/75	Requested additional information 9/19/75. 3/
Portland, Multnomah	Columbia Steel Casting, replacement of two existing baghouses with one large baghouse for the sand shakeout and bucket elevator system. 1/	9/23/75	Expect completion of review by 10/17/75. Approval by 10/31/75.

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PLAN ACTIONS PENDING (11 - con't)

City and County	Name of Source/Project/ Site & Type of Same	Date Received	Status
Direct Stationary Sources (continued)			
Portland, Multnomah	Columbia Steel Casting, new baghouse for handling particulate emissions from four grinding booths, 1/	9/23/75	Expect completion of review by 10/17/75. Approval by 10/31/75.
LaGrande, Union	Boise Cascade, new multiclones for sanderdust boilers. 1/	9/26/75	Requested additional information 9/30/75. 3/
Hines, Harney	E. Hines Lumber Co. new Doyle scrubber for #5 hog fuel boiler. 1/	9/26/75	Requested additional information 9/30/75. 3/

Indirect Sources (0)

Footnotes:

1/ These plan reviews are for modifications or additions to existing facilities. Pending action by the Department is not materially affecting production or operation of the facility.

2/ These plan reviews are for new facilities. Production or operation of the facility is dependent on Department action.

3/ Expect action within 20 days of receipt of requested information.

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PERMIT ACTIONS COMPLETED (137)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
New Direct Sources (1)			
Clatskanie, Columbia	Kaufmann Chemical Corp. bulk sulfur rail receiving and ship loading facility	9/29/75	Canceled.
New Indirect Sources (2)			
Multnomah	Waverly Greens 145 space residential parking facility	9/6/75	Final permit issued.
Central Point Area, Jackson	Jackson County Exhibition Park, 1500+ fairgound parking	9/29/75	Application Canceled.
Existing Direct Sources (57)			
Coos, Coos Bay	Coos Head Timber Company 06-0005, Plywood Plant	9/3/75	Permit Issued
Clackamas, Estacada	Milwaukie Plywood 03-1785, Veneer Plant	9/8/75	Permit Issued
Clatsop, Seaside	Kohl, Inc. 04-0044, Hardwood Mill	9/8/75	Permit Issued
Multnomah, Portland	R. C. Long Shake Co. 26-2161, Shake & Shingle Mill	9/8/75	Permit Issued
Multnomah, Portland	Nu-Way Oil Co. 26-2464, Petroleum Re-Refining	9/8/75	Permit Issued
Multnomah, Portland	North Portland Lumber Co. 26-2584, Sawmill	9/8/75	Permit Issued
Tillamook, Nehalem	Foley Creek Shake Co. 29-0039, Shake & Shingle Mill	9/8/75	Permit Issued
Washington, Verboort	Kindel's Verboort Sausage Co. 34-2038, Smokehouse	9/8/75	Permit Issued
Washington, Beaverton	Reser's Fine Foods 34-2624, Smokehouse	9/8/75	Permit Issued
Multnomah, Portland	Acme Trading & Supply 26-2070, Metal Smelting, Incinerator	9/3/75	Permit Issued

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PERMIT ACTIONS COMPLETED (137 con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Existing Direct Sources (57 con't)			
Multnomah, Portland	Cargill, Inc. 26-2009, Fee change	9/3/75	Permit Issued
Multnomah, Portland	Lloyd A. Fry Roofing 26-2472	9/16/75	Issued Addendum #1
Clackamas, West Linn	Crown Zellerbach 03-2145, Boiler	9/10/75	Permit Issued
Coos, Bandon	Southern Coos General Hospital 06-0072, Boiler, Incinerator	9/9/75	Permit Issued
Coos, Coos Bay	Bay Area Hospital 06-0077, Boiler, Incinerator	9/9/75	Permit Issued
Deschutes, Bend	Bend Millwork Co. 09-0015, Millwork	9/9/75	Permit Issued
Deschutes, Redmond	Ponderosa Mouldings 09-0017, Millwork	9/9/75	Permit Issued
Deschutes Bend	Mid-Oregon Iron Works 09-0025, Gray Iron Foundry	9/9/75	Permit Issued
Deschutes, Bend	Desoto-Kerns 09-0036, Furniture	9/9/75	Permit Issued
Douglas Riddle	C & D Lumber 10-0009, Sawmill	9/9/75	Permit Issued
Douglas, Roseburg	Pacific Building 10-0042, Boiler	9/9/75	Permit Issued
Douglas, Drain	Woolley Enterprises 10-0050, Sawmill	9/9/75	Permit Issued
Douglas, Roseburg	A.F. Soar 10-0065, Boiler	9/9/75	Permit Issued
Douglas, Myrtle Creek	Green Valley Lumber 10-0071, Sawmill	9/9/75	Permit Issued
Douglas, Roseburg	Umpqua Dairy Products 10-0107, Boiler	9/9/75	Permit Issued

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Air Quality Control — (Program)

September 1975 — (Month and Year)

PERMIT ACTIONS COMPLETED (137 con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Existing Direct Sources (57 con't)			
Hood River, Cascade Locks	Hood River Sand, Gravel & Ready Mix 14-0012, Rock	9/9/75	Permit Issued
Hood River, Hood River	Diamond Fruit Growers 14-0021, Boiler	9/9/75	Permit Issued
Lincoln Newport	Pacific Communities Hospital 21-0038, Boiler, Incinerator	9/9/75	Permit Issued
Lincoln, Toledo	New Lincoln Hospital 21-0040, Boiler, Incinerator	9/9/75	Permit Issued
Morrow, Boardman	Ready Mix Sand & Gravel 25-0017, Rock Crusher	9/9/75	Permit Issued
Multnomah, Portland	Armour & Company 26-2087, Smokehouse	9/10/75	Issued Addendum #1
Umatilla, Hermiston	E. S. Schnell 30-0069, Rock Crusher	9/9/75	Permit Issued
Portable	L.W. Vail 37-0092, Rock Crusher	9/9/75	Permit Issued
Umatilla, Hermiston	The Good Shepherd Hospital 30-0072, Incinerator	9/29/75	Permit Issued
Washington, Portland	RTE Corporation 34-2504, Incinerator	9/29/75	Permit Issued
Portable	Roseburg Sand & Gravel 37-0006, Rock Crusher	9/29/75	Permit Issued
Portable	Cody Logging & Construction 37-0105, Rock Crusher	9/29/75	Permit Issued
Multnomah, Portland	Supreme Perlite Co. 26-2390	9/18/75	Issued Addendum #1
Multnomah, Portland	Acme Trading & Supply 26-2070	9/18/75	Issued Addendum #1
Multnomah, Portland	Rogers Construction 26-2540	9/22/75	Issued Addendum #1

Air Quality Control (Program) — September 1975 (Month and Year)

PERMIT ACTIONS COMPLETED (137 con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Existing Direct Sources (57 con't)			
Washington, Sherwood	Arthur W. Eaton 34-2022, Rock Crusher	9/22/75	Issued Permit
Douglas, Reedsport	Bohemia 10-0097, Rock Crusher	9/16/75	Permit Issued
Washington, Hillsboro	General Foods 34-2588, Boiler	9/17/75	Permit Issued
Washington, Portland	Flintkote 26-1845, Asphalt Felts & Coating	9/29/75	Permit Issued
Baker, Baker	Ellingson Timber Company 01-004, Plywood	9/29/75	Permit Issued
Coos, Coquille	Coquille Valley Hospital 06-0073, Incinerator	9/29/75	Permit Issued
Douglas, Sutherlin	Mt. Mazama Plywood 10-0022, Plywood	9/29/75	Permit Issued
Douglas, Roseburg	Roseburg Shingle & Stud 10-0026, Sawmill & Shake Mill	9/29/75	Permit Issued
Douglas, Roseburg	Douglas County Farm Bureau Coop 10-0041, Grain Mill	9/29/75	Permit Issued
Douglas, Roseburg	Umpqua Sand & Gravel 10-0091, Rock Crusher	9/29/75	Permit Issued
Douglas, Roseburg	Dan M. Parker 10-0109, Rock Crusher	9/29/75	Permit Issued
Jackson, Ashland	Ashland Community Hospital 15-0076, Incinerator, Boiler	9/29/75	Permit Issued
Jackson, Medford	Rogue Valley Memorial Hospital 15-0080, Boiler, Incinerator	9/29/75	Permit Issued
Jackson, Central Point	Grange Cooperative Supply 15-0084, Grain Mill, Boiler	9/29/75	Permit Issued
Jackson, Ashland	Southern Oregon State College 15-0088, Boiler	9/29/75	Permit Issued

PERMIT ACTIONS COMPLETED (137 con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Existing Direct Sources (57 con't)			
Josephine, Grants Pass	Josephine Growers Coop Asso. 17-0049, Grain Mill	9/29/75	Permit Issued
Tillamook, Nehalem	C. B. Shingle Mill 29-0038, Shake & Shingle Mill	9/29/75	Permit Issued
Fuel Burning (Boiler) (77)			

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Air Quality Control (Program) — September 1975 (Month and Year)

PERMIT ACTIONS PENDING (134)

City and County	Name of Source/Project/ Site & Type of Same	Date of Initial Appl.	Date of Completed Appl.	Type of Action and Status
(New Sources ---------------------- 30 ---------------------------- See listing below)				
(Existing Sources ---------------- 104 ------------------------------ See Footnote 1/)				
New Direct Stationary Sources (2)				
Durham, Washington	USA, New sludge incinerator, lime recalciner and steam boilers	12/21/74	6/27/75	Expect comments on proposed permit by 10/15/75
John Day, Grant	Edward Hines Lumber Co. Sawmill	8/14/75	8/18/75	Expect public notice on proposed permit by 10/15/75.
New Indirect Sources (28)				
Beaverton, Washington	Edwards Industries Apartments, 218 space parking facility	7/27/73		Inquiry as to status of project 6/25/75 Applicant requests application remain pending, construction delayed.
Portland, Multnomah	Lloyd Corporation, 1564 space expansion shopping center parking facility	7/12/74		Inquiry as to status of project 6/25/75. Applicant requests application remain pending, construction delayed.
Milwaukie Area, Clackamas	Clackamas Town Center 6000+ shopping center	7/19/74		Application pending, land use approval still not final.
Rockwood Area, Multnomah	Mt. Hood Mall, 6000+ shopping center	7/19/74		EIS to be submitted land use approval not final.
Oak Grove Area, Clackamas	Stuart Andersons' Black Angus, 115 space parking facility	4/14/75	9/26/75	Proposed permit to be issued by 10/17/75

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Air Quality Control (Program)

September 1975 (Month and Year)

PERMIT ACTIONS PENDING (134 - con't)

City and County	Name of Source/Project/ Site & Type of Same	Date of Initial Appl.	Date of Completed Appl.	Type of Action and Status
New Indirect Sources (28 - con't)				
Clackamas Area, Clackamas	Clackamas Industrial Complex, 68+ space parking facility	4/21/75		Requested additional information 5/5/75. Including revision of size of facility to no more than 44 spaces.
Portland, Multnomah	Culver Brown Apts., 63 spaces parking facility	4/27/75		Requested additional information, transit incentive program, 6/9/75.
Beaverton, Washington	Herzog Motors, 91 space auto sales facility	6/17/75	9/26/75	Proposed permit to be issued 10/17/75.
Lents Area, Multnomah	Tri-Met bus parking and service facility 220 auto and 250 bus parking spaces.	6/19/75		Request for additional information 7/2/75. Request reduction in auto spaces, transit incentive program and noise impact information.
Tigard, Washington	McDonald, 81 space space restaurant parking facility	6/17/75	7/17/75	Final permit to be issued 10/10/75.
S.E. Area, Multnomah	Albertson's, Inc., expansion of existing facility resulting in 131 space parking facility	7/3/75	9/9/75	Final permit to be issued 10/3/75.
Portland, Multnomah	Steak & Ale, Sellwood, 113 space restaurant parking facility.	7/7/75	7/15/75	Final permit issued 10/3/75.
Portland, Multnomah	Rhodes Building (Olds and King) 113 space parking facility	7/7/75	9/30/75	Proposed permit to be issued 10/10/75.

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Air Quality Control (Program) — September 1975 (Month and Year)

PERMIT ACTIONS PENDING (134 - con't)

City and County	Name of Source/Project/ Site & Type of Same	Date of Initial Appl.	Date of Completed Appl.	Type of Action and Status
New Indirect Sources (28 - con't)				
Portland, Multnomah	YMCA Metro Center, 93 space parking facility	8/7/75		Requested additional information 8/25/75. Air sampling required.
Portland, Multnomah	Providence Medical Center, 375-450 facility	8/25/75		Requested additional information 9/12/75 (environmental assessment).
Indirect Sources (continued)				
Salem, Marion	North Santiam Hwy., 30,000 ADT	6/24/75		Proposed permit to be issued by 10/17/75.
Beaverton, Washington	U-Mark Grocery Store, 106 space parking facility	8/20/75	9/17/75	Proposed permit to be issued 10/3/75.
Clackamas, Clackamas	U-Mark Warehouse Market, 95 space parking facility	8/27/75	9/29/75	Proposed permit to be issued 10/17/75
Portland, Multnomah	Warner-Pacific College, 172 space parking facility	8/14/75	8/20/75	Proposed permit to be issued 10/3/75.
Portland, Multnomah	West Portland Park and Ride Station, 300 space parking facility and exclusive bus lanes along Barbur boulevard	8/22/75	8/20/75	Noise review in progress. Proposed permit to be issued 10/17/75.
Cedar Mill Area, Washington	Tannasbourne, 201 space parking addition	7/11/75	9/19/75	Proposed permit to be issued 10/3/75.
Beaverton, Washington	Center Square Apartments, 96 space parking facility	9/3/75		Additional information requested 9/23/75.

Monthly Activity Report

Air Quality Control (Program) — September 1975 (Month and Year)

PERMIT ACTIONS PENDING (134 - con't)

City and County	Name of Source/Project/ Site & Type of Same	Date of Initial Appl.	Date of Completed Appl.	Type of Action and Status
New Indirect Sources (28 - con't)				
Fairview, Multnomah	Fairview Shopping Center, 300 space parking facility	9/15/75	9/29/75	Proposed permit to be issued 10/10/75.
Portland, Multnomah	Farwest Center 62 space parking facility	9/15/75	9/29/75	Proposed permit to be issued by 10/17/75.
Clackamas, Clackamas	Fred Meyer Distribution Center, 800 space parking facility	9/8/75		Additional information on parking needs and transit incentives requested 9/24/75.
Johns Landing, Multnomah	Windsor Door Bldg., 120 space parking facility	9/11/75		Additional information requested 9/26/75; on street improvement and noise control measures.
Gresham, Multnomah	Oregon Trails shopping Center, 900 space parking facility	8/11/75		Air Quality information requested 9/3/75.
Gresham, Multnomah	Gresham Cinema Center 299 space theater parking facility	9/22/75		Additional information to be requested by 10/9/75.

Existing Direct Sources (104 - See below footnote 1/)

Fuel Burning (Boilers) (0)

Footnote 1/ - These permits are of existing sources that are operating on automatic extensions or on temporary permits. Approximately 50% of these will be issued in October and the remaining in November and December 1975.

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Land Quality (Program) — September 1975 (Month and Year)

PLAN ACTIONS COMPLETED (11)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Macleay, Marion	Macleay Transfer Station New Site Construction & Operational Plan	9/26/75	Provisional Approval
Joseph, Wallowa	Joseph Drop Box New Site Construction & Operational Plans	9/16/75	Provisional Approval
Enterprise, Wallowa	Ant Flat Sanitary Landfill New Site Construction & Operational Plans	9/17/75	Provisional Approval
Hood River, Hood River	Champion International U. S. Plywood Division Existing Site Operational Plan	9/22/75	Provisional Approval
Albany, Linn	Western Kraft Existing Site Operational Plan	9/2/75	Approved
Macleay, Marion	Macleay Landfill Existing Site Operational & Closure Plans	9/9/75	Approved
Pendleton, Umatilla	Pendleton Sanitary Landfill Existing Site Sludge Disposal	9/4/75	Disapproved
Portland, Multnomah	Pacific Carbide and Alloys Co. Existing Site Operational Plan	9/18/75	Approved
Whiteson, Yamhill	Whiteson Sanitary Landfill Existing Site Interim Operational Plan	9/17/75	Provisional Approval
Eugene, Lane	Pacific Resin & Chemicals, Inc. Disposal of Sludges Operational Plan	9/23/75	Letter of Authorization
Hood River, Hood River	City of Hood River Sludge Storage & Disposal Operational Plan	9/16/75	Provisional Approval

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Land Quality (Program) — September 1975 (Month and Year)

PLAN ACTIONS PENDING (21)

City and County	Name of Source/Project/ Site & Type of Same	Date Received	Status
Lake County	Lake County Solid Waste Management Plan Regional Plan	7/15/75	Acted on October 1975.
Grant County	Grant County Solid Waste Management Plan Regional Plan	7/28/75	Acted on October 1975.
Roseburg, Douglas	Roseburg Landfill Existing Site Channel Relocation & Operational Plans	8/19/75	In process. Proj. Completion 10/75.
Canyonville, Douglas	Canyonville Disposal Site Existing Site Operational Plan	8/29/75	In process. Proj. Completion 10/75.
Reedsport, Douglas	Reedsport Disposal Site Existing Site Operational Plan	8/29/75	In process. Proj. Completion 10/75.
MSD	MSD Recycling Study	9/2/75	Acted on October 1975.
Glendale, Douglas	Glendale Disposal Site Existing Site Interim Operational & Closure Plan.	9/3/75	In process. Project Completion 10/75.
Portland, Multnomah	LaVelle-Yett Landfill Existing Site Operational Plan	9/5/75	In process. Awaiting Revised Operational Plan 10/75.
Burns, Harney	Harney County Landfill Existing Site Operational Plan	9/8/75	In process. Project Completion 10/75.
Green, Douglas	Roseburg Lumber Company Green Disposal Site Existing Site Operational Plan	9/9/75	In process. (Approved October 3, 1975).

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Land Quality (Program) — September 1975 (Month and Year)

PLAN ACTIONS PENDING (continued)

City and County	Name of Source/Project/ Site & Type of Same	Date Received	Status
Dixonville, Douglas	Roseburg Lumber Company Dixonville Disposal Site Existing Site Operational Plan	9/9/75	In process. (approved 10/6/75).
Whiteson, Yamhill	Whiteson Sanitary Landfill Existing Site Revised Interim Operational Plan	9/9/75	In process. Proj. Completion 10/75.
Riddle, Douglas	Roseburg Lumber Co. Riddle Disposal Site Existing Site Operational Plan	9/16/75	In process. Proj. Completion 10/75.
Dillard, Douglas	Roseburg Lumber Co. Plywood Plant #2 Disposal site Existing Site Operational Plan	9/16/75	In process. (Approved October 6, 1975)
Dellwood, Coos	Weyerhaeuser Co. Horse Flats Disposal Site Existing Site Operational Plan	9/24/75	In process. Proj. Completion 10/75.
Coos-Curry	Coos-Curry Solid Waste Management Plan Regional Plan	9/24/75	Acted on 10/75.
Springfield, Lane	Weyerhaeuser Co. Springfield Disposal Site Existing Site Operational Plan	9/26/75	In process. Proj. Completion 10/75.
Charleston, Coos	Joe Ney Sanitary Landfill Existing Site Operational Plan	9/29/75	In process. Proj. Completion 10/75.
Salem, Marion	Browns Island Sanitary Landfill Existing Site Operational Plan	9/29/75	In process. Proj. Completion 10/75.

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Land Quality (Program) — September 1975 (Month and Year)

PLAN ACTIONS PENDING (continued)

City and County	Name of Source/Project/ Site & Type of Same	Date Received	Status
Clackamas, County	Alford/Gossen Project Gravel Removal-Sanitary Landfill, New Site Construction and Operational Plan	9/30/75	Acted on 10/75.
Corvallis, Benton	Coffin Butte Sanitary Landfill Existing Site Operational Plan	10/2/75	In process. Proj. Completion 10/75.

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Land Quality (Program) | September 1975 (Month and Year)

PERMIT ACTIONS COMPLETED (14)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
General Refuse (Garbage) Facilities (9)			
Josephine	Kerby Landfill Existing facility	9/5/75	Permit issued (renewal)
Marion	Macleay Landfill Existing facility	9/9/75	Permit amended
Curry	Port Orford Landfill Existing facility (closed)	9/10/75	Permit revoked
Wheeler	Fossil Landfill New facility	9/12/75	Permit issued
Wheeler	Mitchell Landfill Existing facility	9/12/75	Permit issued
Wheeler	Spray Landfill New facility	9/12/75	Permit issued
Wallowa	Ant Flat Landfill New facility	9/17/75	Permit issued
Douglas	Myrtle Creek Transfer Station New facility	9/24/75	Permit issued
Washington	Frank's Landfill Existing facility	9/30/75	Permit issued (renewal)

Demolition Solid Waste Disposal Facilities - - None

Sludge Disposal Facilities - - None

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Land Quality (Program) — September 1975 (Month and Year)

PERMIT ACTIONS COMPLETED (continued)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Industrial Solid Waste Disposal Facilities (5)			
Douglas	Roseburg Lumber Co. Plywood Plant #2 Existing facility	9/5/74	Permit issued
Coos	Westbrook Wood Prod. Existing facility	9/15/75	Permit issued
Lane	Pope & Talbot Existing facility	9/15/75	Permit issued (renewal)
Curry	U. S. Plywood Jerry's Flat Site Existing facility	9/22/75	Permit issued
Lane	Pacific Resins & Chemicals New facility	9/23/75	Letter authorization issued

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Land Quality	September 1975
(Program)	(Month and Year)

PERMIT ACTIONS PENDING (120)

City and County	Name of Source/Project/ Site & Type of Same	Date of Initial Appl.	Date of Completed Appl.	Type of Action and Status

General Refuse (Garbage) Facilities (85)

A. New Sources - - - - - - - - - - - (4) - - - - - as listed below

B. Existing Sources

1. Regular Permits - - - - - - (3) - - - - see footnote 1/
2. Temporary Permits - - - - - (78) - - - see footnote 2/

City and County	Name of Source/Project/ Site & Type of Same	Date of Initial Appl.	Date of Completed Appl.	Type of Action and Status
Douglas	Lemolo Landfill new facility	7/10/75	-	U.S. Forest Service Service has not yet issued a use permit.
Klamath	Chiloquin Transfer Station and Landfill new facility	5/12/75	-	U.S. Forest Service has not issued a use permit.
Marion	Macleay Transfer Station new facility	8/4/75	8/4/75	Proposed permit mailed 9/26/75.
Wallowa	Joseph Transfer Station new facility	7/28/75	8/7/75	Plans and Specifications approved 9/17/75. Regional staff to draft permit 10/75.

Demolition Solid Waste Disposal Facilities (4)

A. New Sources - - - - - - - - - - - None

B. Existing Sources - - - - - - - - (4) - - - - - see footnote 3/

Footnotes

1/ Three (3) renewals are pending. New permits to be issued in 10/75.

2/ Seventy-eight (78) existing facilities under temporary permit. Regional staff to draft regular permits for at least 25% by 12/75.

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Land Quality (Program) — September 1975 (Month and Year)

PERMIT ACTIONS PENDING (continued)

City and County	Name of Source/Project/ Site & Type of Same	Date of Initial Appl.	Date of Completed Appl.	Type of Action and Status

Sludge Disposal Facilities (1)

A. New Sources - - - - - - - - - - - - - none
B. Existing Sources - - - - - - - - - - (1) - - - - see foot note 4/

Industrial Solid Waste Disposal Facilities (30)

A. New Sources - - - - - - - - - - - - - none.
B. Existing Sources - - - - - - - - - - (30) - - - see footnote 5/

Footnotes

3/ Three (3) existing facilities under temporary permit. Regional staff to draft regular permits by 12/75. One renewal is pending. New permit is to be issued in 10/75.

4/ One (1) existing facility under temporary permit. Regional staff to draft regular permit by 12/75.

5/ Three (3) renewals pending. New permits to be issued in 10/75. Nine (9) existing facilities under temporary permit, nine (9) existing facilities under temporary letter authorizations (low volume disposal sites with minimal environmental impact) and nine (9) non-permitted existing facilities. Regional staff to investigate and draft permits for at least 50% of the above by 12/31/75.

ENVIRONMENTAL QUALITY COMMISSION

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

ROBERT W. STRAUB
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The Dalles

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item C, October 24, 1975, EQC Meeting

Tax Credit Applications & Revocations

Attached are review reports on five (5) Tax Credit Applications. These reports and the recommendations of the Director are summarized on the attached table.

The Georgia-Pacific Corporation has notified the department of their sale or termination of use of three (3) certified pollution control facilities as follows:

Cert. No.	Facility Location	Type of Facility
186	Toledo, Oregon	Ashbrook Educator
325	Junction City, Oregon	Wigwam Waste Burner Phase Out
466	Junction City, Oregon	Glue Wastewater Recirculation System

Oregon Revised Statutes (ORS) 307.405 (4), 316.097 (10), and 317.072 (10) require the Commission to revoke such certificates upon sale or termination of use.

Director's Recommendation

1) It is recommended that the Commission act on the five applications for tax credit relief after consideration of the Director's recommendations on the attached table.

Contains
Recycled
Materials

DEQ-46

2) In accordance with information contained in Georgia-Pacific Corporation's correspondence dated October 2, 1975 (copy attached), it is recommended that Pollution Control Facility Certificate number 186 be revoked effective June 30, 1975, and Pollution Control Facility Certificates numbers 325 and 466 be revoked effective June 27, 1975.

LOREN KRAMER

AHE
October 15, 1975

Attachments

Tax Credit Summary
Tax Credit Review Reports (5)
Correspondence from Georgia-Pacific Corporation

cc: Georgia-Pacific Corporation

Georgia-Pacific Corporation

900 S.W. Fifth Avenue Portland, Oregon 97204 503/222 5561

Tax Credits Section
Appl. No
Received OCT 06 1975
State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

October 2, 1975

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

Attn: Tax Credit Section

Gentlemen:

The Eugene/Springfield Division of Georgia-Pacific Corporation sold the following pollution control facilities to Plywood Equipment Sales, P.O. Box 742, Beaverton, Oregon 97005, on June 27, 1975:

Springfield (actually Junction City) Phase out of Wigwam Burner - Certificate 325-1972 - $70,624.00.

Junction City (Eugene) Glue waste water recirculation system - Certificate 466-1974 - $4,914.89.

We have notified Plywood Equipment Sales of their right to pick up the remaining tax relief on these facilities. But it has come to our attention that this company deals in the sale of such items and therefore has probably sold the items to a third party already.

In addition Toledo Division abandoned the Toledo Ashbrook Educator - Certificate 186-1972 - $31,396.37 on June 30, 1975.

We would appreciate you notifying us as soon as possible of any certificate revocation in order that we may inform our tax department to eliminate these items from their tax credit control.

Sincerely,

T W Mayberry

T. W. Mayberry
Assistant Controller - Operations

RMC:dv

cc: Messrs. R. C. Dubay
R. M. Crockford
V. J. Tretter

TAX CREDIT APPLICATIONS

Applicant/Plant Location	Appl. No.	Facility	Claimed Cost	% Allocable to Pollution Control	Director's Recommendation
Georgia-Pacific Corporation Toledo Division, Toledo, OR	T-641	Sump pump which collects waste-water from paper mill	$13,398.00	80% or more	Issue
Weyerhaeuser Company Paperboard Manufacturing Springfield, Oregon	T-667	Rotary drum filters, pump and related piping & electrical controls	96,482.00	80% or more	Issue
Kaiser Cement & Gypsum Corp. Portland Distribution Facility North River Street, Portland	T-694	Asphaltic concrete paving	(10,450.00)		Deny
Olson-Lawyer Timber Company White City, Oregon	T-700	Doyle-type wet scrubber	92,915.00	80% or more	Issue
Weyerhaeuser Company Plywood Plant Cottage Grove, Oregon	T-709	Baghouses used to control emissions of sanderdust from cyclones 2 and 3	43,269.00	80% or more	Issue

Appl T-641

Date 2-20-75

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Georgia-Pacific Corporation
Toledo Division
P. O. Box 580
Toledo, Oregon 97391

The applicant owns and operates an unbleached kraft and neutral sulfite semi-chemical pulp and paper mill in Toledo, Lincoln County, Oregon.

2. Description of Claimed Facility

The claimed facility consists of a Worthington 14-QL-18 pump which has been installed in a sump and which collects wastewater from the paper mill portion of the plant.

The claimed facility was initiated in July, 1973, and was completed and placed in operation in August, 1974.

The cost of the claimed facility is $13,398.00 (Accountant's certification was submitted).

3. Evaluation of Application

Before the installation of the claimed facility, the sump was served by two pumps which were only adequate if both were operable. If one pump failed, the sump would overflow and wastewater would be discharged to Yaquina Bay. With the claimed facility, the pumping capacity at the sump has been increased such that if one pump fails, a discharge to Yaquina Bay will not occur.

The claimed facility has been investigated by the staff. It appears to have been well designed and constructed and seems to operate effectively.

4. Director's Recommendation

It is the Director's recommendation that a Pollution Control Facility Certificate bearing the cost of $13,398.00 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-641.

RJN:elk
9-22-75

Appl T-667

Date 10-6-75

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

---

1. Applicant

Weyerhaeuser Company
Paperboard Manufacturing
P. O. Box 275
Springfield, Oregon 97477

The applicant owns and operates a 1,300 ton per day kraft linerboard mill near Springfield, Oregon, in Lane County.

The application was received June 16, 1975.

2. Description of Claimed Facility

The claimed facility consists of two (2) 1,100 gpm rotary drum filters, one (1) 2,000 gpm pump and related piping and electrical controls.

The claimed facility was completed and put into service in April, 1974. Purchase order for claimed facility was issued by the applicant in September, 1973, so that submittal of a Notice of Construction as required by 1973 amendments to the tax credit law is not necessary for certification.

The percentage claimed for pollution control is 100%.

Facility cost: $96,482.00 (Accountant's certification was provided).

3. Evaluation of Application

Prior to the installation of the claimed facility, whitewater from the paper machines, after passing through a flotation-type saveall, was discharged to the wastewater treatment facilities. With the claimed facility, fines in the whitewater from the saveall are recovered by screening, and a portion of the screened water is reused as shower water in the mill. As a result, fresh water use is significantly reduced, resulting in improved wastewater treatment by increasing the detention times in the primary and secondary treatment systems.

Though the installation of the claimed facility was not a specific requirement of the Department, it was indirectly required as part of a comprehensive program by Weyerhaeuser to upgrade its facilities and to provide continuous and reliable control of all effluent discharges within the limits and conditions of its Waste Discharge Permit.

Investigation of the claimed facility showed that it was well constructed and that it appears to operate reliably.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $96,482.00 with 80% or more of the cost allocated to pollution control be issued for the facility claimed in Tax Credit Application Number T-667.

RJN:elk
10-14-75

Appl T-694

Date September 11, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Kaiser Cement & Gypsum Corporation
Portland Distribution Facility
931 North River Street
Portland, Ore. 97227

The applicant owns and operates a cement storage and distribution center in Portland, Oregon.

2. Description of Claimed Facility

The facility claimed in this application consists of 2,780 square yards of asphaltic concrete paving at Kaiser's North River Street plant.

The facility was begun on May 19, 1974 and completed and placed in operation on May 20, 1974.

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

Facility costs: $10,450 (Accountant's certification was provided).

3. Evaluation of Claimed Facility

Kaiser's application states that there was dust from truck traffic over unpaved dirt roadways in the plant. Kaiser estimates 50 lbs/ day of dust.

ORS 468.180 requires that the commission shall not issue a certificate unless the applicant was issued a certificate of approval per ORS 468.175 for all facilities begun after October 5, 1973. ORS 468.175 requires applicants to file a Notice of Construction before commencing construction.

Kaiser did not submit a Notice of Construction for this paving project. The Department's Portland Region has not observed a road dust problem at Kaiser and had never required Kaiser to initiate such action. The file on Kaiser's Portland Distribution Center contains no complaints or reports on road dust.

Although the applicant can be commended for taking action which may prevent wind entrainment of dust and that paving in certain instances is a definite air pollution control action, which is eligible for tax relief, it is concluded that the subject project was not required by the Department and Kaiser did not meet the ORS 468.175 and 468.180 requirements for issuance of a Pollution Control Facility Certificate.

4. Director's Recommendation

It is recommended that Tax Credit Application No. T-694 be denied for failure to comply with the Notice of Construction requirements of ORS 468.175 and 468.180.

PBB:rdb

Appl T-700

Date 9/22/75

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Olson-Lawyer Timber Company
P. O. Box 847
Medford, Oregon 97501

The applicant owns and operates a charcoal and steam producing plant in White City, Northeast of Medford, Oregon.

2. Description of Facility

The facility claimed in this application consists of a Doyle-type wet scrubber used as a secondary control device to clean the air contaminants from the stack of a hogged wood waste boiler.

The wet scrubber includes:

a. Scrubber and related components constructed by the contractor.
b. Olson-Lawyer labor for catwalk construction, etc.
c. Site preparation and foundation.
d. Steel, plumbing, miscellaneous components.

The facility was begun on November 19, 1974, completed on December 19, 1974 and placed in operation on January 7, 1975.

Certification is claimed under current statutes and the percentage claimed for pollution control is 100%.

Facility costs: $92,915 (accountant's certification was provided).

3. Evaluation of Application

The Department tested the stack of the boiler on September 27, 1972. At that time the boiler had only a primary control device, a multicyclone cinder collector. The effluent gas measured at 0.24 gr/scf compared to the required 0.20 gr/scf. A retest on April 2, 1973 after boiler adjustments still failed to meet the standard.

On June 20, 1973, Olson-Lawyer wrote that a consulting engineer had been retained and corrective action was in preparation. On July 17, 1973 the Department asked for plans and specifications on the project. The Air Contaminant Discharge Permit for Olson-Lawyer was issued December 14, 1973 requiring boiler compliance demonstration by January 30, 1974. Correspondence in May 1974 indicated that there had been a delay from the consulting engineer/contractor of a year and that plans would be sent soon. A compliance schedule was received on July 9, 1974 and plans were received on August 28, 1974.

Department approval for ash disposal from the wet scrubber was given on July 2, 1974. Approval for the wet scrubber was given on December 9, 1974. The wet scrubber was tested on April 2, 1975 at 0.04 gr/scf and the boiler certified as in compliance on June 3, 1975.

The wet scrubber produces a wet slurry of ash, char, and dirt which is worthless and must be placed in a landfill. It is concluded that the scrubber was installed solely for air pollution control and offers no direct economic benefit to Olson-Lawyer Timber.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $92,915 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-700.

PBB:cs
9/24/75

Appl T-709

Date 10/9/75

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Weyerhaeuser Company
P.O. Box 275
Springfield, Ore. 97477

The applicant owns and operates a plywood plant at Cottage Grove, Oregon, in Lane County.

2. Description of Claimed Facility

The claimed facility consists of two identical baghouses, used to control emissions of sander dust from cyclones 2 and 3:

1. Two Clarke Pnew-Aire baghouses, model 40-20.
2. One #40 Fan, model PNA 15-40, with one 15 HP electric motor
3. Automatic fire detection and suppression system Model UPPS 30A
4. Piping

The facility was started on 12-1-73, and completed and placed in operation on 4-1-74.

The application is submitted under the 1973 Act as amended in 1974 and the percentage claimed for pollution control is 100%.

Facility costs: $43,269 (Accountant's certification was provided).

3. Evaluation of Application

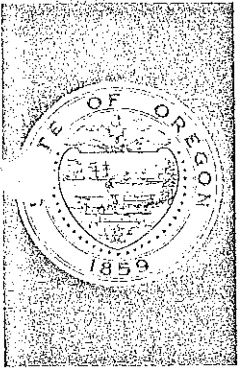
Weyerhaeuser was required by Lane Regional Air Pollution Authority to control the sander dust emissions from these cyclones. Weyerhaeuser submitted a Notice of Construction to Lane Regional on June 28, 1973.

The claimed baghouses control these cyclones so that the emissions are within Lane Regional standards. The sander dust captured by the baghouses is used for boiler fuel. The seven tons per year captured has a fuel value of $28 per year, which is more than offset by the $2,000 annual operating expense of the baghouses for bag replacement, electrical power, and labor.

It is concluded that the claimed baghouses can have 100% of their cost allocated to air pollution control.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $43,269 with 80% or more allocated to pollution control be issued for the facilities claimed in Tax Credit Application T-709.



ENVIRONMENTAL QUALITY COMMISSION

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To: Environmental Quality Commission

From: Director

Subject: Agenda Item E, October 24, 1975, EQC Meeting

Consideration of Petition to Repeal or Amend Indirect Source Rule

INTRODUCTION

On September 10, 1975, the Department received a petition (Appendix I) from the Oregon State Home Builders, Oregon Chapter, Associated General Contractors, and the Associated Floor Covering Contractors, requesting the Commission repeal or amend OAR Chapter 340, Section 20-100 through 20-135, "Rules for Indirect Sources." In accordance with OAR Chapter 340 Section 11-045, the Commission is requested to grant or deny the petition. It should be noted, the petition does not meet the requirements of Section 11-045(a) in total because it fails to set forth proposed changes in the required format; however, the Department does not recommend its denial on this point.

In the event the Commission moves to grant the petition, it would be necessary to initiate the appropriate notification and hearing procedures required for rule modification or repeal. Should the Commission deny the petition, no further action is required.

BACKGROUND

The original Parking Facilities and Highways Rule (OAR 20-050 through 20-070) was adopted in February 1972, as a section of the State Implementation Plan. Along with the Portland Transportation Control Strategy the rule, as approved by EPA, represented an inherent part of Oregon's plan to control air contaminants generated by mobile sources. It is the Department's understanding that Oregon was the first state to utilize this type of rule, with Federal regulations requiring the review of Indirect Sources not being promulgated until June, 1973.

The rule, as originally adopted, required the review of only parking facilities with 50 or more spaces and freeways or expressways. Geographically, the rule covered only those facilities within 5 miles of the municipal boundaries of cities over 50,000 in population.

On February 12, 1973, the United States Court of Appeals for the District of Columbia Circuit entered an order in regards to the case of The Natural Resources Defense Council, Inc. vs. EPA and 7 related cases requiring EPA to promulgate regulations to assure maintenance of NAAQS. In response to the court decision, EPA, on March 8, 1973, disapproved all state implementation plans for failure in general to sufficiently assess and provide for maintenance of standards and specifically for their failure to provide for adequate indirect source review.

As a result of several federally sponsored studies, EPA had concluded indirect source regulations were necessary to assure that growth and development were compatible with national standards and subsequently on February 24, 1974, the Federal Register published the federally promulgated regulation requirements for this indirect source review. The federal regulation required EPA to review indirect sources if the states did not.

Oregon's Indirect Source rules failed to meet the EPA regulation requirements since they:

> "Do not set forth legally enforceable procedures for preventing construction or modification of an indirect source if such construction or modification will result in a violation of applicable portions of the control strategy or will interfere with attainment or maintenance of a national standard." (40 CFR 52.1982, 39 Fed. Reg. 7283).

Further comment from EPA indicated three additional modifications were required before the parking facilities and highways rule could be considered complete: (1) regulations and procedures must apply statewide; (2) rule requirements must apply to other traffic generating sources as well as highways and parking facilities (airports), and (3) specific provisions must be made for indirect source proposals to be made available for public review and comment.

As a result of the above action by EPA, the Department redrafted the rule and on June 24, 1974 an initial public hearing was held. As extensive public comments were received, the staff redrafted the regulations, sent copies to interested parties requesting informal comment by September 16, 1974, after which the rule was again redrafted and resubmitted for public hearing October 29, 1974. At the November 22, 1974 Commission meeting public testimony was again taken prior to the Commission adopting the rule on that date.

In response to Director concern regarding the staff time required to implement the rule, the staff, in December 1974, was instructed to reevaluate the rule with the objective of increasing the minimum number of spaces requiring review to achieve the maximum reduction in manpower requirements with a minimum impact on the program. The staff concluded this could be achieved by raising the Metropolitan area parking lot review threshhold from 50 to 100 spaces. This recommendation, with a wording change requiring all land use approvals be obtained prior to permit issuance and other minor word changes, was submitted to the Commission on December 20, 1974 to obtain authorization to hold a public hearing.

After the public hearing on January 24, 1975, and at the February 28, 1975 Environmental Quality Commission meeting, the Commission, reflecting substantial testimony in opposition to the staff recommendation, rejected the proposal to increase the minimum lot size reviewed; adopting the remaining modifications. In all, a total of five opportunities for public comment on the rule has been given in the past 17 months. Two of the public hearings were before the Commission. More than 30 persons or groups submitted testimony or information in either written or oral form. With the exception of the Associated Floor Covering Contractors, the petitioners were each heard a minimum of twice, including their counsel, Mr. Bruce Anderson, who at the time represented the International Council of Shopping Centers. With the exception of the recent EPA postponement of implementation of the Federal regulations and the propositions of law submitted by the petitioners, the issued included in the petition have been considered at previous hearings.

In addition, the petitioners, in conjunction with the Western Environmental Trade Association and the International Council of Shopping Centers have filed a petition in the Lane County Circuit Court for a judgment declaring the Commission's Indirect Source Rules invalid for particular reasons. A motion to make the petition more definite and certain and to strike portions thereof was filed on behalf of the respondents. After a hearing thereon, the Court allowed the motion in part, denied it in part and found other parts moot. Petitioners have not filed and served the Department with an amended petition as of the date of preparation of this memorandum. Copies of the petition, motion and order are attached as Appendix II.

(Note: During the 1975 Legislative Session, the Senate Committee on State and Federal Affairs considered a Bill (SB 687)which would have limited EQC's ability to review indirect sources by requiring the Federal Review Regulations be the strictest which would be enforced. This Bill was not acted on by the Senate. The Land Conservation and Development Commission has also considered a petition requesting the LCDC rule that the Department indirect source regulations were in violation of adopted planning goals and objectives. The Commission on August 29, 1975 voted to accept the hearing officer's report on the petition which recommended that the relief requested by the petitioners be denied and the petition be dismissed, primarily on the grounds that there was not sufficient evidence to support the allegations made in the petition.)

DISCUSSION

The Indirect Source Rules, as adopted by EQC, call for the review of the following sources:

Area	Reviewed
Within 5 miles of cities of 50,000 or more population	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 50 or more Parking Spaces. 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.

Clackamas, Marion, Lane, Multnomah or Washington Counties (except as otherwise provided for above)	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.
	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.
All portions of the state (except as otherwise provided for above)	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 1000 or more Parking Spaces.
	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.
	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.

The regulations require the Department to issue or deny indirect source construction and operation permits for these sources. In addition, the regulations allow the Department to impose certain conditions as terms of approval for a permit. Conditions required for a particular indirect source permit depend on factors such as existing air quality at the indirect source location, size, type of facility and projected air quality impact of facility. (Copy of current regulations attached as Appendix III.)

One of the petitioner's basis for requesting repeal of the Oregon Indirect Source Regulations is the July 3rd decision by EPA to postpone indefinitely enforcement of the federally promulgated indirect source regulations. The petitioners state "Portions of the Federal Indirect Source Regulations, as originally adopted, and on which the Oregon indirect source regulations in their present form are based, have been indefinitely postponed in order to allow for more study and possible amendments to the federal regulations. This action was taken in part due to recognition that indirect source rules as such cannot necessarily be shown to be effective for the purpose of contributing in any material way to enhance air quality". (Refer to Appendix I)

The petition's statement is erroneous on two points. First Oregon's regulations are not based on the federal rule, as evidenced by Oregon's Parking and Highway rule being in effect before federal rule promulgation. Second, EPA's basic policy on postponing implementation of the rule was specifically stated in the July 3, 1975 Federal Register, which reads in part:

"EPA believes that the necessary preconstruction reviews for air quality can be most effective when incorporated by the state or local government into their ongoing planning, zoning and building permit process. EPA has continually emphasized its desire that indirect source regulations be implemented at the state or local level - not at the federal level." (Author's emphasis). (Federal Register, Vol. 40, No. 129 - July 3, 1975) (Appendix IV)

The document does indicate the principal reason for postponing the original applicability date from January 1, 1975 to July 1, 1975, was the provision added by Congress to EPA's Appropriations Act for Fiscal 1975, which denied EPA funds for review of these projects. Similar action occurred in December 1973 in regards to the Parking Management regulations.

It is the Department's opinion that the Congressional actions largely resulted from the controversial transportation plans proposed by EPA for Boston, Washington, D. C., Los Angeles and Baltimore and not from lack of faith in the indirect source program.

The EPA requirement that required states to adopt indirect source regulations as part of the State Implementation Plans is still in effect. Technically, if the Indirect Source Rule is repealed, the state will be in violation of the Clean Air Act as it will not have an approvable implementation plan. The impact of the postponement was to remove federal review procedures with the intent of state review being substituted.

EPA is continuing to revise the regulations as evidenced by the July 8, 1975 Federal Register which proposed the rule be modified to require state plans to "..contain locally enforceable procedures which shall specify that any new or modified stationary or indirect source which emits any pollutants for which there is a national ambient air quality standard shall not be constructed if such source will result in violations of applicable portions of the control strategy or will result in a violation of a national standard either directly because of emissions from it, or indirectly, because of emissions resulting from mobile source activities associated with it." (Appendix V)

Oregon regulations currently allow for indirect source permit denial on this basis, but do not require it.

It should also be noted that the Senate Public Works Committee is currently considering an amendment to the Clear Air Act which would specifically require states to adopt indirect source regulations.(Appendix VI)

In addition, on June 16, 1975, the House Commerce Subcommittee on Public Health and Environment proposed amendments to the Clean Air Act which would require states, over a three year period, to develop indirect source review plans. As proposed, failure of a state to adopt an indirect source review procedure would subject it to Section 113 enforcement action.

However, at this time, because of the federal position to maintain control of indirect sources at the state and local level and thereby postponement in implementing the national regulations, repeal of the Oregon rule would leave the state without indirect source regulations, contrary to statements of the petitioners.

In addition to the EPA postponement, the petitioners base their request to amend or repeal on numerous other points which include 1) inclusion of parking management regulation type conditions into indirect source rules; 2) inadequacy of facility by facility review; 3) indirect sources cannot be considered air contamination sources within the meaning of ORS 468.275; 4) lack of evidence presented to EQC on (a) regulations of indirect sources necessary to control the concentration of air contaminants related to motor vehicle trips and/or aircraft operations, (b) need for regulations outside Portland metropolitan area, (c) sources require statewide regulations; 5) cost impact of review requirements; 6) conditions of approval which may be attached to the permits; 7) lack of specific sampling criteria in the regulations 8) review of an indirect source injunction with surrounding developments, and 9) minimum lot size reviewed. The Department has responded to the specific points of the petition in Appendix VII.

It is the Department's opinion that the larger issue to be addressed is the overall effectiveness of the indirect source program in improving ambient air quality. The Department and Regional Authorities have been reviewing indirect sources since 1972. During this time approximately 350 sources have been evaluated. In addition, the Department has coordinated the development of the Portland Transportation Control Strategy and the Downtown Parking and Circulation Plan, which contain many of the elements of the indirect source program, ie. limited parking supply, transit improvements and incentives and improved traffic circulation. The Department believes, based on 3 years of experience, the indirect source program is an effective and necessary part of attaining and maintaining federal and state ambient air standards.

Since the development and implementation of the indirect source program and transportation control strategy, a number of developments have occurred which the Department believes have been either directly or indirectly reinforced by the indirect source rule:

1. Tri-Met ridership is up over 20% in the past year (as compared to a national average of 1%), 52% since 1970. Daily ridership now averages 100,000 persons. In terms of air pollution impact this is a reduction of approximately 11,315 tons of carbon

monoxide, 1825 tons of hydrocarbons and 339.5 tons of nitrogen dioxides annually (100,000 person trips ÷ 1.2 persons per vehicle x 6 miles per vehicle trip = 500,000 vehicle miles traveled reduction x appropriate 1975 pollutant emission factor). This is particulary significant as 75,000 of the trips have their origin or destination point in the downtown area as compared to 50,000 in 1971. The Department recognizes other factors have also encouraged the increase in Tri-Met ridership, but in agreement with Tri-Met officials, believes the indirect source program has had a significant impact.

2. Violations of the 8-hour carbon monoxide standard was reduced 48% in 1974 as compared to 1967 at the Department's downtown Portland CAM Station.

3. Traffic entering the Downtown area in 1974 has been reduced approximately 8% since 1973. (Refer to Appendix VIII)

4. An example of the direct effectiveness of this transit condition attached to indirect source permits is the transit program developed by the Department, Tri-Met and Winmar Pacific Co. for the Washington Square. The shopping center program has doubled the modal split (between transit and autos) in the past year with transit ridership now accounting for 6% of all trips to the facility. This has resulted in actual automobile traffic being reduced by 1400 vehicle trips weekly. In terms of air pollution impact, the elimination of 2800 auto trips per week represents a reduction of 54.2 tons of CO, 8.73 tons of HC and 4.05 tons of NO_x yearly. (1400 vehicles x 2 one way trips x 6 miles per trip x 52 weeks per year x appropriate 1975 emission factor) (Tri-Met's review of petition is attached as Appendix IX.)

   It is believed that in the near future, the facility will be achieving the regional goal of a 10% transit modal split. It is the Department's opinion that the increased transit ridership can be significantly attributed to the indirect source program.

5. Tektronix, Inc. in Beaverton, an indirect source reviewed and approved by the Department, which has over 6000 employe parking spaces, has through transit and carpooling programs, achieved a transit/auto modal split as high as 33%. The company projects carpooling alone will reduce work generated trips by six million miles yearly. The emission reduction for this milage would be 372 tons CO, 59 tons HC and 28 tons of NO_x.

These examples clearly indicate the indirect source program is effective in reducing mobile source emissions as well as prompting the secondary benefit of energy conservation. It is the Department's opinion that at least similar benefits are derived from the aggregation of transit incentive conditions for smaller indirect sources (less than 1,000 spaces).

While the Department believes the indirect source program is being effective on both the local and regional scale, it is recognized the optimum method for controlling the regional mobile source emission problem is through the development of the regional Parking and Circulation Plans as addressed in Section 20-120 of the regulation. This allows for air

quality to be considered as a part of the regional planning process. Once these plans are developed, the source-by-source review procedures could be repealed as the indirect source permit would be issued or denied on the basis of consistency with the regional plan.

Presently the City of Salem, in cooperation with the Department and the Oregon Department of Transportation is developing a regional parking and circulation plan addressing both the proposed downtown urban renewal area and the Salem area transportation system. The plan is scheduled for completion in the next 12 to 18 months. In the Portland area, several planning agencies have indicated an interest in developing a regional plan, but no commitments have been made. However, it is necessary to maintain the source-by-source review procedures until the above plans are adopted and approved by the Commission.

To date the major problems in developing the regional parking and circulation plans is the lack of adequate funding and a commitment from both regional and local planning agencies to participate in their development. The Department is presently researching the possibility of obtaining outside sources of funding from state and federal transportation agencies.

SUMMARY

In summation, staff review of the petition indicates it does not contain sufficient evidence and documentation of its allegations. In addition, the petition misrepresents the federal position on review of indirect sources.

The Department believes the current program is effective in improving and enhancing air quality. The program's efficiency and effectiveness could be further improved through the development of regional indirect source plans. With such plans, the Department believes the highly criticized review of individual facilities could be eliminated without causing future air quality problems.

CONCLUSIONS

1. Repeal of the indirect source regulations would not be consistent with the State's Clean Air Plan nor the policy and intent of the EPA as noted in the July 3, 1975 Federal Register.

2. Repeal of the regulations would leave Oregon with no review requirements for this type of source, thereby potentially allowing new motor vehicle related air quality problems to occur.

3. Issues presented by the petitioner have been considered at several public hearings previously.

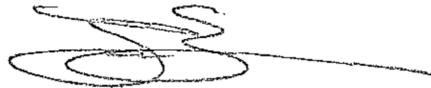
4. Allegations on program impact and implications have not been documented by the petitioners.

5. The program is effectively reducing automobile related air pollution emissions.

6. The most effective and efficient way of evaluating and mitigating the impact of these facilities is through the incorporation of air quality concerns into the planning process through the development of regional parking and circulation plans. However, until such time as the plans can be developed and implemented, the present review procedures must be maintained to assure new motor vehicle emissions will not create future air quality problems.

DIRECTOR'S RECOMMENDATION

It is the Director's recommendations that the Commission deny the petition; adopt this report as its statement of reasons therefor; and authorize the Director to prepare, sign on behalf of the Commission and serve copies of a written order reflecting this action as required by law. The Director further recommends that the petition for repeal of OAR Chapter 340, Sections 20-110 through 20-135 be denied, with instructions to the staff to proceed as rapidly as possible to formulate a program and timetable for development of Regional Indirect Source Plans for the metropolitan areas of the state. This program should encompass sources of funding and the inter-agency agreements required to complete and implement the plans.



LOREN KRAMER
Director

LDW 10/16/75

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION OF THE STATE OF OREGON

2 In the Matter of the Proposed Repeal or Alternative Amend- 3 ment of OAR Chapter 340, Sections 20-100 through 4 20-135, Rules for Indirect Sources, 5	AMENDED PETITION TO REPEAL OAR CHAPTER 340 SECTIONS 20-100 THROUGH 20-135, OR, IN THE ALTERNATIVE, TO AMEND SUCH REGULATION

6 1. Petitioners herein are as follows:

7 (a) Members of the Oregon Chapter, the Associated General
8 Contractors of America, Inc., Sheraton Motor Inn, Lloyd Center, 1008
9 N.E. Multnomah Street, Portland, Oregon 97232.

10 (b) Oregon State Homebuilders Association, 556 Chemeketa
11 Street, Salem, Oregon 97301.

12 (c) Associated Floor Covering Contractors, 3020 S.E.
13 Hawthorne, Portland, Oregon 97214.

14 2. Petitioners request that the Commissioner (hereinafter
15 EQC) repeal OAR Chapter 340, Sections 20-100 through 20-135, "Rules
16 for Indirect Sources" (hereinafter in this Petition, the Oregon In-
17 direct Source Regulations). Petitioners note that in accordance with
18 federal law, the act of such repeal would not leave Oregon without any
19 indirect source regulations; but rather, indirect sources of air pollu-
20 tion in Oregon would then be subject to regulation under the terms and
21 provisions of the Federal Indirect Source Regulations, 40 CFR 52.22(b)
22 et seq, as amended.

23 3. In regard to the Petitioners' request for repeal of the
24 Oregon Indirect Source Regulations, Petitioners' submit the following
25 information:

26 (a) Portions of the Federal Indirect Source Regulations,

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as originally adopted, and on which the Oregon Indirect Source Regulations in their present form are based, have been indefinitely postponed in order to allow for more study and possible amendments to the federal regulations. This action was taken in part due to recognition that Indirect Source Regulations as such cannot necessarily be shown to be effective for the purpose of contributing in any material way to enhance air quality. In fact, available evidence refutes the mere conclusions (which are not evidence) on which Indirect Source Regulations are based. Furthermore, the Oregon Indirect Source Regulations even go beyond the questionable assumptions on which the Federal Indirect Source Regulations are based by including in those regulations (the Oregon Regulations) conditions and proposals geared to attempts at reducing total vehicle miles traveled (VMT), a proposed air quality concept not properly related to Indirect Source Regulations but only to Parking Management Regulations, if properly relevant to anything. See 40 CFR Part 52 and 39 Federal Register 30440, et seq, for proposed Federal Parking Management Regulations (hereinafter PMR). It is legally and economically improper to impose PMR type regulations in an Indirect Source Regulation. To quote from the administrator of the Federal Environmental Protection Agency, when comparing the rationale for Indirect Source Regulations with the rationale for Parking Management Regulations (PMR):

> "The Indirect Source Regulations, except as they relate to highways and airports, are designed to review proposed construction of new parking facilities anywhere in the nation for which construction commences anywhere after January 1, 1975, to prevent violation or exacerbation of an existing violation of carbon monoxide standards. --- Parking Management

COONS, COLE & ANDERSON
101 E. BROADWAY, SUITE

Regulations are limited to specific areas found to have serious violations of autorelated air quality standards and requiring transportation control plans. These regulations include both a review for carbon monoxide impact, similar to that required under the Indirect Source Regulations, and a review of the impact of the proposed facility on area wide oxident levels through vehicle miles traveled." 39 Federal Register, supra, 30441-30442.

Yet Oregon's Indirect Source Regulations go far beyond concern with localized concentration of carbon monoxide and preconstruction review to minimize the effect of the same, i.e. go far beyond the rationale for Indirect Source Regulations, even assuming there is proof that they are necessary. For example, for indirect sources other than highway sections and airports, the Oregon Regulations require measured or estimated carbon monoxide and lead concentration computations. OAR Chapter 340, Section 20-129(1)(a)(C) and 20-129(1)(b)(B). Similarly, in Section 20-129(1)(a)(E) and 20-129(1)(b)(B), applicants must submit an estimate of the effect of the operation of the indirect source on total vehicle miles traveled. Not only are such computations and considerations out of place in Indirect Source Regulations but empirical testing results, based on independent analysis, do not support the conclusion that regional land use controls (Section 20-120) and VMT reduction (Section 20-129, supra) will reduce air pollution levels. In fact, it is possible for an increase in VMT to reduce total emission. Furthermore, VMT changes do not necessarily bear a direct or consistent relationship with either primary or secondary ambient air pollution levels.

(b) Facility-by-facility review of air quality impacts on a regional basis cannot be successfully accomplished, yet the Oregon

Indirect Source Regulations require an applicant for a permit who proposes to construct or add 1,000 or more parking spaces to an indirect source other than a highway section or airport to estimate the effect of the operation of the indirect source on traffic patterns, volumes and flow in, on or within one-quarter of a mile of the indirect source. OAR Chapter 340, Section 20-129(1)(a)(G). For airports and highway sections, the required information is even more far reaching and tenuous, Section 20-129(1)(c)(L) and (d)(K) through (N). There is no recognition of the large-scale spatial variation in both vehicular emissions and air quality throughout a given region in such regulation requirements.

(c) Indirect Sources as defined in the regulations cannot lawfully be considered air contamination sources within the meaning of ORS 468.275.

(d) At no time during the Indirect Source Regulation hearing held by the EQC, or the prior hearing held by a hearing officer appointed by the EQC, was there ever any evidence presented to the Commission in support of its conclusions 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." OAR Chapter 340, Section 20-100.

(e) Compliance with the Oregon Indirect Source Regulations will require an additional initial development cost far out of proportion to any improved air quality benefit that can be shown to be associated with the enforcement of the regulations; and the greater portio

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of the cost increases will generally apply to larger scale developments, thus discouraging their development while encouraging the development of small, non-regulated facilities located outside of an area in which Indirect Source Regulation can properly be applied.

(f) The only evidence presented during the hearings on the Oregon Indirect Source Regulations concerning size of parking facilities that should require preconstruction review in the State of Oregon dealt with air quality sampling within the Portland Metropolitan Area; and based on such evidence it was improper for the Commission to conclude that Indirect Source Construction Permits were necessary for any particular size parking facility or other indirect source with associated parking in any area beyond five miles of the municipal boundaries of the City of Portland.

(g) The potential Indirect Source Construction Permit conditions outlined in OAR 340, Sections 20-130(4)(i) and (j) are so vague as to be incapable of clear understanding as to where and when they apply, though they suggest limitations beyond the control of the developer or applicant for most facilities that appear to fall within the definition of Indirect Source contained in Section 20-110(10); and therefore these conditions cannot properly be attached to an Indirect Source Construction Permit for such facilities.

(h) Requiring an applicant for an Indirect Source Construction Permit to submit to conditions in such permit that require such applicant to initiate mass transit incentive programs without requiring the Department of Environmental Quality to first show such programs are reasonably applicable to the indirect source in question, and can

demonstratively improve air quality in the area of the indirect source, constitutes an unconstitutional taking of property without just compensation and a violation of due process under the Fifth Amendment to the United States Constitution, as extended to the states by the provisions of the 14th Amendment to the United States Constitution. In addition, such a requirement violates the prohibited taking provisions of Section 18 of Article 1 of the Oregon Constitution. For similar reasons, the requirements of subsections (f), (c) and (1) of Chapter 340, Section 20-130(4) are also unconstitutional.

(i) There was no evidence presented at the hearing concerning the adoption of proposed Indirect Source Regulations in Oregon to support the Commission finding "that the complexity or magnitude of Indirect Sources require statewide regulation" and assumption or retention of jurisdiction thereof by the Commission. OAR Chapter 340, Section 20-105.

(j) It is improper for a regulation to incorporate "criteria on file with the Department of Environmental Quality" as a basis for regulation requirements; because all such regulation requirements should be specifically stated in the regulation itself and thus subject to amendment or change only in accordance with procedures for properly changing or amending administrative rules. OAR 340, Section 20-110(21).

(k) It is unlawful and unreasonable to require an applicant for an Indirect Source Permit to be responsible for air quality impact that goes beyond any such impact associated with the applicant's project of and by itself. Yet the wording of OAR 340,

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Section 20-110(10), in defining Indirect Source, suggests that an applicant would be responsible for air quality conditions related to the applicant's development plus any combination of adjacent or related indirect source facilities.

(l) By denying proposed developers the right to construct parking facilities, airports and highway sections covered by the language of the Oregon Indirect Source Regulations, without first applying for and obtaining an Indirect Source Construction Permit, in the absence of evidence to support the conclusion that enforcement of the regulations will have any real or significant beneficial effect on air quality, the EQC unlawfully denies developers their constitutionally protected right to freedom of travel and unconstitutionally deprives landowner-applicants of property rights without just compensation.

(m) It is legally improper, arbitrary and capricious, in the context of an air pollution regulation to monitor pollutants, and determine an applicant's suitability for permit, based on air contaminants not directly connected with the indirect source in question, as OAR 340, Section 20-110(21) would allow.

4. If, for argument's sake, it is supposed that the EQC could successfully resist the jurisdictional and constitutional attacks on the Oregon Indirect Source Regulations levied by Petitioners under Paragraph 3 above, then those Regulations should still be amended in the following respects, based on the remaining legal reasons set forth in Paragraph 5 below: (The Rules for Indirect Sources, OAR 340, 20-100 through 20-135, with indicated deletions, are set forth in Exhibit A attached hereto, and by this mention incorporated by reference as if

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fully set forth in each of the particulars hereinafter alleged.)

(a) By removing from Section 20-110(21) the language "in whole or in part." (See OAR 340, Section 20-110(21) in Exhibit A.)

(b) Unless the DEQ can produce some reasonable evidence to support the necessity of Indirect Source Regulations being applied to proposed construction of indirect sources outside of an area in excess of five miles from the municipal boundaries of the City of Portland, by removing from the regulations, and in particular from Section 20-115 thereof, any requirements for Indirect Source Construction Permits for facilities outside of such five mile radius. (See OAR 340, Section 20-115 in Exhibit A.)

(c) Unless the Department of Environmental Quality can demonstrate a reasonable basis for subjecting applicants to the requirement of obtaining an Indirect Source Permit for the construction of parking facilities or indirect sources with associated parking below the cutoff point for such applications contained in the Federal Indirect Source Regulations (1,000 cars or more for new parking facilities, and 500 cars or more for modified parking facilities, in SMSA areas; and 2,000 cars or more for new parking facilities and 1,000 cars or more for modified parking facilities outside SMSA areas, as per Federal Indirect Source Regulations, 39 Federal Register 25292 at 25298), then Sec. 20-115, subsecs. (2)(a)(A),(2)(b)(A) & (2)(c)(A) should be rewritten to incorporate only the federally designated cutoff points as follows:

(2)(a)(A) Any Parking Facility or other Indirect Source with Associated Parking being constructed to create new parking capacity of 1,000 or more Parking

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

(2)(b)(A) 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.

(2)(c)(A) Any Parking Facility or other Indirect Source with Associated Parking being constructed to create new parking capacity of 2,000 or more Parking Spaces, or any Parking Facility or other Indirect Source with Associated Parking being constructed or modified to create additional (or Associated Parking) parking capacity of 1,000 or more Parking Spaces.

(d) By removing from Section 20-120 the language found in subsections (1) through (5), and rewriting such sections as follows:

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 with plan adoption authority may adopt a Regional Parking and Circulation Plan. The department or regional authority having jurisdiction over Indirect Sources covered by the plan shall be furnished with notice of the adoption of the plan and given an opportunity, in the course of the public hearings on the proposed plan, to supply information concerning the form and content of the plan.

(2) In considering the adequacy of the Proposed Regional Parking and Circulation Plan, from the Department or Regional Authority standpoint, the Department or Regional Authority shall request that the plan include, but need not be limited to, the following:

(a) Legally identifiable plan boundaries.

(b) Reasonably uniform identifiable grids where applicable.

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

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(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.

(3) Upon adoption of the Regional Parking and Circulation Plan by the city, county or regional planning agency involved, the department shall certify to the city, county or regional planning agency whether or not the department will accept the plan as an approved Regional Parking and Circulation Plan for the purpose of use under, and the implementation of, these Indirect Source rules.

(4) The department or regional authority having jurisdiction may request a public hearing to consider the adequacy of any approved regional Parking and Circulation Plan, after the adoption of the same, if the department or regional authority can demonstrate to the city, county or regional planning agency which has adopted the plan, that such plan is not adequately maintaining the air quality in the plan area.

(e) By removing from Section 20-129(1)(a)(C) the words "and lead" (see Section 20-129(1)(a)(C) in Exhibit A), and by rewording the second and third sentences of such section to read as follows: "Measurements shall be made prior to construction and estimates shall be made for a period of time one year after the date all aspects of the Indirect Source and Associated Parking are completed or fully operational. Such estimates shall be made for average and peak operating conditions."

(f) By removing from Section 20-129(1)(a) the language presently contained in subsection (E) thereof and renumbering the remaining sections (E) through (I). (See Section 20-129(1)(a) in Exhibit A.)

1 (g) By rewording renumbered subsection (G) (formerly sub-
2 section (H)) of Section 20-129(1)(a) to read as follows: "An estimate
3 of the average daily Vehicle Trips, detailed in terms of the average
4 daily peaking characteristics of such trips, and an estimate of the
5 maximum Vehicle Trips, detailed in one hour and eight hour periods,
6 generated by the movement of people to and from the Indirect Source
7 at the end of one year after the date all aspects of the Indirect
8 Source are completed or fully operational."

9 (h) By removing from Section 20-129(1)(d) the provisions
10 of, and all language presently contained in, subsections (K)-(O)
11 thereof (see Section 20-129(1)(d) in Exhibit A), and rewording and re-
12 numbering such subsections as follows:

13 (K) Estimates of the effects of the opera-
14 tion 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.

15 (L) The total air quality impact on carbon
16 monoxide concentration due to maximum and average
17 daily traffic volumes on the Highway Section. This analysis would be based on the estimates of an
18 appropriate diffusion model at Reasonable Receptor and Exposure Sites. Measurements shall be made
19 prior to construction and estimates shall be made for the first, third and fifth years after the Highway
20 Section is completed or fully operational.

21 (i) By removing from Section 20-130(4) the language
22 presently contained in subsections (c), (f), (i), (j) and (l) (see
23 Section 20-130(4) in Exhibit A), then relettering the remaining sub-
24 sections under 20-130(4). In additon, Section 20-130(4)(a) should be
25 reworded to read, "Posting transit route and scheduling information,
26 and developing other mass transit incentive programs reasonably

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applicable to improvement of carbon monoxide levels stemming from use of the indirect source in question."

5. Petitioners rely on the following propositions of law in connection with this Petition:

(a) There was no substantial evidence before the EQC in regard to many key provisions of the Oregon Indirect Source Regulation, and in fact no evidence at all on which many of the conclusions and other provisions of those regulations could be based, that would permit the EQC to adopt the Oregon Indirect Source Regulation in the form and manner in which they were adopted.

(b) The Commission acted arbitrarily and capriciously in enacting the Oregon Indirect Source Regulations and the sections thereof that were not shown to be based on any substantial evidence that regulation in the form and manner proposed would produce the desired results.

(c) The EQC lacked jurisdiction to enact the Oregon Indirect Source Regulations and to conclude, state and find as it did in the indicated sections thereof.

(d) The Indirect Source Regulations are in some respects so lacking in standards or basis for applying important provisions thereof as to be incapable of understanding and reasonable application.

(e) The indicated portions of the Oregon Indirect Source Regulations are unconstitutional under the due process, prohibited taking and equal protection provisions of the United States Constitution and the constitutionally protected right to freedom of travel guaranteed by the United States Constitution.

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6. Petitioners, and the individuals and organizations that they represent, will be unreasonably restricted in the use of their property, required to undergo unreasonable additional development costs that can be shown to have no substantial relation to any significant improvement in air quality, denied jobs in connection with the construction of facilities subject to Indirect Source Construction Permits that will not be constructed because of the additional costs related to the obtaining of such permits, required (in the case of small facilities that cannot afford the additional costs associated with obtaining required permits) to locate such facilities, unnecessarily restricted in securing necessary construction loans, and generally required to expend additional sums of money without any reasonable evidence that such expenditures will make any significant contribution to improved air quality directly related to the facility that they seek to construct, operate, occupy or otherwise become associated with in a significant manner.

7. Petitioners are associations having more than ten members in the State of Oregon.

WHEREFORE, Petitioners request that the Environmental Quality Commission hold a public hearing on the proposed repeal of the Oregon Indirect Source Rules, and alternate amendment thereof, prayed for in this Petition. At such hearing Petitioners offer to produce testimony, from lay as well as expert witnesses, in support of those allegations in this petition that cannot be proved simply by reference to prior recorded minutes of the EQC or prior hearing officer reports

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1 related to the Oregon Indirect Source Regulations.

2 Respectfully submitted,

3

4

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5 Of Attorneys for Petitioners

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IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

WESTERN ENVIRONMENTAL TRADE ASSOCIATION, INC.; OREGON STATE HOMEBUILDERS ASSOCIATION; OREGON MEMBERS, INTERNATIONAL COUNCIL OF SHOPPING CENTERS; ASSOCIATED FLOOR COVERING CONTRACTORS; ASPHALT PAVEMENT ASSOCIATION OF OREGON,

Petitioners,

vs.

OREGON ENVIRONMENTAL QUALITY COMMISSION, JOE B. RICHARDS, DR. MORRIS CROTHERS, DR. GRACE S. PHINNEY, JACKLYN L. HALLOCK, RONALD M. SOMERS, Commissioners; B. A. McPHILLIPS; OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY and LOREN "BUD" KRAMER, Director, OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY; KESSLER R. CANNON,

Respondents.

PETITION FOR DECLARATORY JUDGMENT PURSUANT TO ORS 183.400

(Suit in Equity)

Case No. 75-3551

Petitioners allege:

I.

This is a proceeding for declaratory relief filed pursuant to ORS 183.400 which seeks to determine the validity of Oregon Administrative Rules (OAR) Chapter 340, Sections 20-100 through 20-135, "Rules for Indirect Sources."

II.

At all times mentioned herein, Petitioner, Western Environmental Trade Association, Inc., was and is a non-profit corporation organized under and pursuant to the laws of the State of Oregon. At all times mentioned herein, the Oregon State Homebuilders Association, was and is a non-profit corporation organized under and pursuant to the laws of the State of Oregon. At all times mentioned herein, the International Council of Shopping Centers was and is a voluntary membership organization organized as a not-for-profit corporation under the laws of the State of Illinois, with principal offices in New York City, New York, and with members

EXHIBIT "A"

COOLEY, COOLE & ATHERTON, ATTORNEYS AT LAW, 777 HIGH STREET, SUITE 3?0, EUGENE, OREGON 97401, (503) 484-????

1 throughout the United States and certain foreign countries, including Petitioners,
2 the Oregon members thereof, who at all times mentioned herein, were owners, develo
3 ers, or builders of shopping centers in the State of Oregon. At all times mention
4 herein, Petitioner, Associated Floor Covering Contractors, was and is a voluntary,
5 unincorporated association of Oregon floor covering contractors. At all times men-
6 tioned herein, Petitioner, Asphalt Pavement Association of Oregon was and is a non
7 profit corporation organized under and pursuant to the laws of the State of Oregon
8 III.

9 At all times mentioned herein, Respondent, Environmental Quality Commis
10 sion, was and is a commission of the State of Oregon created pursuant to ORS 468.0
11 and Respondents, Dr. Morris Crothers, Dr. Grace S. Phinney, Jacklyn L. Hallock and
12 Ronald M. Somers were and are commissioners of such commission; and Respondent B.
13 McPhillips was the chairman of such commission. Respondent Joe B. Richards is the
14 newly appointed chairman of Respondent Environmental Quality Commission.

15 IV.

16 At all times mentioned herein, Respondent, Oregon Department of Enviror
17 mental Quality was and is a Department in the Executive-Administrative Branch of
18 government of the State of Oregon established pursuant to ORS 468.030; and Respond
19 ent, Kessler R. Cannon, was the Director of such Department. Respondent, Loren "
20 Kramer is the newly appointed Director of the Department.

21 V.

22 On or about November 22, 1974, Respondent Oregon Environmental Quality
23 mission adopted OAR Chapter 340, Section 20-100 through 20-135, hereinafter in th
24 Petition referred to as the "Rules for Indirect Sources", and these rules are now
25 in full force and effect throughout the State of Oregon.

26 VI.

The Rules for Indirect Sources, and their threatened application,

interferes with or impairs, or threatens to interfere with or impair, the rights, privileges or substantial economic interest of the Petitioners, all of whom are directly engaged in the owning, construction or operation of indirect sources as defined in those rules or as treated by Respondents as covered by such rules.

VII.

Petitioners ask that the Court declare the indicated sections of the Oregon Rules for Indirect Sources, and the Rules for Indirect Sources themselves, invalid for the following reasons:

(a) Indirect Sources as defined in those rules cannot be air contamination sources as defined in ORS 468.275, contrary to the finding and declaration of Respondent Environmental Quality Commission in Section 20-100 of the Rules for Indirect Sources.

(b) The Rules for Indirect Sources, and in particular the finding and declaration stated in Section 20-100 thereof that "the regulation of Indirect Sources is necessary to control the concentration of air contaminants which results from Motor Vehicle Trips and/or Aircraft Operations associated with the use of Indirect Sources," were adopted in the absence of any evidence to justify this finding and declaration having been presented to the Commission and therefore they were adopted arbitrarily and capriciously, and without compliance with statutory rulemaking procedures that require the Commission to hold a hearing and receive evidence applicable to the proposed rule before the same is adopted.

(c) The finding by Respondent Environmental Quality Commission in Section 20-105 of the Rules for Indirect Sources that "the complexity or magnitude of Indirect Sources require state-wide regulation" and therefore Respondent, Environmental Quality Commission, "assumes or retains jurisdiction thereof" was also made in the absence of any evidence to support such findings, and therefore

arbitrarily and capriciously, and without complying with applicable statutory rule-making procedures requiring such evidence prior to adoption.

(d) The requirement of the Rules for Indirect Sources Section 20-110(21 that "location of ambient air sampling sites and methods of sampling collection shall conform to criteria on file with the Department of Environmental Quality" violates constitutional due process and statutory rulemaking procedures by incorporating by reference into a regulation non-specifically identified criteria that ca be modified or amended without being subject to the normal process for amending administrative rules.

(e) It is arbitrary and capricious, and in excess of the statutory authority of Respondent Environmental Qaulity Commission, for it to adopt a regulation provision that allows issuance of an Indirect Source Construction Permit to be based on air quality sampling for air contaminants generated by air contamination sources other than the indirect source in question, as permitted by the present wording of Regulation Section 20-110(21).

(f) Sections 20-129(1)(a)(v), (b)(i), (c)(v) and 20-125(1)(b)(iii) are unconstitutional as violating due process requirements, constituting a taking of property without just compensation, and denying applicants equal protection of the laws by requiring applicants who seek indirect source construction permits, as defined in the Rules for Indirect Sources, to supply evidence which they cannot reasonably be expected to produce and which further cannot properly be related to evidence before Respondent Environmental Quality Commission at the time it adopted the regulations in question.

(g) The proposed basis for determining those indirect sources who must apply for Indirect Source Construction Permits for Parking Facilities or other Indirect Sources with Associated Parking set out in Section 20-115(2)(a), (b) and

(c) were adopted in direct violation of applicable statutory rulemaking procedures in that Respondent, Environmental Quality Commission, had before it in the applicable rulemaking hearings no air quality evidence whatsoever, or such evidence as to characterize its actions as arbitrary and capricious, that would justify the different criteria for determining when and in what areas permits should be applie for, as set out in these sections.

(h) The requirements of Section 20-130(4)(i) and (j) were adopted arbitrarily and capriciously, and therefore enacted outside of the statutory authori of Respondent. Environmental Quality Commission, because the requirements they impose are beyond the control of applicants for the required Indirect Source Constru tion Permits.

(i) Section 20-130(4)(f), (c) and (l) are unconstitutional under the due process, equal protection and prohibited taking provisions of the United States Constitution and the prohibited taking provision of the Oregon Constitution, if required of permit applicants.

(j) The Rules for Indirect Sources taken as a whole, and in particular the requirements of Section 20-115(2)(a), (b) and (c), Section 20-130(4), when rea in conjunction with Section 20-115(1), are unconstitutional in that they improperl deprive applicants of their constitutionally protected freedom of travel.

(k) There was no evidence before the Commission at the time it adopted the Rules for Indirect Sources to substantiate provisions in the rule that seek to reduce total vehicle miles traveled (VMT) as a means of reducing excessive concentrations of carbon monoxide in particular locations, resulting from mobile source activity associated with indirect sources other than highways and airports; and reduction of improper concentrations of carbon monoxide, by preconstruction review, is the only lawful purpose for which the Indirect Source Regulations, as they appl

to indirect sources other than highways and airports, can be adopted. The require-
ment of Section 20-129(1)(a)(v) were adopted arbitrarily and capriciously, and
therefore enacted outside of the statutory authority of Respondent, Environmental
Quality Commission, because such provision was adopted in the absence of any evi-
dence to support the purported relationship between reduction in total VMT and a
reduction in the indicated concentrations of carbon monoxide.

(l) For the same reason as stated in subsection (k) above, i.e. that
as to indirect sources other than highway sections and airports the Indirect
Source Regulations can only have as a lawful purpose reductions of localized con-
centrations of carbon monoxide, the provision of Section 20-129(1)(a)(iii) that
requires measurements or estimates of lead concentrations was adopted arbitrarily
and capriciously, and therefore not in compliance with applicable statutory rule-
making authority of Respondent Environmental Quality Commission, because there was
no evidence to support the requirement for measurements or estimates of lead con-
centrations presented to the Commission.

(m) There was no evidence presented to Respondent Environmental Quality
Commission to support its conclusion that facility-by-facility review of air quality
impact on a regional basis can be successfully accomplished. Therefore it was ar-
bitrary and capricious, and outside of the statutory authority of Respondent En-
vironmental Quality Commission, to impose in the Rules for Indirect Sources the
requirements contained in Sections 20-129(1)(a)(vii), 20-129(1)(c)(xii) and Sections
20-129(1)(d)(xi) and (xiv)

(n) The sections of the Rules for Indirect Sources objected to in sub-
sections (k), (l) and (m) of this Paragraph 7 above are also invalid because they
are unconstitutional in that they violate due process requirements and wrongfully
deny applicants to whom they apply the equal protection of the laws.

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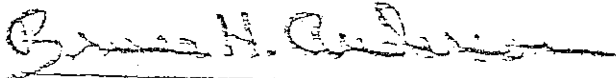
WHEREFORE, Petitioners pray for a decree or order of the Court invalidating the Rules for Indirect Sources; for Petitioners costs and disbursements incurred herein; and for such other relief as to the Court seems just and proper.

Respectfully submitted,



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LEE JOHNSON
ATTORNEY GENERAL

STATE OF OREGON
DEPARTMENT OF JUSTICE
PORTLAND, OREGON 97201

AIR QUALITY CONTROL

August 21, 1975

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Environmental Quality Commission
P. O. Box 10747
Eugene, Oregon 97401

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Mrs. Jacklyn L. Hallock, Member
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Ted Hallock, Inc.
Public Relations
2445 N. W. Irving Street
Portland, Oregon 97210

Mr. Loren Kramer, Director
Department of Environmental Quality
1234 S. W. Morrison
Portland, Oregon 97205

Mr. Kessler R. Cannon
Department of Environmental Quality
1234 S. W. Morrison
Portland, Oregon 97205

Re: Western Environmental Trade Association, Inc., et al. v. Oregon Environmental Quality Commission, et al., Lane County Circuit Court No. 75-3351

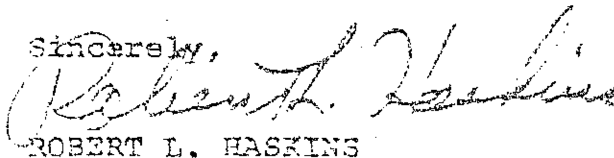
Ladies and Gentlemen:

Enclosed for your information is a copy of Respondents' Motion Against Plaintiffs' Petition for Declaratory Judgment which we filed on your behalf on August 20, 1975.

A hearing on the motion is scheduled for September 8, 1975 in Eugene.

Please call me if you have any questions.

Sincerely,



ROBERT L. HASKINS
Assistant Attorney General

bp
Enclosure
cc: Carl Simons w/enclosure
Lynda Willis

Respondants respectfully request to be heard orally on this motion.

[illegible] Johnson, Attorney General
555 State Office Building
Portland, Oregon 97201
Telephone 229-5725

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON

2 FOR THE COUNTY OF LANE

3 WESTERN ENVIRONMENTAL TRADE ASSOCIATION, INC.; OREGON STATE 4 HOMEBUILDERS ASSOCIATION; OREGON MEMBERS, INTERNATIONAL COUNCIL OF 5 SHOPPING CENTERS; ASSOCIATED FLOOR COVERING CONTRACTORS; ASPHALT PAVE- 6 MENT ASSOCIATION OF OREGON,	Case No. 75-3351
7 Petitioners,	RESPONDENTS' MOTION AGAINST PLAINTIFFS' PETITION FOR DECLARATORY JUDGMENT
8 v.	
9 OREGON ENVIRONMENTAL QUALITY COMMISSION, JOE B. RICHARDS, 10 DR. MORRIS CROTHERS, DR. GRACE S. PHINNEY, JACKLYN L. HALLOCK, 11 RONALD M. SOMERS, Commissioners; B. A. McPHILLIPS; OREGON DEPART- 12 MENT OF ENVIRONMENTAL QUALITY; and LOREN "BUD" KRAMER, Director, 13 OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY; KESSLER R. CANNON, 14	
Respondents.	

15

16 Come now respondents and move the court for an order

17 as follows:

18 1. Making more definite and certain paragraph II

19 of petitioners' petition (a copy of which is attached hereto

20 marked Exhibit "A") the language at page 1, line 24, through

21 page 2, line 3, as follows:

22 "At all times mentioned herein, the International Council of Shopping
23 Centers was and is a voluntary membership organization organized as a not-
24 for-profit corporation under the laws of the State of Illinois, with principal
25 offices in New York City, New York, and with members throughout the United States
26 and certain foreign countries, including

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Portland Oregon 97201

Petitioners, the Oregon members thereof, who at all times mentioned herein, were owners, developers, or builders of shopping centers in the State of Oregon."

for the reason that the allegation is so indefinite and uncertain that respondents cannot prepare a defense thereto.

Points and Authorities

In order to prepare their defense, respondents are entitled to know the identity of those persons or entities which are suing them. Reference in the caption and in the text of the complaint to "Oregon members" of a foreign corporation does not suffice. It is not clear whether it is the corporation or the members which are suing. In either case, respondents are entitled to know. Furthermore, if the unnamed "Oregon members" are suing, respondents are entitled to know what their names are. This is necessary to obtain an effective decree for or against them. It is also a prerequisite to determining whether they have standing. ORS 183.400(1)(1973).

Finally, in conjunction with that issue, respondents are entitled to know which "Oregon members" were owners, which were developers, and which were builders of which shopping centers. The Environmental Quality Commission's indirect source rules which are contested in this case only apply to indirect sources the construction of which was commenced subsequent to December 31, 1974. OAR, ch. 340, §20-115(1) (April 1, 1975). Attached hereto, marked Exhibit "B" is a copy of the indirect source rules, OAR,

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1 ch 340, §§ 20-100 through 20-135 as published by the Secretary
2 of State pursuant to ORS 183.360 (1973). Also attached hereto, marked
3 Exhibit "C" is a copy of the rules which were repealed and super-
4 ceded by the indirect source rules. Exhibit "C" became effective
5 in March of 1972 and was codified by the Secretary of State as
6 OAR, ch 340, §§20-050 through 20-070. Those rules required
7 preconstruction review under a notice of construction procedure,
8 ORS 449.712 (1971) now codified as ORS 468.325 (1974), of parking
9 facilities of 50 or more spaces, freeways and expressways, pro-
10 posed to be constructed in or within 5 miles of the boundary of
11 a city having a population of 50,000 or greater. OAR, ch 340,
12 §§ 20-060, -065 (April 1, 1972) (Ex "C").

13 ORS 13.030 (1974)

14 ORS 16.110 (1973)

15 2. Striking from paragraph VI of petitioners'
16 petition the language at page 2, line 26 plus 1, through
17 page 3, line 2, as follows:

18 "The Rules for Indirect Sources, and
19 their threatened application, interfers (*sic*)
with or impairs, or threatens (*sic*) to inter-
20 fere with or impair, the rights,
privileges or substantial economic
21 interest of the Petitioners,"

22 on the grounds that it is a conclusion of law.

23 Points and Authorities

24 Petitioners' above-quoted allegation is substan-
25 tially identical to the relevant portion of ORS 183.400(1)
26 (1973). Petitioners' allegation therefore is a conclusion

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of law, and not a statement of facts as required by ORS 16.210(2)(b)(1973).

In the alternative and without waiving the foregoing, respondants move the Court for an order as follows:

3. Making more definite and certain paragraph VI of petitioners' petition in its entirety for the reason that it is so indefinite and uncertain that respondents cannot prepare a defense thereto.

Points and Authorities

Respondents are doubtful of the standing of each of the petitioners. In order to ultimately raise that issue, respondents must be apprised of the specific allegations of standing upon which each petitioner rests. ORS 16.110 (1973). In other words, regarding each petitioner and each rule, respondents are entitled to know exactly what petitioners are contending, as follows:

(a) whether the rule interferes with or impairs;

(b) whether the rule interferes with (or impairs) or threatens to do so;

(c) whether the actual or threatened interference or impairment pertains to a right, privilege or substantial economic interest of the petitioner;

(d) which specific right, privilege or substantial economic interest is affected;

(e) which specific constitutional, statutory or other basis supports each claimed right, privilege and sub-

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1 stantial economic interest;

2 (f) specifically how each specific right, privilege
3 and substantial economic interest is threatened to be and is
4 actually interfered with and impaired, i.e. a statement of
5 facts;

6 (g) whether the petitioner owns, constructs or
7 operates an indirect source, OAR, ch 340, §20-110(10) (April 1,
8 1975).

9 (h) the date upon which construction was commenced,
10 OAR, ch 340, §20-110(5) (April 1, 1975), on the indirect
11 source referred to in (g), above;

12 (i) the type, size and location of the indirect
13 source referred to in (g), above.

14 Each of the above matters must be clarified before
15 the court can determine the standing of each of the petitioners.
16 It is necessary to ascertain the latter two points, (h) and (i),
17 in order to determine whether the petitioners' indirect
18 sources, as defined by OAR ch 340, §20-110(10) (April 1, 1975),
19 are indirect sources which are subject to the permit requirement
20 of the rules set forth in OAR, ch 340, §20-115 (April 1, 1975), or
21 were subject to the prior rules, OAR, ch 340, §§20-050 through
22 20-070. All the substantive provisions of the indirect source
23 rules are applicable only to those persons who are required to
24 obtain permits.

25 4. Striking paragraph VII of petitioners' petition
26 in its entirety on the ground that more than one cause is set

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1 forth therein.

2 Points and Authorities

3 In paragraph VII, petitioner has set forth 14 lettered
4 subparagraphs. Each subparagraph specifies one or more rules which
5 petitioner feels is invalid for a number of various reasons. Each
6 subparagraph is an independent challenge to the validity of the
7 rule or rules set forth therein. Each subparagraph challenges
8 rules, or specific parts thereof other than those challenged in
9 other subparagraphs, or for other reasons.
10 Each challenge of each unique substantive requirment of
11 a rule is a separate cause and should be stated separately.
12 This is necessary in order to determine whether each petitioner
13 has standing to challenge each rule. We doubt that petitioners
14 will be able to make a showing of standing to challenge each
15 rule, which they have enumerated. However, respondents are unable
16 to raise this issue for determination by the court on the pleadings
17 until petitioner states its causes separately and is required to
18 specify the unique facts which confer standing upon each petitioner
19 to challenge each rule.
20 Each ground of challenge of a rule should be set forth
21 as a separate count. This is necessary in order to allow respondents
22 to challenge and the court to rule on whether petitioners statement
23 is recognized in law.
24 In the alternative and without waiving the foregoing,
25 respondents move the court for an order:
26 5. Striking from subparagraph (a) of paragraph VII

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of the petition the language at page 3, lines 9 and 10 as follows: "Indirect sources as defined in those rules cannot be air contamination sources as defined in ORS 468.275," on the ground that it is not a statement of facts, but rather states a conclusion of law.

Points and Authorities

ORS 16.210(2)(b) (1973)

In the alternative and without waiving the foregoing, respondents move the court for an order as follows:

6. Making more definite and certain subparagraph (a) of paragraph VII of the petition the language at page 3, lines 9 and 10 as follows: "Indirect sources as defined in those rules cannot be air contaminant sources as defined in ORS 468.275," for the reason that it is so indefinite and uncertain that respondents are unable to prepare a defense thereto.

Points and Authorities

In ORS 468.275(4) (1974), the legislature has defined "air contamination source" as follows:

> "'Air contamination source' means any source at, from, or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in, at or on which such source is located, or the facility, equipment or other property by which the emission is caused or from which the emission comes."

In view of that definition and petitioners' bald assertion that "Indirect Sources * * * cannot be air contamination sources,"

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respondants are entitled to know what facts petitioner feels take indirect sources out of that definition.

ORS 16.110 (1973).

7. Making more definite and certain subparagraph (b) of paragraph VII of the petition the language at page 3, lines 17 through 21, as follows:

> "***were adopted in the absence of any evidence to justify this finding and declaration having been presented to the Commission and therefore they were adopted arbitrarily and capriciously, and without compliance with statutory rulemaking procedures that require the Commission to hold a hearing and receive evidence applicable to the proposed rule before the same is adopted."

for the reason that it is so indefinite and uncertain that respondants are unable to prepare a defense thereto.

Points and Authorities

It is entirely unclear whether petitioner is alleging: (1) that respondent Environmental Quality Commission ("EQC") failed to hold any hearing prior to the adoption of the rules in question; or (2) that although a hearing was held prior to the adoption of the rules, no evidence was placed in the record of the hearing to support the rules in general and the particular finding in question. Respondents are entitled to know which theory petitioner is espousing. It is crucial in preparing respondents' defenses in terms of both the facts and the law. ORS 16.110 (1973). Until petitioner specifies which theory it is proceeding under, respondents will be unable to raise the legal issues on

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the pleadings.

Furthermore, under either alternative, respondents are entitled to know which specific provisions of the "statutory rulemaking procedures," ORS 183.400(3) (1973), were not complied with.

8. Making more definite and certain subparagraph (c) of paragraph VII of the petition at page 3, line 25 through page 4, line 2, the language:

> "was also made in the absence of any evidence to support such findings, and therefore arbitrarily and capriciously, and without complying with applicable statutory rulemaking procedures requiring such evidence prior to adoption."

for the reason that respondents are unable to prepare a defense thereto.

Points and Authorities

See Points and Authorities regarding paragraph 7 of this motion.

9. Making more definite and certain subparagraph (d) of paragraph VII at page 4, line 6, the language "violates constitutional due process and statutory rulemaking procedures" for the reason that it is so indefinite and uncertain that respondents are unable to prepare a defense thereto.

Points and Authorities

Respondents are entitled to know whether petitioners are alleging violation of the Oregon or United States constitution and the particular article, amendment or section

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1 thereof. They are also entitled to know what specific
2 "statutory rulemaking procedures," ORS 183.400(3) (1973),
3 have been violated.
4 ORS 16.110 (1973)
5 10. Striking subparagraph (e) of paragraph VII of
6 the petition in its entirety on the ground that it is sham,
7 irrelevant and immaterial.

8 Points and Authorities

9 The rule which petitioner has put in issue, OAR,
10 ch 340, §20-110(21) (April 1, 1975), is merely a definitional
11 provision. It reads as follows, in pertinent part:

12 "'Reasonable Receptor and Exposure
Sites' means locations where people might
13 reasonably be expected to be exposed to
air contaminants generated in whole or
14 in part by the Indirect Source in question."

15 It is obvious that this definition does not allow or disallow
16 the issuance of any permit based on anything. It is merely
17 a definition of a term which is used in other sections.
18 Therefore, petitioners' allegation is false in fact, irrele-
19 vant, immaterial and subject to a motion to strike.
20 ORS 16.100 (1973).
21 11. Striking subparagraphs (f), (k), (l), (m) and
22 (n) of paragraph VII of the petition in their entirety for the
23 reason that they are sham, irrelevant and immaterial.

24 Points and Authorities

25 Petitioners cited and challenged the validity of the
26 following portions of the rules:

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sub-paragraph of paragraph VII of petition	Rule cited
(f)	"§20-129(1)(a)(v)"
(f)	"§20-129(1)(b)(i)"
(f)	"§20-129(1)(c)(v)"
(f)	"20-125(1)(b)(iii)"
(k) & (n)	"20-129(1)(a)(v)"
(l) & (n)	"20-129(1)(a)(iii)"
(m) & (n)	"20-129(1)(a)(vii)
(m) & (n)	"20-129(1)(c)(xii)
(m) & (n)	"20-129(1)(d)(xi) & (xiv)

This court "shall take judicial notice of rules * * * published pursuant to [ORS 183.360 (1973)]." ORS 183.360(5)(1973). None of the above-underlined sub-parts of the rules cited by petitioners can be found in the Secretary of State's compilation (OAR) of the Environmental Quality Commission's rules, OAR, ch 340, published pursuant to ORS 183.360(1)(1973). (See Ex "B"). Therefore petitioners are attacking non-existent rules. As such petitioners' allegation is sham, irrelevant and immaterial.

ORS 16.100 (1973)

In the alternative and without waiving the foregoing respondents move the court for an order as follows:

12. Making more definite and certain subparagraph (f) of paragraph VII of the petition in its entirety on the ground that it is so indefinite and uncertain that respondents cannot prepare a defense thereto.

Points and Authorities

Respondents are entitled to know which constitutions and which specific provisions thereof are alleged to have been violated. Respondents are also entitled to know how requiring the information

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1 specified in the rules in question violates each constitutional
2 provision. Respondents are entitled to know what facts make it
3 unreasonable for petitioners to produce the information required by
4 the rules. Finally, respondents are entitled to know how it violates
5 each constitutional provision to require applicants "to supply
6 evidence which * * * cannot properly be related to evidence before
7 respondent Environmental Quality Commission at the time it adopted
8 the regulations in question."
9 ORS 16.110 (1973).
10 13. Making more definite and certain subparagraph (g)
11 of paragraph VII at page 5, line 1 the language: "were adopted
12 in direct violation of applicable statutory rulemaking procedures"
13 for the reason that it is so indefinite and uncertain that
14 respondents are unable to prepare a defense thereto.
15 Points and Authorities
16 Respondents are entitled to know which <u>specific</u> "statutory
17 rulemaking procedures," ORS 183.400(3) (1973), were directly
18 violated in order to be able to prepare their defense.
19 ORS 16.110 (1973)
20 14. Making more definite and certain subparagraph (i)
21 of paragraph VII the language at page 5, lines 12 through 14
22 as follows: "are unconstitutional under the due process,
23 equal protection * * * provisions of the United States Cons-
24 titution" on the grounds that they are so indefinite and un-
25 certain that respondents are unable to present a defense
26 thereto.

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1 Points and Authorities

2 Respondents are entitled to know whether petitioners
3 are alleging violation of substantive or procedural due process.
4 Respondents are at a loss as to how the rules them-
5 selves, or as applied in the issuance of a permit could conceivably
6 constitute a violation of the federal equal protection clause.
7 Therefore, respondents urge the court to require petitioners to
8 plead the specific ultimate facts which petitioners contend
9 violate that clause.

10 ORS 16.110 (1973)

11 ORS 16.210(2)(b) (1973)

12 15. Making more definite and certain subparagraph (j)
13 of paragraph VII in its entirety on the ground that it is so
14 indefinite and uncertain that respondents are unable to prepare
15 a defense thereto.

16 Points and Authorities

17 Respondents are entitled to know which provisions of which
18 constitution are alleged to have been violated. They are also
19 entitled to know what the scope of petitioners freedom of
20 travel is and how it was violated or is threatened to be
21 violated. In sum, respondents are entitled to know what speci-
22 fic facts support petitioners' conclusion of law identified
23 as VII(j).

24 ORS 16.110 (1973

25 ORS 16.210(2)(b) (1973)

26 16. Making more definite and certain subparagaph (k)

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of paragraph VII in its entirety for the reason that it is so
2 indefinite and uncertain that respondents are unable to pre-
3 pare a defense thereto.

4 Points and Authorities

5 See the Points and Authorities pertaining to para-
6 graph 7 of this motion on pages 8 and 9 hereof.

7 17. Making more definite and certain subparagraph (l)
8 of paragraph VII in its entirety for the reason that it is so
9 indefinite and uncertain that respondents are unable to pre-
10 pare a defense thereto.

11 Points and Authorities

12 See the Points and Authorities pertaining to paragraph
13 7 of this motion on pages 8 and 9 hereof.

14 18. Making more definite and certain subparagraph (m)
15 of paragraph VII in its entirety on the ground that it is so
16 indefinite and uncertain that respondents are unable to prepare
17 a defense thereto.

18 Points and Authorities

19 See the Points and Authorities pertaining to paragraph 7
20 of this motion on pages 8 and 9 hereof.

21 19. Striking subparagraph (n) of paragraph VII in its
22 entirety on the ground that it states a conclusion of law.

23 Points and Authorities

24 This subparagraph contains only bald conclusions of
25 law. Petitioners apparently intended to incorporate the
26 citations to the challenged rules by reference. However, none

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1 of the substantive allegations of subparagraphs (k), (l) or
2 (m) of paragraph VII were expressly incorporated by reference,
3 and neither should they be implicitly incorporated.

4 ORS 16.210(2)(b) (1973)

5 In the alternative and without waiving the foregoing
6 respondents move the court for an order:

7 20. Making more definite and certain subparagraph (n)
8 of paragraph VII in its entirety for the reason that it is so
9 indefinite and uncertain that respondents are unable to prepare
10 a defense thereto.

11 Points and Authorities

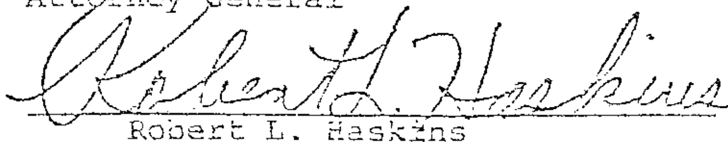
12 This subparagraph is entirely void of any allegation
13 of facts which support the contentions of unconstitutionality.
14 Furthermore, the constitution alleged to be violated is not
15 cited. Assuming for argument that the federal Constitution
16 was intended, respondents are entitled to know whether petitioners
17 are alleging a violation of substantive of procedural due process.
18 In summary, respondents are entitled to a "plain and concise
19 statement of the facts constituting the cause * * *." ORS 16.210
20 (2)(b) (1973)

21 ORS 16.110 (1973)

22 Respectfully submitted,

23 LEE JOHNSON
Attorney General

24



25

Robert L. Haskins
26 Assistant Attorney General
Attorneys for Respondents

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IN THE CIRCUIT COURT OF THE CIRCUIT COURT

FOR LANE COUNTY

FILED
AT..........O'CLOCK.......M
SEP 10 1975
D. M. PENFOLD, Director of the
Dept. of Records and Elections of Lane County
BY /s/ Evelyn Johnston
DEPUTY

WESTERN ENVIRONMENTAL TRADE ASSOCIATION, INC.; OREGON STATE HOMEBUILDERS ASSOCIATION; OREGON MEMBERS, INTERNATIONAL COUNCIL OF SHOPPING CENTERS; ASSOCIATED FLOOR COVERING CONTRACTORS; ASPHALT PAVEMENT ASSOCIATION OF OREGON,

Petitioners,

vs.

OREGON ENVIRONMENTAL QUALITY COMMISSION, JOE B. RICHARDS, DR. MORRIS CROTHERS, DR. GRACE S. PHINNEY, JACKLYN L. HALLOCK, RONALD M. SOMERS, Commissioners; B. A. McPHILLIPS; OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY; and LOREN "BUD" KRAMER, Director, OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY; KESSLER R. CANNON,

Respondents.

Case No. 75 3351

ORDER

This matter coming on to be heard upon the respondents' motion against plaintiffs' petition for declaratory judgment, the petitioners being represented by Bruce H. Anderson, their attorney, and the respondents being represented by Robert L. Haskins, Assistant Attorney General, the Court having heard arguments of counsel and not being fully advised, took the motion under advisement; and now being fully advised;

IT IS HEREBY ORDERED that the motion is decided upon as follows:

Paragraph 1 Allowed.
Paragraph 2 Denied.
Paragraph 3 Allowed.
Paragraph 4 Denied.
Paragraph 5 Denied.
Paragraph 6 Allowed.
Paragraph 7 Allowed.
Paragraph 8 Allowed.
Paragraph 9 Allowed.
Paragraph 10 Denied.
Paragraph 11 Allowed.

Paragraph 12 Moot.
Paragraph 13 Allowed.
Paragraph 14 Denied.
Paragraph 15 Allowed.
Paragraph 16 Moot.
Paragraph 17 Moot.
Paragraph 18 Moot.
Paragraph 19 Moot.
Paragraph 20 Moot.

IT IS FURTHER ORDERED that petitioners have ten days to plead further herein.

Dated this 10th day of September, 1975.

/s/ Douglas R. Spencer
Circuit Judge

PARKING FACILITIES AND HIGHWAYS IN URBAN AREAS

[ED. NOTE: Unless otherwise specified, section 20-050 through 20-070 of this chapter of the Oregon Administrative Rules Compilation were adopted by the Department of Environmental Quality January 24, 1972 and filed with the Secretary of State February 15, 1972 as DEQ 37.]

20-050 [Repealed 12-5-74 by DEQ 81.]

20-055 [Repealed 12-5-74 by DEQ 81.]

20-060 [Repealed 12-5-74 by DEQ 81.]

20-065 [Repealed 12-5-74 by DEQ 81.]

20-070 [Repealed 12-5-74 by DEQ 81.]

RULES FOR INDIRECT SOURCES

[ED. NOTE: Unless otherwise specified, sections 20-100 through 20-135 of this chapter of the Oregon Administrative Rules Compilation were adopted by the Environmental Quality Commission November 22, 1974, and filed with the Secretary of State December 5, 1974 as Administrative Order DEQ 81. Effective 12-25-74. Repeals sections 20-050 through 20-070.]

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 United 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.

Hist: Amended 3-11-75 by DEQ 86

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:

(A) 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 50 or more Parking Spaces.

(B) Any Highway Section being proposed for construction with an antici-

pated 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:

(A) 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.

(B) 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:

(A) 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 1000 or more Parking Spaces.

(B) 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.

Hist: Amended 3-11-75 by DEQ 86

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:

(A) A completed application form;

(B) A map showing the location of the site;

(C) A description of the proposed and prior use of the site;

(D) 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;

(E) A ventilation plan for subsurface and enclosed parking;

(F) 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.

(G) 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):

(A) Items (A) through (C) of subsection 20-125(1)(a).

(B) 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.

(C) 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.

Hist: Amended 3-11-75 by DEQ 86

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:

(A) Items (A) through (E) of subsection 20-125(1)(a).

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

(C) 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.

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

(E) An estimate of the effect of the operation of the Indirect Source on total vehicle miles travelled.

(F) 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 development.

(G) 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.

(H) 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.

(I) 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.

(J) 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 50 to 1000 vehicles; the following information shall be submitted:

(A) Items (A) through (E) of subsection 20-125(1)(a).

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

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

(A) Items (A) through (E) of subsection 20-125(1)(a).

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

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

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

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

(F) 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.

(G) 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.

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

(I) 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.

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

(K) 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.

(L) 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.

(M) 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:

(A) Items (A) through (C) of subsection 20-125(1)(a).

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

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

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

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

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

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

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

(I) Alternative designs of the Highway Section, i.e. size, location, etc., which would minimize adverse environmental effects of the Highway Section.

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

(K) 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.

(L) 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.

(M) 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.

(N) 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.

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

Hist: Amended 3-11-75 by DEQ 86

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 received 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 exists 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 an Indirect Source Construction Permit, it shall issue an order setting forth its reasons in essential detail.

(9) 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.

Hist: Amended 3-11-75 by DEQ 86

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 modification 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.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Do	Summit	Kamas, city of	June 24, 1975, emergency	Aug. 16, 1974		
Do	Sevier	Redmond, town of	do	Jan. 31, 1975		
Do	Davis	West Bountiful, city of	do	Dec. 28, 1973		
Vermont	Lamoille	Cambridge, village of	do	Aug. 9, 1974		
Do	Windham	Newfane, town of	do	June 28, 1974		
Do	Addison	Orwell, town of	do	Nov. 15, 1974		
Do	Bennington	Shaftsbury, town of	do	June 28, 1974		
Virginia	Lee	Jonesville, town of	do	June 11, 1974		
Washington	Island	Langley, city of	do			
Do	Spokane	Medical Lake, town of	do	June 7, 1974		
Wisconsin	Fond du Lac	Ripon, city of	do	May 24, 1974		
Do	Pierce	Spring Valley, village of	do	June 14, 1974		
West Virginia	Pendleton	Franklin, town of	do	May 31, 1974		
Do	Tucker	Hambleton, town of	do	Feb. 1, 1974		
Do	Fayette and Kanawha.	Montgomery, city of	do	May 21, 1974		
Do	Ritchie	Pennsboro, city of	do	May 31, 1974		
Wyoming	Platte	Wheatland, city of	do	Apr. 12, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974).

Issued: June 24, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-17180 Filed 7-2-75;8:45 am]

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 727—AGRICULTURE INDUSTRY IN PUERTO RICO

Wage Order—Correction

In FR Doc. 74-19855 on 39 FR 31316, the workers in the sugarcane farming industry heretofore set forth in § 727.2a were included in revised paragraphs (f), (g) and (h) of § 727.2.

1. Section 727.2a is accordingly deleted.
2. As the result of the deletion of § 727.2a, the words "and 727.2a" appearing twice in § 727.3 are also deleted.

Signed at Washington, D.C. this 27th day of June 1975.

BERNARD E. DELURY,
Assistant Secretary for Employment Standards, U.S. Department of Labor.

[FR Doc.75-17336 Filed 7-2-75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 385-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Review of Indirect Sources

Indefinite Suspension of Parking-Related Indirect Source Review. The Administrator of the Environmental Protection Agency (EPA) is today suspending indefinitely those portions of EPA's indirect source regulation (40 CFR 52.22 (b), 39 FR 25292, July 9, 1974) covering parking-related facilities.

Background. The Clean Air Act, as amended in 1970 (42 U.S.C. 1857 et seq.) requires that all state implementation plans insure both attainment of ambient air quality standards by certain deadlines and continued maintenance of such standards once they are attained. After a Fededal appeals court ordered EPA in early 1973 to assure that state implementation plans are adequate for maintenance as well as attainment (NRDC v. EPA, 475 F.2d. 968 (D.C. Cir. 1973)), EPA determined that every state implementation plan should contain an "indirect source" review regulation.

An "indirect source" of air pollution is a facility which does not itself emit air pollutants, but which attracts automobiles in sufficient numbers so as to have the potential for creating concentrations of auto-related pollutants in excess of the ambient air standards set to protect the public health and welfare. Examples are shopping centers, apartments, office buildings, parking garages, highways, and airports.

Pursuant to the above-noted court order, EPA amended 40 CFR 51.18 on June 18, 1973 (38 FR 15834) to set forth the basic requirements for all states to develop indirect source regulations. Under the Court order (as revised) EPA was required to promulgate by February 15, 1974, regulations for all states which failed to submit approvable regulations. Accordingly, on February 14, 1974, EPA promulgated an indirect source regulation to be incorporated into the implementation plans of 52 states and territories (39 FR 7270, February 25, 1974). Only the regulations for Alabama, Florida, and Guam could be approved. The regulation was repromulgated with clarifying amendments on July 9, 1974 (39 FR 25292). At present, five additional state regulations have been approved: North Carolina, Kentucky, Washington, Idaho, and Nevada. Thus, the Federal regulation is now part of the implementation plans for 47 states and territories.

The Federal regulation requires air quality review of three basic types of indirect sources: highways, airports, and parking-related facilities. Generally, the regulation provides that the Administrator must review the plans for such facilities prior to construction or modification, and that he must deny approval to construct or modify if the indirect source would cause or exacerbate violations of the ambient air standards.

As originally promulgated, the Federal regulation required that any covered facility which commenced construction on or after January 1, 1975 would be subject to review. On December 30, 1974 (39 FR 45014) EPA delayed this applicability date until July 1, 1975, and announced that the review procedures under the regulation were being suspended "pending further notice." EPA postponed the applicability date principally because late in 1974 a provision was added to EPA's Appropriations Act for fiscal 1975[1] which denies EPA funds to administer facilities. Theiltip y2557u$aooreful qp4 any program to limit or regulate parking facilities. This restriction is scheduled to expire on June 30, 1975.

Current EPA Policy. EPA continues to believe that the goal stated in the Clean Air Act of maintaining ambient air standards makes it necessary that state implementation plans have a mechanism for regulating new and modified indirect sources. Even though significant reductions in direct emissions from autos are being accomplished through the Federal Motor Vehicle Pollution Control Program, such reductions by themselves will be insufficient in many areas to insure attainment and maintenance of the ambient air standards for some time to come. New indirect sources which are improperly designed so as to cause congestion, or which have the effect of significantly increasing local or area-wide auto traffic, may either cause new health standard violations or exacerbate existing violations.

EPA recognizes the importance of state and local controls in the planning, siting and design of parking-related facilities, such as shopping centers, office buildings, and residential facilities. EPA believes that the necessary preconstruction reviews for air quality can be most effective when incorporated by the state or local government into their ongoing planning, zoning and building permit process. EPA has continually emphasized its desire that the indirect source regulations be implemented at the state or local level, not at the Federal level. It is only where states have failed to adopt indirect source regulations that EPA must, under the current provisions of the Clean Air Act,

be prepared to perform a Federal review.

Currently, the appropriate legislative committees of the Congress are considering various possible amendments to the Clean Air Act. One is an amendment that would require each state to adopt and implement an indirect source regulation as a part of its State Implementation Plan and provide no authority for EPA to review parking-related facilities. In view of the active Congressional consideration of parking-related indirect source amendments, EPA does not feel it is desirable to reinstate the parking-related aspects of the Federal regulation at this time.

In the absence of Congressional action for a substantial time period, EPA may reinstate the current regulations as they pertain to parking facilities in order to help insure that air quality standards be maintained. If such a course of action becomes necessary, in no event would parking related facilities commencing construction within six months after reinstatement be subject to the Federal regulation.

Highways and Airports. In the Administrator's judgment, different considerations govern the Agency's position with respect to highways and airports. First, Congressional concern over the indirect source regulations has focused upon the Federal review of parking facilities and not upon the Federal review of highways and airports. For example, the prohibition contained in EPA's Appropriations Act for fiscal 1975 did not preclude review of highways and airports.

Second, the size of highways and airports subject to the Federal regulation is so large that virtually all such facilities must go through Federal review and approval processes in any event, both through Department of Transportation and National Environmental Policy Act procedures. Incorporating an indirect source review step at the Federal level should not create additional delays since the EPA review can be carried on simultaneously with other Federal reviews, largely using data already developed for those reviews.

Accordingly, the Administrator plans in the near future to propose guidelines[2] for the oxidant-nitrogen dioxide impact review of highways and airports so that the Federal regulation may be completed in respect to these types of indirect sources. The Agency will hold rulemaking on these guidelines before promulgating the guidelines in final form. In no event will highways and airports commencing construction or modification within six months after promulgation of the guidelines be subject to the regulation.

The Administrator continues to encourage states to adopt and enforce indirect source regulations (including highway and airport review) and to submit them to EPA for approval as part of their implementation plans. 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: June 26, 1975.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is hereby amended by revising paragraph (16) of § 52.22(b) to read as follows:

(16) Notwithstanding any of the foregoing provisions to the contrary, the operation of this paragraph is hereby suspended pending further notice. No facility which commences construction prior to the expiration of the sixth month after the operation of this paragraph is reinstated (as to that type of facility) shall be subject to this paragraph.

[FR Doc.75-17293 Filed 7-2-75;8:45 am]

[1] Section 510 of the Agriculture-Environmental Consumer Protection Appropriations Act, 1975 (Pub. L. 93-563, 88 Stat. 1822).

[2] These guidelines will comprise the Appendix which was referred to at 39 FR 25295, right column, July 9, 1974.

[FRL 393-7; PP4E1509/R29]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Trifluralin

On May 12, 1975, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (40 FR 20651) a notice of proposed rulemaking to establish a tolerance for negligible residues of the herbicide trifluralin (α,α,α-trifluoro - 2,6 - dinitro - *N,N* - dipropyl - *p*-toluidine) in or on the raw agricultural commodities field cron grain, fodder, and forage at 0.05 part per million. No comments or requests for referral to an advisory committee were received with regard to this proposal, and it has therefore been concluded that the proposed amendment to the regulations (40 CFR 180.207) be adopted without alteration.

Any person adversely affected by this regulation may on or before August 4, 1975 file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M St., SW, Washington DC 20460. Such objections should be submitted in quintuplicate and should specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on the date of publication, Part 180, Subpart C, § 180.207, is amended as set forth below.

Dated: June 26, 1975.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Section 180.207, Subpart C, Part 180, is amended by revising the paragraph "0.05 part per million (negligible residue) * * * " to read as follows.

§ 180.207 Trifluralin; tolerances for residues.

* * * * *

0.05 part per million (negligible residue) in or on citrus fruits, cottonseed, cucurbits, field corn grain, fodder, and forage, forage legumes, fruiting, vegetables, grapes, hops, leafy vegetables, nuts, peanuts, peppermint hay, root crop vegetables (except carrots) safflower seed, seed and pod vegetables, spearmint hay, stone fruits, sugarcane, sunflower seed, wheat grain, and wheat straw.

* * * * *

[FR Doc.75-17294 Filed 7-2-75;8:45 am]

[FRL 393-8; OPP-300001A]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Exemptions From Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

On April 28, 1975, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (40 FR 18451) a notice of proposed rulemaking to exempt certain additional inert (or occasionally active ingredients in pesticide formulations from tolerance requirements under the provisions of section 408 of the Federal Food, Drug, and Cosmetic Act.

The Agency has made a change in the proposed regulation with regard to the exemption of sodium hypochlorite from the requirement of a tolerance as listed in the proposal. The uses cited for this chemical were "bleaching agent" and "disinfectant" and sodium hypochlorite in a disinfectant product is an active ingredient. Therefore, the word "disinfectant", which was listed under uses, is being struck from the proposed document. The intended function(s) of sodium hypochlorite in a pesticide formulation when this chemical is added to a formulation as an inert ingredient are included under uses in the regulation.

The proposed amendment to the regulations (40 CFR 180.1001) with the above change will protect the public health. It is therefore adopted.

Any person adversely affected by this regulation may on or before August 4, 1975 file written objections with the

[14 CFR Part 93]

[Docket No. 14777; Notice No. 75-30]

OAKLAND, CALIFORNIA, CONTROL ZONE

Proposed Elimination of Special VFR Prohibition

The Federal Aviation Administration is considering amending Part 93 of the Federal Aviation Regulations to permit special VFR operations in the Oakland, California, control zone.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments are specifically invited regarding the environmental effects of the proposal, if any. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before September 8, 1975, will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Section 93.113 prohibits the operation of fixed-wing aircraft within designated control zones under the special VFR weather minimums prescribed in § 91.107. Section 93.113 prohibits Special VFR operations in the control zone that is established at Oakland, California, for the Metropolitan Oakland International Airport (herein called "Oakland control zone"). In adopting the prohibition in § 93.113, the FAA indicated that future additions to or deletions from that section would reflect changed conditions affecting the safe and efficient use of the navigable airspace.

A review of the operations in the Oakland control zone indicates that the continued prohibition of special VFR operations may not be warranted. The configuration of the airport runways and the presence of two control towers permit a natural geographic division between IFR and VFR operations using separate portions of the airport. In addition, there has been a reduction in the volume of air carrier and other traffic using the Oakland control zone, so that the two control towers are believed to have the capability of handling any increase in traffic that may result from eliminating the prohibition of special VFR operations. In view of the above cited conditions, the FAA believes that continuation of the current prohibiton of special VFR operations in the Oakland control zone may be an unnecessary and unwarranted restriction on the efficient use of the airspace within that control zone.

(Secs. 307(c), 313(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(c), 1354(a)); sec. 6(c), Department of Transportaion Act (49 U.S.C. 1644(c)))

In consideration of the foregoing, the FAA proposes to amend § 93.113 of Part 93 of the Federal Aviation Regulations (14 CFR Part 93), by amending item 25 by deleting the words "Oakland, Calif. (Metropolitan Oakland International Airport)" and by designating item 25 "[Reserved]."

Issued in Washington, D.C., on June 30, 1975.

RAYMOND G. BELANGER,
Director, Air Traffic Service, AAT-1.

[FR Doc.75-17563 Filed 7-7-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

[FRL 378-8]

IMPLEMENTATION PLANS

Proposed Requirements for Preparation, Adoption, and Submittal

On August 14, 1971 (36 FR 15486), the Administrator of the Environmental Protection Agency promulgated as 40 CFR Part 420, regulations for the preparation, adoption, and submittal of State Implementation Plans (SIP) under section 110 of the Clean Air Act, as amended. These regulations were republished November 25, 1971 (36 FR 22398), as 40 CFR Part 51. Subsequent to this republication numerous additions and changes have been made to the original requirements. The amendments proposed herein would further revise 40 CFR Part 51 by making certain modifications and additions. Such amendments are necessary because the existing requirements are inconsistent, in some cases, with recent court decisions and EPA policies; obsolete; or in need of some correction and clarification. The following discussion relates to substantive changes proposed below.

Section 51.1 Definitions. Various definitions are proposed to allow for an easier and more direct interpretation of the requirements. In addition, changes to the references to existing definitions are being proposed to correct inconsistencies which had developed in prior publications of 40 CFR Part 51 requirements.

Section 51.4 Public hearings. A modification to § 51.4, which sets forth the requirements for conducting a public hearing on a plan or portion thereof, is being proposed which would require the State to submit to the Administrator a list of witnesses and summaries of their presentations. This material will enable the Administrator to more fully consider all opinions, data and views concerning a proposed SIP action. Further, changes to this section are being proposed to clarify EPA's intent to require hearings on all plan revisions except those that are of a non-regulatory nature and do not significantly affect the program for the attainment and maintenance of national standards. Under this proposal, States would be encouraged to obtain a ruling in advance from the appropriate Regional Office when in doubt as to whether a hearing is required.

Section 51.5 Submission of plans: Preliminary review of plans. Section 51.5, which sets forth the procedures for submission of the implementation plan or portion thereof, is being proposed for amendment to indicate the types of submittal that must be forwarded under the auspices of the Governor. In addition, EPA is proposing to condense Part 51 by incorporating those requirements pertaining to the submittal of transportation control plans into the general plan requirements of § 51.5.

Section 51.6 Revisions. The requirements of § 51.6, stating the conditions under which an implementation plan shall be revised, are proposed to be amended to require that a plan must be revised whenever the Administrator finds that a plan does not meet the requirements of this part. The proposal also requires that each plan shall contain a statement, as required by section 110(a)(2)(H) of the Clean Air Act, indicating that the plan will be revised under the circumstances specified by the Act and this part. This action was mandated for Massachusetts and Rhode Island by the First Circuit Court of Appeals decision (NRDC et al. v. EPA, 478 F. 2d 875) and in the Administrator's judgment should be extended to all States. To expedite the inclusion of plan revisions into the official implementation plan, the regulations proposed below require the submittal to be forwarded to the appropriate Regional Administrator instead of the Administrator.

Additionally, to provide for a comprehensive review by all appropriate State, regional, and local agencies and governments, the State would have to submit any substantive revision to any emission limitation in the plan or any new emission limitation to be added to the plan for review and comment for a period of 30 days to the cognizant clearinghouses as established under Office of Management and Budget Circular A-95. This 30-day review could occur simultaneously with the required 30-day period before the public hearing on the plan revision.

Section 51.7 Reports. The requirements of § 51.7, relating to air quality and emission data reports submitted by the States, are proposed to be expanded. Previously, States were required to submit to the Administrator emission information on any source which had an actual emission rate of more than 100 tons/year of any pollutant for which a national standard exists. The revision proposed below would require reporting for sources with potential emissions of more than 100 tons/year. Such sources with several individual emission points that have similar characteristics would be allowed to report the emissions from such emission points as one single emission source in accordance with "Guide for Compiling a Comprehensive Emission Inventory"—APTD 1135. This procedure obtains complete information on point sources without an overburdensome amount of paper work for the State and local agencies. Potential emissions are defined as those emissions that would occur if emission

be prepared to perform a Federal review.

Currently, the appropriate legislative committees of the Congress are considering various possible amendments to the Clean Air Act. One is an amendment that would require each state to adopt and implement an indirect source regulation as a part of its State Implementation Plan and provide no authority for EPA to review parking-related facilities. In view of the active Congressional consideration of parking-related indirect source amendments, EPA does not feel it is desirable to reinstate the parking-related aspects of the Federal regulation at this time.

In the absence of Congressional action for a substantial time period, EPA may reinstate the current regulations as they pertain to parking facilities in order to help insure that air quality standards be maintained. If such a course of action becomes necessary, in no event would parking related facilities commencing construction within six months after reinstatement be subject to the Federal regulation.

Highways and Airports. In the Administrator's judgment, different considerations govern the Agency's position with respect to highways and airports. First, Congressional concern over the indirect source regulations has focused upon the Federal review of parking facilities and not upon the Federal review of highways and airports. For example, the prohibition contained in EPA's Appropriations Act for fiscal 1975 did not preclude review of highways and airports.

Second, the size of highways and airports subject to the Federal regulation is so large that virtually all such facilities must go through Federal review and approval processes in any event, both through Department of Transportation and National Environmental Policy Act procedures. Incorporating an indirect source review step at the Federal level should not create additional delays since the EPA review can be carried on simultaneously with other Federal reviews, largely using data already developed for those reviews.

Accordingly, the Administrator plans in the near future to propose guidelines [2] for the oxidant-nitrogen dioxide impact review of highways and airports so that the Federal regulation may be completed in respect to these types of indirect sources. The Agency will hold rulemaking on these guidelines before promulgating the guidelines in final form. In no event will highways and airports commencing construction or modification within six months after promulgation of the guidelines be subject to the regulation.

The Administrator continues to encourage states to adopt and enforce indirect source regulations (including highway and airport review) and to submit them to EPA for approval as part of their implementation plans. 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: June 26, 1975.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is hereby amended by revising paragraph (16) of § 52.22(b) to read as follows:

(16) Notwithstanding any of the foregoing provisions to the contrary, the operation of this paragraph is hereby suspended pending further notice. No facility which commences construction prior to the expiration of the sixth month after the operation of this paragraph is reinstated (as to that type of facility) shall be subject to this paragraph.

[FR Doc.75-17293 Filed 7-2-75;8:45 am]

[1] Section 510 of the Agriculture-Environmental Consumer Protection Appropriations Act, 1975 (Pub. L. 93-563, 88 Stat. 1822).

[2] These guidelines will comprise the Appendix which was referred to at 39 FR 25295, right column, July 9, 1974.

[FRL 393-7; PP4E1509/R29]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Trifluralin

On May 12, 1975, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (40 FR 20651) a notice of proposed rulemaking to establish a tolerance for negligible residues of the herbicide trifluralin (α,α,α-trifluoro - 2,6 - dinitro - *N,N* - dipropyl - *p*-toluidine) in or on the raw agricultural commodities field cron grain, fodder, and forage at 0.05 part per million. No comments or requests for referral to an advisory committee were received with regard to this proposal, and it has therefore been concluded that the proposed amendment to the regulations (40 CFR 180.207) be adopted without alteration.

Any person adversely affected by this regulation may on or before August 4, 1975 file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M St., SW, Washington DC 20460. Such objections should be submitted in quintuplicate and should specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on the date of publication, Part 180, Subpart C, § 180.207, is amended as set forth below.

Dated: June 26, 1975.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Section 180.207, Subpart C, Part 180, is amended by revising the paragraph "0.05 part per million (negligible residue) * * * " to read as follows.

§ 180.207 Trifluralin; tolerances for residues.

* * * * *

0.05 part per million (negligible residue) in or on citrus fruits, cottonseed, cucurbits, field corn grain, fodder, and forage, forage legumes, fruiting, vegetables, grapes, hops, leafy vegetables, nuts, peanuts, peppermint hay, root crop vegetables (except carrots) safflower seed, seed and pod vegetables, spearmint hay, stone fruits, sugarcane, sunflower seed, wheat grain, and wheat straw.

* * * * *

[FR Doc.75-17294 Filed 7-2-75;8:45 am]

[FRL 393-8; OPP-300001A]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Exemptions From Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

On April 28, 1975, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (40 FR 18451) a notice of proposed rulemaking to exempt certain additional inert (or occasionally active ingredients in pesticide formulations from tolerance requirements under the provisions of section 408 of the Federal Food, Drug, and Cosmetic Act.

The Agency has made a change in the proposed regulation with regard to the exemption of sodium hypochlorite from the requirement of a tolerance as listed in the proposal. The uses cited for this chemical were "bleaching agent" and "disinfectant" and sodium hypochlorite in a disinfectant product is an active ingredient. Therefore, the word "disinfectant", which was listed under uses, is being struck from the proposed document. The intended function(s) of sodium hypochlorite in a pesticide formulation when this chemical is added to a formulation as an inert ingredient are included under uses in the regulation.

The proposed amendment to the regulations (40 CFR 180.1001) with the above change will protect the public health. It is therefore adopted.

Any person adversely affected by this regulation may on or before August 4, 1975 file written objections with the

control equipment, if any, were removed or deactivated. The use of potential emissions is utilized by nearly all State and local air pollution agencies as part of their FY '75 grant provisions. This amendment will therefore reflect current procedures and standardize the definition.

It is also proposed that § 51.7(b)(4) be deleted from these regulations and § 51.7(d) be revised. Because semi-annual reporting has not been frequent enough for the Administrator to react in a responsive manner to progress by States in enforcing their State implementation plans, reporting requirements (including frequency of reporting) have been negotiated as part of the grant awards with most States. The semi-annual reporting requirements originally established under § 51.7(b)(4) duplicate or conflict with these grant reporting requirements. It is therefore proposed that § 51.7(b)(4) be deleted.

Annually, EPA prepares a Regional Operating Guidance package setting forth planning guidance and reporting requirements for the current fiscal year. This guidance package is the basis for the reporting requirements negotiated with most State agencies as part of their program grant conditions. The proposed revision to § 51.7(d) provides that the minimum reporting requirements shall be determined in accordance with the planning guidance package and program grant conditions.

Section 51.13 Control strategy: Sulfur oxides and particulate matter. Paragraph (d)(4) of § 51.13 is being proposed to require that any control strategy demonstration submitted as a revision to an implementation plan, including the AQMA analysis and plan, would have to provide a specific control strategy demonstration for each region or areas affected by the revision. This proposal would void the use of the example region concept for performing control strategy demonstrations for plan revisions. It would not, of course, affect the right of States under section 116 of the Clean Air Act to adopt and enforce regulations which are more stringent than necessary to meet Federal standards.

Section 51.14 Control strategy: Carbon monoxide, hydrocarbons, photochemical oxidants and nitrogen dioxide. The Administrator is proposing to amend § 51.14, relating to control strategies for carbon monoxide, hydrocarbons, photochemical oxidants and nitrogen dioxide, to require that data from all sites for carbon monoxide, nitrogen dioxide, and photochemical oxidants, reflecting the most recent data for a full year, where available, be used in any control strategy revision. For the original plan submittals, only data from the summer of 1971 was required to be included in the plan. Further, the requirement that no air quality data need be submitted in Priority III regions for carbon monoxide, hydrocarbons, nitrogen dioxide, and photochemical oxidants is proposed to be revoked. This is necessitated because it is inconsistent with the proposed new requirement in § 51.7(a)

Section 51.18 Review of new sources and modifications. Section 51.18 requires that each plan must contain legally enforceable procedures which shall specify that any new or modified stationary or indirect source which emits any pollutant for which there is a national ambient air quality standard shall not be constructed if such source will result in violations of applicable portions of the control strategy or will result in a violation of a national standard either directly because of emissions from it, or indirectly, because of emissions resulting from mobile source activities associated with it. In the April 18, 1973, FEDERAL REGISTER, the Administrator set forth his intention to reexamine existing State plan provisions for the review of new stationary sources. EPA has discovered through such examination that some State regulations improperly exempt sources which could have a significant impact on air quality. To remedy this deficiency, the proposal below specifies in a new Appendix Q the stationary sources which may be exempt from such review. Under this proposal, EPA would approve a regulation exempting a source not listed in Appendix Q only if the State demonstrated to EPA the negligible impact of such a source. It is the Administrator's judgment that the impact of emissions from the sources listed in Appendix Q is not significant enough to require that all States allocate the manpower and resource expenditures necessary to review them. States would not be precluded from conducting review of such listed sources, however, should they so desire.

It is expected that many State stationary source review procedures will have to be modified in two other respects. First, many States have never included the notice and public comment procedures which have been required by 40 CFR 51.18 since 1973. Second, EPA has discovered that some regulations fail to conform to 40 CFR 51.18 in that they do not contain language which affirmatively insures that the State will prevent the construction of violating sources. For instance, one State regulation provides that the State "may" deny a permit to a source which would cause violations. To comply with 40 CFR 51.18, the State's procedures must require the State to prevent the construction of sources which will cause ambient air quality violations. States should have language in their regulations similar to this: "No permit to construct or modify shall be granted if such construction or modification will result in a violation of the State's control strategy or in a violation of the national ambient air quality standards."

Section 51.19 Source surveillance. The proposed changes to § 51.19, dealing with provisions for source recordkeeping and reporting, would require States to specifically identify which sources are subject to the recordkeeping and reporting requirements. This change is also a result of the First Circuit decision discussed above.

Appendix H must be amended to correct typographical errors and to require reporting of the second highest value for a given time period. This allows one to determine the representativeness of a particular value. Additionally, the standard geometric deviations for sulfur dioxide and nitrogen dioxide are being required.

The Administrator is proposing to revoke Appendix O. It is the Administrator's judgment that this appendix no longer serves a useful purpose, as the approach for determining what indirect source size to review has shifted from one focusing on maximum downwind concentration from a source, to an approach focusing on receptors near intersections, traffic lights, entrance gates, etc. Appendix O addresses the old approach.

The changes being proposed below will, in most instances, require States to revise their implementation plan to meet the requirements. Such revisions shall be submitted to EPA for review and shall be made part of the implementation plan if found approvable. It is the Administrator's intent to require that all plan revisions to satisfy the requirements proposed below be submitted no later than 12 months after the final promulgation of these amendments. Whenever practicable, such revisions may be submitted with the revisions associated with air quality maintenance revision. These proposed changes are not intended to relieve the State of the responsibility of complying with the existing requirements of 40 CFR Part 51.

In accordance with Agency policy as set forth in 39 FR 37419, the proposed changes have been reviewed and it has been determined that they do not constitute "significant" revisions or modifications (as defined in 39 FR 37419), and therefore, do not require that an Environmental Impact Statement be prepared.

All interested parties are invited to submit written comments on the proposed regulations set forth below. Comments should be submitted, preferably in triplicate, to the Environmental Protection Agency, Office of Air Quality Planning and Standards, Standards Implementation Branch, Research Triangle Park, N.C. 27711, Attention: Mr. Schell. All relevant comments received on or before August 7, 1975, will be considered. Comments received by EPA will be available for inspection during normal business hours at the Freedom of Information Center, 401 M Street, SW., Washington, D.C. 20460. The regulations proposed herein, with appropriate modifications, will be effective on republication in the FEDERAL REGISTER. This notice of proposed rulemaking is issued under the authority of sections 110 and 301 of the Clean Air Act. (42 U.S.C. 1857c–5 and g)

Dated: June 30, 1975.

JOHN QUARLES,
Acting Administrator.

It is proposed to amend Part 51 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

[STAFF WORKING PRINT NO. 3]

AUGUST 8, 1975

CLEAN AIR ACT AMENDMENTS

THIS PRINT REFLECTS SUBCOMMITTEE RECOMMENDATIONS AND OTHER STAFF PROPOSALS

Printed for the Use of the Senate Public Works Committee

J. 56–455

U.S. GOVERNMENT PRINTING OFFICE: 197[illegible]

1 energy implications of air pollution control programs and
2 requirements; and
3 "(E) methods to evaluate the costs and benefits of
4 air pollution controls and development activities.

5 "GUIDANCE DOCUMENT—PERMIT PROGRAMS AND
6 PERSONNEL REQUIREMENTS

7 "(g) The Administrator shall within one year after
8 the enactment of this subsection publish information for the
9 purpose of establishing (1) uniform forms and other means
10 for the acquisition of information from owners and operators
11 of major emitting facilities subject to any standard or limita-
12 tion under this Act, (2) methods of preconstruction review
13 in order to assess air quality impacts of indirect sources, and
14 (3) minimum administrative and other elements of any
15 State program under this Act, implementation plan under
16 section 110 of this Act, or permit or equivalent program
17 under section 120 of this Act, which shall include:
18 "(A) permit or equivalent program application
19 requirements applicable to major emitting facilities, in-
20 cluding—
21 "(i) data on emissions of all pollutants and pro-
22 jected levels of emissions over the succeeding
23 twenty-year period of such pollutants,
24 "(ii) modeling data, where appropriate, and
25 "(iii) information on transportation and de-

1 velopment requirements associated with any facility
2 subject to such application;
3 "(B) permit or equivalent program requirements
4 applicable to major emitting facilities, including—
5 "(i) monitoring requirements;
6 "(ii) reporting requirements (including pro-
7 cedures to make information available to the public);
8 and
9 "(iii) enforcement provisions;
10 "(C) indirect source preconstruction review meth-
11 ods, including—
12 "(i) information on the transportation needs
13 and development associated with such sources,
14 "(ii) information on the relationship of such
15 sources to existing public transportation facilities,
16 and
17 "(iii) information on essential environmental
18 services required by such sources; and
19 "(D) funding, personnel qualifications, and man-
20 power requirements which shall include a requirement
21 ~~that no board or body which prepares implementation~~
22 ~~plans under section 110 or air quality management~~
23 ~~plans under section~~ 120 of this Act, or imposes or
24 supervises enforcement of such plans, or any standard

1 or limitation under this Act, shall include as a member,
2 any person who receives, or has during the previous two
3 years received, a significant portion of his income direct-
4 ly or indirectly from any person who is subject to any
5 provision of an implementation plan or air quality man-
6 agement plan or any standard or limitation under this
7 Act. The requirement of this subparagraph shall not
8 apply to any elected official or employee of State or
9 local government.

10 "GUIDANCE DOCUMENT—TRANSPORTATION CONTROLS

11 "(h) The Administrator, in cooperation with the Sec-
12 retary of Transportation, shall publish and make available to
13 appropriate Federal agencies, appropriate States, and air
14 pollution control agencies, including agencies designated un-
15 der section 120 of this Act, within one year after the enact-
16 ment of this subsection (and from time to time thereafter),
17 information regarding the identification and evaluation of the
18 nature and extent of transportation-related air pollutants,
19 and information regarding processes, procedures, and
20 methods to reduce or control such pollutants, including but
21 not be limited to—

22 "(A) motor vehicle emission inspection and main-
23 tenance programs;

24 "(B) programs to control vapor emissions from fuel
25 transfer operations and operations using solvents;

1 "(C) programs to limit portions of road surfaces or
2 certain areas of the metropolitan areas to the use of com-
3 mon carriers, both as to time and place;
4 "(D) programs for improved public transit;
5 "(E) programs to control on-street parking and off-
6 street parking facilities;
7 "(F) programs to establish exclusive bus and car-
8 pool lanes;
9 "(G) construction of new parking facilities and the
10 operation of existing parking facilities for the purpose of
11 park and ride lots and fringe parking;
12 "(H) programs to limit portions of road surfaces or
13 certain areas of the metropolitan area to the use of
14 nonmotorized vehicles or pedestrian use, both as to time
15 and place;
16 "(I) programs to establish an areawide carpool
17 program;
18 "(J) provisions for employer participation in pro-
19 grams to encourage carpooling, vanpooling, mass transit,
20 bicycling, and walking;
21 "(K) provision of secure bicycle storage facilities
22 and other facilities, including bicycle lanes, for the con-
23 venience and protection of bicyclists, in both public and
24 private areas;

1 "(L) programs of staggered hours of work;

2 "(M) programs to institute road user charges, tolls,

3 or differential rates to discourage single occupancy auto-

4 mobile trips;

5 "(N) programs to control extended idling of

6 vehicles;

7 "(O) programs to reduce emissions by improve-

8 ments in traffic flow;

9 "(P) programs for the conversion of fleet vehicles

10 to cleaner engines or fuels, or to otherwise control fleet

11 vehicle operations;

12 "(Q) programs to ration or allocate fuel; and

13 "(R) programs for retrofit of emission devices or

14 control on vehicles and engines not subject to regulations

15 under section 202 or title II of this Act.

16 "(2) In publishing such information the Administrator

17 shall describe (A) the relative effectiveness of such proc-

18 esses, procedures, and methods, (B) factors related to the

19 costs and benefits of such processes, procedures, and

20 methods, in different situations, (C) land use and trans-

21 portation factors related to such processes, procedures, and

22 methods and (D) the environmental, energy and economic

23 impact of such processes, procedures, and methods.

Appendix VII
October 24, 1975

Staff Report to EQC
Indirect Source Rule Repeal

The Department has prepared the following response to the specific allegations and points made by the petitioners in their request for the repeal or modification of the Indirect Source Rule (OAR 20-100 through 20-135). The number utilized is the same as that of the petition.

1. List of petitioners

No response required

2. Repeal would not leave Oregon without Indirect Source Regulations:

As implementation of the Federal regulation has been indefinitely postponed repeal of the Oregon rules would realistically abolish review requirements for these sources until such time as EPA revises its position that the review should be done on a State or local level or Congress enacts amendments to the Clean Air Act requiring review of these sources.

3a. Federal Regulations postponed to allow more time for study:

This section is erroneous from two standpoints: (1) Oregon's regulations were not based on the Federal regulations and were in fact originally adopted 17 months prior to Federal promulgation of Indirect Source Rules. (2) According to the July 3, 1975 Federal Register (Appendix IV) which announced the postponement of enforcement of the regulations, the Agency's reason for the postment action was the belief that the review should be done on a state or local level, so as to be as sensitive as possible to local priorities and concerns. The Federal Register goes on to state "EPA continues to believe that the goal stated in the Clean Air Act of maintaining ambient air standards makes it necessary that state implementation plans have a mechanism for regulating new and modified indirect sources" (Federal Register, Volume 40, No. 129, July 3, 1975). There is no reference in the published federal policy to indicate a dissatisfaction with the effectiveness of the rule contrary to statements made by the petitioner.

It is legally and economically improper to impose Parking Management Regulations in the Indirect Source Regulations:

The Federal separation of parking facility reviews into the parking management and indirect source programs is an arbitrary division not binding upon Oregon. The two programs are not only compatible but it is logical that in areas of high growth such as Oregon, a combination of the strategies would be used to accommodate the rapid development, while protecting air quality.

In specifically addressing the inclusion of VMT criteria as an effective method of evaluating and reducing air quality impact of a facility, the Environmental Protection Agency states in a review of the Stanford Research Institute's evaluation of the Indirect Source Rule that "if auto use is curtailed or VMT reduced through mass transit and car pooling efforts, air quality will improve. While it can be shown that emissions would vary for particular engine operating mode or particular individual trips, it has been proven that even within trip categories, VMT is directly related to motor vehicle related pollutants." (Author's emphasis)[1]

The regulations require information on pollutant concentrations and vehicle miles traveled only for facilities of over 1,000 parking spaces. For facilities of less than 1,000 spaces, this information is required only for developments proposed to be located in areas of poor air quality.

The petitioner has supplied no support documentation for his allocation, that the regulations are illegally and economically improper. The Department would be very interested in such documentation as it would be extremely valuable in evaluating the total impact of the regulation.

3b. "Facility by facility review cannot be successfully accomplished..."

The Department recognizes that facility by facility review is not the optimum program for evaluating indirect sources. For this reason the Department is actively working with local and regional planning agencies within the state in establishing the regional parking and circulation plans provided for in Section 20-120 of the regulations. Until these plans can be developed and finalized it is necessary to continue with individual in-depth reviews of sources, particularly those of the magnitude mentioned (1,000 or more parking spaces).

The information required by the regulation for review of facilities of this size is necessary to evaluate their total air quality impact. Contrary to the petitioners statement, extensive recognition is given to "the large scale spatial variations" within a given region; be it during the development of a regional plan or an individual source review.

3c. "Indirect sources cannot be lawfully considered air contaminant sources within the meaning of ORS 468.275."

The State Attorney General's office has issued an opinion dated April 18, 1972 on this issue indicating an indirect source can be considered an air contaminant source within the meaning of OAR 468.275 (see Appendix X for complete text of opinion).

[1] EPA comments on the Stanford Research Institute Report on Parking Management

3d. <u>At no time was evidence presented in support of the conclusion that regulation of indirect sources is necessary to control the concentration of air contaminants:</u>

At public hearings beginning with the adoption of the state implementation plan through the final indirect source regulation public hearing on January 24, 1975. The Commission received testimony regarding the impact of the Indirect Source Regulation in controling the concentration of air contaminants relating to motor vehicle trips and/or aircraft operations. Inherent within the Indirect Source Regulations as currently adopted is the EPA position these regulations are required (Federal Register, Volume 39, No. 132, July 9, 1974).

3e. <u>"Compliance will require an additional initial development cost far out of proportion to any improved air quality benefit."</u>

Again the Department has received no documentation of the alledged adverse cost impact of the Indirect Source Regulations upon an applicant. It is logical that a greater portion of the cost will generally apply to larger scale developments as they require more extensive information gathering and more sophisticated air quality analysis techniques. However, when considering the typical overall total development costs, the percentage for environmental impact evaluation would appear to be relatively small. In addition, the Department has no information regarding the regulation which indicates that encouragement of the development of small nonregulated facilities outside the area in which indirect source regulation is applied is realistic. From a siting standpoint, it would appear reasonable that other factors such as land costs, construction costs, market potential, tax incentives would be more critical than an indirect source review and permit for small facilities.

3f. <u>The only evidence presented concerning the size of parking facilities dealt with air sampling done within the Portland Metropolitan Area.</u>

At the public hearings testimony was received from a wide variety of groups and individuals concerning the minimum size review threshholds. Specifically, testimony from the Mid-Willamette Valley Air Pollution Authority and the Oregon Environmental Council addressed the need for review of 50 space parking lots on smaller metropolitan areas such as Salem. In addition, the rule itself recognizes spatial variations in air quality in that it contains three review threshholds whose applicability depend on the geographic location of the project.

3g. "The potential Indirect Source Construction Permit conditions outlined in OAR 340, Sections 20-130 i and j are vague and suggest limitations beyond the control of the developer, and therefore cannot be properly attached to an Indirect Source Construction Permit."

An important part of evaluating the air quality impact of an indirect source is in ascertaining the ability of the surrounding street system to handle the traffic generated by the indirect source. In the event the street system capacity is not adequate, it is necessary for the Department to have the capability of requiring modification of the street system to insure compliance with federal and state air quality regulations. Generally these conditions apply only on large indirect sources (over 1,000 spaces). A parallel situation may be drawn in subsurface sewage where a developer may be allowed to only put X number of housing units on a specific site, utilizing spetic tanks, or he may increase the number of units built on the site by constructing an adequate sewage treatment plant.

3h. Requiring an applicant to initiate mass transit incentive programs without requiring the Department show such programs are reasonably applicable to the indirect source in question and will improve air quality in the area.

As evidenced by the Washington Square mass transit incentive program, these conditions are appropriate for the reduction of air quality impact. Conditions are not attached to a permit unless they specifically address the indirect source review in question. In addition, the permit regulations specifically allow for applicant appeal of any conditions attached to a permit, to the Environmental Quality Commission. However, since the initiation of the indirect source program in 1972, no applicant has appealed such conditions. The applicant is notified of this option in the cover letter attached to his final permit.

A response to the legal arguments made in the above paragraph is continued in Appendix X.

3i. No evidence was presented that the complexity or magnitude of indirect sources require statewide regulation.

As indicated in the body of the Staff Report, one of the Environmental Protection Agency's requirements for an Indirect Source Rule was that it apply statewide. This determination was made in response to the conclusion that indirect sources above a certain size can cause violations of NAAQS regardless of their location, and should be reviewed (Federal Register, Volume 39, No. 38, February 25, 1974).

3j. Improper for regulations to incorporate "criteria on file at the Department of Environmental Quality."

The criteria on file with the Department are the EPA reference sampling methods and are incorporated by reference due to length and complexity. The criteria are readily available to any person requesting it.

3k. "It is unlawful and unreasonable to require an applicant to be responsible for air quality impact that goes beyond any such impact associated with the applicant's project of and by itself."

It is not assumed an applicant is responsible for existing air quality. However, as with any new pollutant source an indirect source's impact must be considered within the limitations of the existing background pollutant concentrations. To review an indirect source as though it were not part of a larger whole would not give a realistic picture of its true local and regional air quality impact.

The petitioners reference to OAR 340, Section 20-110 (10) is not readily understandable.

3l. Denying the developers the right to construct without first applying for and obtaining an indirect source permit in absence of evidence to support the conclusion that the regulations will have a significant and beneficial affect on air quality unlawfully denies developers their constitutionally protected right to freedom of travel and unconstitutionally deprives land owner applicants their property rights without just compensation."

The legal arguments presented by the petitioner on this point are responded to in Appendix X, from the Attorney General's office. In regard to the regulations having a real or significant beneficial affect on air quality, the Department refers the Commission to the Staff Report in discussions of the Washington Square programs, air quality improvement in Downtown Portland, and the emissions reduction achieved through the Tektronix car pooling and transit programs.

3m. Discussion of Section 20-110 (21)

This point is discussed in Subsection 3k.

4. Proposed Amendments

4a. Removal from Subsection 20-110 (21), the language in whole or in part:

By removing this phrase, the regulation would allow monitoring only where people might reasonably expect it to be exposed to air contaminates generated by the indirect source in question. It is necessary to retain the whole or important part wording to allow for monitoring to be done in those locations where the indirect source in question may be contributing only a portion of the pollutant concentrations.

4b. Restriction of applicability of the rule to an area five miles from the municipal boundaries of the City of Portland.

Current monitoring for carbon monoxide and other automobile related pollutants in the Salem, Eugene-Springfield and Corvallis areas indicates national ambient air quality standards are being exceeded, evidencing the need for indirect source review for smaller sources in the entire Willamette Valley. This is particularly applicable when considering the current growth rate of the Valley. Outside the urganized areas of the Willamette Valley the only sources reviewed are those large enough to cause potential violations of NAAQS standards as a result of traffic directly generated by the facility under review.

4c. Rewriting of the regulations to incorporate only the federally designated cutoff points.

This modification is unacceptable as EPA's relinquishment of control over indirect sources to state and local agencies was within the policy statement that these agencies can most adequately determine what level of review in control is required by their state. Each state must therefore review its air quality priorities to establish reasonable threshholds of review. For example, the federal government had concluded 1,000 spaces was the minimum it could deal with effectively on an administrative basis (Federal Register, Volume 3, No. 132, July 9, 1974). For three years Oregon has effectively dealt with the minimum review point of 50 spaces. To assume therefore that the Federal level represents the true minimum at which air pollution occurs or that the Federal minimum inherently meets the air quality needs of Portland is illogical. The Argonne National Laboratory has in fact recently released a report titled, "The Relationship of Automotive Pollutants and Commercial Development" which concludes the Federal indirect source regulations are not totally effective in insuring maintenance of air quality in as much as they do not require the review of small developments such as occur in strip development and suburban central business districts. The analysis and modeling done by the laboratory indicates these types of facilities can cause CO air quality violations due to reduced traffic speed and increased congestion caused by their operation.

The Environmental Quality Commission previously considered the review threshholds of the regulation and voted to retain current review levels within the State on February 28, 1975.

4d. Modification of Sections 20-120: Establishment of an Improved Regional Parking and Circulation Plan

This modification would remove the approved process of the Department for a regional parking and circulation plan, limiting it to the certification of whether or not the Department will accept the plan as an approved plan. It also removes the Department's conditions for holding a public hearing on the plan and allowing 30 days for written comments from the public and interested agencies.

It is necessary for the Department to approve these plans as it is the source of the air quality expertise for their developments. The majority of local and regional planning agencies are not adequately staffed with appropriately trained personnel to complete this review. It is also necessary for the Department to hold public hearings in order to obtain as much public input as feasible before a plan is adopted.

Under the current regulations it is also required that the appropriate planning agency annually review the plan reporting its conclusions to the Department or regional authority having jurisdiction. If the Department believes the plan is not adequately maintaining air quality, it may initiate such a review. With the petitioners modification the Department or regional authority would be limited to requesting a public hearing to consider the adequacy of a plan after the adoption of the same only if the Department or regional authority could demonstrate to the appropriate planning agency that such a plan is not adequately maintaining air quality in the plan area. The annual review of the plan is necessary to assure that it is achieving its purpose and is being maintained in an up-to-date fashion.

4e. Removal of the 10 and 20 year carbon monoxide and lead projections for indirect sources

It is necessary to retain these future concentration projects in order to assure that air quality in the future will not be jeopartized by the indirect source. Most of these facilities are not designed to reach capacity use until some time after completion of construction, and therefore, evaluating them on the basis of their impact one year after completion is totally inadequate.

4f. Removal of Section 20-129 (1) [a,e,], VMT projections

The need for VMT projections is discussed within the Staff Report. The conclusion being that it is impossible to evaluate the air quality impact of an indirect source without reviewing the total vehicle miles traveled generated by that source on a subregional and/or region wide basis.

4g. See paragraph 4e

4h. Modification of information required for processing of a highway source permit

The petitioner proposes the regulation requirements for the following information be deleted from the rule:

1. Estimate of additional residential, commercial and industrial development which may occur as a result of the construction and use of the highways section including an air quality assessment of such development.

2. Analysis of the areawide air quality impact for photochemical oxidants, nitrogen oxides and lead particulates in 1st, 10th and 20th years after completion; limiting the analysis to carbon monoxide for the 1st, 3rd, and 5th years after completion.

3. The total air quality impact of maximum and average traffic volumes

4. A Department approved surveillance plan for motor vehicle related air contaminants.

   Historically new highway projects are one of the prime stimulants of areawide economic growth. Therefore it is important to evaluate the growth generated in the surrounding region to adequately determine what additional air burden will be placed on the airshed by construction of the roadway. Future projections are particularly important due to potential air quality impact of future growth.

   A surveillance plan for motor vehicle related pollutants is necessitated by a facility which conceivable could reach its capacity much faster than projected originally. The surveillance plan would allow for modifications to be made in traffic flow and other aspects of the highway before it bagan endangering air quality standards.

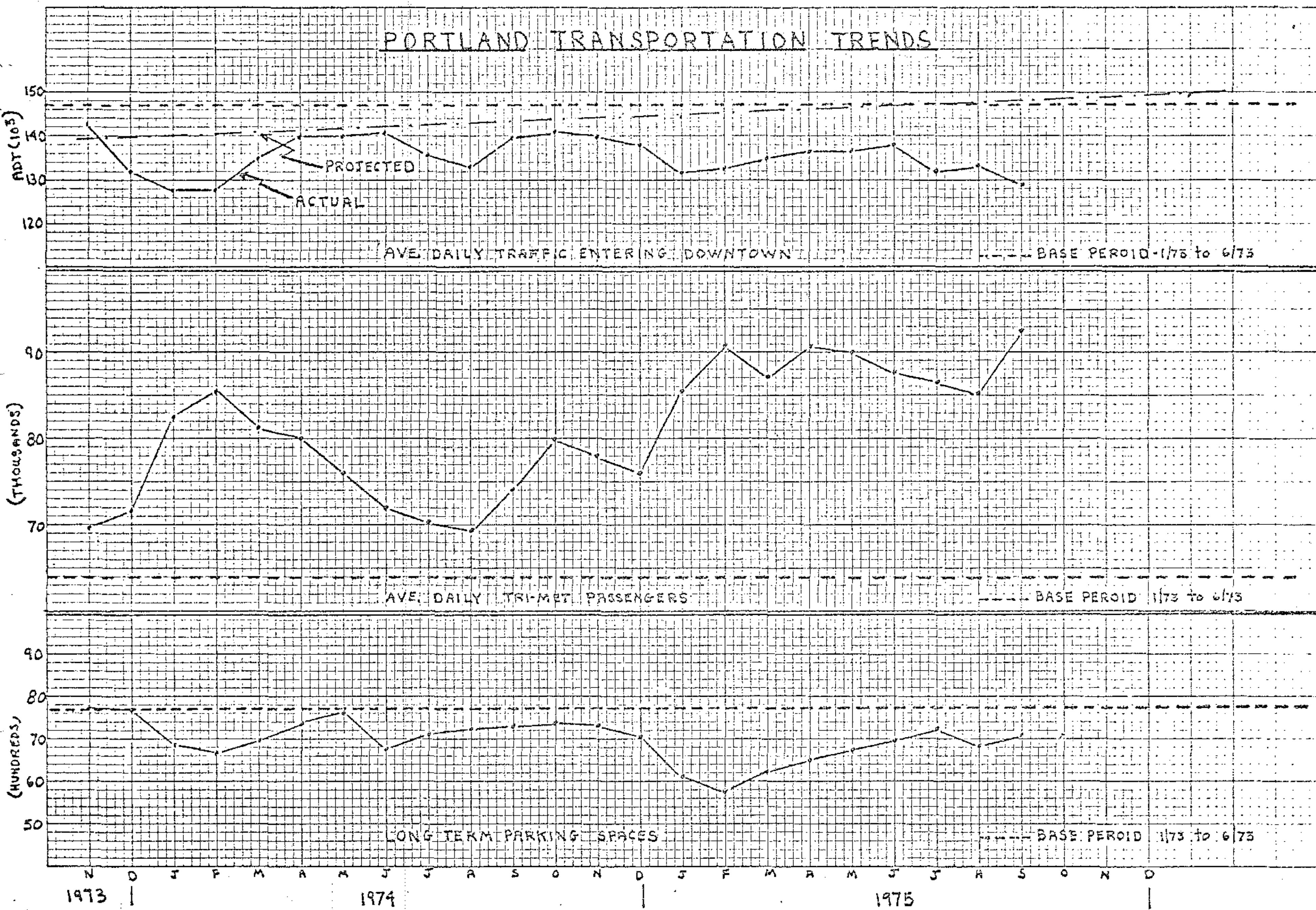
4i. Removing Section 20-130(4), Subsections c, f, i, j, and l, and rewording the section to read: posting transit, route and scheduling information developing other mass transit incentive programs reasonably applicable to approve the carbon monoxide levels stemming from use of the indirect sources in question.

The aspects of this modification have been discussed in previous sections.

5. Propositions of Law

Please see attachment X for the Attorney General's office response to these propositions.

6. The points presented in this paragraph have previously been discussed within this appendix and within the Staff Report. It should be noted that the allegations presented have not been adequately documented to allow for a specific response, particularly in regard to the financial impact of the regulation.



PORTLAND TRANSPORTATION TRENDS
ADT (10³)
150
140
130
120
PROJECTED
ACTUAL
AVE. DAILY TRAFFIC ENTERING DOWNTOWN
BASE PEROID-1/73 to 6/73
(THOUSANDS)
90
80
70
AVE. DAILY TRI-MET PASSENGERS
BASE PEROID 1/73 to 6/73
(HUNDREDS)
90
80
70
60
50
LONG TERM PARKING SPACES
BASE PEROID 1/73 to 6/73
N D J F M A M J J A S O N D J F M A M J J A S O N D
1973
1974
1975

APPENDIX IX

TRI-COUNTY
METROPOLITAN
TRANSPORTATION
DISTRICT
OF OREGON

TRI-MET

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

October 10, 1975

Oregon Environmental Quality Commission
Department of Environmental Quality
1234 SW Morrison Street
Portland, OR 97205

Commissioners:

Please be advised that a correction should be made in our October 2 letter to you concerning the indirect source rules.

Please substitute the word weekly for the word daily in the various statistical references to bus passenger totals in the letter and accompanying memoranda.

This correction in no way affects the modal split total which remains at 5.3 percent or our conclusions and recommendations to you. I enclose a corrected copy for your information.

Sincerely,

Stephen R. McCarthy
Assistant General Manager

SRM:sg
Enclosures

TRI CO[illegible]
METRO[illegible]
TRANSPORTATION
DISTRICT
OF OREGON

TRI-MET

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

October 9, 1975

Oregon Environmental Quality Commission
Department of Environmental Quality
1234 SW Morrison Street
Portland, OR 97205

Commissioners:

The Tri-County Metropolitan Transportation District of Oregon opposes the petition to repeal or amend OAR Chapter 340 Sections 20-100 through 20-135, Rules for Indirect Sources, which has been submitted for your consideration by three associations of contractors and homebuilders.

We specifically oppose those portions of the petition which concern the mass transit incentive provisions of the indirect source rules. The petitioners have basically argued that certain mass transit incentives are of no real benefit to the public, to air quality or to the developer, and that the burden of those programs falls unfairly, unreasonably and arbitrarily on developers.

We disagree. The mass transit incentive portions of the indirect source rules are in fact of great benefit to the public, do lead to a reduction in automobile trips and the air pollution, traffic congestion and energy waste that result from dependence on the automobile. Furthermore, incentives are recommended by Tri-Met based on the size, type and location of each particular development, and incentives programs are, thus, not unreasonable or arbitrary in their application to a development.

Incentive programs are not unique. More than 60 transit incentive programs have been begun in the tri-county region under the former indirect source rules and guidelines and under the more detailed rules that have been in effect since December 31, 1974. In addition, major existing businesses and institutions have perceived the substantial benefits of mass transit and have voluntarily begun transit incentive programs.

Tri-Met is committed to improving air quality by providing a mass transit alternative to automobile use. We will spend over $210 million in the next five years in an effort to develop a good regional mass transit system. At the same time, the tri-county region will be growing: new housing, shopping, industrial and governmental developments will be taking place constantly. Each of these developments will cause people to travel and will, therefore, have an impact on the region's transportation system. Unfortunately, many proposed projects are designed, located and developed in such a way as to be almost totally automobile-oriented.

Transit incentive programs are designed to mitigate against the effects of auto-oriented development by providing the patrons, residents and employees of a new development with the necessary information, comfortable access, service and incentive to use transit instead of the automobile.

Transit incentive programs benefit Tri-Met in that transit efficiency and ridership from new developments can be increased. The general public is benefited by the resulting reduction in automobile caused air pollution, congestion and energy waste, and by the availability of good, easy to access transit service. The developer is benefited by being able to reduce costly expenditures for additional parking facilities and in having good transit service to the development.

Each transit incentive program that is recommended to the DEQ and to the developer is based on the size, type and location of that particular development. Each program is, thus, designed to best provide a mass transit alternative to the automobile travel actually caused by that development.

For example, Tri-Met has monitored the progress of the transit incentive program now in effect at the Washington Square Shopping Center. This program was redesigned in April, 1975 pursuant to an agreement between Winmar Pacific, Inc. and Tri-Met. The redesigned program included a joint marketing program, including information displays and advertising; construction of a transit station by Winmar Pacific; direct subsidy by Winmar Pacific of additional Tri-Met services; and employee fare incentives.

The results of the program thus far prove that transit incentive programs can have significant positive impacts. Bus patronage at Washington Square has increased from an average of 4,500 weekly passengers in April 1975 to 8,854 weekly passengers in September 1975 -- an increase of 97 percent. On

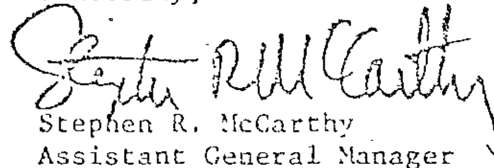
the other hand, auto traffic to the recently expanded Washington Square has increased only 23 percent since September 1974. In one year, the percentage of transit trips to the Center has doubled to 5.3 percent of total vehicle trips. Actual automobile traffic has been reduced by an estimated 1,400 vehicle trips per week. The Washington Square transit incentive program has, thus, doubled the modal split of transit to Washington Square. Further increases in transit ridership are expected as the program continues. (A summary of a recent transportation survey at Washington Square is attached hereto.)

As has been illustrated by our experience in Washington Square, transit incentive programs do work. The public will use transit as an alternative to the automobile if a developer such as Winmar Pacific provides the physical improvements, marketing and other elements contained in a well designed transit incentive program. Tri-Met has benefited in that our ridership has been increased. Winmar Pacific has benefited in that patronage at Washington Square has been increased by the ability of transit dependent persons to reach Washington Square (more than 40 percent of tri-county residents do not drive automobiles), by the decrease of 1,400 automobile trips per week at the center, and by the resulting reduction in the need for additional expensive automobile facilities. The public has been benefited by the improved transit access and the reduction in automobile caused congestion, air pollution and energy waste.

Transit incentive programs thus can be of substantial benefit to all parties. The impact of new developments on transportation and on the air pollution caused by increased automobile travel can be significantly reduced by well designed transit incentive programs.

Tri-Met, therefore, opposes the petitioners' attempt to repeal or to amend the indirect source rules, and strongly urges that the commissioners deny their petition and continue the present rules.

Sincerely,



Stephen R. McCarthy
Assistant General Manager

SRM:sg
Attachments:
1) Tri-Met staff review of the petitioners' arguments
2) Summary of the Washington Square report
3) Beaverton Park and Ride report

M E M O R A N D U M

To: DEQ Staff

From: Frank Ostrander, Tri-Met

Date: October 10, 1975

Subject: A Review of the Petitions Filed by Certain Groups of Contractors to Repeal or Amend the DEQ Indirect Source Rules.

The petitioners have made several allegations concerning the transit incentive portions of the DEQ indirect source rules. These allegations are based on a misunderstanding of transit incentive programs, how they are designed and how they work. The following review of the petitioners' allegations will attempt to provide, wherever possible, factual information that may reduce the amount of misunderstanding.

I. Paragraph 3(e) of the petition alleges the following:

> "3(e) Compliance with the Oregon Indirect Source Regulations will require an additional initial development cost far out of proportion to any improved air quality benefit that can be shown to be associated with the enforcement of the regulations; and the greater portion of the cost increases will generally apply to larger scale developments, thus discouraging their development while encouraging the development of small, non-regulated facilities located outside of an area in which Indirect Source Regulations can properly be applied."
>
> \- Petition, p. 4

As to the allegation that benefits to larger centers far outweigh costs, the petitioners have ignored several basic facts. The cost of transit incentive programs, even for a large scale development, is very minor when compared to the cost of providing automobile facilities and the benefits obtained from the program. For example, the total yearly cost of the transit incentive program at Washington Square will be approximately $75,000 the first year and $55,000 the second year. In return, auto trips to Washington Square have been reduced by 1,400 per week (see attached Washington Square Transportation Study). If we assume that the average retail parking space is used four times per day, the need for additional parking has, therefore, been reduced. The transit incentive program has also enabled some 6,600 persons per week who do not have access to an automobile to reach Washington Square.

Thus, the transit incentive program, even in its early stage, has substantially benefited Washington Square, while at the same time automobile vehicle trips and the resulting air pollution have been reduced by 1,400 trips per week to Washington Square.

As to the allegation that the burden falls most on large scale developments, the petitioners have ignored that incentive programs are designed according to the size, type and location of a proposed development. The size of a development, particularly a retail facility, is critical in determining the potential impact on transportation and of automobile pollution effects on air quality. A shopping center of 100,000 square feet will generate roughly 4,000 person trips per day, but a shopping center of 1,200,000 square feet, such as Washington Square, will generate roughly 48,000 person trips per day (at the conventional figure of 40 one-way person trips per day per 1,000 square feet of retail space). Different size shopping centers create different impacts on transportation. Transit incentive programs, therefore, are designed to reflect the variations in size and impacts caused by each development. Small centers have smaller impacts and require minor transit incentive programs. Large centers have large impacts and require major transit incentive programs.

II. Paragraph 3(g) of the petition alleges the following:

> "3(g) The potential Indirect Source Construction Permit conditions outlined in OAR 340, Sections 20-139(4)(i) and (j) are so vague as to be incapable of clear understanding as to where and when they apply, though they suggest limitations beyond the control of the developer or applicant for most facilities that appear to fall within the definition of Indirect Source contained in Section 20-110 (10); and therefore these conditions cannot properly be attached to an Indirect Source Construction Permit for such facilities."
>
> – Petition, p. 4,5

Section 20-135(4)(i) permits, as required transit incentive conditions, mass transit fare incentive programs. This type of incentive is neither vague or unclear. A 20 percent reduction in fare has been required in our 50 transit incentive programs. Typically, the developer purchases tickets from Tri-Met on a consignment basis and sells them at a discount to his employees, residents or patrons. This program is not difficult to operate as Tri-Met's regular ticket distribution system is used to make tickets easily available to developers. The program is important in that a fare reduction is an important means of enticing transit riders from automobiles.

This program is in fact perceived as worth the burden by several major businesses in the region who voluntarily participate by offering fare reductions to their employees or customers. The Port of Portland, Willamette Savings & Loan, and St. Vincent Hospital all provide varying levels of subsidy to their employees or customers.

Section 20-139(4)(j) permits "transitways" as required transit incentive conditions. This type of condition is also neither onerous or vague and unclear. A "transitway" is simply a means of minimizing auto-bus conflicts by reserving a bus lane in a parking lot or providing a special bus area as at Washington Square's new transit station.

The developer is benefited by being able to avoid auto-bus conflicts. Tri-Met is benefited by being able to operate more efficiently.

III. Paragraph 3(h) of the petition alleges the following:

> "3(h) Requiring an applicant for an Indirect Source Construction Permit to submit to conditions in such permit that require such applicant to initiate mass transit incentive programs without requiring the Department of Environmental Quality to first show such programs are reasonably applicable to the indirect source in question, and can demonstratively improve air quality in the area of the indirect source, constitutes an unconstitutional taking of property without just compensation and a violation of due process under the Fifth Amendment to the United States Constitution, as extended to the states by the provisions of the 14th Amendment to the United States Constitution. In addition, such a requirement violates the prohibited taking provisions of Section 18 of Article 1 of the Oregon Constitution. For similar reasons, the requirements of subsections (f), (c) and (1) of Chapter 340, Section 20-130(4) are also unconstitutional."
>
> \- Petition, p. 5

Tri-Met will leave it to the DEQ to answer the petitioners' various taking vs. regulation constitutional issues in this paragraph. However, subsection (f) of Chapter 340, Section 20-130(4) concerns mass transit conditions.

Subsection (f) permits reservation of park and ride spaces as a mass transit condition. Spaces are normally requested for a small percentage of those available and during hours which will not conflict with a developer's peak hours of operation. Tri-Met assumes liability and provides signing. There is, thus, no real cost to the developer and as has been shown by Tri-Met's Beaverton Park and Ride Survey; there may be a substantial

benefit. The study revealed that 73 percent of the persons using the Beaverton Park and Ride lot made use of the adjacent businesses, 15 percent on a frequent basis. (A copy of the study is attached hereto.)

The reservation of park and ride spaces is, therefore, not a burden to the developer and may in fact provide a major benefit to the developer.

IV. If the commission declines to repeal the indirect source rules, the petitioners request that in the alternative the commissioners modify the rules. Certain of the proposed modifications would affect the mass transit incentive provisions of the rules.

In paragraph 4(i) of the petition, the petitioners suggest the following amendments:

> "4(i) By removing from Section 20-130(4) the language presently contained in subsections (c), (f), (i), (j) and (l), then relettering the remaining subsections under 20-130(4). In addition, Section 20-130(4)(a) should be reworded to read, "Posting transit route and scheduling information, <u>and developing other mass transit incentive programs reasonably applicable to improvement of carbon monixide levels stemming from use of the indirect source in question.</u>"
>
> – Petition, p. 8

Subsections (c), (f) and (l) directly concern mass transit incentives. Subsection (c), fare reimbursement programs; Subsection (f), carpool spaces; and Subsection (l), transitways have been discussed above in I-III of this review. Each of these incentives can provide real benefits to increasing transit efficiency and often also to the developer. To remove these incentives from the list of permitted incentives would unnecessarily reduce the flexibility of the transit incentive programs without significantly reducing any burden which the developer may face. In fact, as has been shown by the benefits that park and ride spaces can provide a developer's business, developers would lose potential real increases in business.

Conclusion

For all of the above reasons, it is clear that the petitioners have demonstrated a misunderstanding of the transit incentive programs and how they work. Particularly striking is the petitioners' lack of appreciation of the real benefits that they themselves can realize from transit incentive programs. It would, therefore, be unfortunate for the commissioners to repeal or amend the indirect source rules as requested by the petitioners.

Tri-Met staff will remain available to provide any further statistical information or explanations of methodology that the DEQ may require.

FWO:sg
Attachments

M E M O R A N D U M

To: Bill Hall

From: Bob Post

Date: October 2, 1975

Subject: Washington Square

The answer to the question of "what percent of total trips to Washington Square is Tri-Met carrying" is more difficult than I first thought. There are some facts which give us a good indication of what's occurring -- and they are encouraging!

First, our ridership figures are up significantly. During the week of September 15, 1974, we carried 3,601 passengers to the Square; during the week of September 1, 1975, 8,854 passengers arrived on Tri-Met -- an increase of <u>146 percent</u>. During March and early April of this year the weekly average was 4,506 passengers, which means we have increased ridership 97 percent in the last six months. I feel the latter increase can be largely attributed to the increased visibility of transit at Washington Square through the new marketing and signing programs initiated in June, and the completion of the "transit station". It is interesting to note that auto traffic during the same one year period increased only 23 percent, from 73,740 weekly trips to 91,000.

As mentioned above, the percent of total person-trips arriving at the Square via transit is unclear. A personal survey[1] conducted of people entering the shopping mall in September of 1974 indicated 3.3 percent of the person-trips were carried by Tri-Met. The Washington Square doubledecker bus system carried .8 percent of the person-trips, resulting in a total of 4.1 percent of the trips to Washington Square being carried on transit. The percent of trips carried to the Square based upon the survey methods utilized was likely quite high in that it did not adequately account for work trips, "drop-offs" or trips entering the Square road system but not resulting in shoppers entering the shopping mall (auto service centers, banks, delivery, etc.). The only method available to comparatively calculate "mode split" for both September 1974 and September 1975 is to apply the following equation:

$$\frac{\text{transit riders}}{(\text{auto traffic} \times \text{occupancy rate}) + \text{transit riders}}$$

[1] A General Study of: Parking Lot Utilization, Entry and Exit, Bus Utilization and Customer Profile for Washington Square Shopping Center (September 9-15, 1974). Dr. Edward L. Grubb, October 21, 1974.

AIR [illegible]

The transit riders and total auto counts are available, and were listed in the previous paragraph. The auto occupancy rate which should be applied to Washington Square traffic is unclear. Based upon the survey mentioned above, Washington Square has calculated an occupancy rate of 1.97 persons per auto. The 1.97 figure has the same shortcomings mentioned above in discussing the questionnaire derived "mode split"; i.e., the ratio does not account for a significant number of the trips which can be anticipated to lower the ratio (employees and other non-shopping trips). Discussions with persons knowledgeable in the area of trip characteristics of major shopping centers indicate auto occupancy rates of 1.5 to 1.75 are normal. The following is a comparison of the mode split figures derived from using Washington Square's ratio (1.97) and what would appear to be a more reasonable ratio -- 1.75:

Occupancy Rate	Transit Mode Split	
	Sept. 1974	Sept. 1975
1.97	2.4%	4.1%
1.75	2.7%	5.3%

Using either set of figures, one conclusion is apparent -- the mode split has nearly doubled in a one-year period. This is a very significant accomplishment, especially in light of the large increase in auto traffic. It is my opinion the 5.3 percent figure is the closest to reality, and we are fairly safe in saying we carry between 5 and 5.5 percent of all trips to Washington Square.

A complete report based upon the survey we conducted at the Square is being developed and should be completed within a few days. I have attached a copy of the preliminary summary of the report.

BP:sg
Attachment
cc: Ostrander✓
Kyte
McCarthy
Krutsinger

SUMMARY

- The majority of people visiting Washington Square by transit do so to shop. Sixty-seven percent of the total sampled and 73 percent using midday service.

- Seventy-three percent of those riding the bus to Washington Square did not have a car available for the trip.

- A majority (56 percent) transferred from another Tri-Met line during their journey.

- Fifty-six percent of those persons sampled always use transit to get to Washington Square.

- Nearly one-fourth (24 percent) of the transit trips to Washington Square are work trips.

- Forty-seven percent of the sample come to Washington Square more than once a week. Twenty-seven percent come five times or more weekly.

- Most riders use the #45-Greenburg Line (30 percent), followed closely by the #56-Beaverton/Progress Line (27 percent) and the #46-Maplewood Line (24 percent) in trips to Washington Square.

- Forty-two percent of the samplealways take transit to Washington Square and have no automobile available for the trip.

- Twenty-seven percent of the rider's trips originated on the east side of the Willamette River, which is 5.5 percent of Washington Square's catchment area in one survey.

SUMMARY OF FINDINGS

* A large majority of persons using the lot (81%) do so on a regular basis; four or more days per week.

* 92% of those using the lot are there to catch a bus. Employees at and shoppers of adjacent businesses constitute the remainder of the use of the lot.

* The most frequently used line from the lot is line #57-Forest Grove. Line #56-Beaverton/Aloha and #78-Sunset/Lake Oswego also receive frequent use by users of the lot.

* Downtown Portland is the most frequent destination of those using the lot to catch a bus.

* 73% of those persons using the park and ride lot made use of adjacent businesses as part of the same trip, 15% on a frequent basis.

* 64% of those persons using the lot are from within the City of Beaverton, mostly from the south and southwest sections of the City. 69% live within two miles of the lot.

* Most all of the questionnaire respondents feel the lot is a positive benefit to their travel needs, the most common complaint being lack of an adequate number of parking spaces.

BEAVERTON PARK AND RIDE LOT

Use Survey

April 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 2 1975
AIR QUALITY CONTROL

SUMMARY OF FINDINGS

* A large majority of persons using the lot (81%) do so on a regular basis; four or more days per week.

* 92% of those using the lot are there to catch a bus. Employees at and shoppers of adjacent businesses constitute the remainder of the use of the lot.

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* Downtown Portland is the most frequent destination of those using the lot to catch a bus.

* 73% of those persons using the park and ride lot made use of adjacent businesses as part of the same trip, 15% on a frequent basis.

* 64% of those persons using the lot are from within the City of Beaverton, mostly from the south and southwest sections of the City. 69% live within two miles of the lot.

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Beaverton Park and Ride Use Survey

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origin of trip	4
comments	5

Appendix

Attachment A - questionnaire
Attachment B - route descriptions
Figure 1 - distribution of lot users
Attachment C - comments

BEAVERTON PARK & RIDE USE SURVEY

Methodology

On Thursday, March 6, Tri-Met staff members distributed the questionnaire illustrated in Attachment A to all cars parked in the City of Beaverton's park and ride lot. Although intended to accommodate 120-125 vehicles, the lot contained 141 vehicles the day of the survey. A coded survey card was placed on the windshield of each vehicle, the location of the vehicle within the lot was recorded on a drawing and the license plate number of each car recorded. License plate numbers were recorded in order to develop as complete as possible determination of the area from which users of the park and ride lot were originating.

No attempt was made during the day of this study to determine the total use of the site for transit activities. The study was solely designed to develop a profile of those who utilize the lot by parking their vehicle there during the day. Future studies could provide a more complete picture of the use of the lot by determining the number of persons accessing the bus system by either walking, bicycling or being dropped-of ("kiss and ride") in order to catch a bus, or by transferring between lines. Discussions with bus drivers and observations during the last month indicate a significant number of persons are using the lot as a convenient point to transfer between the five lines directly serving the site (see Attachment B for a description of the routes).

Survey Response

141 questionnaires were distributed; 79 or 56% were returned to Tri-Met by mail. This level of response is considered quite good and the results of the questionnaire can be viewed with considerable confidence as an accurate indication of the total use pattern of the park and ride lot.

Survey Results

Frequency of use:

In response to the question of, "How often do you use the lot?", the following replies were received:

# Responses*	
63	4 or more days/week
8	2 or 3 days/week
7	1 day a week or infrequently

*One respondent did not complete this question. The response indicates a large majority (81%) use the lot on a regular basis, four or more days per week. For these people the park and ride lot has become a regular part of their daily travel patterns.

Purpose of use:

In response to the question of, "Purpose for use of the lot?", the following replies were received:

# Responses*	
3	shopping at an adjacent business
3	employee of an adjacent business
73	to catch a bus
4	other

*Responses total more than 79 due to multiple answers by some respondents, although each respondent did indicate one of the first three categories represented the primary purpose for use of the lot.

The overwhelming majority of the park and ride users are there to catch a bus (92%), a much less significant use of the lot is for either shopping at or employees of adjacent businesses--4% each. Periodic on-site observations indicate the lot is nearly full by 8:00 a.m. on weekdays, approximately one-half to a full hour before the adjacent businesses open. This would seem to substantiate the heavy use of the lot by transit riders.

Bus line used:

In response to the question of, "If you ride the bus, which line?", the following replies were received:

# Responses	
67	#57-Forest Grove
13	#56-Beaverton/Aloha
4	#56-Beaverton/Progress
4	#58-Beaverton Local
8	#78-Sunset/Lake Oswego

The number of responses (96) indicate the people using the lot are making use of the availability of a number of bus lines serving the site. Thirteen (13) respondents indicated they use more than one line from the lot. 70% of the responses indicate use of line #57 (Forest Grove) which provides the most frequent and most direct service to downtown Portland. Over 13% of the respondents indicated they used line #56 (Beaverton/Aloha) which also provides service to downtown Portland via Raleigh Hills and Hillsdale. The next most frequently used line was the new line #78 (Sunset/Lake Oswego) with Portland Community College the main destination. Line #58 (Beaverton Local) did not receive high ridership from the lot as anticipated because of its role as a feeder route to the lot.

In response to the question of the destination of those parked at the lot, the following tabulation resulted:

# Responses	
60	Downtown Portland
6	Adjacent businesses
5	Portland Community College
3	Portland State University
2	NE Portland
1	Tektronix
1	St. Vincent
1	Jantzen Beach

The distribution of these destinations indicates the primary attraction of the lot is for the downtown commuter.

Patronage of adjacent businesses:

In response to the question of, "If you use the lot to catch a bus, do you also patronize adjacent businesses on the same trip?", the following replies were received:

# Responses	
12	Frequently
46	Occasionally
21	Never

The survey indicates that over 73% of those persons using the park and ride make use of adjacent businesses as part of the same trip, approximately 15% of those doing so on a frequent basis. The above illustrates that people do use the change-of-mode point (park and ride) to accomplish daily tasks other than commuting. This combining of trip purposes strengthens the case for developing transit facilities in close proximity or jointly with commercial developments. It can be anticipated that increased convenience and general shopping outlets in close proximity of the station would increase the number of combined-purpose trips, thus reducing the total number of trips required.

Origin of trip:

Respondents to the questionnaire were asked to indicate the closest intersection to their home. Response to this question was supplemented with a listing of addresses from the State Motor Vehicles Division of those persons not responding to the questionnaire. Figure 1 in the Appendix illustrates the approximate location of the residences of those using the park and ride station. As shown in Figure 1, the majority of those persons parking in the park and ride lot are from the south and southwest sections of Beaverton. This pattern indicates the lot is a convenient intercept point between the residential areas of Beaverton and the major routes to downtown Portland, Sunset/217 and Canyon Road. The distribution also indicates individuals pass other locations where they could access the bus system in preference to the convenience of the park and ride lot and the frequent service offered there.

The following table indicates the distance traveled by those using the park and ride lot.

Distance Traveled	# of Responses	Percent
0-1 mile	30	23%
1-2 miles	59	46
2-3 miles	10	8
3+ miles	30	23
	129*	

*Of the total of 141 automobiles parked at the lot, the home location could not be determined for 12, either because of out-of-state plates, no record of the license number at the Motor Vehicles Division or address listed as a post office box.

A large majority of those using the lot are from within the City of Beaverton (64%). The following table lists the locality from which persons using the lot originated:

Beaverton	82
Hillsboro/Aloha	14
Forest Grove/Cornelius	3
Portland	5
Cedar Hills	3
Tigard	2
Progress	2
Miscellaneous	18

Comments:

Respondents to the questionnaire were offered an opportunity to submit comments. A very large majority of those returning the questionnaire took the opportunity to offer comments, almost all of which were complimentary of the lot and the bus service. Attachment C in the Appendix provides a summary of the comments.

APPENDIX

Attachment A

Illustrated below is a copy of the questionnaire distributed to cars parked in the park and ride lot:

The City of Beaverton and Tri-Met are attempting to assess the use of the City's Park & Ride lot as part of a program to initiate further improvements. It would be extremely helpful to us if you would complete the following questions and drop this card in the mail. Thank you.

- How often do you use the lot?
  - [ ] 4 or more days/week
  - [ ] 2-3 days/week
  - [ ] 1 day/week or infrequently

- If you ride the bus, which line?
  - [ ] #57-Forest Grove
  - [ ] #56-Beaverton/Aloha
  - [ ] #56-Beaverton/Progress
  - [ ] #58-Beaverton Local
  - [ ] #78-Sunset/Lake Oswego

Your destination ______________________
(address or firm)

____

- Purpose for use of the lot
  - [ ] Shopping at an adjacent business
  - [ ] Employee of an adjacent business
  - [ ] To catch a bus
  - Other ______________________

- If you use the lot to catch a bus, do you also patronize adjacent businesses on the same trip?
  - [ ] Frequently
  - [ ] Occasionally
  - [ ] Never

- Please indicate the closest street intersection to your home:

____

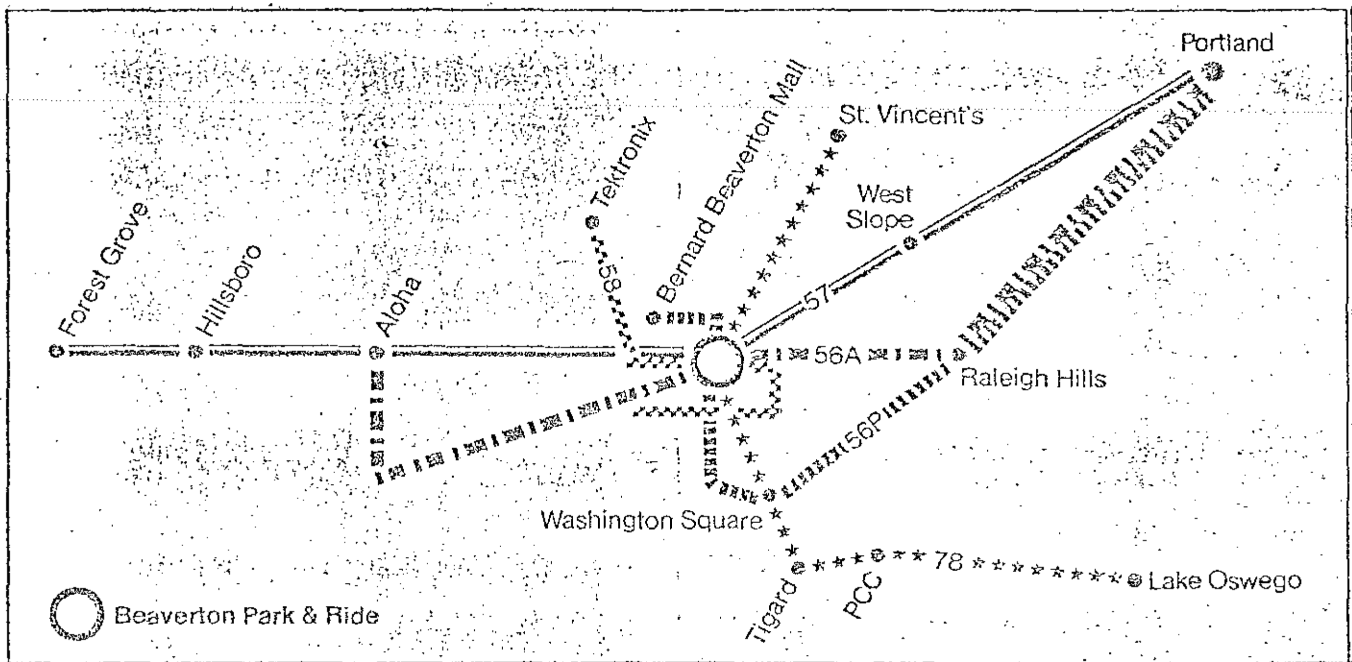
- Comments ______________________

____

Attachment B

Route Description and Schematic Map

The following is a map and brief description of the five lines serving the park and ride lot:



#78 Lake Oswego/Sunset.
This new route provides North/South crosstown service between St. Vincent Hospital, P.C.C. and Lake Oswego, with eight major transfer points allowing connections to 13 different Tri-Met lines. Service every 30 minutes from 6:10 A.M. to 10:10 P.M. from Lake Oswego, and from 6:11 A.M. to 10:41 P.M. from St. Vincent Hospital, weekdays.

#58 Beaverton Local.
A new route providing service within Beaverton. The route serves the Allen Avenue area, Beaverton Industrial Park and Tektronix, with major transfer connections at the Park & Ride lot to Forest Grove, Hillsboro, Aloha, Portland, Bernard Mall, Lake Oswego, Tigard, P.C.C., and St. Vincent Hospital. Service every 30 minutes from 6:00 A.M. to 8:30 P.M., weekdays.

#57 Forest Grove, Hillsboro, Beaverton.
Service from Forest Grove, to Hillsboro, Aloha, Beaverton Park & Ride, West Slope and downtown Portland. Service every five minutes during peak hours on weekdays. 30-minute service midday, Saturday and Sunday.

#56 Beaverton-Aloha.
Service from Aloha to the Beaverton Park & Ride, Raleigh Hills, Hillsdale and downtown Portland. 15-minute service during peak hours on weekdays. Hourly service midday, Saturday and Sunday.

#56 Beaverton-Progress.
Service from Bernard Mall, Beaverton Park & Ride, Washington Square, Raleigh Hills, Hillsdale, and downtown Portland. 15-minute service during peak hours on weekdays. Hourly service midday, Saturday and Sunday.

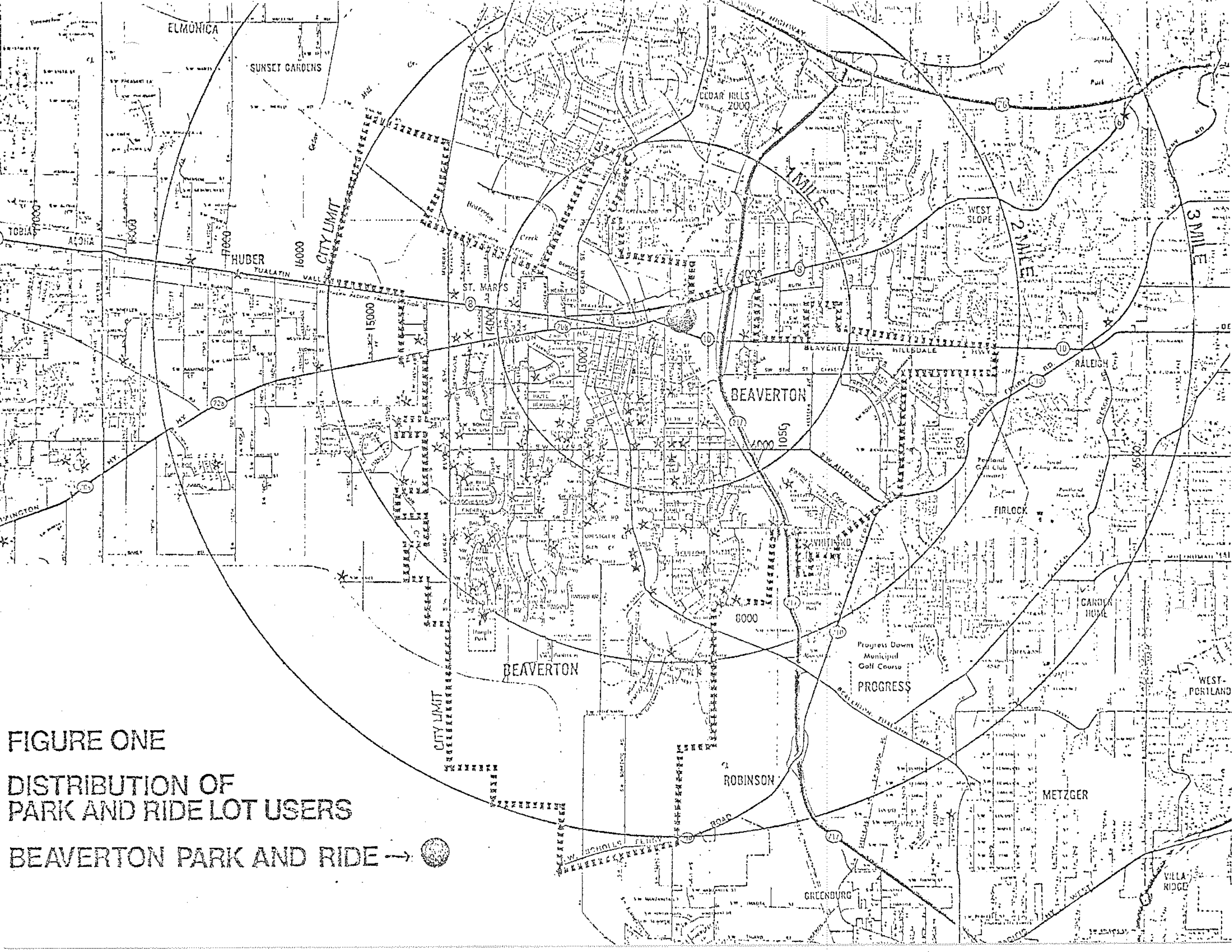


FIGURE ONE

DISTRIBUTION OF
PARK AND RIDE LOT USERS

BEAVERTON PARK AND RIDE →

Attachment C

Comments

The following comments were submitted by those persons returning the questionnaires to Tri-Met:

"The parking lot needs enlarging, badly. A telephone booth would also be desirable. Maybe someday in the future restrooms could be installed in the larger lots."

"I find it very convenient to catch the bus and particularly in rainy weather with the shelter."

"It would be nice if the lots could have better lighting for after dark commuters."

"I am impressed with the parking lot as there is no other place to park!!!"

"Like the old saying "If you miss one bus, there will be another one along shortly" Keep up good service!"

"#57 to Ptld in AM, need addl. buses spaced closer together. Many people getting on bus at park & ride must stand up. Often 15-20 people get on. Need limited bus in AM to downtown with no stops after park & R."

"I drive to Beaverton once a week so I won't have to go all the way home before going to class @ PCC. Normally I take #57 from Hillsboro."

"Have bus on Murray Blvd. south of Allen."

"The best thing you have done is start the 13.00 pass. Keep up the good work!!"

"Would like to see the lot epanded (sic) to handle more vehicles."

"Lot is already crowded. We need it."

"Bus service is excellent."

"Your park and ride keeps me on the bus. Thank you."

"Restrict lot to bus riders only."

"I frequently pick the bus up here instead of 185th & TV Highway 1) Better parking 2) Easier connections (more buses) and I can leave later and get home earlier."

"Thank you! Are bike racks foreseen?"

"My wife and I ride Tri-Met daily to work and school; if 58 is dropped, we will be forced to drive."

"When are you going to get an adequate Park & Ride at ALOHA! I've been moved off by too many local businesses!"

"I will not park - if I have to pay."

"Appreciate improved & frequent schedules. Buses becoming crowded by arrival in Beaverton. How about some must serving Beaverton and east in AM."

"Appreciate the good service and "limited" service buses."

"Park and Ride is great - but needs more spaces for cars."

"This is very convient (sic) as I have to drive my daughter to the sitters house and then I just drive to lot."

"I think the Park & Ride is wonderful - it helps so much - to feel your cars is safe all day. Tri-Met is improving. Thank you."

"I usually catch #58 at Allen & King, ride it to Park & Ride and catch #57 downtown - I only drive if I miss #58."

"The park & ride is very much appreciated.

"Buy pass regularly - transfer to #57 from #56 toward Portland ride #56 home."

"I take my infant daughter to a babysitter on SW Hazel each morning, so the park & ride is very convenient for me. I appreciate the use of the parking lot."

"Generally very good service, however, some drivers are jerky with quick stops and fast acceleration making standing very difficult - very inconsiderate on the drivers part."

"It appears more parking area may be necessary @ Beaverton Park & Ride. The waiting shelter is appreciated."

"Bus seats comfortable on Forest Grove, not on #56. Drivers almost always courteous. Parking lot too rough. Not enough spaces."

"I think that the people who block the drives should be ticketed."

"I greatly appreciate the lot. I did not use Tri-Met before the lot was available as there was no place to park. The lot is heavily used and will need to be enlarged soon."

"I drive from the lot and shop in Beaverton before going to my home."

"Shelter not large enough. Busses aren't spaced close enough from 7:15-7:30 AM - must frequently stand. Too crowded."

"Really handy but hope it will soon be larger as we latecomers (8:30 AM) find it hard to find a place to park."

"The lot is more than half-filled with cars of employees at the banks and title companies adjacent to the lot. Those people who use the lot for purpose for which it was intended to ride the bus cannot find a place to park, and if we do we have to walk a great distance just to get to the bus. This is unfair!"

"I save time and money by using the lot. If bus service were closer to my home I would walk."

"It saves me the gasoline cost and parking cost. Thanks."

"The parking lot is great."

"Remarking parking spaces so space can be properly used to park more cars. Difficult to find parking after 9 AM."

"Sometimes it is nearly impossible to get into the lot because of the cars parked blocking the opening."

"Pleased with the service."

"I also have a friend who rides with me to catch the bus."

"Gravel is course (sic) on lady's footwear."

"If possible that you folks could reroute line #56 to stop at Farmington 195th Pine Ridge Park and then turn off at 198 and up to Shaw and back down to Aloha at the Park and Ride. 185th."

"Very convenient."

"At Beaverton park & ride, we need bicycle racks."

"Another park and ride lot on the west end of Beaverton would be nicer; more parking spaces."

LEE JOHNSON
ATTORNEY GENERAL

JAMES W. DURHAM, JR.
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
100 STATE OFFICE BUILDING
SALEM, OREGON 97310
TELEPHONE: (503) 378-4368

April 18, 1972

No. 6907

This opinion is issued in response to a question submitted by Mr. L. B. Day, Director, Department of Environmental Quality.

QUESTION PRESENTED

Does the Department of Environmental Quality have statutory authority to classify parking facilities as air contamination sources under ORS 449.712?

ANSWER GIVEN

Yes.

DISCUSSION

The Department of Environmental Quality may classify by rule air contamination sources for the purpose of requiring notice of the construction, installation or establishment of new air contamination sources.[1] ORS 449.712(1). The department

---

[1] The addition to or enlargement or replacement of an air contamination source, or any major alteration or modification therein that significantly affects the emission of air contaminants is considered as construction or installation or establishment of a new air contamination source. ORS 449.712(4).

may require the submission of plans and specifications and other information in order to determine if the proposed construction is in accordance with specified anti-pollution statutes and rules and standards promulgated under those statutes. ORS 449.712(2).

We are asked whether the department has authority to classify a parking facility as such an air contamination source, so as to require submission to it of such plans and specifications.

"Air contamination source" is defined by ORS 449.760(5) as:

> ". . . any source at, from, or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in, at or on which such source is located, or the facility, equipment or other property by which the emission is caused or from which the emission comes."

An "air contaminant" means "a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof." ORS 449.760(2).

Among other things, motor vehicles emit carbon monoxide and hydrocarbons. These emissions are within the above quoted definition of an air contaminant. A parking facility draws to it motor vehicles which emit air contaminants. As a result of the concentration of motor vehicles in the parking facility there may be increased volumes of carbon monoxide and hydrocarbons released into the air, particularly from motor vehicles startups at peak use hours.

A parking facility is an air contamination source

within the above quoted definition because it is a place or source ". . . at, from, or by reason of which there is emitted into the atmosphere any air contaminant . . ." The definition clearly includes a facility which does not itself emit air contaminants, but houses sources which do emit air contaminants.

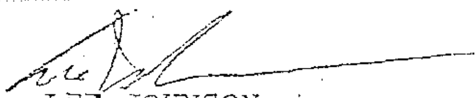
In 35 Op. Att'y Gen. 917 (1971), we had occasion to review the purposes of ORS 449.712 and stated:

> "The public policy of the State of Oregon as expressed in this provision seems clear. The department is directed to _prevent_ air pollution prior to its occurring, whenever possible, and not restrict its regulatory powers to correcting air pollution _after_ if has resulted or proved hamful. This mandate is also in accord with the policy on air pollution expressed in ORS 449.765, requiring a restoration of air quality and the _prevention_ of new air pollution."

The Legislative Assembly has, by this comprehensive definition of "air contamination source," provided broad authority to the Department of Environmental Quality to classify and regulate air contamination sources in order to carry out its air pollution control function. Obviously, the Legislature could not have itemized every conceivable source of air contamination in the statutes empowering the department to control and abate air pollution. New sources of air contamination are continuously developing in this technological age. What was not considered an air contamination source last year may be recognized as such this year or next year. We note that both the department and the federal government have found motor vehicles to be the major source of carbon monoxide

emissions. It would be incongruous to conclude that the department can regulate the operation of individual motor vehicles, but is not authorized to control the parking facility for these motor vehicles at the very point where their high concentration in a parking facility presents one of the greatest threats of air pollution.

Accordingly, we conclude that the department is empowered by statute to include parking facilities in its classification of new air contamination sources under ORS 449.712.



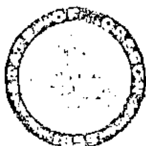
LEE JOHNSON
Attorney General

LJ:RPU:kk

APPENDIX XI

LEE JOHNSON
ATTORNEY GENERAL

JAMES W. DURHAM
DEPUTY ATTORNEY GENERAL



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

October 10, 1975

Ms. Linda Willis
Department of Environmental
  Quality
Terminal Sales Building
1234 S.W. Morrison St.
Portland, Oregon 97205

Re: Petition to Repeal or Amend
Indirect Source Rules

Dear Linda:

Enclosed at your request is a brief response to the Petitioner's propositions of law set forth in paragraph 5 of the subject petition.

Please call me if you have any questions.

Sincerely,

Robert L. Haskins

ROBERT L. HASKINS
Assistant Attorney General

ej
enc.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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OCT 13 1975
AIR QUALITY CONTROL

RESPONSE TO PETITIONER'S
PROPOSITIONS OF LAW

5. Department's response to Petitioner's propositions of law is as follows:

(a) and (b). The Commission acted reasonably in enacting the indirect source rules. There was testimony before the EQC in regard to all key provisions of the Indirect Source Rules. Opponents of the rules failed to make a showing at the prior hearings, held only months ago, that the rules had no rational basis. Furthermore, the Petitioners herein have cited no new information which would show that the rules have no rational basis.

(c) The EQC had and has broad jurisdiction to enact the Indirect Source Rules and to conclude, state and find as it did in the indicated sections thereof. ORS 468.275, 468.280, 468.285, 468.310, 468.315, 468.320, and 468.340.

(d) The Indirect Source Rules clearly specify those persons to whom they apply and the information which is required from an applicant. The substantive limitations and conditions are applied individually to each permittee in the form of terms and conditions of an individually tailored permit. A permittee who feels that any term or condition is unclear has a right to a contested case hearing before the Commission to clarify the term or condition. OAR, ch 340, §14-025(5). No one has exercised that right.

(e) The indicated portions of the Indirect Source Rules are not unconstitutional under the due process, prohibited taking or equal protection provisions of the United States Constitution and do not deny the constitutionally protected right to freedom of travel guaranteed by the United States Constitution. The rules constitute a reasonable exercise of the police power for the purpose of protecting public health and welfare.

APPENDIX XII

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SEP 29 1975
DEPT. OF ENVIROMENTAL QUALITY

OFFICE OF THE MAYOR
NEIL GOLDSCHMIDT
MAYOR

1220 S. W. FIFTH AVE.
PORTLAND, OR. 97204
503 248-4120

September 25, 1975

Peter W. McSwain
Hearing Officer
Department of Environmental Quality
1234 S. W. Morrison Street
Portland, OR 97205

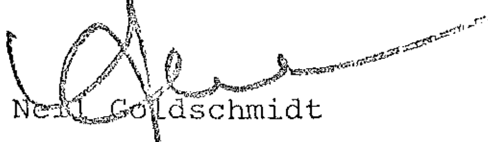
Dear Mr. McSwain:

This is in response to your notice of September 17, 1975, indicating the opening of the record on the question of the repeal or amendment of OAR Chapter 340, sections 20-100 through 20-135, the Rules Governing Issuance of Indirect Source Approvals. This matter has been before the Environmental Quality Commission in the past, with regard to both the adoption of the Rules in the first instance and, subsequently, the exception taken to the rules by certain individuals, organizations and associations. At each of these hearings, I expressed my personal views on this subject, indicating my initial support for the Rules and my continuing belief that they should be applied as adopted. The rationale for my position was included in my previous submittals to the Department.

After reviewing the petition submitted to the Environmental Quality Commission, I wish to reiterate my previous position on this question. Please refer to the earlier statements which I have submitted for the particulars and arguments which I deem most relevant in arriving at this conclusion. Those statements should lay out the considerations by which I have arrived at my support for the Rules and which I regard as unchanged in terms of this most recent petition.

Thank you for your consideration in this matter.

Sincerely,



Neil Goldschmidt

NG:awc

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

Rt 1, Box 481
West Linn, Ore. 97068
Sept 25, 1975

Dear Commissioners,

Speaking for the Tualatin Dam Park Homeowner's Organization, we urge you not to yield to the partisan cries of outrage by pressure groups to relax the parking lot rules.

The greatest good for the greatest number of people should guide your decisions. Indirect sources of pollution must be rigorously controlled. Complaints of economic hardship are based on exaggeration and unwillingness to make reasonable sacrifice. The air quality in the metropolitan area is still appallingly bad, let us never forget.

Sincerely,

Pete Paul
Chairman

Lane Regional AIR POLLUTION AUTHORITY

16 OAKWAY MALL
EUGENE, OREGON 97401
AC 503 686-7618

VERNER J. ADKISON
Program Director

OFFICE OF THE DIRECTOR
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AUG 18 1975
DEPT. OF ENVIROMENTAL QUALITY

BOARD OF DIRECTORS
NANCY HAYWARD
Lane County
DARWIN COURTRIGHT
Springfield
WICKES BEAL
Eugene
GERALD CATES
Cottage Grove
GUS KELLER
Eugene

August 15, 1975

Loren Kramer, Director
Department of Environmental Quality
1234 S. W. Morrison Street
Portland, OR 97205

Dear Mr. Kramer:

In response to the Petition filed with the Environmental Quality Commission in reference to the Indirect Source Regulation, this Agency would like to submit the following information for your consideration.

1. The Board of Directors of the Lane Regional Air Pollution Authority formally adopted Indirect Source Regulations on June 10, 1975. Between December 20, 1974 and that time, the EQC had delegated authority to this Agency and we performed Indirect Source review under that authority. Prior to December 20, 1974, we provided preliminary review for final action to be taken by the EQC. This involvement in the program should serve to indicate our strong interest in review of indirect sources.

2. Reviewing our recent ambient air CO data leads us to believe CO is becoming an ever increasing problem. In addition, we have experienced oxidant episodes in the past. We maintain that these atmospheric contaminants must be addressed in a manner to reduce their levels. In the absence of more absolute and direct controls, the Indirect Source regulation does provide a limited means of control for these air contaminants and, therefore, should be maintained.

3. Development of AQMP's and transportation plans we feel are essential to provide a better control of these contaminants. The current regulations do consider the necessity of these plans and will provide a means of control to assure the plans are followed.

This Agency would like to emphasize its interest in control of emissions typified by transportation sources. If anything, we maintain that additional limitations must be considered, such as AQMP's Transportation Plans to further reduce emissions from this source.

Sincerely,

Verner J. Adkison
Director

VJA/rh

THE CITY OF
PORTLAND
OREGON

OFFICE OF
PLANNING AND DEVELOPMENT
GARY E. STOUT
ADMINISTRATOR

BUREAU OF
PLANNING
ERNEST R. BONNER
DIRECTOR

424 S.W. MAIN STREET
PORTLAND, OR. 97204

PLANNING
503 248-4253

ZONING
503 248-4250

October 1, 1975

Mr. Peter W. McSwain
Hearings Officer
Department of Environmental Quality
1234 S.W. Morrison Street
Portland, Oregon 97205

Dear Mr. McSwain:

Attached to this letter are comments regarding the Amended Petition to repeal or amend OAR Cahpter 340, Sections 20-100 through 20-135 (Rules Governing Issusance of Indirect Source Approvals).

In essence, the Program and Policy Analysis Section of the Portland Bureau of Planning finds that the subject rules are well-considered and that they are necessary for the control of air quality in this region. Furthermore, we believe that maintenance and firm enforcement of the regulations is essential if State air quality standards are to be achieved.

We recommend that the State retain the existing rules intact by denying the petitioner's appeal/motion(s).

Thank you for the opportunity to comment on the petition.

Sincerely,

Donald F. Mazziotti, Chief Planner
Program and Policy Analysis Section

cc: Neil Goldschmidt, Mayor
Ernest Bonner, Director

REVIEW AND COMMENT: Amended Petition to Repeal OAR Chapter 340, Sections 20-100 through 20-135, or, Alternatively to Amend Such Regulations.

We have reviewed the proposed petition which would repeal Sections 20-100 through 20-135 of OAR Chapter 340, or alternatively would amend such regulations, and make the following comments.

General: OAR Chapter 340, Section 11-045 (1) requires a petitioner challenging a rule to submit "ultimate facts in sufficient detail," "sufficient facts," and "propositions of law" to support his contentions. Having reviewed the petition, we believe that the petition has failed to satisfy that requirement. Most of the contentions are mere conclusions, unsupported by particular facts. Propositions of law are identified, if at all, in a most general way and are unsupported by argument. Citations and references are uniformly lacking. The failure to provide detail and sufficient facts upon which the allegations are based makes it difficult to evaluate the contentions with particularity as intended by Section 11-045, and suggests that the conclusory statements presented have no basis in fact. Despite the insufficiences present in the petition, the allegations presented are addressed below.

The existing rules are directed at the control and regulation of a significant air quality problem and should be enforced.

In addition, we find that repeal of these regulations may result in the direct intervention of the Environmental Protection Agency for the same purpose and, therefore, strongly encourage local - as opposed to federal - control of indirect sources. Furthermore, the State of Oregon is clearly permitted to adopt standards which are more restrictive than the national secondary standards; the failure of specific state regulations to formulate a specific policy and technique for guaranteeing present quality and enhancing existing quality is untenable.

Specific: The Petitioner states in paragraph (3)(a) that portions of the Federal Indirect Source Regulations as originally adopted, and on which the Oregon Indirect Sources Regulations are based, have been indefinitely postponed. The Petitioner alleges this is in part due to evidence that Indirect Source Regulations as such cannot necessarily be shown to be effective for the purpose of contributing in any material way to enhanced air quality. Unfortunately, the evidence is not presented to the Commission in the petition and, contrary to petitioner's allegations, numerous studies, conducted by the Environmental Protection Agency and others, available to the EQC, demonstrate that indirect source regulation may be an effective component of an air pollution control strategy.

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2). The Petitioner contends in paragraph (3)(a) that it is legally and economically improper to impose Parking Management Regulations in an Indirect Source Regulation. To support this contention, petitioner provides a quotation concerning Indirect Source Regulations and Parking Management Regulation from 39 Federal Register 30441-30442.

The source quoted must be read in further detail to fully understand the significance of the quotation. The Federal Indirect Source regulations are designed to review proposed construction of new parking facilities anywhere in the nation. The federal regulations have a cutoff for review of all facilities with 1000 or more parking spaces. The Federal Parking Management Regulations are limited to specific areas found to have serious violations of auto-related air quality standards and requiring transportation plans. These parking regulations are applicable to new facilities having a parking facility of 250 or more parking spaces. 39 Federal Register 30441-30442 (August 22, 1974).

The Environmental Protection Agency has stated that in areas where both the Federal Indirect Sources Regulations and the Federal Parking Management Regulations are applicable, that in order to avoid two separate reviews, sources may be required to undergo the more restrictive review of the Parking Management facilities. "This review will require facilities of the size subject to indirect source review to undergo carbon monoxide impact analysis similar to that required by the indirect source regulation in addition to other parking management review requirements." 39 Federal Register 25296, (July 9, 1974).

The significance of the additional information is that the EPA Parking Management Regulations are applicable to facilities which fit the description of indirect sources. The difference is that the parking management regulations apply to smaller facilities and require a more intensive review of the facility.

States may develop their own Indirect Source Regulations and Parking Management Regulations, as long as they operate to insure that the national standards will not be violated as a result of the construction of a new indirect source. Therefore, it is not unreasonable nor improper for the Oregon Environmental Quality Commission to adopt standards for indirect source regulations, which incorporates Parking Management Regulations, that are more restrictive than the national standards. The Oregon indirect source regulations are promulgated to review new facilities with 50 or more parking spaces. The adoption of more restrictive standards by Oregon would seem to be consistent with the federal policy of applying the more restrictive parking management regulations to smaller facilities. The Oregon indirect source regulations

are thus appropriate. Petitioner has failed to provide any evidence to the contrary or to show that application of Parking Management regulations are economically and legally are unsound or ill-suited to Indirect Source Regulation.

The petitioner contends in paragraph (3)(a) that attempts to reduce the total vehicle miles traveled (VMT) are not properly related to Indirect Source Regulations.

The EPA has stated that in order to achieve the applicable National Ambient Air Quality Standards that, "it is also necessary to develop and implement transportation controls which both reduce emissions from in-use vehicles on the road and reduce the vehicle miles traveled by the vehicles in the affected area." 39 Federal Register 30440, (August 22, 1974). The purpose of VMT regulations is to reduce the area-wide growth in VMT in order to contribute to the achievement of photochemical oxidant and/or carbon monoxide standards. Thus, measures designed to reduce the vehicle miles traveled result in lower pollution levels. The VMT reduction proposals are found in the Federal Parking Management Regulations.

Since States may adopt more restrictive standards than the federal regulations for indirect sources, it is therefore not unreasonable for the Oregon Indirect Source Regulations to incorporate VMT proposals. It also follows that if it is not unreasonable for Oregon to adopt a more restrictive indirect source regulation which includes the Federal Parking Management Regulations, then it is not unreasonable to incorporate VMT proposals which are a part of the Federal Parking Management Regulations.

3). Petitioners contend in paragraph (3)(c) that Indirect Sources as defined in the regulations cannot lawfully be considered air contamination sources within the meaning of ORS. 468.275

Petitioners fail to provide any support for their conclusion that Indirect sources as defined should not be considered air contamination sources. It is clear that the Indirect Source definition falls with the definition of ORS 468.275(4).

'ORS 468.275(4). "Air Contamination Source" means any source at, from, or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property, in, at or on which such source is located, or the facility, equipment or other property by which the emission is caused or from which the emission comes.'

'OAR Chapter 340, Section 20-110 (10) defines Indirect Source as "a facility, building, structure, or installa-

tion, 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." This section also lists certain identified sources.

Without question, an indirect source as defined in OAR Chapter 340 is a source by reason of which air contaminants are emitted into the atmosphere.

4). Petitioner alleges (3)(e) that compliance with the Indirect Source Regulations will require an additional initial development cost far out of proportion to any improved air quality benefit that can be shown to be associated with the enforcement of the regulations; and the greater portion of the cost increases will generally apply to larger scale developments, thus discouraging their development while encouraging the development of small, non-regulated facilities located outside of an area in which Indirect Source Regulations can properly be applied.

Petitioner's contention, if substantiated, would obviously be contrary to the intent of EQC. However, petitioner fails to offer evidence that the alleged effect of the regulations would be as asserted. Moreover, the cumulative effect compliance --- cleaner air --- is a public benefit well worth the additional development costs which the developer, and then the consumer, incurs.

5). Petitioner contends in paragraph (3)(f) that it was improper to conclude that Indirect Source Construction Permits were necessary for any particular size parking facility from the evidence presented at the hearings.

There was sufficient evidence upon which the hearings officer could base his decision for administrative rule-making purposes. Additionally, it was entirely appropriate to consider air samplings in Portland as a basis for developments of comparable magnitude located elsewhere in the State.

Petitioner alleges in paragraph (3)(g) that the potential Indirect Source Construction Permit conditions, OAR 340, Section 20-130 (4)(i) and (j) fail due to vagueness, and therefore cannot properly be attached to an Indirect Source permit for such facilities.

Rather than strike subsections (i) and (j) it is suggested that EQC revise the wording of the conditions to avoid a possibility of vagueness. Suggested revisions are as follows:

(i) Limiting traffic volume, be such means as channelization and gate location, so as not to exceed the traffic capacity of affected roadways.

(j) Altering traffic volumes at intersections located upon the source site by such means as channelization and signalization.

6). In paragraph (3)(h) of the petition, the petitioner states that before a mass transit incentive is imposed as a condition to issuance of a construction permit that the incentive be reasonably applicable to the source. We agree. We also feel that the finding of such a reasonable relationship is implicit in establishing conditions for a permit, and that no special showing is required for that purpose. Additionally, we believe that the reasonable relationship can be established by examining aggregate effects, and not merely by attempting to correlate the particular incentive to an identifiable effect at the source. The incentive requirements, properly applied, are a valid exercise of the police power and in no way constitute an unconstitutional taking nor violate substantive due process guarantees.

7). There are several problems with the petitioner's claims in paragraph (3)(k). The petitioner states that the definition of indirect source suggests that an applicant is responsible for conditions beyond the applicant's development. First, I am unable to identify language in the definition which supports such a statement; the petitioner specifies none. Second, petitioner here and elsewhere in the petition assumes that treatment of air pollution can be isolated to each particular source, and that a source warrants control only if it alone generates an unacceptable amount of pollution. That analysis ignores the fact that air pollution respects no property lines, and that air pollution analysis and treatment deals with cumulative impacts. Finally, while the petitioner claims that an applicant's responsibilities are "unlawful," he fails to specify the nature of the lawlessness or to furnish legal citations upon which he rests his claim.

8). Petitioner alleges in paragraph (3)(l) that EQC unlawfully denies developers their constitutionally protected right to freedom of travel and unconstitutionally deprives the landowner of property rights without just compensation. Petitioner's allegation is based on an argument that there is no evidence that enforcement of the regulations will have any beneficial effect on air quality.

In the first place, there is ample evidence that the subject regulations will have a real, beneficial effect on air quality. For instance, the Environmental Protection Agency, at 39 Federal Register 30440 - 30441, concludes that the effect of efforts designed to reduce vehicle miles traveled (which is a condition in the Oregon regulations) is to reduce pollution levels. The EQC has collected and evaluated much other evidence in formulating its regulations, and the petitioner's assertions can at best be called specious.

Furthermore, even assuming, as petitioners asserts, that the regulations were adopted in the absence of adequate evidence, the constitutional arguments based upon the right to travel and the "taking" clauses of the State and Federal constitutions are without merit. See Constrruction Industry Association v. Petaluma, No. 74-2100 9th Cir., August 13, 1975 and The Taking Issue, respectively.

9). The petitioner seems to base the apparent substantive due process argument of paragraph 3(m) in the fact that the air pollution analysis employed by the EQC considers the aggregate effect of source discharges rather than merely the effect of one source. The aggregate analysis used by EQC is, however, the conventional accepted method of monitoring, evaluating, and controlling air pollution. Indeed, to adopt the approach suggested by the petitioner would be to employ a method which has no rational relationship with the ends to be achieved and would therefore constitute an arbitrary and capricious exercise of administrative authority.

10). Petitioner contends (4) (c) that there need be some reasonable evidence to support the requirement of obtaining an Indirect Source permit for construction of parking facilities or indirect sources with associated parking below the cutoff point in federal regulations. While we agree with the petitioner's statement in principle, we believe that the cut-off points for the application requirement have a reasonable basis. We support the findings of the hearing officer for the October 29, 1974 public hearing and urge that the cut-off points be maintained.

11). Petitioner suggests in paragraphs (4)(e), (g) and (h) that the requirements for measuring carbon monoxide and lead concentrations after a one-year period be deleted. We feel strongly, however, that such limited monitoring will be ineffective to detect changes in emission levels and other developments which may have an impact on regional air quality. Consequently, we suggest that the 10-year and 20-year measurements should be retained as an effective device for monitoring the long-term impact of the particular indirect source on the air quality of that area.

12). The propositions of law presented in part 5 of the petition have been addressed elsewhere in these comments.

MULTNOMAH COUNTY
BOARD OF COMMISSIONERS

COUNTY COURTHOUSE
PORTLAND, OREGON 97204
(503) 248-3304

MEL GORDON
COMMISSIONER

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 17 1975
OFFICE OF THE DIRECTOR

October 15, 1975

Mr. Joe Richards, Chairman
Environmental Quality Commission
1234 S.W. Morrison Street
Portland, Oregon 97205

Dear Mr. Richards:

AMENDED PETITION TO REPEAL OR AMEND OAR CHAPTER 340, SECTIONS 20-100 THROUGH 20-135, INDIRECT SOURCE REGULATIONS

I would like to supplement my comments on this subject expressed in my October 6 letter.

First, I note that the petitioners contend that even if the EQC repeals the indirect source rule it would not leave Oregon without any indirect source regulations because the Environmental Protection Agency has such regulations. I find this contention in error for two reasons: (1) On July 3, 1975 EPA indefinitely suspended enforcement of its indirect source regulations; and (2) EPA's indirect source regulations were inadequate to regulate pollution from these sources anyway.

Oregon was the first state in the union to implement indirect source regulations. EPA's attempt at regulating indirect sources was nothing more than a meek imitation of Oregon's trend-setting rules. EPA was swayed by pressure exerted by such special interest groups as the International Council of Shopping Centers, which is presently leading a national campaign to have all indirect source regulations killed. The present effort in Oregon to kill DEQ's indirect source rules would result in allowing certain special interests to pollute as they please.

Second, the DEQ indirect source rule provides the basis for the parking lid in downtown Portland that was set by the EQC in March 1973 as part of the Transportation Control Strategy amendment to the Oregon Clean Air Act Implementation Plan. If the rule is abolished, as the petitioners request, then a new control strategy must be developed by DEQ to control air pollution from motor vehicles in downtown Portland. If DEQ fails to develop another strategy, then

EPA is mandated by the Clean Air Act to develop and implement its own regulations. EPA had previously proposed a ban on daytime deliveries in downtown Portland. That proposal is completely unacceptable because it would be economically disastrous. Yet, the petitioners seek to have the downtown business community put under the shadow of federal regulation so that they can freely pollute the suburbs.

Third, LCDC goal #6 and CRAG's proposed goals and objectives require that pollution from indirect sources not violate state and federal air quality standards. If DEQ were to stop reviewing the air pollution effects of indirect sources, these mandatory goals could not, as a practical matter, be met.

Finally, I think that the indirect source rule has resulted in several positive benefits for the Portland metropolitan area. First, it has forced developers to do the right thing relative to providing and encouraging mass transit use at their projects. For example, bus shelters have been built; park-and-ride lots have been established; transit tickets have been purchased and distributed to patrons, employees, tenants, etc. at reduced cost; and employers have joined Tri-Met's car pool information system. It is doubtful in most cases if any of these things would have been done if there was no indirect source rule. The result has to be less pollution and a better development overall.

Another benefit has been that it has forced developers to begin thinking about how their project will relate to transit when it is still in the early planning stages. This again has to result in a better overall project and enhancement of the transit system.

The final benefit that I would like to mention is that the rule has forced Tri-Met to work with developers and make sensible improvements and modifications to their system that might not have otherwise occurred because of the lack of a mechanism whereby Tri-Met can keep track of the projects that are being constructed in the region. Many of these changes are small, such as changing a portion of a bus line so that it passes closer to a new development, extending a line to serve a new or expanded development, or locating bus shelters where they weren't previously planned. But the effect of many small improvements can mean increased use of transit and improved air quality.

In conclusion, I feel it would have very deleterious effects for the peition to be approved or for any significant changes to be made to the existing indirect source rules that would decrease their effectiveness. Thank you for considering my views.

Sincerely,

Mel Gordon
Commissioner
National Chairman, Energy and Environment Committee
National Association of Counties

MG:sb
cc: Governor Bob Straub
Environmental Quality Commission
Tri-Met Board of Directors
CRAG Board of Directors
Land Conservation and Development Commission
Multnomah County Commissioners
Multnomah County Planning Commission
Bud Kramer
Ken Gervais
Roger Mellem
Mike Downs

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X

1200 SIXTH AVENUE

SEATTLE, WASHINGTON 98101

October 23, 1975

REPLY TO ATTN OF: M/S 629

Mr. Harold M. Patterson
State of Oregon
Department of Environmental Quality
1234 S.W. Morrison Street
Portland, Oregon 97205

Dear Mr. Patterson:

You requested that we clarify EPA's position on indirect sources. In December of 1974, EPA suspended their indirect source regulation based upon questions raised by Congress regarding the role of the Federal Government in the review of parking related facilities. EPA continues to believe however, that the goal stated in the Clean Air Act of maintaining ambient air quality standards makes it necessary that State implementation plans have a mechanism for regulating new and modified indirect sources. New indirect sources which are improperly designed so as to cause congestion, or which significantly increase VMT locally or area wide, may either cause new violations or exacerbate existing violations of ambient air quality standards.

At the time of suspension of the EPA regulation and in the ensuing months, we have stated our committed belief in the importance of State and local controls in the planning, siting, and design of parking-related facilities such as shopping centers, office buildings and residential facilites. EPA believes that the necessary preconstruction reviews for air quality can be most effective when incorporated by the State or local government into their ongoing planning, zoning, and building permit process. EPA has continually emphasized its desire that the indirect source regulations be implemented at the State or local level and not at the Federal level. Currently, legislative committees of the Congress are considering various possible amendments to the Clean Air Act. One is an amendment that would require each State to adopt and implement an indirect source regulation as a part of its State Implementation Plan and provide no authority for EPA to review parking-related facilities.

Also, we have received your indirect source regulation submitted as a proposed State Implementation Plan revision. Presently, the Regional Office staff has reviewed the document and is preparing a Notice of Proposed Rulemaking to be published in the Federal Register. Our assessment indicates that the regulation is approvable, even though there are some inconsistencies between it and the Federal regulation. However, we would like to make clear that if and when the suspension of the Federal regulation is lifted, it might be necessary for EPA to require any inconsistencies to be corrected.

In closing, we would like to commend the State of Oregon's Department of Environmental Quality on implementing and enforcing their indirect source regulation. We will continue to encourage States to adopt and enforce indirect source regulations and submit them to EPA for approval as part of their implementation plan.

Sincerely yours,

Douglas C. Hansen
Director
Air & Hazardous Materials Division

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

To: [illegible] JEC

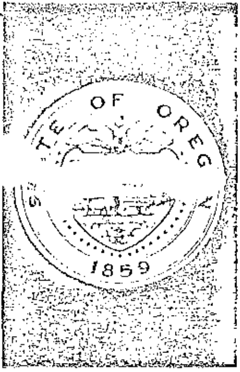
Date: 10/22

From: CAS

Subject: Indirect Source Rule - Joe Richard's Response to Mel Gordon Comments

Joe Richard's response to Mel Gordon's letter is somewhat disturbing in that our recommendation in the staff report requires land-use plans intergrate the concept of review and approval of indirect sources. It appears that Richards does not have a complete understanding of the relationship between indirect source location criteria and the development of regional parking and circulation plans.

I have asked Lynda to discuss this matter with LK today.



ENVIRONMENTAL QUALITY COMMISSION

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

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Chairman, Eugene

GRACE S. PHINNEY
Corvallis

JACKLYN L. HALLOCK
Portland

MORRIS K. CROTHERS
Salem

RONALD M. SOMERS
The Dalles

October 21, 1975

Mr. Mel Gordon, Commissioner
County Courthouse
Portland, Oregon 97204

Re: Amended Petition to Repeal or Amend Indirect Source Regulations

Dear Mel:

Thank you for your additional remarks on the indirect source regulations in your October 15, 1975 letter. .

I enclose a copy of my recent reponse to the Honorable Rick Gustafson, which basically explains my views. I have no desire to change the indirect source regulations in the core area. However, sufficient time has elapsed that I believe we should look at the regulations as they relate to outlying areas and, based upon our experience, either reduce or increase the requirements, depending upon the CO data that has been developed by the staff in the meantime.

A portion of your letter is directed towards land use planning goals. While I share your views and note with approval the accomplishments in that area, I do not think that land use planning considerations can be taken into consideration by the EQC in the evaluation of the indirect source regulation.

Very truly yours,

JOE B. RICHARDS

JBR:gh
Encl.
cc: The Honorable Robert W. Straub
Mr. Loren Kramer

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 23 1975
AIR QUALITY CONTROL

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X

1200 SIXTH AVENUE

SEATTLE, WASHINGTON 98101

October 23, 1975

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

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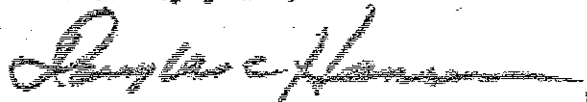
Sincerely yours,



Douglas C. Hansen
Director
Air & Hazardous Materials Division

PATTERSON

W.WEEK 10.22

Developers fight air rule

Indirect source rule forces suburban centers to encourage mass transit

By RONALD A. BUEL

When Washington Square shopping center opened less than two years ago, shopping patterns in our metropolitan area changed radically. Now an average of 28,000 persons a day traipse through the center. Previously, these people shopped in Beaverton, downtown Portland, the Lloyd Center and a host of other locations.

About 95 per cent of these people come to the center by automobile. The average car has about 1.75 persons in it.

The overall result, says the State Department of Environmental Quality (DEQ), is more pollution in the North Willamette Valley airshed, including sometimes deadly, always unhealthful carbon monoxide.

But the DEQ can't tell Washington Square developers they can't build there. And DEQ can't force out-of-state automobile manufacturers to stop making autos that pollute. So what does DEQ do?

It invokes what it calls the "indirect source rule." This rule says that Washington Square's parking lots are an indirect source of pollution, because they attract cars that pollute. (Cars, in DEQ's terminology, are a "mobile source," industrial plants a "direct source.")

The indirect source rule allows DEQ to force Washington Square to develop and pay for an incentive program of mass transit, thereby reducing the number of cars coming to Washington Square.

In fact, during the week of September 1, some 8,854 passengers arrived at Washington Square on Tri-Met, up from 3,601 passengers a year earlier, and from 4,506 passengers a week during March and April of this year.

This 146 per cent increase in one year compares to a 23 per cent increase in the number of autos coming to the center (from 73,740 per week to 91,000). Tri-Met figures the percentage of persons coming by transit grew to 5.3 per cent from 2.7 per cent during the 12-month period. It attributes the growth largely to the completion of a Washington Square transit station, an increase in bus lines and better signing for transit at the center—all part of the center's transit incentive program.

The catch in this

Washington Square isn't the only business to be affected by the indirect source rule, by any means. As a result of the rule, Tri-Met currently is operating over 60 successful transit incentive programs, all funded by private businesses. The rule applies to all new parking lots holding over 50 cars and built within five miles of any city over 50,000 people (Portland, Eugene and Salem).

But there's a catch in all of this. The transit incentive program has cost Washington Square $350,000 so far, for example, and the center owners and managers, Winmar Co. of Seattle, are typical of other developers. They don't like it.

"If we thought our program improved the quality of the air in this airshed by one-half of one per cent, we'd be all for it," says Frank Orrico, Winmar's president. "But we know it hasn't improved the airshed an iota that is measurable."

Whether or not this charge is accurate (it probably would depend on where the measuring was done), Orrico is being joined by many other people who have opened a full-out frontal attack on the indirect source rule. The attack includes a petition to the State Environmental Quality Commission (EQC), asking that five-person citizen body appointed by the governor to either amend or eliminate the rule. The petition will be heard by the commission this Friday.

The attack also includes a lawsuit that has been filed in Lane County Circuit Court, asking that court for a declaratory judgment for repeal of the indirect source rule.

By name, those fighting the rule are the Oregon State Home Builders, the Oregon Chapter of Associated General Contractors and the Associated Floor Covering Contractors, all petitioners. These groups have been joined in the lawsuit, but not in the petition, by the Western Environmental Trade Association and the International Council of Shopping Centers (of which Orrico is national president).

Not all of these people are as subtle as Orrico, who worries out loud that "you're going to make it sound as if we're against a clean environment." George Morton of Cascade Construction, who is chairman of an indirect source task force for the Associated General Contractors, says the basic reason for opposing the rule is "self-interest. It hurts our business. The contracting business is on its back and this rule increases our costs and slows down our construction."

These kinds of arguments made by developers and shopping center owners have already had their impact nationally. Congress recently asked the federal Environmental Protection Agency (EPA) to back off its requirements for such a rule in many states.

It was in environmentally conscious Oregon, however, that the indirect source rule was first applied, in 1972, before EPA made it part of its regular program for development of clean air implementation plans throughout the country.

So Congressional action isn't likely to cause Oregon's EQC to back off its rule. But local pressure might.

Two ways to change

There are two ways the commission might amend its indirect source rule. First, by upping the minimum size of lots to which the rule applies. In many states the rule comes into effect only when lots accommodate 1,000 or more cars.

Second, the commission just might make the rule apply only to the Portland area, where the air pollution problems are most severe. It also could combine these two actions, making the rule apply only to larger lots in the Salem and Eugene areas.

Conversations with three of the five EQC members indicate that there is a solid majority consisting of Jackie Hallock, Grace Phinney and Ron Somers, who will stand behind the rule refusing to repeal it. However, these persons might be willing to amend the rule as indicated above.

Joe Richards, chairman of the commission, says, "The major issues are size and distance. The question is whether or not it is justified to apply the rule down to 50-car lots and out to five miles away from the central city."

Hallock adds that she is "now willing to consider whether the airshed is dirty enough in the Eugene and Salem areas to continue applying the rule uniformly throughout the state. When the commission first passed this rule, I don't think it realized that, legally, it doesn't have to apply it uniformly throughout the state."

Only so many tools

Somers, however, seems to speak for the commission when he points out that it has only so many tools available to it. "The problem is that industry is suffering because we haven't done a good enough job of regulating the automobile. If we don't let industry in because we have a dirty airshed from the auto, we deny ourselves additional employment for our state when we badly need it. And how can you control the highway flow without controlling where the cars are going?

"If you put five 50-car parking lots on a corner and send the cars down a two-lane road with 10 stop signs on it, you automatically have a series of violating intersections. It's time we made the developers look more closely at this problem. Take Bonita Road near Lake Oswego where 5,000 cars a day were going down a two-lane road and the worst, worst air pollution standards were exceeded."

Too, arguments to keep the indirect source rule are coming from a variety of politicians and governmental bodies. Says Portland City Mayor Neil Goldschmidt, "It begins to be tougher and tougher for the city to stand alone on the assumption that the problem for the airshed is only our problem. If we eliminate the indirect source rule, we are just shifting the parking problem and the pollution problem from the city to the suburbs. The airshed remains dirty.

"Tri-Met opposes the petitioners' attempt to repeal or to amend the indirect source rules," declares Stephen R. McCarthy, assistant general manager. "Each program recommended by Tri-Met to the DEQ and to the developer is based on the size, type and location of that particular development. The incentive programs are of great benefit to the public and do lead to a reduction in automobile trips and the air pollution, traffic congestion and energy waste that result from dependence on the automobile."

Multnomah County Commissioner Mel Gordon points out that the county's zoning ordinances are not sufficient at this time to deal with air pollution problems, and says he is thankful that the DEQ indirect source rule exists.

City and county planning staffers point out that the indirect source rule is also the basis of the lid on downtown parking in the City of Portland. Were it to be repealed, the city would have to move to other means of keeping its downtown air healthy—possibly eliminating daytime deliveries downtown, a much more severe action in its effect on downtown business.

If the DEQ does what appears likely and joins with recent action by the state Land Conservation and Development Commission to stand behind the indirect source rule, the matter is liable to be decided finally in court.

The lawsuit that has been filed in Lane County Circuit Court attacks the rule in several ways. Most important, according to the persons filing the suit, is the argument that there is insufficient data about the effect of indirect sources to promulgate the rule. Here the issue will turn on whether the measuring of pollution from small indirect sources is sophisticated enough to demonstrate significant effect on the airshed.

Less likely to succeed, according to legal observers, are arguments based around the consideration of equal protection under the law. These arguments question whether requiring developers and landowners to take certain actions which might make it economically impractical to develop the land constitutes a taking of property without due process of law. Legal experts consider it likely that the court will stand with precedents like *Oregon City* v. *Hartke* which hold that such action can be taken if it is to protect the public from a nuisance. •

...ller and center of equip-

W. Week 10.22.75

Direction

We want to continue to emphasize the importance of the Department of Environmental Quality's indirect source rule. (For a discussion of that rule, see our story, Page 2.)

As it now functions, the indirect source rule singles out shopping centers like Washington Square and identifies them as indirect sources of air pollution, because they attract so many air-polluting automobiles to their parking lots. To mitigate the effects of this, the shopping centers are then forced to make mass transit available to their patrons.

At Washington Square, for example, more than 8,000 customers a week use buses instead of automobiles for transportation to and from shopping. While this is only slightly more than five per cent of the shopping center's total number of customers, it is more than twice the number of customers traveling by bus to Washington Square a year ago. Contrary to what critics say, these small improvements do help the valley's airshed.

Promotion of clean air is the primary goal of the indirect source rule. But the rule has other benefits. It helps planning (witness the Portland Downtown Parking and Circulation Plan) and discourages urban sprawl.

It represents a more accurate allocation of the real costs to this region of building massive suburban shopping centers and developments which rely so heavily on the automobile.

Lastly, the indirect source rule is another bit of help to the Willamette Valley in its efforts to develop sensible transit systems.

ENVIRONMENTAL QUALITY COMMISSION

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ROBERT W. STRAUB
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Portland

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Salem

RONALD M. SOMERS
The Dalles

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. F, October 24, 1975, EQC Meeting

PGE - Bethel Turbine Facility - Response to Testimony Received At September 29, 1975 Meeting

BACKGROUND

The Commission held a public meeting on September 29, 1975 in Salem to obtain testimony on the issues of air quality and noise control regarding Portland General Electric's Bethel Turbine Generating Plant located near Salem.

At this meeting, the Commission voted to hold the record open for fifteen (15) days, directed the Department to respond to testimony submitted, and to schedule this matter for further consideration at the regular monthly Commission meeting on October 24, 1975.

DISCUSSION

Testimony received during the September 29, 1975 meeting (no testimony submitted afterward up to the date of preparation of this report -- October 10, 1975) has been reviewed by the Department and the following responses are offered:

Air Quality

1. In response to PGE

   a. Allow engine exercise

   PGE requested that engine exercise periods be allowed to insure proper operation and prevent engine damage. This exercise period is anticipated to be about one-half hour every two weeks. The Department believes this to be a reasonable request provided the actual test periods receive prior review and approval from the Department. Condition 13 has been added to the proposed Air Contaminant Discharge (ACD) Permit (Attachment 1) to accommodate this request.

   b. Less Frequent NOx Control Reports

   PGE requested that NOx control progress reports be required on a less frequent basis than quarterly. PGE suggested annual reports. The Department believes that both the Department and PGE must be kept fully up-to-date on developments in NOx control so that such control, when available, can be required and installed promptly. A semiannual report is the minimum time the Department recommends for such reporting. Condition 11 has been modified in the proposed ACD permit to require semiannual reports.

2. In response to Mr. John Platt (Northwest Environmental Definse Council)

   a. NOx control was available when the plant was built

   The Department does not believe practicable NOx control was available when the Bethel plant was built, nor is it available at the moment. The first series of durability tests on dry NOx control will be run later this year. Water injection NOx control has been used in the Bethel-type turbines over the past few years, but the effects on engine durability and the extremely high cost of water treatment systems make water injection not practicable for Bethel-type turbines in the opinion of the Department.

   b. Limit operating hours and phase out operation

   In the September 29, 1975 report to the EQC, the Department indicated that phase-out was not justified from an Air Quality standpoint. An operating hour limit was reported as justified but a specific hour limitation which could be substantiated would take several months to develop.

c. Require appropriate agency to make determination of emergency operating conditions

It would be the Department's explicit intent to consult with appropriate agencies such as Bonneville Power Administation (BPA) and the Public Utilities Commission (PUC) in cases of controversy as to whether emergency conditions actually exist which warrant operation of Bethel turbines.

Noise

1. In response to Commissioner Sommers

a. Compliance with 45 dBA requirement

In July 1974 the Commission required PGE to obtain noise easements from residents subjected to noise above 45 dBA. The September 29, 1975 Staff Report (page 4, paragraph 2) discussed this condition. In summary, the facility does not produce enough energy in the "A" weighted frequency spectrum to exceed 45 dBA. Attachment C of the referenced Staff Report presents data that shows noise levels were below 45 dBA during operation of the turbine at a distance of 1200 feet and greater.

b. 1975 legislative action on infrasound

The Commission and an informal opinion from the Department's Legal Counsel stated that the enabling legislation allowed control of audible sounds but not inaudible sound. A House Bill (HB 2029) introduced into the last session by the Joint Interim Committee on Environmental/Agricultural and Natural Resources added a definition of "noise." This definition expanded the frequency to 2 H_Z to 50,000 Hertz. The normal audible range is 20 H_Z to 20,000 Hertz. This definition would also include vibration as well as air-born low and high frequency noise.

This Bill passed the House and then went to the Senate Energy and Environment Committee. In general, industry was against the expansion of the frequency range provided in the Bill and attempts were proposed for a compromise definition. Testimony was made by the Department that the fiscal impact of expansion of the noise definition would amount to $750 for additional microphones for low and high frequency measurements. Fiscal impact was estimated by others to be between $12,000 and $60,000 for additional equipment; however, this estimate did not account for equipment already budgeted or presently owned by the Department. This Bill also had many provisions which would have benefited the Department's Noise Program, such as clear authority to provide exceptions, exemptions and variances. Local noise ordinances would also have Commission approval under the proposed Bill. This Bill died in the Committee.

2. In response to Mrs. Marlene Frady (resident)

a. <u>Noise measurements should be made near residences</u>

The Department Noise Rules were developed to protect noise sensitive property, both inside and outside. The nearest privately owned property is approximately 1200 feet from the turbines. A convenient measurement location of 400 feet from the turbines was used for several reasons:

(1) This distance is close enough to the turbines, so that other ambient noises do not interfere with the measurements.

(2) This distance is far enough back from the facility that all noise originating from the turbines is measured. If some noise is generated by turbulance above the exhaust stacks, it will be measured at this location.

(3) The mathematical projection of the allowable levels in the rules to a reference location is always conservative. Excess attenuation will reduce the level somewhat more than spherical dispersion; thus, we are confident that the standards are not exceeded at 1200 feet from the turbines. Verification of the applicability of the mathematical projections has been made at Harborton and Bethel by measurements near residences.

(4) It is usually not necessary to take measurements inside of homes for noise control rules. The noise may be more easily detected by the human ear within a home because of less background noise, however, the measuring instruments adequately detect the low frequency rumbling outside even when other background noises are present.

b. <u>Infrasound problem</u>

The measurements the Department has recently taken of both twin-pacs operating at base load do not show low frequency noise present below 22 Hertz. As in most mechanical devices, the initial frequency peak is preceded by a lower level rather than a greater level. Although the Department's instruments for low freqnency measurements are not as accurate as in the audible range, they do give an excellent indication of the energy content. A system that has a possible error of -1 dB at 2 H_z, +1 dB at 4 H_z, 1/2 dB at 10 H_z and 0 dB at 20 H_z was used to record at the lower frequencies. The following levels were found:

One-Third Octave Band Range (Hertz)	Level dB
2.2 - 2.8	56
2.8 - 3.6	57
3.6 - 4.5	62.3
4.5 - 5.6	65
5.6 - 7.1	67
7.1 - 8.9	68.1
8.9 - 11.1	70
11.1 - 14.9	71.9
14.2 - 17.8	71.2
17.8 - 22	71.8
22 - 28	76.2
28 - 36	71.3
36 - 45	66.1
45 - 56	62.6
56 - 71	56

Thus the measurements show the peak energy is in the one-third octave band from 22 H_Z to 28 Hertz (a portion of the 31.5 Hertz octave band). The level in the bands below 22 Hertz decrease as the frequency decreases. See one-third octave band plot (Attachment 2).

Documentation of infrasound problems according to Department research indicates a threshhold of problems at 85 dB. Based on measurements above there appears to be no documented basis for considering that infrasound problems exist in the Bethel community as levels are well below the threshhold cited in literature.

c. Auxiliary equipment noise

The cooling fans located on the transformers were measured and reported in the staff report as auxiliary equipment to the turbines and existing equipment of the substation. Although no octave band measurements were conducted, these types of fans do not cause a community noise problem at these large distances. Compliance with Department noise rules was noted. The subjective tests conducted by the Salem-North Coast Region did not identify the noise from the cooling fans. The only fan noise heard was at the near-by mushroom plant which was audible after going to their property line.

3. In response to Mr. John Platt (NWEDC)

a. Operating conditions which comply with Department noise rules

The September 29, 1975 Department report stated the Department estimated that the turbine facility would marginally comply with the daytime octave band noise rule but would exceed the nightime rule during baseload operation of both twin-pacs. The report also stated that a single twin-pac unit would marginally meet the nightime standards. This was based upon the extrapolation of data from one twin-pac and using the possible data tolerances of the instrumentation systems.

In a subsequent measurement, on September 23 with the plant producing 110 MW of power (baseload), the Department measured 76.3 ± 1 dB in the 31.5 Hertz octave band. The standard of 77.5 dB for daytime is thus met. One twin-pac would meet the nightime standard of 74.5 dB in the 31.5 Hertz octave band if it were operated slightly less than baseload (baseload test measure 74.7 ± 1 dB). The data in essence indicates that recently installed noise mufflers and shotcreting have reduced low frequency noise approximately 3 dB which corresponds to approximately a 50% reduction in perceivable noise.

4. In response to Ms. Jan Egger (OEC)

   a. Noise measurement data for both twin-pacs

   Noise data collected on September 23, 1975 with both twin-pac units operating are presented in this report in response to Mr. John Platt's question. Subjective tests are shown in Attachment 3.

   b. Measurements in and near homes needed

   A response to Mrs. Frady's similar question has been made earlier in this report.

   c. Noise sensitive property at 800 feet should be limiting criteria

   The nearest potential "noise sensitive property" (NSP) from the facility is approximately 800 feet from the turbines. This property was purchased by PGE several years ago. The noise rules apply to all NSP; however, there is a provision for a Department granted exception under Section 35-035 (6) (d) for NSP owned by the owner of the noise source. The Department has been projecting the measured noise to a distance of 1200 feet, which is the approximate distance to the Bache residence.

   Although no official exception request has been filed for this property, PGE has now indicated they will file one to satisfy the strict interpretation of the Rule. The Department would expect to grant such exception. It should be noted that since the property is owned by PGE, zoning of the property is not relevant.

   d. Worst noise condition is not addressed

   The Department's octave band rule was not written in "statistical noise levels" as were the allowable levels in Tables G, H and I of the rules that use the total audible A weighted frequency measurements. The octave band rule applies to a source that "the Director has reasonable cause to believe that

the statistical noise levels" are not protective.
If that source operated "for more than 6 minutes in any one hour" the allowable maximum octave band levels in Table J are used. The octave band table was not written using the statistical descriptor but a maximum allowable level as used in Tables A, B, C, D, E, and F.

Field measurements read from the sound level meter were taken by reading the central tendency of the meter vane. When data was recorded on a magnetic tape recorder, the data was averaged. It should also be noted that the recorded data indicate that the average, the median and the equivalent energy noise levels were all within 1 dB of each other.

In summary, the department's special octave band rule adequately addresses maximum noise generation and is more restrictive than the Department's statistical noise levels.

e. Noise emission limits, monitoring requirements and operating restrictions should be included in the ACD permit

The Department agrees that incorporating specific noise requirements in the ACD permit will at least insure no misunderstanding among the public and PGE regarding requirements of the Department regarding compliance with Department noise rules. Condition 12 has been modified in the proposed ACD permit to include actual noise limits that must be met, restriction of operation to one twin-pac at night, and annual noise measurements to demonstrate compliance.

f. The Department octave band noise rules appear to be insufficient to protect health and welfare

The industrial and commercial noise rules were developed with the advice of an ad-hoc committee made up of segments of industry people, environmentalists and noise consultants. It should be noted that the octave band table is more stringent than the statistical "A"-weighted tables and in comparison to the rules from other states, the Oregon octave band rule is more restrictive. The State of Illinois uses 75 dB during the day, 69 dB at night and New Jersey used 96 dB during the day and 89 dB at night. The Oregon standard is 68 dB during the day and 65 dB at night. It is well known that Illinois has the most comprehensive state-wide noise program in the Country.

The Department is committed to continually evaluating the adequacy of its noise rules and if justified to propose changes to them. It must be remembered that the objective of the Department noise rules is to protect the general community against interference with speech and sleep.

CONCLUSIONS

1. The recently installed mufflers and shotcreting have reduced turbine noise in the low frequency range approximately 3 dB which represents about a 50% reduction in perceivable noise.

2. Recent noise measurements indicate the Bethel facility can comply with Department daytime octave band noise standards (76.3 ± 1 dB measured versus 77.5 dB allowed in the 31.5 Hertz octave band) with both twin-pacs operating at baseload.

3. Recent noise measurements indicate the Bethel facility can comply with Department nightime octave band noise standards with one twin-pac operating at a level slightly below baseload (74.7 ± 1 dB measured at baseload versus 74.5 dB allowed in 31.5 Hertz octave band).

4. The Department's octave band noise limits which are deemed applicable to the Bethel turbines are more stringent than the Department's statistical noise limits and address worst case noise generation.

5. Noise measurements at the 400 foot reference distance from the turbines can be mathematically accurately projected to levels at residences without actual measurements at the residences.

6. Noise measured by the Department from the Bethel turbine peaks in the 31.5 Hertz octave band (at 76 dB) and dimishes at lower frequencies, therefore an infrasound problem should not be present as studies indicate the threshhold of infrasound problems is 85 dB.

7. The Bethel facility does not exceed 45 dBA in the "A"-weighted scale at any noise sensitive property.

8. Requiring cessation of operation or limiting operating hours cannot be justified in respect to Department noise and air quality regulations at this time, with the exception that operation must be limited to one twin-pac at a reduced load at nightime to insure compliance with Department noise rules.

9. Justifiable operating restrictions, applicable noise limits and periodic noise compliance monitoring requirements should be and now have been incorporated in the presently proposed ACD permit.

10. The Department would expect to consult with appropriate agencies such as BPA and PUC in controversial instances regarding a determination if emergency conditions exist requiring operation of the Bethel facility.

11. The Department will review the adequacy of the Department noise rules and Bethel ACD permit if issued, on a yearly basis or sooner if new data becomes available.

DIRECTOR'S RECOMMENDATION

It is the Director's recommendation that the Department proceed toward issuance of the attached proposed air contaminant discharge permit (Attachment A) for the Bethel facility by giving 30 day public notice, considering public comment subsequently received, making changes in the ACD permit as may be warranted and finally issuing an ACD permit.

LOREN KRAMER
Director

JFK:cs
10/10/75

Attachments (3)

Permit Number: 24-2318
Expiration Date: 8/1/80
PROPOSED 10/10/75 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 wth the provisions of
ORS 468.310

ISSUED TO:	REFERENCE INFORMATION
PORTLAND GENERAL ELECTRIC COMPANY Power Resources 621 S. W. Alder Portland, Oregon 97205	Application No. 034 Date Received July 2, 1975
PLANT SITE: Bethel Plant 5765 State Street Salem, Oregon	Other Air Contaminant Sources at this Site: Source / SIC / Permit No. (1) (2)
ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY Loren Kramer, Director — *Date*	

SOURCE(S) PERMITTED TO DISCHARGE AIR CONTAMINANTS:

Name of Air Contaminant Source	Standard Industry Code as Listed
ELECTRIC POWER GENERATION	4911

Permitted Activities

Until such time as this permit expires or is modified or revoked, Portland General Electric Company is herewith permitted in conformance with the requirements, limitations and conditions of this permit to discharge treated exhaust gases containing air contaminants from its four (4) Pratt and Whitney (FT4C-1 combustion turbines) fuel burning devices located at Bethel substation, 5765 State Street, Salem, Oregon, including emissions from those processes and activities directly related or associated thereto.

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.

Performance Standards and Emission Limits

1. The permittee shall at all times maintain and operate all air contaminant generating processes and all contaminant control equipment at full efficiency and effectiveness such that the emission of air contaminants are kept at the lowest practicable levels.

2. Emission of air contaminants shall not exceed any of the following when operating at base load except where otherwise specified:

   A. Particulate matter restrictions:

      (1) 6.8 kilograms (15 pounds) per hour of particulate for any single turbine when distillate fuel is burned.

      (2) 3.2 kilograms (7 pounds) per hour of particulate for any single turbine when natural gas is burned.

   B. Nitrogen oxides restrictions:

      (1) 145.1 kilograms (320 pounds) per hour of nitrogen oxides (NO_x) for any single turbine when distillate fuel is burned.

      (2) 49.9 kilograms (110 pounds) per hour of nitrogen oxides (NO_x) for any single turbine when natural gas is burned.

   C. Carbon monoxide restrictions:

      (1) 7.9 kilograms (17.5 pounds) per hour of carbon monoxide (CO) for any single turbine burning distillate fuel.

      (2) 95.3 kilograms (210 pounds) per hour of carbon monoxide (CO) for any single turbine burning natural gas.

      (3) 20.4 kilograms (45 pounds) per hour of carbon monoxide (CO) for any single turbine at half load burning distillate fuel.

      (4) 81.6 kilograms (180 pounds) per hour of carbon monoxide (CO) for any single turbine at half load burning natural gas.

   D. Visible smoke emissions from each stack shall be minimized such that Von Brand Reflectance Number 95 or better is achieved at all times and shall not exceed 10 percent opacity except for the presence of uncombined water.

Special Conditions

3. The permittee shall store the petroleum distillate having a vapor pressure of 12mm Hg (1.5 psia) or greater under actual storage conditions in pressure tanks or reservoirs or shall store in containers equipped with a floating roof or vapor recovery system or other vapor emission control device. Further, the tank loading facilities shall be equipped with submersible filling devices or other vapor emission control systems. Specifically, volatile hydrocarbon emissions from the 200,000 barrel fuel storage tanks shall not exceed 34 kilograms (75 pounds) per day under normal storage conditions.

4. Turbines shall always be started on natural gas.

5. The permittee shall burn the lowest sulfur and ash content distillate oil available, but in no case shall a lower grade than ASTM No. 2 distillate be burned.

6. The sulfur content of the fuel burned shall not exceed 0.3 percent by weight at any time.

7. Fuel delivery by truck shall be kept to a minimum and only between the hours of 9 a.m. and 2 p.m. and 5 p.m. and 9 p.m. For specific instances with good cause shown, the Department may authorize other hours.

8. Operation of any combustion turbine at other than power output of 15 to 30 megawatts (-1.1 degrees C ambient basis) shall not exceed more than five percent of the operating time.

9. Prior to modification or renewal of this permit, a public hearing shall be held to assess the operation of the plant.

10. The permittee shall limit operation of the combustion turbines to emergency conditions when all other available generating resources are in full operation and failure to operate the facility will result in denial of service to customers entitled to firm service. The permittee shall advise the Department as early as possible of each such emergency and shall demonstrate the nature and extent thereof to the satisfaction of the Department.

11. The permittee shall provide NO_x control to meet limits prescribed by the Department when the Department determines NO_x control is practicable. NO_x control will not be required if the operation of the facility is less than 200 hours per year. The permittee shall submit semi-annual progress reports to the Department on the developments in practicable NO_x control for turbines.

12. The permittee shall comply with the following requirements regarding noise:

    a. Sound pressure levels emitted from the turbines shall not exceed the limitations specified in Table I of this condition, when measured at any location 400 feet from the geometric center of the turbine engine installation. Sound pressure levels may be measured at a distance other than 400 feet and corrected, according to the inverse square law, to a reference distance of 400 feet.

Table I

Maximum Sound Pressure Levels at 400 Feet

Octave Band Center Frequency, Hz	7 a.m. - 10 p.m.	10 p.m. - 7 a.m.
31.5	77.5	74.5
63	74.5	71.5
125	70.5	65.5
250	64.5	59.5
500	61.5	55.5
1000	58.5	52.5
2000	55.5	49.5
4000	52.5	46.5
8000	49.5	43.5

b. The facility operation shall be limited to operation of both twin paks at base load during the hours of 7 a.m. to 10 p.m. and to one twin pak during the hours of 10 p.m. and 7 a.m. at a load which the Department acknowledges in writing complies with applicable noise limits in (a) above.

c. The permittee shall demonstrate compliance with the limits in (a) above annually and shall submit data to the Department in conformance to the applicable measurement procedures. The Department shall be notified prior to such compliance tests.

13. Periodic scheduled turbine engine exercise to insure proper operation of the facility and prevent equipment damage shall be allowed in accordance with an exercise schedule approved by the Department in writing.

Compliance Schedule

None required.

Monitoring and Reporting

14. The permittee shall regularly monitor and inspect the operation of the plant to insure that it is operated in continual compliance with the conditions of this permit. In the event that any monitoring equipment becomes inoperative for any reason, the permittee shall immediately notify the Department of said occurrence. Specifically the permittee shall:

A. Calibrate, maintain and operate in a manner approved by the Department, an emission monitoring instrument for continually monitoring and recording emissions of oxides of nitrogen.

B. Calibrate, maintain and operate in a manner approved by the Department an emission monitoring instrument for continually monitoring and recording emissions of carbon monoxide.

C. Obtain and record representative sulfur analysis and ash analysis by methods approved by the Department of fuel oils as burned for every delivery lot or whenever the source of supply is changed. In addition, the permittee shall maintain facilities for obtaining representative samples from the fuel handling system at the plant site as approved by the Department and provide with the Department analysis of periodic samples upon request.

D. Maintain and submit to the Department a log of operating incorporating, but not limited to, the following parameters:

(1) Time of operation.

(2) Quantities and types of fuel used relative to time of operation.

(3) Electrical output relative to time of operation.

(4) Stack emissions relative to time of operation.

(a) oxides of nitrogen (NO_x) in ppm and pounds per hour

(b) carbon monoxide (CO) in ppm and pounds per hour

(c) percent oxygen (O_2)

(5) Ambient conditions relative to time of operation.

(a) oxides of nitrogen (NO_x) in ppm and micrograms per cubic meter

(b) sulfur dioxide (SO_2) in ppm and micrograms per cubic meter

(c) particulate concentration in ppm and micrograms per cubic meter

(6) Wind direction and velocity relative to time of operation.

(7) Ambient temperature, pressure and humidity.

(8) This log is to be submitted on or before the 25th of the month following the month logged and will indicate the instantaneous, hour by hour conditions existent at the plant site and ambient monitoring station. Any malfunctions occurring and the duration shall be noted in the log. Stack and ambient data will be submitted whether or not the turbines are operating.

15. Portland General Electric Company shall conduct a particulate, sulfur dioxide and oxides of nitrogen monitoring program in the vicinity of the Bethel site to determine ground level concentrations. The monitoring program shall be conducted in a manner approved by the Department. Appropriate meteorological paramters shall be determined. These data are to be incorporated in the log specified in condition 13-D.

16. In the event that the permittee is temporarily unable to comply with any of the provisions of this permit, the permittee shall notify the Department by telephone as soon as is reasonably possible, but not more than one hour, of the upset and of the steps taken to correct the problem. Operation shall not continue without approval nor shall upset operation continue during Air Pollution Alerts, Warnings, or Emergencies or at any time when the emissions present imminent and substantial danger to health.

Emergency Emission Reduction Plan

17. The permittee will implement an emission reduction plan during air pollution episodes when so notified by this Department.

18. As a minimum, the permittee will implement the following emission reduction plan during air pollution episodes when so notified by the Department.

    A. ALERT: Prepare to shut down all turbines.

    B. WARNING: Shut down all combustion turbines.

    C. EMERGENCY: Continue WARNING measures.

19. In addition, the permittee shall cease operation of the combustion turbines upon notification from the Department that air quality at any downwind continuous monitoring site in Marion County has reached the following:

    A. 95 percent of the adopted particulate standard taken as 142 micrograms per cubic meter of air, 24 hour average. Operation shall remain curtailed until particulate air quality is below 135 micrograms per cubic meter of air, 24 hour average.

    B. 95 percent of the adopted sulfur dioxide standard taken as 247 micrograms per cubic meter of air, 24 hour average and 123 micrograms per meter of air, 3 hour average. Operation shall remain curtailed until sulfur dioxide air quality is below 234 micrograms per cubic meter of air, 24 hour average, and 1170 micrograms per cubic meter of air, 3 hour average.

    C. 95 percent of the adopted photochemical oxidant standard taken as 152 micrograms per cubic meter of air, 1 hour average. Operation shall remain curtailed until photochemical oxidant air quality is expected to be less than 120 micrograms per cubic meter of air, 1 hour average during the next 24 hours.

General Conditions

G1. A copy of this permit or at least a copy of the title page 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 rela ted 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 there-with;

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 modification 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:

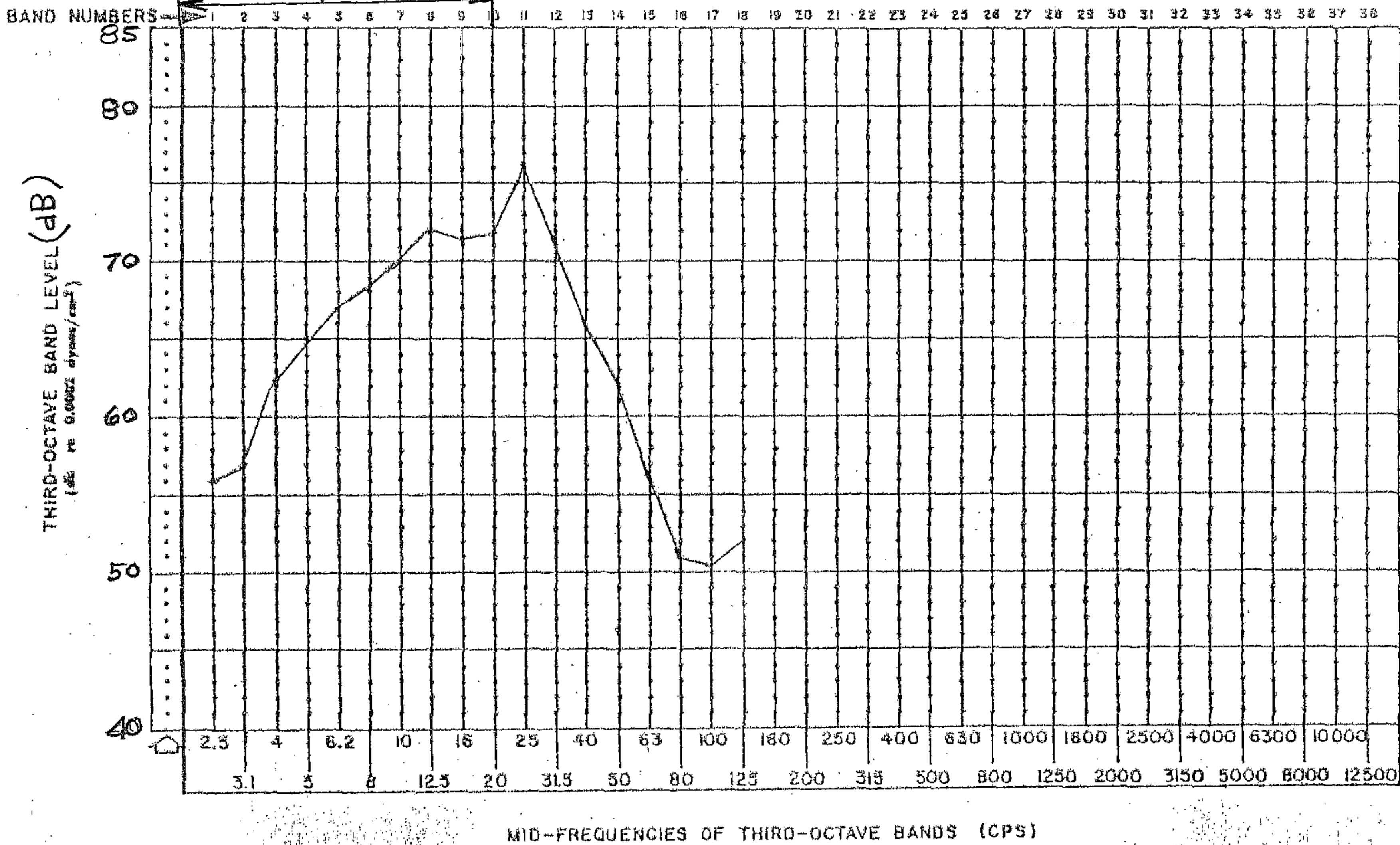
Amount Due	Date Due
$225.00	July 1, 1976
$225.00	July 1, 1977
$225.00	July 1, 1978
$225.00	July 1, 1979
(See G12)	June 1, 1980

Test 9-23-75

PGE BETHEL

NOISE FREQUENCY DISTRIBUTION

(110 MW) at 400 feet



Attachment 2

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Attachment 3

INTEROFFICE MEMO

To: RHFetrow

cc: EJWeathersbee
cc: JMHector

Date: Sept. 24, 1975

From: SCDowns

Subject: NP-PGE Bethel Turbine Plant
Salem, Marion County
Salem-North Coast Region

On Sept. 23, 1975, Larry Jack and I conducted a subjective evaluation of the noise conditions in and around three (3) residences located north and northeast of the PGE Bethel turbine plant located in Salem.

The turbine plant was testing the newly installed muffler system with gunite (shot-creting) treatment on both twin packs operating simultaneously. During the subjective evaluation, the Department's noise section from Portland was also taking noise meter readings. Representatives from PGE and from Turbo Power and Marine were also taking noise meter readings.

The results of the subjective evaluation are included in Table I, along with the results of observations at three outside locations in the Bethel area. Residence locations are shown on maps 1 and 2. Sketches of the houses are included in Table II.

TABLE I

PGE BETHEL PLANT

SUBJECTIVE NOISE EVALUATION

Staff: Stephen Downs
Larry Jack

Date: Sept. 23, 1975 Generator Level: 111 MW Wind & Weather: Sunny & warm (75°F) Wind from west, 0-6 mph.

LOCATION	TIME	EVALUATION AND COMMENTS
Backe residence:	11:25 a.m.	
a. Front porch (outside)		Low whine detectable, with distinct sound of rushing air. Ambient noises readily detectable, such as dogs barking, chain saw, aircraft, and noise similar to that from a router (wood shop).
b. Kitchen		Slight ripples detectable in glass of water placed on west counter top (similar to observations of 6/12/75). Very low whine detectable, similar to electrical hum. Steady noise similar to strong wind rustling through trees. Noise from chain saw and aircraft readily detectable, as well as that generated by clock on kitchen oven.
c. Bathroom		Pronounced rushing air noise. Mr. Downs detected a very low throbbing, which Mr. Jack did not experience. Chirping birds were readily apparent.
d. Master bedroom		Similar to the bathroom, but less pronounced. Very, very low throbbing detectable. Very low whine (whistling) barely detectable - similar to a vacuum cleaner operating in the neighborhood. Very slight ear pressure possibly experienced (real or imagined?). Noise from birds and chickens detectable.
e. Living room		No noise detectable, except that possibly associated with a wood shop router (very faint).
f. Front hallway (front door open)		Rushing air noise, low rumbling and very low whine detectable. Aircraft and distant traffic also readily detectable. Described by Mr. Backe as similar to distant thunder.

NOTE: All observations were made with house windows open. Mrs. Backe complained that they are still experiencing noises from the plant ("motor hum") at night; generally from midnight to 4:00 a.m.. They had not noticed these noises until after the mufflers were installed. She also complained about the "sloppy work" performed by DEQ and MWVAPA.

TABLE I

PGE BETHEL PLANT

SUBJECTIVE NOISE EVALUATION

Staff: Stephen Downs
Larry Jack

Date: Sept. 23, 1975 Generator Level: 111 MW Wind & Weather: Sunny & warm (75°F) Wind from west, 0-6 mph.

LOCATION	TIME	EVALUATION AND COMMENTS
Ringler residence: No one at home. Observations made outside, at the rear (west) of the house on the rock patio. Prior permission obtained from Mrs. Ringler.	11:55 a.m.	Very low rumbling, similar to that of a very distant freight train. Swish of rushing air and very low whine also detectable. Plant noises readily overshadowed by distant traffic noise. NOTE: Air emissions from plant were estimated to be 1/2 Ringelmann.
Larson residence: Living room	12:10 p.m.	PGE plant was not detectable. Only noise detectable was that from the freezer in the dining room, and a chain saw in the distance. Mr. Larson indicated that he observed the plant was operating, but wasn't being bothered by it at the time.
Along 50th St., adjacent to Castle & Cooke mushroom plant	12:15 p.m.	PGE plant not detectable. Only noises were from traffic and numerous fans serving the mushroom plant.
SE entrance to PGE plant (off State Street)	12:20 p.m.	Distinct sound of rushing air and very low rumbling (similar to very distant freight train) were detectable, and slightly more pronounced than at the Backe residence. Aircraft and State Street traffic were the dominant noise sources.
SW entrance to PGE plant (off State Street)	12:25 p.m.	Distinct sound of rushing air and very low rumbling detectable. Very low jet-type whine also detectable, as was the characteristic transformer hum. The chirping of grasshoppers and/or crickets could be detected above the plant noise.

TABLE I

PGE BETHEL PLANT

SUBJECTIVE NOISE EVALUATION

Staff: Stephen Downs
Larry Jack

Date: Sept. 23, 1975 Generator Level: 111 MW Wind & Weather: Sunny & warm (75°F) Wind from west, 0-6 mph.

LOCATION	TIME	EVALUATION AND COMMENTS
Kuper residence: Would not allow DEQ representatives on premises.		

NOTE: At 11:35 a.m. (9/23/75), Marlene Frady telephoned the Salem-North Coast Region Office and requested that PGE be informed of the following message:

"You haven't solved anything with the mufflers. The noise is just as bad now as before in my home."

Castle & Cooke Mushroom Plant

=Walke

Lawn

=Hyer

=Angler

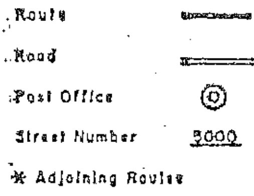
Frady

SW Plant Entrance (main)

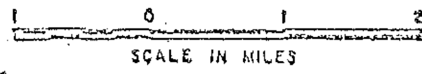
SE Plant Entrance

STREET INDEX GUIDE

Street	Grid
Aumsville Hwy. S. E.	DC3
Alaska St. S. E.	C1
Culver Rd. S. E.	BC2
Darling St. S. E.	C1
Deer Park Dr. S. W.	B2
Dunsmore St. S. E.	C2
Edmunson Dr. S. E.	D2
Gaffin Dr. S. E.	B2
Gagnon Dr. S. E.	C2
Gale St. S. E.	C2
Hastings St. S. E.	C2
Harpole St. S. E.	C2
Holland Dr. S. E.	B2
Howell Prairie Rd. S. E	C2-3
Jordan St. S. E.	C3
Joseph St. S. E.	BC3
Lipscomb St. S. E.	BC3
Macleay Rd. S. E.	BC2
Madras St. S. E.	C3
Ogle St. S. E.	BC3
Silverton-Sublimity Rd.	E1-2
Sunnyview Dr. N. E.	DE1
State St. S. E.	DE2
Sunnyview Dr. N. E.	D1
Waldo Hills Dr. S. E.	DE2
Vitrel Rd. S. E.	BC3
64th Ave. S. E.	DC3
71st Ave. S. E.	C2-3
72nd Ave. S. E.	C3
74th Ave. S. E.	C1
75th Ave. S. E.	C2-3
82nd Ave. S. E.	C2
93th Ave. N. E.	CD1-2
105th Ave. N. E.	D1



SALEM
RURAL ROUTE NO. 5



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*SALEM RTE. 2 — *SILVERTON RTE. 3 — *SALEM RTE. NO. 4 — *TURNER RTE. NO. 1 — *AUMSVILLE RTE.

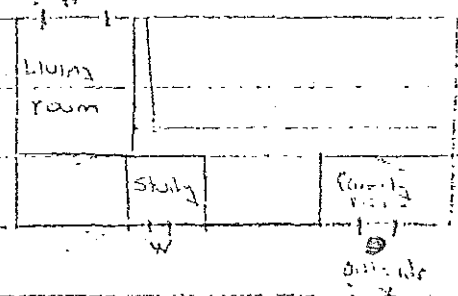
SALEM — PRATUM — MACLEAY — SHAW — AUMSVILLE — TURNER — FOUR CORNERS

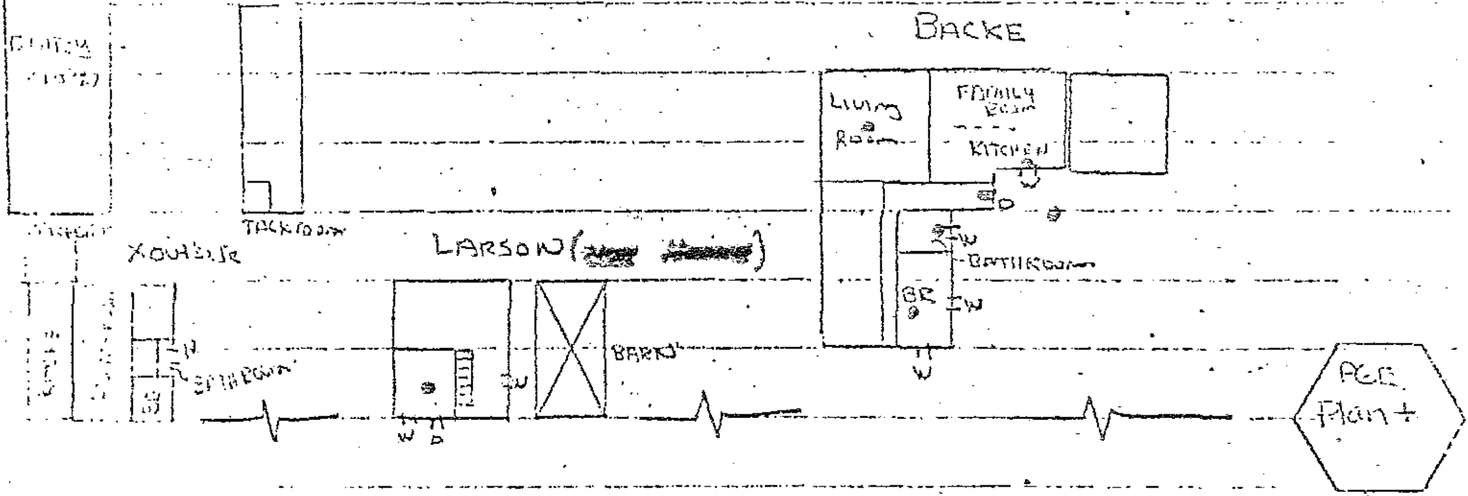
FRUITLAND SCHOOL — RICKEY SCHOOL — GETTER SCHOOL — WILLARD SCHOOL — WALDO HILLS GRANGE — ORE. STATE HOSP. COTTAGE FARM — OREG. STATE T.B. HOSPITAL — OREG. STATE PRISON ANNEX

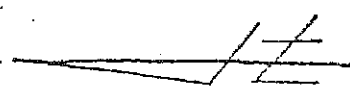
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

REPRESENTE

House Sketches
NOT TO SCALE







TESTIMONY TO THE ENVIRONMENTAL QUALITY COMMISSION RELATING TO THE AIR CONTAMINANT DISCHARGE PERMIT NO. 24-2318, OPERATION OF PORTLAND GENERAL ELECTRIC'S BETHEL TURBINE PLANT.

October 13, 1975

Not enough discussion has been given in previous testimony to the option of removing the Bethel turbines from their present location. This is a practical alternative.

To a mechanical engineer who is trained in thermal power engineering, who has worked with prime mover machinery, and who has toured the Harborton plant, the fact is simply: This type of generating plant is easily moved.

Basically the criteria for portability of this type of machine is that no elaborate foundations are required, connections of services are minimal, and no significant structure is involved.

These units are most often factory-assembled, factory-tested, and shipped to the site by rail car or flat-bed trailer over the highway. Sometimes they are separated into modules for ease of shipment only to be joined by simple field connections at the site. They are known as "packaged" plants.

Site preparation is minimal involving grading, paving, and the pouring of spread-footings or support pads on which to rest the skid-mounted unit. Connections at the site require fuel lines, control wiring, and conductors to a nearby switch yard for introducing the power generated into the utility system.

By far the most elaborate structural portion of such a peaking station is fuel storage if oil is to be used. On barge-mounted units the barge itself serves as the fuel tank. This type of mounting was used quite conveniently for peaking purposes by Consolidated Edison Company for New York City. For natural gas-fueled stations no storage is normally provided.

The relative ease and speed of setting up such a station is what persuaded many utilities to buy and install such plants. This same relative ease of setting up the plant was also touted as being a real advantage if moving the plant to a different location became necessary.

You may well ask, why is the packaged type of power generating plant so easy to set-up and take down? The key to this feature is the aircraft-type gas turbine. Much of the same type gas turbine that powers our many jet airplanes is used in peaking plants of this type. Such turbines are quite light in relation to their power compared to stationary turbines such as the Beaver, Oregon machines. Besides their light weight which makes them easily portable, they are lower in cost because they are a mass-produced component for the aircraft industry.

These advantages have penalties, however. They have components which have very short lives depending on the power level at which they are operated. Thus, the gas turbine is well-suited to peaking

loads, that is, run a few hours at a time when the needs are particularly high.

The other important disadvantage is their low efficiency. The packaged gas turbine peaking plant's efficiency is low compared to the stationary gas turbine (Beaver) and quite low compared to a steam plant. This further tends to limit such units to peaking.

An interesting aspect of the gas turbine is that the same amount of fuel (gas or oil) would heat twice as many homes if burned in individual heating systems instead of using electric heat.

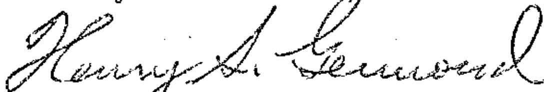
A further comment naturally follows from these considerations: The use of gas turbines for peaking began as a "fad" and was spurred by the brown-outs of past years. In a region where much of our energy is produced by hydro-electric plants, fossil-fueled peaking units seem to be rather wasteful. Hydro-electric plants are ideally suited to peak handling. To use gas turbines for base load is totally unsound.

One more concern is the cost of setting up a plant of this type. Compared to a stationary plant, this kind of unit is relatively cheap to set-up or take-down. Restoring the vacated site is especially simple because so little foundation and structure was required in the first place.

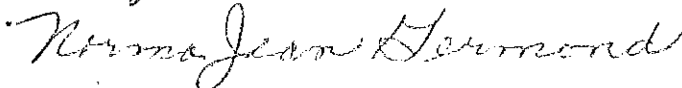
In general, the packaged gas turbine generating plant has been primarily a temporary expedient to quickly obtain peaking capacity and "black start" capability. The heavier stationary units and the lighter packaged units have helped utilities fill the gap while larger fossil and nuclear steam plants are being built.

The granting of a five year operating permit tends to lend permanence to this portable unit, the operation of which affects the health of the people and animals near it. Since there is a sufficient amount of water in the reservoirs of our river system to amply supply our electricity needs for this winter season, (according to BPA) and since PGE expects Trojan to start up in late Dec. or Jan., this would be an opportune time to move the turbines to a more remote location, which would relieve the residents near Bethel of an irritant and give PGE greater latitude in use of these gas turbines.

Henry S. Germond, P.E.



Norma Jean Germond



OREGON ENVIRONMENTAL COUNCIL
2637 S.W. WATER AVENUE, PORTLAND, OREGON 97201 / PHONE: 503/222-1963

October 7, 1975

MEMBERS OF ENVIRONMENTAL QUALITY COMMISSION
Mr. Joe B. Richards, Chairman

Supplemental testimony in opposition to extension of PGE Bethel combustion turbine facility including history of House Bill 2029; testimony entered by East Salem Environmental Committee (Bethel area residents) by Mr. and Mrs. Charles H. Frady to 1975 Legislature and other correspondence relating.

History of House Bill 2029.

During the September 29, 1975 Bethel facility hearing, Commissioner Somers raised the question:"Do we conclude that the Legislature closed the door on infrasound when it failed to pass the bill?" -- i.e., House Bill 2029.

In submitting these comments, Oregon Environmental Council wishes to say that one can only conjecture on what the Senate body intention may have been. The House of Representatives approved the measure. We feel no conclusions that the Legislature"closed the door" can be supported by the record.

The record does support certain facts of politicization of the legislative process, demonstration of effectiveness of special interests in blocking legislation they oppose,and the good-faith response of the Bethel citizens to the Commission's suggestion they "take it to the Legislature".

September 10, 25, 30, 1974 --

Interim Committee on Environment, Agriculture and Natural Resources hearings on noise. Mr. Tom Donaca, AOI, introduced proposed bill, LC 707 to give statutory authority for variances and exemptions. Mr. Don Barney, City of Portland, added an amendment to clarify authority and permit contractual arrangements for local control of noise pollution. DEQ submitted amendments to allow civil penalties for noise violations. OEC added an amendment permitting DEQ to assess ultrasound, infrasound and vibrations by definition (not to include allowable emission levels).

Chart prepared by OEC is attached to illustrate DEQ authority for noise.

For discussion of legal aspects of the proposed bill as drafted and approved by the House, see: Report of the Legislative Joint Interim Committee on Environmental, Agricultural and Natural Resources, December, 1974, Pp. 82 - 87.

Janet McLennan, counsel and executive secretary for the Interim Committee, who is now Administrator for Natural Resources, State of Oregon, reports this summary of the bill:

"

HB 2029

Allows the Environmental Quality Commission to grant specific variances in noise emission standards and authorizes the commission to delegate by rule the authority to grant such variances to the Department of Environmental Quality. Allows revocation or modification of variances after notice and public hearing.

Permits the Environmental Quality Commission to exempt classes of activities within categories of noise emission sources from rules establishing maximum noise levels.

Allows cities and counties to adopt additional noise emission standards no less stringent than state-wide standards and to enforce them if approved by the commission.

Provides for civil penalties to apply to the violation of noise emission standards or the terms and conditions of noise emission variances.

The Legislative Fiscal Office reports no fiscal impact.

Hearing Dates

E & E: 9-10-74, 9-25-74   Full Comm.: 9-30-74, 10-1-74

Appearing before the Committee with respect to the measure:

-LeRoy Hemmingway, Esq., Oregon Environmental Council
-Thomas C. Donaca, Esq., Associated Oregon Industries
-B. J. Seymour, Informational Officer, Department of Environmental Quality
-Don Barney, City of Portland
-Marc Kelley, Portland General Electric
-Gary Carlson, League of Oregon Cities

Related Hearings

E & E (LC 197): 10-15-73, 12-14-73
Full Comm.: 1-11-74, 1-18-74, 1-23-74, 1-24-74, 1-29-74

The final vote of the Committee was as follows:

-Voting aye: Rep. Byers, Fadeley, Kafoury, Markham, Whitehead, Whiting
Sen. Macpherson, Meeker, Thorne
-Voting no: Rep. Wolfer " Ibid., P. 82.

Section 2 of the measure, dealing with infrasound, is described in the Report as follows:

" During discussion by the Environmental Quality Commission on noise regulation for industry and commerce, the question was raised whether the Commission had the authority to regulate

noise that is generally considered outside the frequency range of human hearing. Section 2 of this measure would add to ORS chapter 467 a definition of noise specifically designed to allow the Commission to regulate infra sound (sound lower in pitch than can normally be heard by humans), which it is alleged may cause damage to structures and can be injurious to people and animals. The definition would also include ultra sound to the extent of 50,000 hertz (or cycles per second)."

Ibid., P. 83.

October 1, 1974 --

Joint Interim Committee passed HB 2029 with 9 Aye votes; 1 Nay vote. At the same session, HB 2030 was passed out of committee (introduced by Rep. Byers); which bill exempted all agricultural and forestry operations from the departmental noise regulations.

January 17, 1975 --

House Bill 2029, formerly Interim Committee Bill, LC 707, was referred by House Speaker Lang to the Environment Energy Committee, Rep. Nancie Fadeley, Chairman. Fiscal Office reported "no fiscal impact" (Ibid., P. 82.)

January 23, 1975 --

Letter distributed to Legislature by Bethel residents (One copy attached to Chairman Joe Richards' copy of this testimony).

February 10, 1975 --

Letter to Governor Straub by Bethel residents (One copy attached to Chairman Joe Richards' copy of this testimony).

February 27, 1975 --

Testimony presented to House Env./Energy Committee hearing on HB 2029 by Bethel residents (One copy attached to Chairman Joe Richards' copy of this testimony).

March 25, 1975 --

Final hearing in House Committee. (One copy of transcript which includes Dr. M. Crothers' testimony therein is attached to Chairman Joe Richards' copy of this testimony).

March 27, 1975 --

HB 2029 voted out of House Env./Energy Committee with a "Do Pass" vote of 5 Aye; 2 Nay. Bill sustained one minor amendment on local authority vs. state, with no fiscal impact accruing to that change.

April 1, 1975 --

Rep. Ted Kulongski appointed to carry HB 2029 to House floor. OEC requested by Rep. Fadeley to prepare background information for floor speech.

April 4, 1975 --

Bill released by Rep. Fadeley in committee as she noted publically that request had been made to her by House leadership to concurrently release HB 2030, the noise exemption bill.

April 8, 1975 --

House floor vote on HB 2029. Prior motion to re-refer bill back to committee failed. Question of infrasound and noise regulation thoroughly debated on House floor. Bill passed, 32 - 26. Sent to Senate.

SENATE PHASE --

It may be said that orderly progress on the bill ceased at this point.

April 9, 1975 --

Senate President placed double referral on HB 2029:
(1) Env./Energy Committee, Sen. Ted Hallock, Chairman
(2) Full Ways and Means Committee, Sen. Jack D. Ripper and Rep. Harvey Akeson, co-chairmen.

Bethel residents attempted, without success, to obtain fiscal information on the bill.

April 21, 1975 --

Testimony in Senate Env./Energy Committee hearing by Bethel residents (One copy attached to Chairman Richards' copy of this testimony).

The Department testified (Mr. John Hector, Noise Control) that a February 11, 1975 memo, Hector to Mr. Cannon, had meant to convey a "negative fiscal impact" based on cities or counties adopting and enforcing noise ordinances. Mr. Hector said the Dept. either had or was budgeted to acquire all equipment necessary to measuring infrasound except for one microphone estimated at $750. Testimony by an acoustician verified this estimate.

Several additional hearings and work sessions were held. A 5-Aye Vote with a "Do Pass" was recorded on the bill. Amendments were voted upon, but not engrossed into the bill. Several of these seriously affected the bill in provisions other than the infrasound section.

One gave an exemption to agriculture noise (sought by Oregon Farm Bureau). Another, requested by Associated General Contractors, placed state preemption for noise in the bill. AOI had sought this in all previous hearings dating back to the Interim Committee. However, such a provision was opposed by the Association of Oregon Counties, League of Cities and the City of Portland which has a noise ordinance in draft.

A third amendment affected vehicles registered in jurisdictions other than the one in which a noise violation is made. The Association of Automotive Safety and Equipment Mfrs. (muffler manufacturers and wholesalers) sought this change which OEC and the Department opposed, since it posed enforcement problems.

Strategies to reverse the more offensive of these amendments were in place, but proponents felt great jeopardy lay in sending the bill to Ways and Means. It will be recalled by the Commission that the DEQ operating budget, sub-surface sewage authority, auto emissions labs and other areas of high concern to the Department met their unfriendliest handling in the Ways and Means Committee.

Senator Hallock requested the re-referral be lifted in the light of negligible impact. Senator Boe did not grant the request. Bethel citizens, after several visits to the Senate President's office, received, on May 12, 1975 an odd document entitled, "Fiscal Impact of HB 2029" (no date; no author). It contained various arguments opposing the measurement of infrasound and quotations of Dr. Crothers before the House committee. Therein was reference to a memo "from Legislative Fiscal on HB 2029 which (shows)...Significant costs ($12,000 - $60,000) would occur to acquire metering equipment capable of measuring inaudible sound frequencies. This memo was not available to the Senate Environment and Energy Committee". (emphasis ours)

Attempts to obtain this Fiscal Office memo were not met with success by Senator Hallock's aides nor by OEC. Then Senator Hallock received written testimony (not presented in public hearing) in a document, "NOISE? - A Statement on HB 2029 by Doug Heider, PGE" (undated). It contained the identical language, costs, underlining, paragraphing, etc. as the memo received from Senator Boe's office by the Bethel residents. Obviously, one derived from the other.

A "laundering" came on May 27, 1975 when the Legislative Fiscal Office issued a Revised Fiscal Impact of House Bill 2029 that brought the cost down to $750, and lengthily explained where the $12,000 - $60,000 came from (a memo from Robin M. Towne & Assoc. to PGE) lack of verification from the Department on this cost, and actual cost now shown.

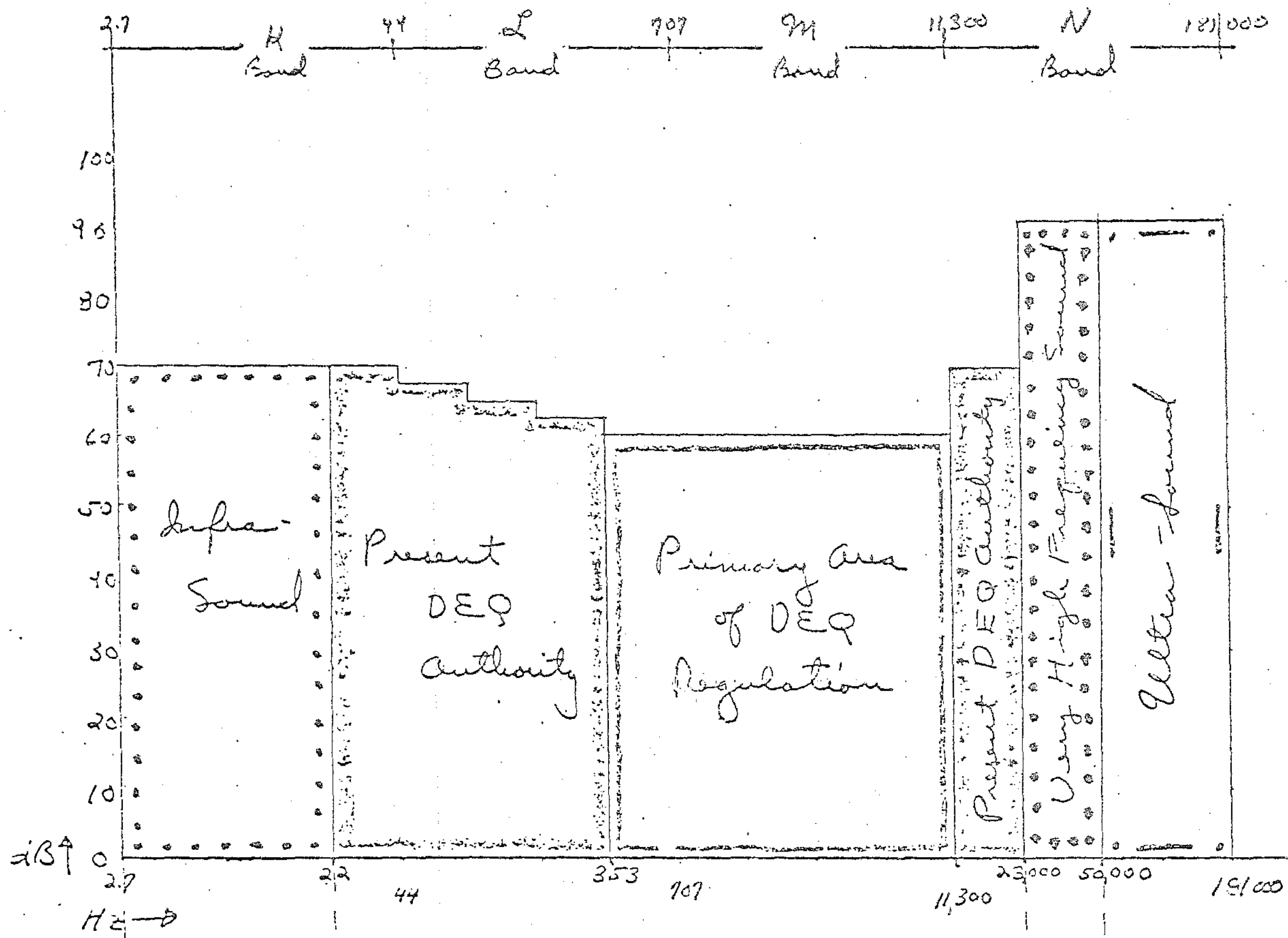
By this time, the Env./Energy Committee was out of bills; the lobbyists now focused on HB 2029 included AGC, AOI, ASEM, Oregon Farm Bureau, League of Cities, Oregon Counties, City of Portland, OEC, the utilities and the Bethel citizens. A final request by Senator Hallock to lift the prior re-referral met with no success. Senators Carson and Burbidge's request to President Boe that the re-referral be rescinded received the reply that "...it is not possible to reopen the Environment and Energy Committee....I would encourage you both to give thought to reintroduction of such legislation during the next session".

Thus are the conclusions we make as stated in our opening remarks; chiefly, that the Oregon legislature did not -- as a body, or by majority vote -- close the door on infrasound. That the issue of infrasound was politicized and not taken on its merits is shown. That the provision for assessing infrasound was not the only debated issue in this bill and that the Bethel residents tried hard to overcome these and all other odds is demonstrated.

OREGON ENVIRONMENTAL COUNCIL

Noise Committee
Jan Egger, Chairman

Attachments



2.7
H Band
44
L Band
707
M Band
11,300
N Band
181,000
100
90
80
70
60
50
40
30
20
10
dB 0
Infra-Sound
Present DEQ Authority
Primary Area of DEQ Regulation
Present DEQ Authority
Very High Frequency Sound
Ultra-Sound
2.7
22
44
353
707
11,300
23,000
50,000
181,000
Hz
Regions added by Definition of HB 2029

Conventional analog tape recorders may be used, but they will be working at the limit of their low frequency capability.

Measurements have been made using a one-tenth octave analyzer and ording the signal from the analyzer on a paper chart recorder which utilizes a galvanometer-pen assembly, with a frequency response flat from dc to above 80 Hz. The recorder is set to each integral frequency value in the range from eight Hz to some frequency at which the level starts to drop. For a number of gas turbine units examined, this upper frequency was about 45 Hz.

Not only does the amplitude of noise from the gas turbines peak at low frequencies, it also appears to be amplitude modulated as indicated in the trace shown in Figure 1. It is clear that using a real-time analyzer with a short integrating time, or small time constant, will lead to problems when attempting to analyze such signals. Similar problems are observed in the analysis of the other low frequency noise sources mentioned earlier.

What are the levels? For the gas turbine generating units in the 20-to-60 megawatt class, multiple units are capable of producing signals in the 10-to-44 Hz range (at distances of 1500-to-2000 feet), having levels over 80 dB and in some normal modes of operation. Levels have been observed as high as 90 dB. On start-up and shut-down, noise levels may increase above th values and, if surge is experienced, noise levels may rise over 100 dB for 10-to-15 seconds. The results in neighboring homes at these levels can be quite startling.

Somewhat lower source power levels are usual for petrochemical equipment and cooling towers, but at the usual suburban-rural location of many modern refineries and power stations, the levels are well above the ambient. Wind and other micro-meteorological effects tend to amplitude modulate the signals, often causing them to rise and fall across the residential neighbors' masked thresholds of hearing for low frequencies. The result is a clearly distinguishable, detectable, and identifiable signal.

Cooling tower noise may also be accompanied by other signs of operation of an industrial plant or power station, including vapor plumes and coincidental steam discharges, which call attention to the noise source.

Without going into great detail, it is well known that the threshold of hearing for pure tones at low frequencies, rises rapidly as frequency decreases. For pure tones, the threshold of ring is over 65 dB at 30 Hz, and in the neighborhood of 9 100 dB at 10 Hz. This is purposely vague, since we are not concerned with the absolute levels at threshold. The magnitude does give an indication of the sound pressures in the range of threshold.

Even where it is questionable whether the signal is above the observer's threshold, many persons notice the presence of acoustical signals because of its effect on their environment, i.e., glassware rattle, glasses sometimes walks across the shelves, and small preexisting cracks become clearly defined. This occurs as a result of their home's response to the low frequency acoutic signals. Frequently, homeowners complain to plant managements about vibration from plant equipment. Careful measurement in many cases, show that there is no measureable vibration beyond 100-to-200 feet from the largest of the machines examined. However, in every case, the low frequency acoustical measurements indicated noise levels above 80 dB with the majority of cases having noise levels above 85 dB in the 31.5 Hz band, and even higher noise levels in the range below the lowest octave band.

The result of this kind of noise exposure on the residents often produces fear for their safety or fear that their property value will be affected. Neighborhood associations often assist the residents in bringing the problem to the attention of municipal and plant authorities. However, the attention-producing rattling usually prevents any resolution other than some measure of noise abatement. Even where the greatest good will exists between neighbors and the plant, continued exposure is not accepted by the neighbors.

The control of low frequency noise does not appear to have received the attention that has been given to the other industrial noise sources mentioned at the beginning of this discussion. It is well known that, expansion chamber mufflers will provide attenuation over a range of frequencies, with some added static pressure loss in the gas flow. Mufflers of this type have been applied in gas turbine systems and have produced above five dB reduction in levels in the frequency range around 25 Hz. The design methods are well known and have been documented by Davis[2] and his colleagues, and by Kessler[3]. Another approach which is now under study, is a more compact application of Helmholtz resonators, similar to that described by Beranek, Labate and Ingard for the NACA supersonic wind tunnel at the Lewis Laboratories in Cleveland[4].

Applying these to a gas turbine stack in combination with high frequency thin baffle mufflers, will not be easy if flow losses are to be minimized, and the desired noise reduction of 10-to-12 dB is to cover a practical bandwidth of about one octave. Among the problems of using either type of muffler, is the internal casing pressures which may be sufficiently great, that the casing of the muffler must be jacketed with high temperature acoustical fiber material and a metal outer shell to prevent radiation by the large areas of the casing.

These measures are fine for the gas turbine, but what about the other sources mentioned.

ABSTRACT

PROBLEMS OF LOW FREQUENCY INDUSTRIAL NOISE IN THE COMMUNITY

By

L.S. Goodfriend, P.E. and F.M. Kessler, Ph.D.
Lewis S. Goodfriend & Associates
Consulting Engineers in Acoustics
Morristown, New Jersey 07960

Low frequency noise is generated by a number of industrial processes, such as petrochemical burners, oil refinery catalytic units, flare stacks, cooling towers, and combustion turbines used for electrical power generation and other high energy drive applications. The low frequency noise in the community appears to cause complaints whenever it is above the threshold of hearing which, at low frequencies, may range from 100 dB at 10 Hz to 70 dB at 35 Hz. In addition, the high level low frequency energy causes windows and glassware on shelves in residences to rattle, thereby creating fear and annoyance. Residents often complain of vibration, but no measurable earth vibrations are present. Only some building components such as walls and windows respond to the low frequency acoustic signals.

Noise abatement at low frequencies is particularly difficult. Current technology requires an understanding of the noise generation process for reduction of low frequency generated noise at the source, although some special mufflers are available for certain applications along the transmission path.

During the past two years, a large number of industrial-community noise problems have been examined, in which the major frequency region of concern is not the mid-to-high-frequency range, but, instead, the range below the 63 Hz octave band. Thus, for the purposes of this discussion, low frequency noise will be defined as the acoustical energy lying below the lower band limit of the 63 Hz octave band, or below about 44 Hz.

For many years, a majority of industrial noise problems in the community were generated by:

a. Fans and blowers whose noise contained major frequency components in and above the 125 Hz band,

b. Air and steam discharges to atmosphere with energy concentrated in the frequency range above 500 Hz,

c. High speed machinery, including turbines and compressors, producing maximum acoustic energy in the range above 1000 Hz, and

d. A variety of material handling systems which typically produced noise above the low frequency ranges.

The noise control systems available to abate the noise sources cited, reflected the needs for attenuation in and above the 125 Hz band. The evaluation techniques used, also gave considerable weight to the noise levels at high frequencies. Further, it was convenient to neglect the contribution in t low frequency ranges, since it is not easy to measure accurately, and it was even more difficult to control by conventional mufflers and enclosures.

Problems caused by low frequency noise in the community became serious soon after the widespread application of gas turbines as sources of power for electrical generating equipment and high pressure compressors. Several other sources that had seldom been a problem, also began turning up closer to residential areas or, conversely, residential areas began to approach the industrial areas in which these low frequency sources were located. For example, in oil refineries, these sources include the burners used in large numbers on heaters, the catalytic units, heater stacks and fin fan blowers and flare stacks. Other major low frequency generators are low speed diesel engine drives, railroad car shakers and the large diameter, multiple cell, low speed cooling tower fans. Each cell fan may be as large as 40 feet in diameter and turn at speeds as low as 90 rpm. Having only four blades, these units will produce maximum energy at the blade passing frequency of six Hz.

Their spectra indicate considerable energy throughout the low frequency range. Other fans used in modern industrial cooling tower service, range from 15 feet in diameter and rotate at speeds in the 200 rpm range, producing 20-to-30 Hz noise. The levels of noise produced at the nearest residential areas, due to these sources, are often only a little above the published levels for the threshold of human hearing. It has thus been assumed by vendors, that these low frequency signals are not important to consider as factors in community noise problems because they are not "loud." However, our attention was called to problems with low frequency signals close to threshold as early as 1958[1]. Now, the proliferation of the ubiquitous gas turbine drive has drawn considerably more attention to the problem.

The nature of the low frequency signals generated, include the pure tones generated by rail car shakers in the frequency range below 30 Hz, and the quasi-random signals generated by multiple combustor gas turbines that produce signals peaking in the 15-to-45 range. The signals may be read on a sound level meter, provided the low frequency response of the microphone and amplifier are known at the frequencies below 30 Hz. Use of m[illegible] n capacitor microphones permits measurements to two Hz and be[illegible]w. Even where the response of the system falls off at the low frequencies of interest, a system having a known frequency-response characteristic may be used to produce acceptable data.

Several changing factors in the petrochemical field have helped to reduce problems from the low frequency sources in that area. Catalytic units are now being modified for process purposes so that they no longer radiate the low frequency signals from their stacks. Burners for the heaters are muffled by expansion chamber jacket assemblies, as well as design modification of the primary air path.

Low frequency noise from flares used to burn excess process plant gases, received much attention. Some work has been done on flares equipped with steam injection systems used to suppress smoke, luminosity, and combustion-related instabilities. The conventional flare burning at the top of a tower, where it is influenced by the wind, even at low velocity, generates noise because of the combustion instabilities caused by the turbulence at the flame front and the steam energy losses at the high pressure steam injectors. A typical flare stack spectrum is shown in Figure 2. In rural residential areas, however, the noise can be quite annoying. Considerable work is being accomplished to reduce this source of community low frequency noise by proper design of flare tips to control steam and gas rates[5].

Only the large induced draft cooling tower remains as an extremely difficult and expensive problem. Both its low and high frequency components are above accepted criteria at many planned locations.

Only the use of buildings as barriers and the use of more and smaller cells, lower tip speeds and higher stacks to take full advantage of directivity, provide modest noise reductions. However, the use of barriers and vertical directivity can be vitiated by the frequent temperature inversions that occur at sites near rivers, typically used by power stations. The low frequency noise is reduced a few decibels at the inlet of large cooling towers, but this source may also radiate into the surrounding community. The application of conventional thin baffle mufflers to both inlet and discharge, adds considerable cost to the cooling tower and increases the pressure loss across the system. This, in turn, affects the fan parameters and the motor size as well as requiring additional foundation and structural support elements.

If current and future problems of low frequency noise are to be abated or circumvented, the problem and its causes must be recognized by industrial and utility managements. It is easy to understand how complaints about low frequency noise might be misinterpreted or misunderstood. The long distance between source and complaint, and the frequent use of the word "vibration" easily lead plant personnel to pass off such complaints as crank calls. We are convinced that, suitable equipment and appropriate process methods can reduce the low frequency output of potential sources of low frequency noise. However, it will take considerable ingenuity.

JUNE, 1973

EMPHASIS ADDED, OTHERWISE
THIS DOCUMENT IS REPRINTED
HERE COMPLETE.

RICH CHAMBERS
LOMBARDY LANE
SALEM, OR 97302

Copies given to Legislators

Charles H. Frady
390 Fir Knoll Lane N.E.
Salem, Oregon 97301

February 27, 1975

HB 2029 now in legislation is a very important matter of concern to the public health and welfare of the citizens of Oregon. It has been drafted with the intent of providing an environment free from annoying and harmful low frequency noise or noise in the infrasonic range and also noise in the ultrasonic range.

It is a documented fact that low frequency noise coupled with high amplitudes are potentially devastating. A typical or classic example is that of a sonic boom created by a jet aircraft exceeding the speed of sound.

There are phenomena of nature which cause low frequency noise annoyances, vibrations and problems of which virtually no human controls may be implemented. Some of these, for example, would be high velocity winds and thunder. There are also man made low frequency and infrasonic noises which may be even greater in intensity and having the potential to be even more devastating. War weapons, based on low frequency noise, have been perfected to use against an enemy. Some military officials of certain countries are trying to have a weapon of this sort banned because of its devastating effects.

The point I am making is that low frequency noise or infrasonic noise is a very important matter of consideration. Do not let lack of knowledge, on this subject, be an influencing factor in discrediting the importance of HB 2029. It has been drafted with the intent of controlling sources of low frequency noise as low as 2 Hertz (2 cycles per second). Noise in this low range is not audible to the human ear. Audible sounds occur between 20 Hz to 20,000 Hz. Sounds in the low frequency range are often felt rather than being audible. The human body is a very sensitive mechanism. It is documented in the literature that low frequency noise, especially in conjunction with higher amplitudes, does have adverse effects upon humans. The annoyance may cause nausea, gagging, headaches, loss of appetite, sleeplessness, irritability, difficulty in swallowing, depression, and other ailments.

It is also a documented fact that low frequency noise may cause structural and architectural damage to buildings. There is a lot more yet to be learned about low frequency noise.

Many of you legislators will be lobbied and persuaded to discredit the importance of passing a law to control low frequency noise. Portland General Electric Company will do everything in their power to see that this Bill does not pass. One of the main, man made sources of low frequency noise to which I have previously referred is gas turbine generating plants, and of course PGE feels as though no restrictions should be placed upon them.

I am also aware of the necessity of having electricity and I am also aware of the fact that companies such as PGE are required by law to produce sufficient quantities of electricity for our needs. However, this obligation for PGE to produce power does not mean that certain or some human beings must be sacrificed for their ultimate objective.

This is precisely what has happened with regards to the construction and operation of the PGE Bethel gas turbine generating plant in Salem. It has been condoned by the Marion County officials, most state officials and many legislators, even though PGE continues to violate county and state noise standards.

PGE boasts about how much money they have spent for sound suppression equipment which has not begun to solve the noise problem. Money seems to be the most important thing for corporations to base all their conclusions upon, or is the answer to all their problems. Money spent is not the most important thing and should not take precedence. Consider the billions of dollars spent for the Vietnam war. Just because money was being spent, did it justify the war, or did anything beneficial come from the war? Of course, you know the answer to this!

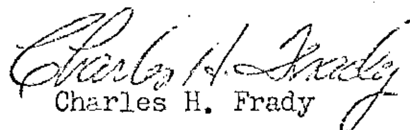
The PGE officials will not tell you what the real problem is! They will elaborate how the mufflers have suppressed the jet engine noise. At this point I will agree the jet engine noise has been muffled, however, this is not the problem. PGE officials know this has never been the problem, the State DEQ also knows it and above all we the innocent victims supposedly protected by county and state agencies have had to become experts ourselves and now we explicitly know what the problem is. The noise problem, in regards to the Bethel plant, is most emphatically an AERODYNAMIC PROBLEM. No mufflers of any sort will solve the problem. In this particular case, with these type of jet engines, the only solution to eliminate the noise problem is distance between the noise source and the residences. The large masses of exhaust gas leaving the muffled stacks enters the atmosphere at an extremely high velocity and at a very hot temperature. The hot exhaust gas mixes immediately with the cooler air and produces massive air turbulence. This energy produces low frequency noise of long wave lengths. This energy is the force which causes the noise and vibration problem. It actually can be measured in Newtons per square meter. Unfortunately this has not been done by the state. PGE has tried to correlate the noise at the exhaust stacks with that in the surrounding area up to 2300 feet at ground level, which of course is not possible. Remember, there are two noise sources, the noise of the jet engines and the noise created by air turbulence in the atmosphere. Then the noise that they recorded was converted to decibels using the "A" scale. The "A" scale discriminates against low frequency noise so therefore this low frequency noise and vibration problem in homes and in people escaped being recorded and reported on the "C" scale. Generally, C-weighted meaurements are essentially the same as overall sound-pressure levels, which require no discrimination at any frequency. Since PGE must meet a sound level in order to continue operating, of 45dBA they could care less about the low frequency noise problem. PGE will try to convince you that audible noise is the only problem of concern. Those that have known the secrets of this problem have not attempted to reveal the true story.

Again, I will emphasize the only thing that will solve this problem is distance between the turbine plant and residences. Mufflers will eliminate the jet engine noise but they will not eliminate the low frequency noise and vibrations caused by air turbulence.

Therefore, it is of paramount importance for HB 2029 to be passed by the legislators in order to protect the public health and welfare from any source that would emit low frequency or infrasonic noise in quantities that is detrimental.

PGE has made a drastic mistake and they know it as well as anybody in placing a gas turbine generating plant in the midst of hundreds of people. Please consider the public and help to protect any future incidents to occur such as the PGE Bethel problem. Humans simply cannot exist in a situation where bombardment of low frequency thundering noise and vibrations occur constantly.

Very truly yours,



Charles H. Frady

PUBLIC STATEMENT BEFORE THE SENATE + House ENVIRONMENT AND ENERGY COMMITTEE, April 21, 1975
By Charles H. Frady

My name is Charles H. Frady, 390 Fir Knoll Lane NE, Salem, Oregon. Noise is hardly a new concern for society. It has apparently been a problem for most of mankind's existence. There is reportedly an ordinance enacted some 2,500 years ago by the ancient Greek community of Sybaris banning metal works and the keeping of roosters within the city to protect against noise that interfered with speech and might disturb sleep. There are many other examples to show this historical concern with noise. They include Juvenal's statement regarding noise from wagons and their drivers interfering with sleep in ancient Rome and Chaucer's poem of around 1350 complaining of noise by blacksmiths and that because of them "no man can get a night's rest." Also, Benjamin Franklin some 400 years later reputedly moved from one part of Philadelphia to another because "the din of the market increases upon me;and that has I find made me say somethings twice over."

Over the past 200 years there has been a steady increase in the magnitude of the impact of noise, changing the nature and extent of the problem from that of primarily nuisance and annoyance to actual physiological damage. While the sources of noise are different, and their numbers and the magnitude of sound energy have created a larger impact, the character of the impact of noise is not new or radically different. It is the addition of new noise sources in already noisy situations and the proliferation of noise sources of increased output into previously quieter areas that has stimulated greatly increased public concern and has created the need for increased governmental action. In many ways, the present situation regarding noise is not different from that of other pollutants, with the possible exception that, unlike some pollutants, once the noise source is controlled or reduced, the impact of the noise changes almost immediately.[1]

The question is, have we progressed in 2,500 years? Both my wife and I have previously submitted written testimony with regards to HB 2029 to the House E&E Committee which contained many pertinent facts and personal experiences pertaining to noise pollution, especially low frequency noise.

I firmly believe HB 2029 is a sound and necessary bill to be adopted by the legislature and to be included in the laws of our state, not only to protect us from excessive audible noise, but also to protect us from noise we do not hear. That noise which can be an annoyance to the human body in other ways.

Laws must be implemented to protect the safety and welfare of citizens in all facets of life. Little has been done to protect humans from low frequency noise, however, much information is available to indicate this subject does have annoying properties and has the potential of causing harmful effects to life and even buildings and structures.

Unfortunately, as you well know, the general public seldom express themselves or become involved in governmental matters. Most people depend upon governmental bodies to enact laws of protection. Some people are even incapable of expressing themselves or do not want to become involved. Some of us who do become entwined in governmental matters not only do it for our personal concern, but oftentimes for others who depend upon us.

As you well know in East Salem we have been exposed to a severe noise problem created by PGE and their gas turbine generating plant. This has caused considerable unnecessary problems to those affected by the plant. To explain my statement about

people depending on others, I would like to read the following letter written to me by a neighbor, 83 years old. The letter pertains to the PGE noise problem.

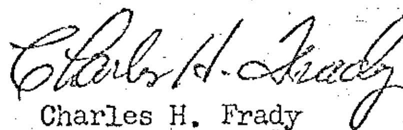
"Dear Neighbor, I note the headline in this morning's Statesman: Turbine Plant Muted by E.Q.C." Edna and I want to thank you so very much for all you and your wife's effort in helping to bring this about. It is the difference of us being able to keep our little home or selling it. Thanks and thank again."

Edna & Olaf Thonstad
July 20, 1974

You see, noise even has the ability to drive the elderly out of their homes. This is not right! The elderly are also very concerned people and deserve their quietness and tranquility. They also need our help and I am proud to be able to be of some help to them.

Some of us are also very much concerned about our children who depend upon us for their protection. They are very sensitive to noise and how do we know entirely how it affects their lives and what permanent damage will it do in later years? Our generation has the responsibility to provide a safe and good environment for future generations.

I hope that we will be able to progress in a better manner in the future than what the record shows for the past 2,500 years. I know HB 2029, if adopted, is a favorable step in the proper direction.



Charles H. Frady

Footnote: Taken from Public Health and Welfare Criteria for Noise, July 27, 1973, U. S. Environmental Protection Agency, page 1-4.

PUBLIC STATEMENT BEFORE THE SENATE ENVIRONMENT AND ENERGY COMMITTEE, April 21, 1975

By Marlene M. Frady, 390 Fir Knoll Lane N.E., Salem, Oregon 97301

Someone has said, "The mind is like a parachute, it only works when it is open." We trust that nothing will obscure the important truths that will be brought before you this day.

You have received letters from us describing the problems we have experienced from low frequency and infrasonic sound. Our opponents maintain the intensities of this sound from the Bethel operation are not as great as tests made by NASA and others, and therefore could not be bothering us in the way we describe. Remember, the controlled tests were for short periods of time. The residents near the Bethel Power Plant can attest to the fact, duration of exposure to this low frequency and infrasonic sound has the same devastating effects as a higher intensity level for a short period. I would challenge anyone to prove otherwise! We are the subjects upon whom this sound has been tested. There is an old Indian saying - - "Grant that I should not critize my brother until I've walked a mile in his moccasins."

The people of these United States are dissolutioned about politics in general. This Nation has been badly shaken by "Watergate". The people are looking for legislators who will bring justice and dignity to the offices they hold.

Robert Law has said, "you cannot effectively help anyone unless in some way you take part of their burden upon you." Will you share this burden, and so much as is in your power help the citizens of the State of Oregon?

was given
To Legislators

Mrs. Marlene M. Frady
Correspondence Secretary
E. Salem Environmental Committee
390 Fir Knoll Lane N.E.
Salem, Oregon 97301

February 27, 1975

I believe it is time to bring out the true facts of the PGE Bethel power plant. The residents near the Bethel power plant in East Salem are fighting mad over the recent propaganda by PGE that they are going to be able to meet the noise standards and run the power plant 24 hrs. a day, when the rumbling and vibrations are as bad as ever, with mufflers installed on two engines, and may even be worse.

PGE began talks with DEQ in early 1971, with regards to the Bethel turbine plant. Also they had talks with officials of Marion County. Most early talks were behind closed doors with Wes Kvarsten, then top man in the Planning Dept. of Marion County, now Director of the Council of Governments. No memos, no paper work, no contact with the Planning Commission was made. PGE has many friends in Marion County. Why should they be required to submit an environmental impact statement or come before the public to determine if this was a suitable zone? So what if there already was an established community surrounding the area where PGE wanted to construct their power plant. It stated "public utility" in the Marion County Zone Ordinance under Industrial Park and PGE had a sub-station in that zone on State Street. The Southern Pacific Railroad was near and also it would be convenient to connect to the oil pipeline nearby. Surely no one would object to 4 jet engines, with 180,000 hp, being a permanent fixture in their lovely agricultural neighborhood. Duane Ertsgaard, then legal council for Marion County Commissioners, now judge in the county, ruled that it was legal because it stated "public utility" is allowed in an IP zone.

PGE got real busy trying to buy up property and did manage to buy some. They knew this plant could cause problems. Some owners on Auburn wouldn't sell. I wish they would have come over to Fir Knoll Lane and told us the same thing they told Mrs. Van, on Hampden Lane, when they bought her property and then we could have sold to them also and wouldn't be going through the torture on earth we are now with operation of their plant. When PGE approached Mrs. Van, they told her that if she didn't sell her property to them it wouldn't be worth a plug nickel after their plant went in. Now it hadn't been too long since she had been widowed and they made her a good offer after some dickering on price. She could stay there for the rest of her natural life, rent free. Now, many people have asked us why she doesn't complain, since she is the closest person to the plant. Confidentially she has told friends that she can't stand it but she is scared to death PGE will kick her out if she opens her mouth against them. That is why she tries to leave her home whenever the plant is running. Her own children, living in Salem can't stand to visit her when the plant is running and say the rumble and vibrations are terrible in her house. Another property owner did sell his orchard to PGE, Mr. Green, also a builder. Zoning wouldn't allow him to construct a mobile trailer park there so he sold to PGE.

Still the public did not know what was going on. Then on November 16, 1972 there was a joint hearing by PUC and DEQ. A very little publicized hearing and as the last item of business they brought up the proposed power plants of Bethel and Harborton. DEQ stated, referring to the turbine power plants, "the frequency spectrum proposed is so dominated by low frequency noise that it may cause community complaint". PGE already knew this.

The zoning for this strip between State Street and the railroad was M-1 before 1965 then it was changed to IL (light industry). Then as late as Spring of 1971 the zone, where PGE now has the Bethel power plant, was changed to IP. Still it did not allow heavy industry. Other allowable uses are greenhouse, outdoor plant nursery, restaurants, fire stations, wholesale firms, etc. One allowable use also lists an airport terminal facility, which would be impossible in this location because the IP strip from 50th North to the SP railroad is just not that wide. It was a cover so the Bethel facility could also fit since they are jet engines. But since it stated "public utility" PGE began to construct their power plant.

There were some articles in the newspaper in September of 1972 about PGE taking the officials of Marion County back to Edgartown, Wisconsin to view a power plant half the size of the Bethel plant. The public has been viciously critized of not being responsive to the newspaper articles about this plant. First of all PGE has misnamed the power plant. This is the Fruitland area. The Bethel area is about 2 miles East of this location out in a very sparsely populated area. Next we didn't even know what a gas turbine was, but I can tell you we sure do now. Still no notices to the public of what was happening or no public hearings on the matter until April 17, 1973, after the power plant was 75% constructed. We may not have had a hearing then if it wasn't for Councilwoman Ellen Lowe, a member of the Board of the Mid Willamette Valley Air Pollution Authority. Questions were then asked by concerned citizens about noise pollution and air pollution. At the April 17, 1973 Board meeting the DEQ "approved the installation on the condition that corrective action will be taken if it is shown that low frequency noise is a community problem".[1] A demonstration was made by the DEQ to simulate the projected sound of noise levels in the vicinity of the plant. Ron Kathren, of PGE, stated "these conditions will simulate the sound of an air conditioning system".[2] Ron Kathren of PGE stated "the noise will be low frequency".[3] Gary Sandberg, of DEQ, stated "primary noise problems will be low frequency".[4] Ron Kathren, of PGE, stated "noise can be felt, but it is not expected to be a problem at Bethel because PGE has provided vibration insulation".[5] "Ellen Lowe asked if vibrations were a problem would they be controlled by DEQ. Gary Sandberg replied they would be".[6]

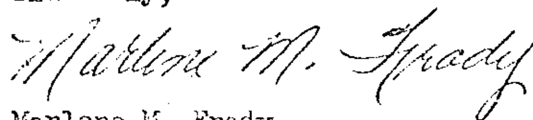
Mr. Rich Chambers testified at this hearing. He stated "that he had called Vermont and talked to people living immediately next to a similar plant there. The Vermont neighbors stated the plant is noisy, it stinks and it causes vibrations. Mr. Chambers also called the people living next to the plant in Wisconsin who stated the same thing. They also said it had lowered their property values".[7] This information was disregarded although a tape had been made of the telephone conversations.

June 17, 1973 the permit was granted to PGE by MWVAPA, with Commissioner Harry Carson Jr. disqualifying himself from voting because his son works for PGE. PGE began to test the engines on July 3, 1973. Complaints were loged by citizens with the MWVAPA and later on with the DEQ. Complaints of air pollution and of noise and vibrations were loged by many. The power plant began operation to produce power in September and ran for 3½ months, 12 to 16 hrs. a day until DEQ director, Diarmuid O'Scannlain, ordered the hrs. to be from 7 to 7 and then later on at half power. Complaints continued to come in to the DEQ and MWVAPA about air pollution, noise and vibrations. The noise and vibrations becoming the most unbearable. Cracks in the walls and ceilings of houses began to appear. Neighbors complained of physical pain in the form of headaches, earaches, fatigue, vibrations of the body, extreme nervousness and irritability when the power plant was operating. Beginning December 7, 1973 PGE was ordered to cut the turbines to half power. The Marion County noise ordinance for an Industrial Park Zone states "No vibration, other than that caused by highway vehicles and trains, shall be permitted which shall endanger the health, welfare or safety of the public or so as to constitute a public nuisance". This is for an IP Zone, we live in an R/A Zone (residential/agricultural). Also the Octave Band, frecuency in cycles begins at 0 and goes up to 4,800 cycles per second and above, which should take care of any low frequency noise if the Commissioners would enforce their own noise ordinance, but they would not. Many letters were written to the Marion County Commissioners complaining of the low frequency noise and vibrations and asking them to enforce the noise ordinance but many letters were never answered.

PGE was ordered, by DEQ, to do sound testing at the plant and in residences. PGE hired Robin M. Towne and Associates to do the sound tests. They have done most of their work in room acoustics. DEQ also did some testing but their equipment was not able to go into the lower frequencies and infrasonic range. DEQ had to depend upon the sound testing done by Towne, who was hired by PGE and paid around $12,500 for their work. The residents opened their homes to DEQ and Towne to do testing. The results of the tests by Towne were converted to the "A" scale, "a scale which discriminates against low frequency sound".[8] The "C" scale is better capable of dealing with low frequency sound. The residents hired Dr. Lee Jensen of Oregon State University to do sound testing in our homes when the plant was running. We had some difficulty co-ordinating co-operation from PGE when Dr. Jensen was at our homes to do testing. Dr. Jensen finally did acquire good information and we have seen reports and charts to indicate the low frequency noise in our homes was attributed to the PGE power plant. The Towne report indicates the same only statements were made to infer no problem existed in the low frequency range or not enough to cause the problems we were complaining about. It was inferred by PGE at hearings and by the Towne report that our problems were psychological not physiological.

Low frequency and infrasonic sound has affected the residents near the Bethel power plant to a very great degree. We've experienced weird sensations in our bodies. It has been a bad trip! We are asking for your support of HB 2029, so there can be some uniform regulation of noise from the lowest spectrum to the highest.

Sincerely,



Marlene M. Frady
Correspondence Secretary
E.S.E.C.

1. Official Board Minutes, Mid-Willamette Valley Air Pollution Authority April 17, 1973, Salem Civic Center
2. through 7. Public Hearing, Portland General Electric, Mid-Willamette Valley Air Pollution Authority, May 11, 1973, Salem Civic Center
8. Pg. 2-3, Public Health and Welfare Criteria for Noise, July 27, 1973 U.S. Environmental Protection Agency

June 10, 1975

To: Board of Directors, Mid Willamette Valley Air Pollution Authority

From; Charles H. Frady, President, East Salem Environmental Committee

Subject: Public Hearing, Portland General Electric Bethel Turbine Plant

The citizens in East Salem have not been siting still since last July when MWVAPA granted PGE another permit to operate the Bethel turbines. Enclosed in your folders you will find a great deal of information that we trust will help you in making your decision on the PGE permit.

Enough time has elapsed to assess the damage done to a community. The immediate damage was obvious! The damage to our homes and to our bodies, that we testified about last year, is now revealing itself in other ways. Now the long term effects of this turbine operation is showing up among the residents near the PGE power plant. One of the serious problems in the community, is more respiratory problems than ever before have occurred. Wouldn't you say it is strange for people in their 40's or 50's, who have lived in Oregon all their life, to have hay fever since the PGE plant operated in 1973? These are people who never had hay fever before. My wife has experienced great respiratory problems since the power plant operated. We have lived in Oregon for nine years. My wife has never had allergies until she developed hay fever last summer and now has it very bad this summer. Something has triggered these allergic reactions.

Nitrogen oxides are the result of fuel combustion. A large source of NOX (40%) comes from burning fossil fuels (coal, oil & natural gas) in generating electric power and space heating. NOX is a known irritant of the respiratory system. See attached sheet, N.A.C.P. Publication. In the presence of sunshine NOX acts as the trigger for the photochemical reactions which produce smog. Ask any of the residents what happens when the area has an inversion and the Bethel plant is running. See attached sheet on photochemical oxidants, effects on humans & animals, N.A.C.P. Publication -- Radiation causes leukemia and genetic effects. In august, 1973 one of our neighbors had a baby boy. That child has cancer today & has only a 50-50 chance of survival. One neighbor has developed an ulcer, others have become so sensitive to low frequency noise they are taking tranquilizers regularly. Ear problems have developed with many of the residents near the power plant. My wife is having serious problems with pain in her ears whenever she is subjected to low frequency and infrasonic sound, such as airplanes (especially jets) helicopters, large air conditioning systems, etc. Our ten year old daughter complains when noises are loud and says her ears hurt from the rumble of the school buses. I have become very sensitive to low frequency and infrasonic sound. As a salesman I am required to travel within the state of Oregon. It has become very difficult to sleep in motels and I have a prescription for tranquilizers, which I have to take many times to get to sleep. I recently stayed in the Thunderbird Motel in Bend while on company business. I was having difficulty going to sleep so took some tranquilizers about 12:45 A.M. About 2:00 A.M. a fire broke out in a room about five doors away. I was sleeping very soundly. Fortunately a woman pounded on my door until she awakened me and I did get out in time. Needless to say I was badly shaken.

The whole problem we have with the Bethel power plant has affected my job in very adverse ways. My performance has gone down considerably in the past two years. I am not able to work in my office, at home, when the power plant is running. I have become so sensitive to low frequency noise that I can't stand to drive my car. Driving my car and getting around my territory is 90% of my job. The continuous noises we have in our area now disturbs my sleep when I am at home. We do not believe all of these things that are happening to our community are coincidental. Can you say they are? Can PGE prove these problems absolutely are not caused by the turbine operation?

MWVAPA cannot separate noise from this permit in granting or denying a permit. It is very much a part of the operation of the turbine plant. In the original permit there were conditions which were made a part of the permit. "As a NOTICE CONDITION of this permit, Portland General Electric shall abate unacceptable noise arising out of operation of the turbines if a problem exists off the plant property." PGE has never abated unacceptable noise! Rather they have done everything in their power to discredit the testimony of the citizens and have even mis-represented a report to the Board of Directors, by Brad Dennison, when testifying before the legislature this year. See attached report, Nov. 20, 1973, and attached rebuttal.

Most of the scientific evidence of the deleterious effects of infrasound is obtained from short exposures in the laboratory. WE ARE THE EVIDENCE OF THE LONG-TERM EFFECTS OF INFRASOUND. PGE, which probably did not fully assess the noise consequences when it sited this plant, has used us as the guinea pigs to see how far they can go before someone says stop! They have arrogantly denied many of our claims, ignored our evidence and attempted by every known means to make this plant fit in this location.

PGE has done some sound testing of the turbines with mufflers installed. They were tested in February of this year. The low frequency noise and vibrations in our homes was as bad as ever. My ears hurt. My wife's ears hurt so much she has to wear ear plugs whenever the power plant operates. However, we have no protection against the vibrations felt by our bodies. We have been exposed to a continuous assortment of construction or maintenance noises since PGE began construction of this facility. It is very rare that we have quiet days or nights. We also hear sounds like motors running all through the night. Some nights are so bad we cannot sleep.

We believe the Marion County Commissioners are in gross error to have allowed this turbine plant to continue to operate when they received as many complaints as they did. They could have rented sound testing equipment to do their own testing. The DEQ could have done the same! This is outright negligence. Everyone has passed the buck! No one really wants to deal with this problem. Now another year has passed and you are look-at another permit for PGE.

PGE continues to up their price tag for removal of this plant. Our suggestion is to stop all their nonsense advertising and special TV programs and they will well be able to afford to move this plant. Our community and lives are worth much more than 4 million. Property alone, within one mile around the plant, 300 to 350 homes, about 1200 people or more, is worth 4 million.

Billions have been spent by the U.S. to save lives in Viet Nam. Much more is being spent now. What is human life worth to you?

The Marion County Commissioners don't want to lose all the tax dollars from this turbine plant. Marion County Commissioners have overstepped their powers by withholding $20,000 to $27,000 from the pollution budget. See attached newspaper article.

It is time for the MWVAPA to stop passing the buck - it is time to deny PGE's permit.

The special conditions of last year's permit, Section A, part 3, (b) should not be compromised. We all know of the adequate hydroelectric power for this year. BPA has so much power they want to sell lots of it to Alumax!

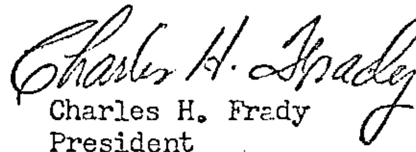
The siting study should not be taken out of permit requirements. PGE should move this plant!

We believe the people have shown enough cause that the present permit for PGE should be revoked, section 22-025, MWVAPA Rules & Regulations (1) and (2). We have shown more than enough evidence why this permit should be revoked. The total operation of this turbine plant has caused serious damage to public health and irreparable damage has occurred to the lives of people. Permanent scars upon our lives and bodies are beyond question.

We respectfully ask you to refrain from granting PGE one more permit to operate this turbine plant in East Salem.

We also request a continuation of this hearing, since we were not notified of the hearing until last Thursday and we have many people who would desire to testify but were unable to be here today because of prior commitments.

Very truly yours,



Charles H. Frady
President

Public Statement
by Marlene M. Frady
390 Fir Knoll Lane N.E.
Salem, Oregon 97301

January 23, 1975

The Effects of Low Frequency and Infrasonic Noise on the residents near the Portland General Electric Bethel Turbine Generating Power Plant, Salem, Oregon.

Infrasound occurs in nature at relatively low intensities. Sources of natural infrasonic frequencies are: Earthquakes, volcanic erruptions, winds, air turbulence, thunder, large waterfalls & impact of waves on beaches.

I will concern myself with the manmade sources of infrasonic sound today. Such as: Air heating and air conditioning systems, all transportation systems including jet aircraft, and high powered propulsion systems utilized in space flights. I would like to add another one to this list. The Portland General Electric Bethel turbine generators in Salem, Oregon.

Man Man-made infrasound occurs at higher intensity levels than those found in nature. It is therefore conceivable that with the increase in man-made sources, there may exist potential danger to man's health. Stephens and Bryan have reported complaints of people about infrasound, including disorientation, nausea and general feelings of discomfort.[1] A variety of bizarre sensations in the ear have also been reported during exposure to airborne infrasonic waves. These include fluttering or pulsating sensations.[2] Guignard and Coles (1965) have demonstrated that a very high-frequency mechanical vibration may produce a small Temporary Threshold Shift involving the lower audiometric frequencies and from this it may be inferred that airborne infrasound could possibly also have an effect on hearing.[3] A major element of public health concern, is that the hair cells, vital to the hearing process, are nonregenerative. Thus, if they are damaged or destroyed following certain sound exposures, there is no physiological restoration.[4]

Man has known about infrasound created by man-made sources for some time and tests have been made under controlled situations. These tests by NASA and others were made for short duration periods. 10 - 15 - 20 - 30 minutes and sometimes up to an hour. The tests made on the Bethel residents were not controlled and were without the consent of the people. They were for a much longer duration (12 to 16 hrs.), not just for days, but for months. Actually, there were no tests made to determine responses of the human body to this low frequency and infrasonic sound. Yet the people in this area complained to us of severe headaches, intense pressure in their heads and around their ears, pain within the ears, nervousness for no apparent reason, vibrations of the body, especially the chest and legs, mild nausea, and a few people complained of tightness in the throat and difficulty swallowing. After prolonged exposure to the sound from the turbines (4 to 8 hrs.) there were many complaints of fatigue, irritability and after a few weeks, complete exhaustion. After being exposed to this sound for 12 - 16 hrs. it was impossible to recover before the turbines started running again. People complained of sleeplessness and

tenseness of the body during nighttimes or restful periods. We were exposed to audible sound as well as infrasound, coupled with vibrations. As reports show this can have adverse effects on the human body.

Most of the tests to determine sound levels at the residences were done after the power plant had been running for three and one half months. The residents hired Dr. Lee Jensen, Oregon State University, to do sound testing in our homes and he has information to verify there is quite a bit of energy emitted from the PGE turbines which falls in the infrasonic range.

I personally have experienced severe headaches, pain in my ears, chest wall vibrations, vibrations in my legs and at times my whole body felt like it wanted to explode. Could this be cell vibration? I was extremely nervous and irritable. Our children were irritable also and unable to sleep for long periods at a time during the day, and were restless during the night. Our older girl complained about the sound bothering her. Pressure would build up in my head around the temples. In November of 1973, I had to leave the area as much as possible when the plant was running becuase it was bothering me so adversely at this time, physically and mentally. Since then and until this day I have not fully recovered from the effects of low frequency and infrasonic sound. I can no longer sleep well at night like I used to before the power plant operated. Last summer, I could hear and feel our neighbors air conditioner run all night, 350 feet from our house. I can hear and feel the low frequency sound from the diesel engines of the trains during the days and nights, 4½ miles from our house. The medical doctors say I've become sensitized to this low frequency sound and prescribe tranquilizers. I wonder if any of us will ever be the same again. Some work has been done in the field of infrasonic sound, but so much more needs to be done. None of us are really sure exactly how much damage has been done to us and to our children. One thing I know for sure and that is, it is past due for the State of Oregon to do something about controlling low frequency and infrasonic sound in this state.

Footnotes: 1 - 4 were taken from Public Health and Welfare Criteria for Noise July 27, 1973, U.S. Environmental Protection Agency

1. Public statement by Marlene Frady, 390 Fir Knoll Lane N.E., Salem, Oregon before the Committee on Environment & Energy, Oregon State Capitol, Salem, Oregon, January 23, 1975, on the Effects of Low Frequency and Infrasonic Noise on the residents near the PGE Bethel turbine generating Power Plant, Salem, Oregon.

2. The Effects of Noise on Man - Kryter

3. Effects of Low frequency and Infrasonic Noise on Man. Aerospace Medicine

4. Newspaper article - Capital Journal

5. Public statement by Charles H. Frady, before the EQC, July 19, 1974.

6. Public statement by Charles H. Frady, presented before the EQC, DEQ & MWVAPA, June 17, 1974.

May 5, 1975 Marlene M. Frady, 390 Fir Knoll Lane N.E., Salem, Oregon

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REPUDIATION OF PGE'S TESTIMONY GIVEN BY Mr. Ron Kathren . . .

Following is an exact transcript of Mr. Kathren's statement to the Senate Environment and Energy Committee, on HB 2029, April 28, 1975, as recorded on our tape recorder. Mr. Kathren speaking . . .

"A similar conclusion had been reached by the Mid Willamette Valley Air Pollution Authority more than six months before the Robin M. Towne study was published, and the following was noted in a report to the Directors. And again I quote, Infra-sound (5 to 22.5 Hz) is not considered to be of sufficient magnitude to cause any physiological effects outside the property limits."

I have talked with Mr. Michael Dolan of the Mid Willamette Valley Air Pollution Authority and he stated this absolutely is not a conclusion drawn by the MWVAPA. They do not even have instrumentation to draw such a conclusion nor have they attempted to play medical doctor.

In the November 20, 1973 Portland General Electric Status Report, to the Board of Directors of the MWVAPA, by Brad Dennison, he very clearly states in the paragraph before, "The acoustical report submitted by PGE to the Authority on November 1973, indicates . . .

Further conclusions of the study are: See attached Status Report

The acoustical report referred to by Brad Dennison, MWVAPA, was made by Robin M. Towne & Associates, October 25, 1973. This study was required as a condition of the permit by MWVAPA - paragraph 2 of page 3 of the permit.

This is simply another attempt by Ron Kathren to mislead and confuse public officials. Ron Kathren pulls the same tactics at all of the hearings involving the Bethel facility. The point is, one simply cannot accept testimony by Ron Kathren at face value!

May 5, 1975 Marlene M. Frady, 390 Fir Knoll Lane N.E., Salem, Oregon

I am sure the Senators are already aware the Robin M. Towne Report is simply an acoustical study, required of PGE by the MWVAPA as a condition of the permit. Towne & Associates are not experts on the physiological effects of infrasound on man and the conclusions they have drawn have no more validity than a subjective evaluation by a common, ordinary person. They have not made enough tests in this area to consider themselves scientists or authorities on this subject!

to Senators

April 9, 1975

From: Charles H. Frady, 390 Fir Knoll Lane N.E., Salem, Oregon 97301

FACT SHEET ON HB 2029 - - SECTION 2 (DEFINITION)

There seems to be more confusion on this section of the Bill than any other section. It was distressing and appalling to listen to testimony on the floor of Rep. Curt Wolfer, referring to his high school days and his trusty dictionary, and that the definition in the dictionary of sound or noise was good enough for him. Surely everyone is aware of the technology of a nation that is capable of putting a man on the moon. We know a great deal more about sound now and we should also look to the experts in the field of sound for definition of the same. Rep. Jeff Gilmour also followed this line of thinking and wanted to send the Bill back to committee. The reason he used was that section 2 was unclear. It is very clear to those who want to understand it and have an open mind to learn something about sounds we do not hear with our ears but feel with our bodies. HB 2029 did pass and will now be coming to the Senate.

1. When the 1971 Legislature passed the enabling act for noise regulation under the authority of the EQC, it did not define the word, "noise" therein.

2. This Bill, in Section 2, states that noise means "an oscillation in pressure, stress, particle displacement or particle velocity in an elastic medium and possessing amplitude, duration and frequency between 2 and 50,000 Hz (hertz)."

3. This simply means that noise is sound. Sound is energy! This definition is essentially a physics definition with no reference to loud, excessive, unwanted or other subjective descriptions. Just as in air and water pollution we do not refer to the unwanted nature of the contaminants. We specify them. They are identified, classified and measured. Allowable quantities are prescribed by rules of the authority. Public health data gives us the tolerable maxims and minimums for health. The rules based on such criteria are clear and enforceable.

4. Those who would deny the existence of infrasound or say it can't be harmful if we cannot hear it simply are uneducated in the area of infrasound. There has been much documentation on the subject. Karl D. Kryter has done much work in the field of infrasound. He is an international authority in research into the effects of noise on man. Much work has been done by NASA, and reported by Mohr and others. Reports from these men indicate that infrasound is very real to their subjects exposed to it and can have adverse effects upon man. The people near the Bethel Power plant also are very aware of infrasound and what it can do to the human body. Even Ron Kathren, of PGE, admits sound can be felt.

5. The EQC and DEQ have been critized by us for not dealing with the problem at Bethel. The Commission said that it was not proper for them to investigate these infrasounds since they were bound by a common usage definition of noise -- it being undefined in any other way in ORS 467.

6. On October 31, 1974, an Attorney General's opinion on this subject was rendered to the Director of the DEQ which substantiated that under the Dictionary definitions of "noise", infrasound would be excluded: "If it seems desirable for Department to have jurisdiction over 'infrasound', ORS 467 should be amended to so provide. In this connection, I call your attention to a legislative bill (LC 707)..." -- which has become the Bill now before you -- "... being proposed by the Joint Interim Committee on Environmental, Agricultural and Natural Resources which provide the following new definition of noise in ORS chapter 467 ..."[1]

7. Members of the DEQ, MWVAPA, EQC, and County Commissioners were invited to our homes on June 17, 1974 while the Bethel power plant was running. Many were in attendance. Dr. Morris Crothers, member of the EQC, was not able to come, although he did attend the hearing that evening. After the decision was made by the EQC Board to limit the Bethel power plant to 45 dBA, with Dr. Crothers leaving before the vote, we had a telephone call from Dr. Crothers telling us the decision probably was not legal, that the EQC had no regulations with regard to infrasound and that he was sure we would probably be much happier if we would sell to PGE and that he was sure PGE would give us a very handsome price for our home. That lawsuits would be very expensive and there was a chance we may lose. He called us again in September, after he had received a letter from us to the members of the EQC, and told us there isn't anything the EQC can do for us with regards to infrasound and we should take it to the legislature or sue PGE. He also appeared before the ~~committee~~, House Committee on Environment and Energy, and made many statements to indicate he was against section 2 of this Bill, although he is the one who told us to go to the legislature.

8. The definition, in section 2, then would make it legal for the DEQ to look into the problems associated with the Bethel problem, and other problems of this nature in the State of Oregon.

9. Thomas C. Donaca, lobbyist for Associated Oregon Industries feels this Bill is centered around the Bethel problem and is fearful passage of this Bill will harm industries. The Bethel problem is not the issue in this Bill and certainly no industry is going to be shut down by this Bill. Section 3 gives the EQC the power to grant variances. The Bethel problem has brought to light a need for authority to study the problem of infrasound. Industries have always been given more than ample time to purchase pollution equipment when it is necessary. PGE has taken a year to put mufflers on one twin-pak and of course the mufflers have not taken care of any of the problem at Bethel. I do not believe anyone in the Senate is so naive as to believe this Bill has the power to shut anything down, much less an industry. If the Bethel power plant is ever forced to move it will be because the residents of this area will bring their case to court against PGE.

10. DEQ will need about $2,000 to buy equipment according to Mr. Hector, Noise Control Officer for the DEQ. The type of microphone that will go down as low as 2 Hz. will cost about $700 to $800 according to Dr. Lee Jensen of OSU. These microphones were used by Dr. Jensen when he did sound testing within the homes of the residents near the Bethel power plant.

11. Ultrasound is the opposite end of the sound scale. High-frequency sound has been tested on animals. Some animals, such as dogs, bats, and rodents, possess hearing sensitivity which we would consider ultrasonic.[2] It has been observed that birds are quite sensitive to untrasonic sound. OSU has done some work with an ultrasonic device that cannot be heard but drives the birds crazy. They stopped work on it because they didn't know what it might be doing to humans.

12. Infrasound simply is not something we can sweep under the rug or ignore and hope it will go away. It is here to stay. We hope this legislature will be the one to say, yes, we do need to study this problem and must give the regulatory agencies the power to do so.

References: 1. Letter, Dept. of Justice, Portland Division, 10/31/74

2. U.S. EPA publication, PUBLIC HEALTH AND WELFARE CRITERIA FOR NOISE, July 27, 1973.

April 2, 1975 Oregon Environmental Council

TECHNICAL FACTS on SECTION 2, HB 2029

The non-disputed language of Section 2, dealing with the physics aspects of sound is taken from the U.S.E.P.A. publication, Public Health and Welfare Criteria for Noise, July 27, 1973.

The disputed portion, "...frequency between 2 and 50,000 hertz (Hz)" relies on the following definitive text on the subject:

The Effects of Noise on Man, Academic Press, 1970, N.Y. by Karl D. Kryter.

Statement taken from the 1st sentence of the 1st Cp., "Analysis of Sound by the Ear - Definitions of Sound":

"For the human listener, sound in the frequency domain is defined as acoustic energy between 2 Hz and 20,000 Hz, the typical frequency limits of the ear. The lowest frequency of sound that has a pitch-like quality is about 20 Hz and the upper frequency audible to the average adult is about 10,000 Hz."

p.3.

Karl Kryter is the Director of the Sensory Sciences Section of Stanford Research Institute. He is an

international authority in research into the effects of noise on man. He is a member of the Board of the Acoustical Society of America. It is most unusual to find a bibliography on this subject that is not dominated by his work or a national hearing to which he is not called to provide testimony.

Between 20,000 Hz and 50,000 Hz -- the upper limit of the frequency range set in Section 2 there are 1-1/4 to 1-1/3 octaves. An octave merely doubles the number of cycles per second (c.p.s.) The older expression of frequency was in c.p.s. Now it is in hertz (Hz).

Between 2 Hz (new definition) and 31.5 Hz (where DEQ rules begin to regulate based on common useage definitions of noise) there are 4 octaves. Hence the relative insignificance of extending the upper (ultrasonic) range, which was done to allow for burglar alarms, high-frequency effects on animals from snowmobiles, etc. There is evidence to show high frequency noise kills bats, the natural enemy of the tussock moth. The significance of the low range is in the four critical octaves shown to have deleterious effects on people. * * * *

LEE JOHNSON
ATTORNEY GENERAL

JAMES W. DURHAM
DEPUTY ATTORNEY GENERAL

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

October 31, 1974

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

Re: Infra Sound

Dear Kess:

You have asked for my comment regarding the view of the Oregon Environmental Council, set forth in Mr. Larry William's October 18, 1974 letter to you, that "infra sound is simply an extension of audible noise and indeed does fall within the jurisdiction of your Department."

ORS chapter 467 gives the Environmental Quality Commission jurisdiction over "noise emissions." Webster's Dictionary defines "noise" as "any loud, discordant, or disagreeable sound or sounds." It defines "sound" as "that which is or can be heard."

The United States Environmental Protection Agency recognizes a definition of "noise" as "unwanted sound." 1 Noise: EPA Legal Compilation, page 59.

"Infra" is defined by Webster's Dictionary as "below" or "underneath." "Infra sound" would, therefore, appear to be below or underneath sound and not a part of sound.

Words in a statute are to be interpreted in their ordinary and usual sense, as they are popularly used. Portland v. Meyer, 32 Or 368 (1898).

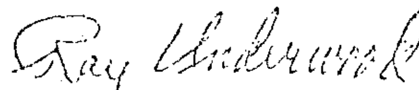
In my opinion, it would be extraordinary and unusual (and perhaps even unsound) to interpret "noise emissions" as including something which could not be heard.

If it seems desirable for the Department to have jurisdiction over "infra sound," ORS chapter 467 should be amended to so provide. In this connection, I call your attention to a legislative bill (L.C. 707) being proposed by the Joint Interim Committee on Environmental, Agricultural and Natural Resources, which would provide the following new definition of noise in ORS chapter 467:

> "As used in this chapter, 'noise' means an oscillation in pressure, stress, particle displacement, or particle velocity in an elastic medium and possessing amplitude, duration and frequency between 2 and 50,000 hertz."

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

Sincerely,



RAYMOND P. UNDERWOOD
Chief Counsel
Portland Office

cj

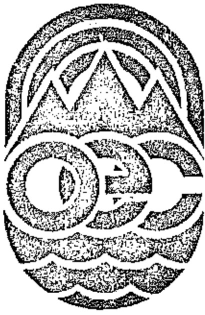
KESS CANNON
Director

November 4, 1974

Larry:

The attached from Ray Underwood will be of interest to you. Let's discuss this at your convenience.

Kess.



OREGON ENVIRONMENTAL COUNCIL

2637 S.W. WATER AVENUE, PORTLAND, OREGON 97201 / PHONE: 503/222-1963

A.F.T.E.R., Tigard
AMERICAN ASSOCIATION OF UNIVERSITY WOMEN, Forest Grove Chapter
Portland Chapter
AMERICAN INSTITUTE OF ARCHITECTS
The Portland Chapter
Southwestern Oregon Chapter
AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS
Oregon Chapter
ANGLERS CLUB OF PORTLAND
ASSOCIATED GENERAL CONTRACTORS OF AMERCIA
AUDUBON SOCIETY, Portland, Central Oregon, Corvallis
BAY AREA ENVIRONMENTAL COMMITTEE
Coos Bay, Oregon
CHEMEKETANS, Salem, Oregon
CITIZENS FOR A CLEAN ENVIRONMENT
Corvallis, Oregon
CLATSOP ENVIRONMENTAL COUNCIL
EAST SALEM ENVIRONMENTAL COUNCIL
ECO-ALLIANCE, Corvallis
EUGENE FUTURE POWER COMMITTEE
EUGENE NATURAL HISTORY SOCIETY
FRIENDS OF THE EARTH
GARDEN CLUBS of Cedar Mill, Corvallis, Eastmoreland, Fir Grove, McKenzie River, Nehalem Bay, Portland, Scappose, Villa
GOOSE HOLLOW FOOTHILLS LEAGUE
JUNIOR LEAGUE, Eugene, Portland
LEAGUE OF WOMEN VOTERS
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Coos County
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OBSIDIANS, INC., Eugene, Oregon
1,000 FRIENDS OF OREGON
OREGON BASS AND PANFISH CLUB
OREGON GUIDES AND PACKERS, Sublimity, Oregon
OREGON LUNG ASSOCIATION
OREGON PARK & RECREATION SOCIETY
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Mary's Peak, Corvallis
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TEAMSTERS FOOD PROCESSORS
UMPQUA WILDERNESS DEFENDERS
TERN RIVER GUIDES ASSOCIATION, INC.
WILLAMETTE RIVER GREENWAY ASSOCIATION
WOMEN'S LAW FORUM, U of O, Eugene

October 20, 1975

Joe B. Richards
Chairman, Enviromental Quality Commission
777 High Street
P.O. Box 10747
Eugene, Oregon

Grace Phinney
1107 N.W. 36th
Corvallis, Oregon 97330

Jackie Hallock
2445 N.W. Irving
Portland, Oregon 97210

Ronald M. Somers
106 E. 4th Street
The Dalles, Oregon 97052

Morris Crothers, M.D.
865 Medical Center Drive
Salem, Oregon 97304

Dear Commissioners:

In October, 1974, Mr. Kessler Cannon, then Director of the Department of Enviromental Quality, asked for advice from Mr. Raymond Underwood of the Department of Justice on whether the DEQ had statutory authority over infrasound (inaudible sound below approx. 16 Hz). Mr. Underwood, in a letter dated October 31, 1974, advised the DEQ that when ORS chapter 467 gave the EQC authority over "noise emissions" it did not intend to include infrasound.

We must disagree with that conclusion--infrasound is a noise emission, the EQC does have authority over it, and for the DEQ to regulate it would further the policies behind the statute and comply with the intent of the legislature.

Several concerned citizens from the Bethel area have testified before the Commission about their experience with infrasound and the harm this long-term exposure has done to their lives. Evidence from scientific studies detailing the effects of exposure to major sources of infrasound has been submitted to the Commission. Law Review articles have been written about this problem (see 70 Columbia Law Review 652). When the Legislature passed ORS chapter 467, its express policy was "...to provide protection of the health, safety and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions." ORS 467.010.

The heart of the matter is to determine what the Legislature meant by "excessive noise emissions." Did they intend to include only those sounds within the audibility limits of the human ear, or did they intend to protect the public from all those sounds which are shown to detrimentally affect human health?

In his letter of October 31, 1975, Mr. Underwood defined noise as "unwanted sound" and "any loud, discordant or disagreeable sound or sounds." We agree, but then we must go one step further--what is "sound"? Technical literature in the field of acoustics generally defines sound as a mechanical disturbance in an elastic medium, i.e. in terms of frequency and Hz, regardless of the audibility range of the ear. see Chamber's Dictionary of Science and Technology (1972): McGraw-Hill Encyclopedia of Science and Technology (1971).

Mr. Underwood asserts that sound, as defined in Webster's Dictionary, means "... that which is or can be heard." Here we must disagree. Webster's defines sound as:

(a) the sensation perceived by the sense of hearing (the pattern of nerve impulses arriving in the brain is associated with and subjectively experienced as sound)

(b) an auditory impression

(c) mechanical radiant energy that is transmitted by longitudinal pressure waves in the air or in other material medium and is the objective cause of the sense of hearing. Webster's Third New International Dictionary (1966), at page 2176.

Infrasound, although not subjectively heard, does cause vibrations in the ear. It is not heard as pitch because the brain screens out this pervasive noise.

Mr. Underwood also attempts to define "infrasound" in his letter. He breaks the word into two parts, and then defines "infra" as meaning "below" or "underneath"; therefore infrasound must be something below or underneath sound and thus not a part of sound. Unfortunately, this process of definition completely distorts the real meaning of the term. Infrasonics is defined, in Webster's, as "... having a frequency lower than about 16 cycles per second, and therefore below the audibility range of the human ear and producing only a fluttering sensation with no sense of pitch."

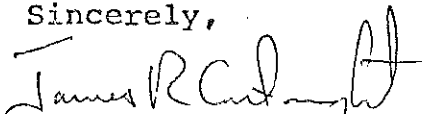
Of course, it is not very useful to argue legislative intent out of a Webster's dictionary, and when anyone begins to make definitions of definitions, the possible interpretations are endless. What is important is that "noise emissions" can easily be construed to include infrasound, and that construction of the statute best furthers the policies outlined in ORS 467.010. To exclude infrasound from the statute would be to needlessly limit the authority of the EQC in an area which clearly needs regulation. In construing a statute, that sense of the words is to be adopted which best harmonizes with the context and promotes the policies and objectives of the legislation. State ex rel. Nilsen v. Oregon State Motor Assn., 248 Or 133 (1967).

In 1975 legislation was introduced to clarify this matter. HB 2029 passed the floor of the House, but then died in a Senate committee. Mrs. Jan Egger has provided the Commission with a detailed legislative history of this bill, and based on that history we feel that it is impossible to draw any valid implications of legislative intent, one way or the other, from its failure to pass.

In conclusion, we feel that infrasound is a noise emission, and that the EQC has the legal authority to deal with it. However, if the Commission still feels uncertain about this issue, we would ask that the EQC request a formal, impartial Attorney General's Opinion. It should be noted that Mr. Underwood's letter is not binding on the EQC and it has no standing as an opinion of the Department of Justice. If the Commission does request such an opinion, we would appreciate it if this letter and Mr. Underwood's letter were forwarded to them for their consideration.

These questions concerning the EQC's authority to regulate infrasound also relate to another matter before the Commission, specifically the PGE Bethel permit. We ask that the permit be delayed until the formal opinion is given so that conditions protecting the Bethel residents can be included in the permit. Alternatively, if the permit is granted, it should be for a shorter time in order for the EQC to study infrasound and promulgate rules and standards for the protection of Oregon citizens from the serious harm exposure to these noise emissions can inflict on their lives.

Sincerely,



James R. Cartwright
OEC Noise Committee

cc: Loren Kramer
Ray Underwood

ENVIRONMENTAL QUALITY COMMISSION

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

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Portland

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Salem

RONALD M. SOMERS
The Dalles

To: Environmental Quality Commission

From: Peter McSwain PWM

Date: October 20, 1975

Mrs. Egger of Oregon Environmental Council's Noise Committee wishes you to be aware that siting criteria drafted by the Department's Portland Regional Office in February of 1974 were used by PGE in reporting site alternatives to Mid-Willamette Valley Air Pollution Authority under the Bethel Permit.

The requirements were that no site be considered:

1) between Longview and Portland,

2) within 10 miles of the boundaries of Salem, Portland, Eugene, Springfield or Medford,

3) within one mile of terrain with more than 200 feet elevation above the site, and

4) within ~~500~~ 5000 feet of any residence.

Mrs. Egger requests that the Commission/Department decide if these criteria are still in force.

If so, she would have them reconsidered to see if they pose an undue obstacle to the relocation of the Bethel facility.

cc: Mr. Kramer
cc: Mrs. Egger
cc: Mr. Weathersbee

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DEQ-46

5454 Center Street NE
Salem, Oregon 97301
September 30, 1975

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

Dear Commissioners:

If the EQC is not empowered to regulate low frequency noise, how can you possibly be empowered to approve a low frequency noise source through the issuance of a permit to operate Bethel? If you are unable to regulate, you therefore, must be unable to approve!

Last Monday evening it was so disappointing to observe the comparable lack of professionalism displayed by an agency staff and a corporation in contrast with the excellent professionalism evident in the opponents reports.

May God guide you in your deliberations.

Very Respectfully,

Arch Beckmann

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 14 1975
OFFICE OF THE DIRECTOR

Oct.8,1975

Salem, Oregon

Dear Ladies and Gentlemen:

First let me thank you for the opportunity to let you know my feelings concerning the P.G.E. Brthal plant.

My concern is that this is the first plant of this kind to be placed near numerous homes and I do not feel until additional running of the plant can any of us know just what the problems will be, so I am asking, if legally you as a group have to give this permit, that it be for only 6 to I2 months at the very longest.

We are not at this time in a law suit against P.G.E. We feel that as tax payers of Oregon , We are paying you to protect us.

I do not understand how the number of hours a day for the plant to run were determined to end, at a time long past peak time and after childrens bedtime. I will admit that farming noise is at times loud, but all this is stopped at darkness or bedtime.

What is an emergency? Will this then be necessary to start the plant at night? My understanding from the hearings earlier were that unless the turbines wererunning at full, the pollution was then excessive, yetI understood that the tests for noise were not at full. At the last test before the Salem hearing the smoke was grey, this is a great concern to us as we bought our farm with intent to have an organic orchard and garden. Because of fallout on our land of oil-like soot when plant wasuseing oil and clear-like oily droplets when gas was used we have for now had to give up this idea.

I resent the fact that when there is an inversion farmers and seed growers in the valley can't burn, but the Bethal plant will be allowed to do so.

I feel I need to comment on the tests done in my home. You are asking me to accept a report from two men who I am told have not had recent hearing tests. It is a known fact that women have a lesser tolerance for noise(fight of how loud t.v. is), but both people who tested were men, yet the women of the area are the ones who will by necessity have to tolerate the problems for the longest time when the plant is running, in summer the children, with possible ear d amage over a period of time.

We are unfortunate at times to have something in our home which picks up some sound causing vibration, thus a new like sound within house, audible overt.v. or appliances.

My last comment is in answer to a noise right of way, if this is the only answer, we would have to get enough money to relocate our home as we could no longer live here, as for selling we do not feel if we did that we could obtain a suitable price with the Bethal plant in the area, to say nothing of the non-salability till problems have been proven solved.

Geneiva H. Larson
510 Hampden Lane N.E.
Salem, Ore.

V.A. Gibson Safety Engineering Service
7301 S. E. KING ROAD
PORTLAND, OREGON 97222
503 777-1113

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT - 7 1975
OFFICE OF THE DIRECTOR

October 6, 1975

Certified Mail

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

Re: The Oregon Environmental Quality Commission Public Meeting on Portland General Electric's Bethel Turbine Plant in Salem, Oregon on September 25, 1975.

Gentlemen:

I'm Completely neutral on this hearing. I don't own a nickle or bolt in the Portland General Electric Company and I do not live or own any property in the area of the Bethel Turbine.

I have been an Industrial Safety Consultant since 1960 and have made numerous sound surveys throughout the State of Oregon. I received the notice of the Public Meeting and decided to observe the activities of both sides and the procedures used by the Department of Environmental Quality.

September 23, 1975 I watched and observed two members of your Department conduct a sound survey at a location in an open field 400 feet North of the Bethel Turbine. One man was named John Hechtor. I feel that there are some improvements which could be made in their testing procedures and recording. There was a considerable amount of other neighborhood noise. The reading they recorded were definitely on the high side.

I made a tour of the Portland General Electric Bethel Turbine Plant prior to the tests on September 23, 1975. I observed and was informed that four inches of concrete had been placed on the outside walls of the Turbine buildings. Tests on the 23rd was to determine the effects of this concrete. I have not obtained the results of the 23rd tests and have made no comparison.

At the Hearing two neighbors objected very strongly to this plant operating under any condition. Somehow I got a very strong smell of money from listening to their conversations. It was mentioned that a staff member had observed the vibrations of water in a glass in one of the homes. I did not hear or read any testimony of observations made when the turbines were not running. It is possible that this condition could exist while the turbines are not operating. Varification is needed before too much emphasis can be placed upon this observation.

If I recall correctly, A lady from the Oregon Environmental Council took objections to the fact that the sound level measurements were made at a distance of 400 feet to the North and then by the use of a formula the decibel readings were established at the Sensitive Property. I must concur with her that this is not the method to be used under the Law which spells out that the measurements must be taken at a designated location on the Noise Sensitive Property. This concerns me because the property located

approximately 1100 feet Northeast from the Bethel Plant has between it and the plant two dwellings and numerous trees. I was informed and it was confirmed during the hearing that the neighbors to the North and Northeast will not permit any further sound surveys to be taken on their property.

Summary:

1. The sound measurements were not taken at the proper position on the Noise Sensitive Property. The property owners of the Sensitive Property refuse to allow the sound measurements to be taken at the proper location.

2. Your Staff, or I or anyone else cannot determine exactly if Portland General Electric is in compliance with the regulations or not. The persons occupying the Sensitive Property have not proved that the Portland General Electric is in violation of the Oregon Noise Control Regulations.

3. Unless these unknowns are solved then I feel the Oregon Department of Environmental Quality has no authority to restrict the Portland General Electric Bethel Turbine operations in regards to noise. Your decisions must be made in accordance with the Law.

Yours for Safety

Van A. Gibson

OCT 10 1975

PORTLAND GENERAL ELECTRIC COMPANY
621 S. W. ALDER ST.
PORTLAND, OREGON 97205

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 10 1975
OFFICE OF THE DIRECTOR

.TES SNEDECOR, JR.
VICE PRESIDENT

October 8, 1975

File Bethel.
Marion

Environmental Quality Commission:

Joe B. Richards, Chairman
Dr. Morris K. Crothers
Jacklyn L. Hallock
Dr. Grace S. Phinney
Ronald M. Somers

Dear Commissioners:

At the September 29 meeting of the Environmental Quality Commission in Salem, it was decided that the question of implementation of the Staff report and recommendations respecting the Bethel Gas Turbine Plant would be considered at the October 24 meeting in Portland. In order to help you appreciate the PGE position in this respect I feel I should list some of the facts concerning the plant.

When the Bethel Plant was first considered by this Company, siting was considered desirable at the present location for the following reasons:

1. This was an existing PGE load center. Since it was the existing site of a major substation, it obviated the need for additional transmission lines and poles.

2. It was and is properly zoned "light industrial".

3. It is on a railroad and natural gas and oil pipelines, eliminating the need for new additional fuel transportation facilities.

4. It is close to the Salem distribution area making it ideal for emergency and peaking use.

5. History of hundreds of such plants elsewhere in the United States, many in residential areas, showed no problems with surrounding populations.

At time of initial consideration and construction, no state regulations for gas turbines existed. There were no noise or air quality standards established for gas turbines until after the plant was completed.

Opposition to the Bethel Plant, contrary to some news stories, did not develop as the result of operation of the plant after startup, but preceded completion of construction by the same groups still opposing.

At present the plant meets state daytime standards with respect to both emissions and noise and with one unit not operating meets nighttime standards. The standards were adopted by the EQC as authorized by O.R.S. Chapters 467 and 468 to protect the health, safety and welfare of the people of this state and, as indicated, we will operate the plant in compliance with those standards. Incidentally emission studies have shown that, because of buoyant plume rise and other factors, effects on air quality at ground level are negligible and virtually unmeasurable.

If you were among those who visited the plant on September 24 during full load operation, you are aware of the difficulty of hearing it at a point well short of the nearest noise-sensitive property.

Because of the low capital costs of such plants, they are ideal for the type of emergency use involved, even though operation costs are quite high. They constitute low-cost insurance for meeting unexpected loads.

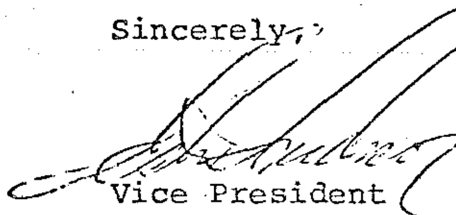
The principal arguments against the plant are that it adversely affects the health and welfare of certain residents living in the area. When the plant was constructed in 1973 during an unprecedented energy shortage because of low water, it was operated 1144 hours, or 28% of the period. When rains remedied this it was halted, and since December 31, 1973 it has operated less than 1.4% of the time, in fact approximately 1% of the time since December 31, 1974 - and this for testing at regulatory agency request and occasional required exercising for brief periods.

Now that testing is fairly complete, barring emergencies, even less operation is anticipated in future years. Exercising results in an annual total of about 15 hours.

The purpose of the Bethel Plant is to provide electrical energy to heat and light homes, operate elevators, hospitals, emergency facilities, etc. To not have this capability in case of an emergency could seriously and with little doubt affect the health, safety or welfare of tens of thousands.

Should you wish further information, please call me.

Sincerely,



Vice President

cc: Loren Kramer

OCT 20 1975

PORTLAND GENERAL ELECTRIC COMPANY
ELECTRIC BUILDING
PORTLAND, OREGON 97205

A. J. PORTER
SENIOR VICE PRESIDENT

October 17, 1975

Mr. E. J. Weathersbee
Technical Programs Coordination
Department of Environmental Quality
1234 S. W. Morrison Street
Portland, Oregon 97205

Dear Mr. Weathersbee,

This is in reply to your letter of October 9 requesting comment on testimony given by Mr. Roy B. Hurlbut at the Bethel hearing in Salem, September 29.

With the loads we are now estimating and the construction of new resources as planned, the indication is that in most years the combustion turbines will not be needed except as described in Mr. Snedecor's letter of September 8.

With the problems and uncertainties regarding the ability to bring new resources on line when needed, coupled with the inability to predict weather conditions, it is inconceivable to us how anyone knowledgeable in Northwest power matters could make the statement that an existing resource will no longer be needed in the future.

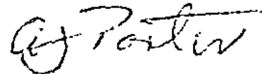
Mr. Hurlbut states that the Federal Power Commission recommends a 10 to 15% surplus. He apparently is not aware that the FPC 1970 National Power Survey stated: "Reserve margins considered adequate for most systems, including the spinning reserve component, range between 15 and 25 percent of peak load. ...As used herein, 'reserve capacity' does not include an allowance to provide for possible slippage, or unscheduled delays, in bringing new facilities into service". Actually, conditions vary so widely among utilities that a reasonable reserve requirement depends to a large extent upon the type of load and the resources involved. Because PGE's share of Trojan is such a large portion of our total resources, we will need higher reserve percentages until the effect of Trojan is diminished by future load growth. For planning purposes, the Northwest utilities recommend that as new large thermal plants are added, a reasonable area objective would be to achieve a 20% reserve by 1984. The present reserve is about 11%. As we have stated many times, we believe that combustion turbines, because of their low capital cost, provide an economical source of reserve capacity. It is true that with today's fuel costs they are expensive sources of energy if operated for extended periods.

However, as experience has shown this past year, it was not necessary to operate Harborton and Bethel, yet our customers had the protection of an assured power supply by reason of these plants being available if needed and at a cost more favorable than any other available firm power source.

We strongly resent any implication that Bethel and Harborton were operated needlessly in past years. Anyone familiar with the critical power situation in 1973 would have to agree that it would have been completely irresponsible not to have operated every available generating facility regardless of cost in order to alleviate the amount of load curtailment that appeared imminent until it was certain that the improvement in water conditions had corrected the situation. It would have been rash to base operations in anticipation of heavy rainfall, and we would have been rightly condemmed had we not acted as we did and the result was cold homes,unemployment and general chaos. The advantage of hindsight was not available to those who had to make hard decisions then.

It might be observed that if surpluses turn out as great as Mr. Hurlbut expects in the future, then certainly by terms of our permit no turbine operation can be expected and no problem exists.

Sincerely



AJP/nh

Testimony received subsequent to the September 29, 1975 meeting includes the following:

1. September 30 letter from Mr. Arch Beckmann.
2. October 2 materials from Mr. Charles H. Frady including previous testimony before legislature and Mid-Willamette Valley Air Pollution Authority and a study by Goodfriend and Kessler on low frequency noise.
3. October 7 written testimony of Mrs. Jan Egger (OEC) subject to October 13 corrections.
4. October 7 letter from Mr. Van A. Gibson.
5. October 8 letter from Mrs. Genevieve H. Larson.
6. October 8 letter from Mr. Estes Snedecor (PGE).
7. October 13 testimony of Mr. and Mrs. Henry Germond.
8. October 17 letter from Mr. A.J. Porter. (PGE)
9. October 20 memo re: additional concerns of Mrs. Jan Egger.
10. October 20 letter from James Cartwright (OEC).

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 28 1975
OFFICE OF THE DIRECTOR

PORTLAND GENERAL ELECTRIC COMPANY
621 S.W. ALDER ST.
PORTLAND, OREGON 97205

ESTES SNEDECOR, JR.
VICE PRESIDENT

October 23, 1975

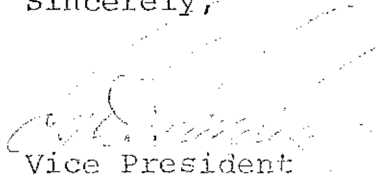
Mr. Loren Kramer, Director
Department of Environmental Quality
1234 S. W. Morrison Street
Portland, Oregon 97204

Dear Bud:

At the last Environmental Quality Commission meeting in Salem on September 29, 1975, Ms. Jan Egger of the Oregon Environmental Council, suggested that the nearest noise-sensitive property at 800 feet should be the limiting criterion. Your recent memorandum on the subject advises that this property has been owned by PGE for several years and that a provision exists for a Department-granted exception under Section 35-035 (6)(d) for noise-sensitive property owned by the owner of the noise source.

In light of the foregoing, Portland General Electric Company at this time officially requests an exception for property owned by this Company in the Bethel Power Plant vicinity under Section 35-035 (6)(d) of the Noise Control Regulations for the State of Oregon, which reads as follows: "Noise-sensitive property owned or controlled by the person who controls or owns the noise source, or noise-sensitive property located on land zoned exclusively for industrial or commercial use".

Sincerely,



Vice President

ENVIRONMENTAL QUALITY COMMISSION

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

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Salem

RONALD M. SOMERS
The Dalles

TO: Environmental Quality Commission

FROM: The Director

SUBJECT: Agenda Item No. G(1), October 24, 1975, EQC Meeting

Variance Request: Permaneer Corporation
Dillard, Douglas County, Oregon

Introduction

This matter was presented to the Environmental Quality Commission at its September 26, 1975 meeting and is being continued as requested by the Commission. Since the September meeting the company has submitted proposed compliance schedules which are discussed in this report.

Background

The Permaneer Corporation has three particleboard plants located in Oregon, at Brownsville, Dillard and White City. The Brownsville plant was shut down in 1974 for economic reasons and the White City plant is shut down temporarily until about March, 1976. The Dillard plant, which is the subject of this report, is currently operating on a curtailed basis.

A detailed presentation of the background and discussion of emissions was contained in the September 26, 1975, report, a copy of which is attached.

Discussion

The Department received a letter dated June 5, 1975, from Mr. Larry Anderson of the Permaneer Corporation (Attachment I). This letter was the basis of the September 26, 1975 variance request to the Environmental Quality Commission (Attachment II). Specifically the letter requested an extension of all previous compliance dates, i.e., those established by the January 24, 1975 variance request. Prolonged and serious corporate economic difficulties were cited as the reasons for the request. As these conditions were beyond the control of Permaneer, they requested a variance under ORS Chapter 468.345(1), which states, "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 ... conditions exist that are beyond the control of the persons granted such variance."

Contains Recycled Materials

DEQ-46

The corporate economic picture that Permaneer presented was substantiated by the company. In effect a valid basis for the variance request was made. The point of contention at the last EQC meeting was the lack of specific programs to bring the plant into compliance and how these programs could be accommodated with the corporate economic status.

In view of this situation the Department recommended in the September 26, 1975 variance request report that an extension of all compliance dates in the existing Permaneer Air Contaminant Discharge Permit be denied. The Department also recommended that the Commission reconsider the variance request when the company submitted acceptable comprehensive compliance attainment programs. These programs would consist of the (five) increments of progress for achieving compliance for each of the various systems at the Dillard facility. The (five) increments of progress approach to compliance attainment is required by Federal Environmental Protection Agency and has proved to be a workable system for monitoring compliance achievement.

Due to the extenuating corporate financial position and the amount of work needed to bring the subject systems at Dillard into compliance, the Company's proposed compliance attainment program are scheduled to start in March, 1976 and extend over a period of three to four years. For these reasons the Department considers it important to have a periodic, perhaps biannual, review and evaluation of the Permaneer compliance attainment program. In the event that the corporate or Dillard plant economic outlook improves significantly, the Department must be able to revise the compliance schedule to achieve compliance at the earliest possible date.

Mr. Larry Anderson of Permaneer submitted the proposal for the Dillard plant in a letter dated October 7, 1975 (Attachment III). The programs include the (five) increments of progress for attaining compliance in each major system at the plant which is currently considered to be out of compliance. The programs are considered complete. The estimated cost for achieving pollution abatement is indicated for each system. The overall cost is estimated at $588,000, and the $15,000 per month allotment appears adequate.

Besides the sanderdust incinerator and the hogged fuel boiler there are 18 other sources of visible and particulate emissions at the Dillard plant. Ten of these systems were tested for particulate emissions in March, 1974. The eight systems which were not tested were thought to be out of compliance by visual inspection alone, and Permaneer wished to save itself the expense of testing these systems. It is concluded that these eight systems are in violation of both visible and particulate emission limitations. The sanderdust incinerator and hogged fuel boiler are considered to be in compliance.

The plant-wide emission limit at Dillard is 29.0 lbs/hr. The source test, which was performed in March, 1974, measured 123.4 lbs/hr of particulate emissions. Of this amount 69.4 lbs/hr came from the rotary particle drier, 42.0 lbs/hr came from the board separator pipe and only 12.0 lbs/hr came from the other eight systems measured. Since the source test, the board separator pipe was eliminated as a source of particulate emissions by a process change.

The rotary particle drier and the eight unmeasured systems require particulate and visible emissions control measures. These systems are listed in the October 3, 1975 compliance attainment program (Attachment III).

Permaneer plans to bring the eight systems into compliance by a combination of modifications to their materials transport systems and by installing baghouse filters. Baghouse filtration is considered to be the "highest and best practicable treatment" for emissions of this type.

There are about 12 particleboard plants in the state. The particle drying system in each plant is unique. Therefore each system requires its own individually designed control system.

In general, technology is available to control emissions from particle driers, and some plants have demonstrated compliance. Due to the small number of particle drying systems and to the uniqueness of each, off-the-shelf, add-on control systems are not always available. Technology has to be developed or applied for each system considered and, therefore, economics (i.e., capital cost, operating and maintenance costs, etc.) and mechnical reliability are important considerations.

Due to these several unknowns or complicating factors, Permaneer has elected to control the other eight systems before it brings the drier into compliance. The sequence for bringing the eight systems into compliance is based primarily on controlling the heaviest and most conspicuous particulate emitters. Representatives from Permaneer and the Southwest Region Office of DEQ reviewed these emission points and jointly established the priority for compliance attainment.

Summary and Conclusions

1. The Permaneer Corporation operates three particleboard plants in Oregon. The one at Brownsville is shut down indefinitely, the White City plant is temporarily shut down until about March, 1976, and the Dillard plant is operating on a curtailed production schedule.

2. The plant normally employs over 300 hourly workers, but due to the depressed particleboard market, the production has been curtailed by shift reductions.

3. Based upon a maximum production rate of 9,600 square feet per hour of particleboard (3/4 inch), the plant is allowed a total plant particulate emissions rate of 29 pounds per hour; a March 27, 1974 source test report indicated that the actual rate is 123.9 pounds per hour.

4. Permaneer was granted a variance at the January 24, 1975 EQC meeting. In part, this variance allows them to operate their Dillard facility through December 31, 1975.

5. A June 5, 1975 letter from Permaneer initiated the September 26, 1975 variance request for an extension of all compliance dates.

6. The September 26, 1975 variance request lacked a comprehensive compliance attainment program. Therefore, the EQC recommended that it be reconsidered if comprehensive compliance attainment programs were submitted as part of the variance request.

7. Permaneer has submitted acceptable comprehensive compliance attainment programs complete with the (five) increments of progress for each system involved and with an estimated cost for implementing each pollution abatement system; plant-wide compliance attainment is projected to be September, 1979.

8. Permaneer Corporation substantiated at the September 26, 1975, EQC Meeting, that it will not be able to begin implementing their compliance attainment programs until March, 1976.

9. The Department favors reporting of the progress and validity of the compliance attainment programs on March 15 and September 15 of each year.

10. In accordance with ORS 468.345 the Environmental Quality Commission is empowered to grant this variance.

Director's Recommendation

The director recommends that the Environmental Quality Commission grant the Permaneer Corporation a variance to operate the Dillard facility out of compliance with OAR Chapter 340, Sections 21-030 and 25-320 until December 31, 1979 and subject to the following conditions:

1. The compliance attainment programs submitted to the Department by Permaneer (and dated October 3, 1975) be incorporated into the Air Contaminant Discharge Permit, No. 10-0013, for the Dillard facility.

2. A six month review report on the progress and validity of the compliance attainment program will be submitted to the Department by Permaneer Corporation for the duration of this variance; the first reporting date will be March 15, 1976.

3. In the event that the Department determines that the economic outlook for the Permaneer Corporation or the Dillard plant improves significantly, the Department reserves the right to advance the compliance schedule dates as may be appropriate.

4. This variance may be revoked if the Department determines that Permaneer Corporation is not complying with the conditions of the variance.

Sincerely,

LOREN KRAMER
Director

AFB:df
Attachments

ATTACHMENT I

PERMANEER

BASIC MATERIALS DIVISION
P.O. Box 178
Dillard, Oregon 97432
(503) 679-8781

June 5, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
JUN 9 1975
OFFICE OF THE DIRECTOR

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

Attention: Mr. Kessler R. Cannon, Director

Dear Mr. Cannon:

This letter is in reference to File No. 10-0013, Permaneer's letter of November 11, 1974, requesting variance to compliance dates and to the commission's meeting of January 24, 1975, granting the request.

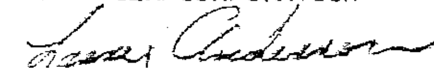
Permaneer's "plight", referred to in the Nov. 11, 1974, letter, continues to mount. Increasing production curtailment has developed. Permanent and semi-permanent plant closures, did again occur. Temporary and possibly permanent personnel reductions have again had to be made. Additional cash and credit restrictions by banking creditors did develop, as year end independent accounting audits disclosed a consolidated financial position that points to long term recovery resulting from large 1974 net income losses. Any remaining credit and cash flows in force are under the direction of very restrictive loan covenants covering all corporate assets.

The intent of this letter is to request an additional variance to all dates and compliance schedules that exist in File No. 10-0013. Further that all dates and compliance schedules be extended to a time frame that will permit Permaneer to financially proceed, on a cash positive basis, that will not place in jeopardy the remaining delicate financial covenants that do exist with our loan creditors.

Knowing that a "time frame" expression will not meet the requirements of law and that economic indicators from the private and public sectors are constantly optomistic beyond fact, we can only suggest an anticipated compliance date; based on past market history and only a calculated guess as to Permaneer's position in the market place, we ask that the compliance date be extended into the fall months of 1977.

Very truly yours,

PERMANEER CORPORATION



LARRY ANDERSON
Chief Engineer

LA:ss
cc: File
Roger Dagwood

ATTACHMENT II

ENVIRONMENTAL QUALITY COMMISSION

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

ROBERT W. STRAUB
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Chairman, Eugene

GRACE S. PHINNEY
Corvallis

JACKLYN L. HALLOCK
Portland

MORRIS K. CROTHERS
Salem

RONALD M. SOMERS
The Dalles

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. G (4), September 26, 1975, EQC Meeting

Variance Request: Permaneer Corporation
Dillard, Douglas County, Oregon

Background

The Permaneer Corporation has three particleboard plants located in Oregon, at Brownsville, Dillard and White City. The Brownsville plant was shut down in 1974 for economic reasons and the White City plant is shut down temporarily until about March, 1976. The Dillard plant, which is the subject of this report, is currently operating on a curtailed basis.

The Dillard plant produces particleboard from wood waste shavings and sawdust which the Company purchases from outside the plant. Some of the particleboard is marketed without further processing and some is processed into finished panels and solid-core doors at the Dillard site. Maximum production capacity is 9,600 square feet of particleboard per hour (3/4 inch basis). Maximum employment for the plant is over 300 hourly employees. Although no significant cutbacks in staff were known to have been made, production has been curtailed by shift reductions.

The Permaneer Corporation plants in Oregon manufacture particleboard and particleboard related items only. Other particleboard plants in Oregon also produce such wood products as lumber and plywood. This gives these plants greater operating and economic flexibility. When the particleboard market is depressed, they may have these other production options as a source of operating capital and for employee positions. Due to Permaneer's singular emphasis on particleboard, these options are not available to them.

Emission Sources

Air contaminant emission sources at the Dillard plant include: a hogged fuel steam boiler, rotary particle drier, several cyclones and baghouse filters. Compliance has been demonstrated on the hogged fuel steam boiler.

The emission sources pertinent to this variance request are the cyclones, and the rotary drier. The applicable Air Quality Regulations are Oregon Administrative Rules, Chapter 340, Section 21-030, Particle Emission Limitations, and Section 25-320 (2), Particleboard Manufacturing Operations. Section 25-320 (2) states that the total particulate emissions rate from all sources within the plant site is limited to 3.0 pounds per hour per 1,000 square feet per hour of particleboard (3/4 inch basis) produced. With a maximum capacity of 9,600 square feet per hour of particleboard, the total allowable plant particulate emissions, excluding the steam boiler, is 29.0 pounds per hour for the Dillard plant. A particulate emissions source test performed in March, 1974 indicated an emission rate of 123.9 pounds per hour.

Discussion

The Board Products Air Quality Rules were adopted on March 5, 1971. Air Contaminant Discharge Permit No. 10-0013 for Permaneer's Dillard plant was issued with a compliance demonstration date of March 31, 1974; no compliance attainment schedule with increments of progress was included in the original permit. The compliance demonstration date referred to particulate emission limitations from each source and for the total plant particulate emission limit os 29 pounds per hour. The compliance demonstration date was later extended to December 31, 1975 by a variance request granted by the EQC on January 24, 1975.

The January 24, 1975 variance also required that by July 1, 1975, Permaneer Corporation submit to the Department of Environmental Quality a compliance schedule for controlling emissions from the rotary particle drier; this compliance schedule was to include the five increments of progress for a compliance attainment program.

The Department received a letter (attached) dated June 5, 1975 from Mr. Larry Anderson of the Permaneer Corporation. The letter, which is the basis for this variance request, indicated that due to prolonged and serious corporate economic difficulties, and to a continued depressed wood products market, the Dillard plant would have difficulty in developing and implementing its compliance attainment schedule. The variance request is based on Oregon Revised Statutes, Chapter 468.345 (1):

> Forasmuch as "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 ... conditions exist that are beyond the control of the persons granted such variance."

The "Conditions ... beyond control" are described by Permaneer as the depressed economic conditions in the wood products market and in particular the economic position of Permaneer Corporation beginning in late 1973 and countinuing to the present date. The Permaneer Corporation 1974 Annual Report released in May 1975, includes the following financial analysis statement by Haskins and Sells, Independent Public Accountants:

> "The financial statements listed above have been prepared on a going concern basis, which presumes that the corporation will continue in business. In our view, however, there are material uncertaities, as follows:
>
> ...The Corporation sustained a significant consolidated net loss during fiscal 1974; based on unaudited information, a significant net loss was also sustained during the first quarter of 1975 which, if continuing, could result in a capital deficiency."

Technology exists and is readily available to control the particulate emissions from the cyclones. Particulate emissions from the rotary drier is somewhat more difficult and costly to resolve. With regard to Permaneer, the problem appears to be two-fold. Number one, they must develop a comprehensive pollution abatement program in which they define objectives, develop a strategy and set time frames for accomplishing these objectives. Secondly, they must come to terms with the economic realities for implementing such a program.

Permaneer's economic future is not forecasted to improve immediately even with increased activity in the home building and consumer markets. The company must rely upon the cooperation of its banking creditors to relieve restrictions on acquisitions, capital expenditures or future borrowings in order to spend the funds required for pollution control during this period of financial difficulty as noted in the 1974 Annual Report. Such expenditures are cash and carry, requiring a cash positive position.

Even though the Dillard plant may not have a cash-positive flow, management at this location and within the corporation should be able to develop an appropriate air pollution abatement program for the plant. This program should involve strategy, objectives, cost studies and implementation plans. With this information Permaneer Corporation will have taken a positive step towards air pollution abatement, even though the implementation of specific control measures may have to be deferred until the Corporation can arrange financing.

The Dillard Plant has a variance to operate until December 31, 1975. It could use this time to develop a comprehensive compliance attainment program which is acceptable to the Department of Environmental Quality. They could then request an additional variance to allow them to operate while they implement the air contaminant control program.

Summary and Conclusions

1. The Permaneer Corporation operates three particleboard plants in Oregon. The one at Brownsville is shut down indefinitely, the White City plant is temporarily shut down until about March,1976, and the Dillard plant is operating on a curtailed production schedule.

2. The plant normally employs over 300 hourly workers, but due to the depressed particleboard market, the production has been curtailed by shift reductions.

3. Based upon a maximum production rate of 9,600 square feet per hour of particleboard (3/4 inch), the plant is allowed a total plant particulate emissions rate of 29 pounds per hour; a March 27, 1974 source test report indicated that the actual rate is 123.9 pounds per hour.

4. Technology is available which can control the particulate emissions from the cyclones and particle drier to within the 29 pounds per hour limit.

5. The Permaneer Corporation needs to develop a comprehensive program to control particulate emissions from their cyclones and rotary particle drier.

6. Serious corporate economic parobLems, as well as a depressed wood products market, have hindered implementing an effective air pollution control program.

7. Permaneer Corporation was granted a variance at the January 24, 1975 EQC meeting. This variance in part called for submitting a compliance attainment schedule to the Department of Environmental Quality by July 1, 1975.

8. Permaneer was unable to meet that condition and requested by a letter dated June 5, 1975, an extension of their final compliance date of December 31, 1975, which was granted by the January, 1975 variance request.

9. By the January 1975 variance, Permaneer can operate the Dillard plant until December 31, 1975, without a demonstration of compliance.

10. After December 31, 1975, it is anticipated that the Dillard plant will be operating out of compliance unless an additional variance is granted or the plant is shut down.

Director's Recommendation

The Director recommends that:

1. The Environmental Quality Commission deny the current variance request by the Permaneer Corporation which requests an extension of all compliance dates in Air Contaminant Discharge Permit No. 10-0013.

2. The Commission reconsider a variance request when such variance request is submitted with a control strategy, including the five (5) increments of progress for each air contaminant source, i.e.:

INCREMENTS OF PROGRESS FOR COMPLIANCE ATTAINMENT PROGRAM

A. By no later than ____*____ the permittee will submit a final control strategy, including detailed plans and specifications, to the Department of Environmental Quality for review and approval.

B. By no later than ____*____ the permittee will issue purchase orders for the major components of emission control equipment and/or for process modification work.

C. By no later than ____*____ the permittee will initiate the installation of emission control equipment and/or on-site construction or process modification.

D. By no later than ____*____ the permittee will complete the installation of emission control equipment and/or on-site construction or process modification work.

E. By no later than ____*____ the permittee will demonstrate that the __________**__________ is capable of operating in compliance with applicable Air Quality Rules and Standards.

* Date to be supplied by Company.
** Indicate air pollution sources.

LOREN KRAMER
Director

AFB:cs
9/16/75
Attachments

File 10-0013

PERMANEER

BASIC MATERIALS DIVISION
P.O. Box 178
Dillard, Oregon 97432
(503) 679-8781

June 5, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
JUN 9 1975
OFFICE OF THE DIRECTOR

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

Attention: Mr. Kessler R. Cannon, Director

Dear Mr. Cannon:

This letter is in reference to File No. 10-0013, Permaneer's letter of November 11, 1974, requesting variance to compliance dates and to the commission's meeting of January 24, 1975, granting the request.

Permaneer's "plight", referred to in the Nov. 11, 1974, letter, continues to mount. Increasing production curtailment has developed. Permanent and semi-permanent plant closures, did again occur. Temporary and possibly permanent personnel reductions have again had to be made. Additional cash and credit restrictions by banking creditors did develop, as year end independent accounting audits disclosed a consolidated financial position that points to long term recovery resulting from large 1974 net income losses. Any remaining credit and cash flows in force are under the direction of very restrictive loan covenants covering all corporate assets.

The intent of this letter is to request an additional variance to all dates and compliance schedules that exist in File No. 10-0013. Further that all dates and compliance schedules be extended to a time frame that will permit Permaneer to financially proceed, on a cash positive basis, that will not place in jeopardy the remaining delicate financial covenants that do exist with our loan creditors.

Knowing that a "time frame" expression will not meet the requirements of law and that economic indicators from the private and public sectors are constantly optomistic beyond fact, we can only suggest an anticipated compliance date; based on past market history and only a calculated guess as to Permaneer's position in the market place, we ask that the compliance date be extended into the fall months of 1977.

Very truly yours,
PERMANEER CORPORATION

LARRY ANDERSON
Chief Engineer

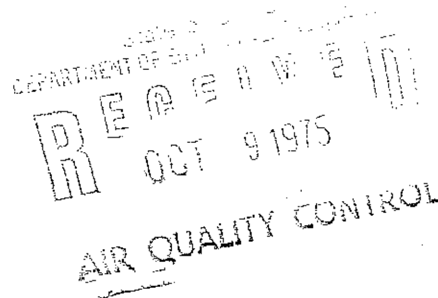
LA:ss
cc: File
Roger Damewood

ATTACHMENT III

PERMANEER

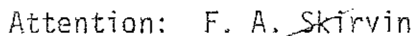
BASIC MATERIALS DIVISION
P.O. Box 178
Dillard, Oregon 97432
(503) 679-8781

October 7, 1975



Department of Environmental Quality
Air Quality Control Division
1234 S. W. Morrison Street
Portland, Oregon 97205

Attention: F. A. Skirvin



Dear Mr. Skirvin:

Proposed compliance dates for the Dillard Plant Site (File No. 10-0013) and White City Plant Site (File No. 15-0027) Air Contaminate Discharge Permits are enclosed. These two schedules are copies of ones mailed for your appraisal October 6, 1975. Since time is important, the late hour of the day did not permit a cover letter to be part of the October 6th mailing.

All predicated dates are built around the economic recovery of Permaneer on a "cash flow positive basis" by February 1, 1976. Since Permaneer is on a "cash and carry basis" with it's suppliers a cash flow positive must result to produce a viable schedule of compliance.

Budget amounts of $15,000.00 per plant, per month, are planned for and the time frames for compliance are so arranged. Money flow to the plant level is an anticipated 120 days at best and becomes the criteria used for the starting of construction in July 1976 with alloted budget cash flow.

With the exception of White City's dryers (Systems #5 and #6), all dates required in the five increments of progress have been indicated. Increments B and C to White City Systems 5 and 6 were left unknown, as there is belief that these systems will be within allowable limits when the balance of plant compliance schedules are met. If the dryers require modifications, Increment B and C dates will be provided with Increment A (Plan & Specification) date requirement.

Permaneer purposely prefers to leave Rotary Particle Dryer Compliance until last. Plant site tests at our Brownsville, Oregon location on rotary dryers using a Koch multiventuri flex tray scrubber in July 1973 and the Baker HR 24 sand bed filter tests started in December 1973 did not prove to be conclusive to continuous compliance as required by existing D.E.Q. administrative rules. Equipment is most sensitive to process variations, requires added high energy consumption, high operating and maintenance costs, plus added residue disposal problems. Working with Energex, Reid Strutt Company, Combustion Engineering, The Heil Company, and M.E.C. Company, to name a few, has not produced significant results. All of the equipment is most costly and though possibly technically available has not proven practical as an add-on device to retro fit existing rotary dryers.

Very truly yours,

PERMANEER CORPORATION

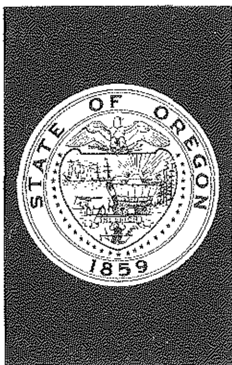
LARRY ANDERSON
Chief Engineer

LA:ss

cc Bill Forrest, Jr.
Roger Damewood
Lowell Fronek
2-File

Plant DILLARD		Date October 3, 1975			State of Oregon--D.E.Q.				
System/Source Number	System	Modification	Estimated Modification Cost	Monthly Budget	Plan and Specification	Purchase Orders	Construction Start	Construction Completed	Final Compliance
					Target Date				
16	Laminating Sander	Baghouse	18,000	15,000	March 1976	May 1976	July 1976	Aug. 1976	Aug. 1976
4	Dry Silo Unload - Pacqua	High Press System (Baghouse)	20,000	15,000	March 1976	June 1976	Aug. 1976	Sept. 1976	Oct. 1976
13									
14	Pacqua Sander Systems	Systems Modification - Baghouse	240,000	15,000	May 1976	July 1976	Sept. 1976	Dec. 1977	Dec. 1977
15									
17	Laminating Sander Relay	High Press System to #13 Baghouse	18,000	15,000	Sept. 1977	Nov. 1977	Jan. 1978	Feb. 1978	March 1978
5	Dry Milling Silo - Pacqua	System Change Baghouse	70,000	15,000	Oct. 1977	Dec. 1977	Feb. 1978	June 1978	July 1978
6	Dry Milling Silo By-Pass - Pacqua	Remove	2,800	15,000	Oct. 1977	Dec. 1977	June 1978	June 1978	July 1978
3	Rotary Dryer - Pacqua	(Scrubber) unknown	220,000	15,000	Jan. 1978	Feb. 1978	July 1978	Sept. 1979	Sept. 1979

Attachment III



ENVIRONMENTAL QUALITY COMMISSION

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

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Salem

RONALD M. SOMERS
The Dalles

MEMORANDUM

TO: Environmental Quality Commission

FROM: The Director

SUBJECT: Agenda Item No. G(1), October 24, 1975, EQC Meeting

Variance Request: Permaneer Corporation
White City, Jackson County, Oregon

Introduction

This matter went before the Environmental Quality Commission at the September 26, 1975, meeting, and it is being continued as recommended by the Commission. Since the September meeting the company submitted proposed compliance schedules which are discussed in this report.

Background

Permaneer Corporation has three particleboard plants located in Oregon, at Brownsville, Dillard and White City. The Brownsville plant was shutdown in 1974 for economic reasons, while the Dillard plant is operating at curtailed capacity. The White City plant, which is the subject of this report, was shutdown in June, 1975, and the current tentative start-up date is March, 1976.

A detailed presentation of the background and discussion of emissions is contained in the September 26, 1975 report to the Commission, a copy of which is attached.

Discussion

The Department received a letter (Attachment I) from Permaneer dated April 23, 1975, requesting a variance to extend their plant-wide compliance demonstration date. A depressed wood products market was cited as the reason for the request, but prolonged and serious corporate economic difficulties also contributed to the compliance non-attainment.

As the above conditions were beyond the control of the Permaneer Corporation, they requested a variance under ORS, Chapter 468.345(1), which states, "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 ... conditions exist that are beyond the control of the persons granted such variance."

Contains Recycled Materials

The wood products industry, and particulary particleboard, has languished economically for sometime. Also the corporate economic picture was described at the September Commission meeting. In effect a valid basis for the variance request was made. However the September variance request (Attachment II) lacked a specific program to bring the plant into compliance and it failed to indicate the economics involved.

In view of this situation the Department recommended in the September variance request report that an extension of the compliance demonstration date in the existing Permaneer Air Contaminant Discharge Permit be denied. The Department also recommended that the Commission reconsider the variance request when the company submitted an acceptable comprehensive compliance attainment program. This program would consist of the (five) increments of progress for achieving compliance in the various systems at the White City facility. The (five) increments of progress approach to compliance attainment is required by Federal Environmental Protection Agency and has proved to be a workable system for monitoring compliance achievement.

Due to the extenuating corporate financial position and the amount of work needed to bring the subject systems at White City into compliance, the Company's proposed compliance attainment program extends over a period of three to four years. For these reasons the Department considers it important to have a periodic, perhaps biannual, review and evaluation of the Permaneer compliance attainment program. In the event that the corporate or White City plant economic outlook improves significantly, the Department must be able to revise the compliance schedule to achieve compliance at the earliest possible date.

Mr. Larry Anderson of Permaneer submitted the proposed compliance program for the White City plant in a letter dated October 7, 1975 (Attachment III). The programs include the (five) increments of progress for attaining compliance in each major system at the plant which is currently considered to be out of compliance. The programs are considered complete. The estimated cost for achieving pollution abatement is indicated for each system, with the overall cost estimated at $451,000. The $15,000 per month allotment for the compliance attainment program appears adequate. The compliance attainment program is scheduled to commence in March, 1976.

Permaneer presented a five-step program to control particulate emissions at the White City plant. The table in Attachment IV outlines the reduction in emissions as each system is brought into compliance; this table correlates the data in the compliance attainment program (Attachment III) with the particulate emissions measured during the September, 1973 source test.

The sequence of six steps in which the nine systems listed in Attachment IV will be brought into compliance was designed to achieve the largest emission reductions first. The compliance attainment program as devised by Permaneer is scheduled over a period of several years in order to allow for the financing of the abatement control programs.

For the White City plant, baghouse filters have been selected as the primary means of controlling particulate emissions. Baghouse filter represent the "highest and best practicable" means of controlling the emissions from all systems in this situation with the exception of the rotary particle driers (Systems No. 5 and 6). Baghouse filters are also effective in eliminating visible emissions.

By the time step No. 5 has been implemented, particulate emissions will be reduced to about 61 lbs/hr. The actual rate will be slightly greater since emissions from a baghouse filter, depending on the volume and the material handled, can be one or two lbs/hr. Thus, the emission reduction table (Attachment IV) implies that Permaneer may have to control particulate emissions from one or both of its rotary particle driers to meet the plant-wide emission limitation of 60.0 lbs/hr.

Step No. 6 assumes a 30 lb/hr reduction in emission from the particle driers, a little over half the total amount measured during the September, 1973 source test.

The Department has one additional concern which should be discussed. Preliminary analysis indicates that the Medford area may be designated as a "non-attainment area" as regards compliance with ambient air standards. If this is confirmed, the Federal Environmental Protection Agency may require the Department to develop new control strategies that will further reduce particulate emissions from point sources in this area. Control of particulates by baghouse filters is considered to be the "highest and best practicable treatment" for emissions of this type, and when installed no further control can be expected.

Any controls on the particle driers will be expected to be equivalent to "highest and best practicable treatment". All other systems will use baghouse filter controls. Thus the compliance program for the White City plant is adequate and, even if new control strategies are required in the Medford Area, no changes or modifications are anticipated in the compliance schedule.

Summary and Conclusions

1. The Permaneer Corporation operates three particleboard plants in Oregon. The one at Brownsville is shutdown indefinitely, the Dillard plant is operating on a curtailed production schedule and the White City plant is temporarily shutdown until about March, 1976.

2. The plant normally employs 120 hourly workers, but due to a depressed particleboard market, the plant has been shutdown since June, 1975.

3. Based upon a maximum production rate of 20,000 square feet per hour of particleboard (3/4"), the plant is allowed a total plant particulate emissions rate of 60.0 lbs/hr; a September, 1973 source test report indicated that the actual rate is 265.4 lbs/hr.

4. Unless major air pollution abatement measures are undertaken, the White City plant will be operating for an unknown, but considered to be significant time, out of compliance with Oregon's Air Quality Regulations when it resumes operation.

5. An April 23, 1975, letter from Permaneer initiated the September 26, 1975 variance request for an extension of the plant-wide compliance date.

6. The September 26, 1975 variance request lacked a comprehensive compliance attainment program. Therefore, the EQC recommended that it be reconsidered if comprehensive compliance attainment programs were submitted as part of the variance request.

7. Permaneer has submitted acceptable comprehensive compliance attainment programs complete with the (five) increments of progress for each system involved and with an estimated cost for implementing each pollution abatement system; plant-wide compliance attainment is projected to be March, 1979.

8. The proposed compliance attainment program is considered to be the "highest and best practicable treatment" for emissions of this type and it is expected to reduce emissions to below the 60.0 lbs/hr limit.

9. Permaneer Corporation substantiated at the September 26, 1975, EQC meeting, that it will not be able to begin implementing their compliance attainment programs until March, 1976.

10. The Department favors biannual reporting of the progress and validity of the compliance attainment programs.

11. In accordance with ORS 468.345 the Environmental Quality Commission is empowered to grant this variance.

Director's Recommendation

The director recommends that the Environmental Quality Commission grant the Permaneer Corporation a variance to operate the White City facility out of compliance with OAR Chapter 340, Sections 21-030 and 25-320 until December 31, 1979 and subject to the following conditions:

1. The compliance attainment programs submitted to the Department by Permaneer (and dated October 3, 1975) be incorporated into the Air Contaminant Discharge Permit No. 15-0027, for the White City facility.

2. A six month review report on the progress and validity of the compliance attainment program will be submitted to the Department by Permaneer Corporation for the duration of this variance; the first reporting date will be March 15, 1976.

3. In the event that the Department determines that the economic outlook for the Permaneer Corporation or the White City plant improves significantly, the Department reserves the right to advance the compliance schedule dates as may be appropriate.

4. This variance may be revoked if the Department determines that Permaneer Corporation is not complying with the conditions of this variance.

Sincerely,

LOREN KRAMER
Director

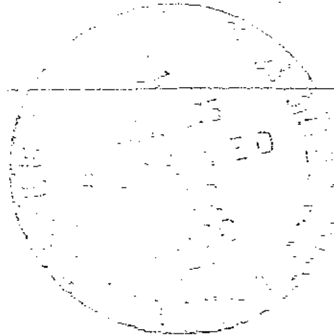
AFB:df

Attachments

ATTACHMENT I

PERMANEER

BASIC MATERIALS DIVISION
1790 Avenue G
White City, Oregon 97501
(503) 826-3334



April 25, 1975

Mr. Fredric A. Skirvin
Department of Environment Quality
1234 Southwest Morrison Street
Portland, Oregon 97205

File

Subject: Air Contaminant Discharge Permit No. 15-0027
White City, Oregon

Dear Mr. Skirvin:

Under addendum No. 1 to our air contaminant discharge permit, we were required to demonstrate continuous compliance with conditions 1 and 2 of the permit by September 30, 1974. This letter is a report on our compliance status.

The recent sharp downturn in wood products has had a disastrous impact on our ability to generate capital funds and needed cash flow. As you know, the White City, Oregon plant was shut down on July 24, 1974 and began operation on a limited production basis on December 9, 1974.

Due to our present operating mode, three (3) shifts, five (5) days per week and no relief in the near future, we hereby apply for an application of extension to all compliance dates that exist in the compliance schedule File No. 15-0027 until August 1, 1975. We request this variance under O.R.S. 468-345, paragraph (A).

As with other wood products industries, Permaneer Corporation's, White City Division, market place has continued to decline. We are hopeful the August 1, 1975 date for compliance proves factual but only time can validate our assumptions.

Sincerely,

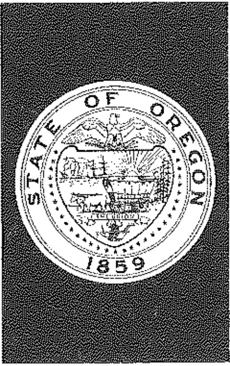
PERMANEER CORPORATION

Lowell C. Fronek
Plant Manager
White City, Oregon

LCF:pb

CC: Gary L. Grimes
Roger Damewood
Larry Anderson

ATTACHMENT II



ENVIRONMENTAL QUALITY COMMISSION

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Corvallis

JACKLYN L. HALLOCK
Portland

MORRIS K. CROTHERS
Salem

RONALD M. SOMERS
The Dalles

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No.G(3) September 26, 1975, EQC Meeting

Variance Request: Permaneer Corporation
White City, Jackson County, Oregon

Background

Permaneer Corporation has three particleboard plants located in Oregon, at Brownsville, Dillard and White City. The Brownsville plant was shutdown in 1974 for economic reasons, while the Dillard plant is operating at curtailed capacity. The White City plant, which is the subject of this report, was shutdown in June, 1975, and the current tentative start-up date is March, 1976.

The White City plant produces high and medium density particleboard from wood waste shavings and sawdust. Raw material demand reaches 450 tons per day under maximum operating conditions, producing 20,000 square feet of particleboard per hour on a 3/4 inch basis. Some particleboard is marketed as it comes off the production line, while some is processed into finished panels and solid core doors at the Dillard site. Maximum employment is 120 for the White City plant.

The Permaneer Corporation plants in Oregon manufacture particleboard and particleboard-related items only. Other particleboard plants in Oregon also produce such wood products as lumber and plywood. This varied production gives these plants greater operating and economic flexibility. When the particleboard market is depressed, they may have production options as a source of operating capital. Due to Permaneer's singular emphasis on particleboard, these options are not available to them.

Air Contaminant Discharge Permit No. 15-0027 was issued to Permaneer Corporation for the White City plant on December 14, 1973; the Permit expiration date is June 1, 1978. The Permit was amended by an addendum of April 19, 1974, which changed the compliance demonstration date for total plant-site emissions from September 30, 1973, to September 30, 1974.

Contains
Recycled
Materials

DEQ-46

Source Emmissions

Air contaminant emission sources at the White City plant include: a raw materials storage area, a hogged-fuel steam boiler, a sanderdust burner, which supplies heat to the particle driers, two rotary particle driers, 12 cyclones, two baghouse filters and press vents. Compliance has been demonstrated on the hogged-fuel steam boiler and the sanderdust-fired furnace. Permaneer installed 2,300 linear feet of 8-foot high fence to control wind-blown emission from their main raw materials storage area and erected a shed over the operating materials storage area.

The emission sources pertinent to this variance request are the cyclones, press vents and rotary driers. The applicable Air Quality Regulations are Oregon Administrative Rules, Chapter 340, Section 21-030, Particle Emission Limitations, and Section 25-320(2), Particleboard Manufacturing Operations. Section 25-320(2) states that the total particulate emission rate from all sources within the plant site is limited to 3.0 pounds per hour per 1,000 square feet per hour of particleboard (3/4 inch basis) produced. With a maximum capacity of 20,000 square feet per hour of particleboard, the total allowable plant particulate emissions, excluding the steam boiler and sanderdust burner, is 60.0 lbs/hr for the White City plant. A particulate emissions source test performed in September, 1973, indicated an emission rate of 265.4 lbs/hr.

The White City plant is in a conspicuous location. It is located on the north-central perimeter of the White City industrial complex and it can be identified as an emission source from several areas, including transportation routes, throughout the valley. Unfortunately it may also be blamed for emissions from neighboring industrial sources.

Discussion

The Board Products Air Quality Rules were adopted on March 5, 1971. Air Contaminant Discharge Permit No. 15-0027 for Permaneer's White City plant was issued with a compliance demonstration date of September 30, 1973. This is the plant compliance date for particulate emission limitations from each source and for the total plant particulate emission limit of 60 lbs/hr. This compliance demonstration date was changed by the April 19, 1974, Addendum to September 30, 1974.

Permit No. 15-0027 was issued with only a compliance demonstration date, i.e., September 30, 1973, and no compliance attainment schedule was included in the Permit.

Market conditions forced the White City plant to cease production on July 24, 1974, and it re-started December 9, 1974, on a limited production basis that fluctuated from a three shift, five day operation to a one shift, four (10 hour) day operation employing 40 workers. Plant operation was again terminated in June, 1975, with a current projected start-up date of about March, 1976. Since the June, 1975, shutdown, there are only eight salaried employees maintained at the plant.

During the period of operation from December, 1974 to June, 1975, the White City plant operated out of compliance with their Permit, as the April 19, 1974, Addendum required demonstration of compliance for the particleboard plant by September 30, 1974. The Department received a letter (attached) from Permaneer dated April 23, 1975, requesting a variance to extend their compliance demonstration date. The variance request was based on Oregon Revised Statutes, Chapter 468.345(1):

> Forasmuch as "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 .... conditions exist that are beyond the control of the persons granted such variance."

The "Conditions .... beyond control" are described by Permaneer as the depressed economic conditions in the wood products market and in particular the economic position of Permaneer Corporation beginning in late 1973 and continuing to the present date. The Permaneer Corporation 1974 Annual Report released in May, 1975, includes the following financial analysis statement by Haskins and Sells, Independent Public Accountants:

> "The financial statements listed above have been prepared on a going concern basis, which presumes that the corporation will continue in business. In our view, however, there are material uncertainties, as follows:
>
> ...The Corporation sustained a significant consolidated net loss during fiscal 1974; based on unaudited information, a significant net loss was also sustained during the first quarter of 1975 which, if continuing, could result in a capital deficiency."

Technology exists and is readily available to control the particulate emissions from the cyclones. Particulate emissions from the rotary driers is somewhat more difficult and costly to resolve. With regard to Permaneer, the problem appears to be two fold. Number one, they must develop a comprehensive pollution abatement program in which they define objectives, develop a strategy and set time frames for accomplishing these objectives. Secondly, they must come to terms with the economic realities for implementing such a program.

Permaneer's economic future is not forecasted to improve immediately, even with increased activity in the home building and consumer markets. The company must rely upon the cooperation of its banking creditors to relieve restrictions on acquisitions, capital expenditures or future borrowings in order to spend the funds required for pollution control during this period of financial difficulty as noted in the 1974 Annual Report. Such expenditures are cash and carry, requiring a cash positive position.

Even though the White City plant is inoperative, management at this location and within the corporation should be able to develop an appropriate air pollution abatement program for the plant. This program should involve strategy, objectives, cost studies and implementation plans. With this information Permaneer Corporation will have taken a positive step towards air pollution abatement, even though the implementation of specific control measures may have to be deferred until the Corporation can arrange financing. It should be emphasized that this compliance attainment investigation can be conducted while the plant is inoperative. This step does not involve the purchase of capital equipment for air pollution control, and thus it should not be a costly venture.

When the White City plant resumes production, it will be operating out of compliance with Oregon Air Quality Regulations, unless a variance is granted or major air pollution abatement programs are instituted. Therefore, the Department requests that the Permaneer Corporation submit a comprehensive compliance attainment program as part of a variance request for resuming operation of the White City plant.

The Medford area, including White City, is considered to be an ambient air quality standards non-attainment area, i.e., ambient particulate air quality standards are not now met. This means that a revised control strategy for the area will have to be developed by the Department. This is an additional reason why the Permaneer Corporation should submit a comprehensive compliance attainment schedule for their White City plant.

Summary and Conclusions

1. The Permaneer Corporation operates a particleboard plant at White City, Oregon.

2. The plant normally employs 120 hourly workers, but due to a depressed particleboard market, the plant has been shutdown since June, 1975.

3. The projected start-up date for the plant is about March, 1976.

4. Based upon a maximum production rate of 20,000 square feet per hour of particleboard (3/4"), the plant is allowed a total plant particulate emissions rate of 60.0; a September, 1973 source test report indicated that the actual rate is 265.4 lbs/hr.

5. Technology is available which can control the particulate emissions to within the 60.0 lbs/hr limit.

6. Unless major air pollution abatement measures are undertaken, the White City plant will be operating for an unknown but considered to be a significant period of time out of compliance with Oregon's Air Quality Regulations, when it resumes operation.

7. The Permaneer Corporation needs to develop a comprehensive program for controlling particulate emissions from their cyclones and rotary particle driers.

8. A current variance request submitted by the Permaneer Corporation lacks a comprehensive compliance attainment program, i.e., objective, control strategy, and schedule to implement controls.

9. In order to grant a variance for operating the White City plant until compliance can be achieved, a specific and comprehensive compliance attainment program and schedule should be required.

Director's Recommendation

The Director recommends that: (1) the Environmental Quality Commission deny the current variance request by the Permaneer Corporation which requests an extension of all compliance dates in Air Contaminant Discharge Permit No. 15-0027 for the White City plant.

(2) The Commission reconsider a variance request when such variance request is submitted with a control strategy, including the five (5) increments of progress for each source, i.e.,

INCREMENTS OF PROGRESS FOR COMPLIANCE ATTAINMENT PROGRAM

1. By no later than ____*____ the permittee will submit a final control strategy, including detailed plans and specifications, to the Department of Environmental Quality for review and approval.

2. By no later than ____*____ the permittee will issue purchase orders for the major components of emission control equipment and/or for process modification work.

3. By no later than ____*____ the permittee will initiate the installation of emission control equipment and/or on-site construction or process modification work.

4. By no later than ____*____ the permittee will complete the installation of emission control equipment and/or on-site construction or process modification work.

5. By no later than ____*____ the permittee will demonstrate that the ________**________ is capable of operating in compliance with the applicable Air Quality Rules and Standards.

* Date to be supplied by company.
** Indicate air pollution sources.

LOREN KRAMER
Director

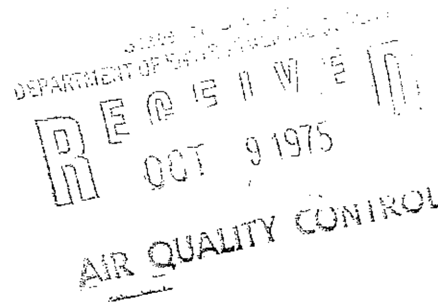
AFB/GLG/eve
Attachment
September 12, 1975

ATTACHMENT III

PERMANEER

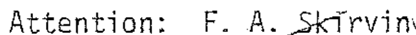
BASIC MATERIALS DIVISION
P.O. Box 178
Dillard, Oregon 97432
(503) 679-8781

October 7, 1975



Department of Environmental Quality
Air Quality Control Division
1234 S. W. Morrison Street
Portland, Oregon 97205

Attention: F. A. Skirvin



Dear Mr. Skirvin:

Proposed compliance dates for the Dillard Plant Site (File No. 10-0013) and White City Plant Site (File No. 15-0027) Air Contaminate Discharge Permits are enclosed. These two schedules are copies of ones mailed for your appraisal October 6, 1975. Since time is important, the late hour of the day did not permit a cover letter to be part of the October 6th mailing.

All predicated dates are built around the economic recovery of Permaneer on a "cash flow positive basis" by February 1, 1976. Since Permaneer is on a "cash and carry basis" with it's suppliers a cash flow positive must result to produce a viable schedule of compliance.

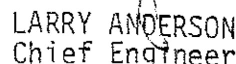
Budget amounts of $15,000.00 per plant, per month, are planned for and the time frames for compliance are so arranged. Money flow to the plant level is an anticipated 120 days at best and becomes the criteria used for the starting of construction in July 1976 with alloted budget cash flow.

With the exception of White City's dryers (Systems #5 and #6), all dates required in the five increments of progress have been indicated. Increments B and C to White City Systems 5 and 6 were left unknown, as there is belief that these systems will be within allowable limits when the balance of plant compliance schedules are met. If the dryers require modifications, Increment B and C dates will be provided with Increment A (Plan & Specification) date requirement.

Permaneer purposely prefers to leave Rotary Particle Dryer Compliance until last. Plant site tests at our Brownsville, Oregon location on rotary dryers using a Koch multiventuri flex tray scrubber in July 1973 and the Baker HR 24 sand bed filter tests started in December 1973 did not prove to be conclusive to continuous compliance as required by existing D.E.Q. administrative rules. Equipment is most sensitive to process variations, requires added high energy consumption, high operating and maintenance costs, plus added residue disposal problems. Working with Energex, Reid Strutt Company, Combustion Engineering, The Heil Company, and M.E.C. Company, to name a few, has not produced significant results. All of the equipment is most costly and though possibly technically available has not proven practical as an add-on device to retro fit existing rotary dryers.

Very truly yours,

PERMANEER CORPORATION



LARRY ANDERSON
Chief Engineer

LA:ss

cc Bill Forrest, Jr.
Roger Damewood
Lowell Fronek
2-File

Plant WHITE CITY		Date Oct. 3, 1975			State of Oregon--D.E.Q.				
System/Source Number	System	Modification	Estimated Modification Cost	Monthly Budget	Plan and Specification	Purchase Orders	Construction Start	Construction Completed	Final Compliance
					Target Date				
7, 8	Dry Milling	Bag House	$30,000	$15,000	March 1976	May 1976	July 1976	Aug. 1976	Sept. 1976
14	Sander and Relay	Bag House and Re- Design	$220,000	$15,000	April 1976	July 1976	Sept. 1976	Dec. 1977	Jan. 1978
3	Green Milling	Re-Design and Bag House	$75,000	$15,000	Aug. 1977	Oct. 1977	Dec. 1977	May 1978	June 1978
9, 11	Former / Picker Roll Recovery	Re-Design and Bag House	$80,000	$15,000	Jan. 1978	Mar. 1978	May 1978	Oct. 1978	Nov. 1978
13	Saw Trim / Clean-Up	Re-Design and Bag House	$46,000	$15,000	July 1978	Sept. 1978	Nov. 1978	Feb. 1979	Mar. 1979
5	Rotary Dryer	If Required Unknown	$200,000	$15,000	June 1979	?	?	May 1981	May 1981
6	Rotary Dryer	If Required Unknown	$200,000	$15,000	June 1979	?	?	May 1981	May 1981

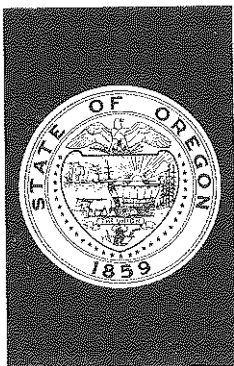
Attachment III

Permaneer White City, Emission Reduction Program

Step	System No.	Date Compliance Achieved	Emission Reduction (lbs/hr)	Plant-Wide Emissions (lbs/hr)	Percent Reduction*	Cost
	------	---------------	---------	265.40	----------	------
1	7 & 8	9/76	74.58	190.82	31.82	30,000
2	14	1/78	51.22	139.60	21.85	220,000
3	3	6/78	35.20	104.40	15.02	75,000
4	9 & 11	11/78	32.54	71.86	13.88	80,000
5	13	3/79	10.86	61.00	4.63	46,000
6	5 & 6	5/81	30.00	31.00	12.80	400,000

Plant wide emission limitation = 60.0 lbs/hr

$$* \text{ Percent Reduction} = \frac{\text{Incremental Reduction}}{\text{Total Expected Reduction}}$$



ENVIRONMENTAL QUALITY COMMISSION

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

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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. G2, October 24, 1975 EQC Meeting

Variance Request - Union Carbide Ferroalloy Division Multnomah County

At the July 10, 1975 Environmental Quality Commission meeting, the Department presented the attached Union Carbide emergency variance request. In summary, the Company requested permission to produce a potentially high fuming 50% ferrosilicon in No. 1 furnace for a 90-day period (August 1, 1975 to November 1, 1975) which would probably result in violation of the Department's 20% opacity rule. The subject request was based upon an economic crisis in the steel industry and the fact that 40 people could be displaced if the variance was not granted.

Based upon the information and recommendations presented, the EQC granted Union Carbide Corporation the requested variance. However, on July 18, 1975 (8 days after the Commission's action) the Company informed the Department that further loss of production demand had occurred and would prevent the production of 50% ferrosilicon. In fact, the Company was forced to lay off 34 employees.

In the attached letter dated October 2, 1975, Union Carbide Corporation informed the Department that market conditions for their standard product, ferromanganese, have failed to improve and they are faced with the possibility of displacing more employees. The Company reports that the market for 50% ferrosilicon has improved and further layoffs could be averted if allowed to produce this material in furnace No. 1 as permitted in the original variance.

In conclusion, the Company has advised that it is their intent to operate under the remaining portion of the original variance for the period October 22, 1975 until November 1, 1975.

Contains Recycled Materials

In order to prevent the further reduction of their labor force, the Company requests the extension of the original variance for an additional 90-day period under the original conditions.

Recommendations

It is the Director's recommendation that the Commission finds that strict compliance would result in substantial curtailment or closing down of a business, plant or operation and that a variance to the Department's opacity and particulate emission standards (OAR, Chapter 340, Sections 28-070 and 21-030) be granted to Union Carbide subject to the following conditions:

1. The variance period shall extend from November 1, 1975 to February 1, 1976, and shall be subject to review upon actual operation and may be terminated if emissions occur substantially in excess of those anticipated herein.

2. Production of 50 percent ferrosilicon shall be conducted only in furnace No. 1 which shall have been modified as stated in the Company's letter of June 25, 1975.

3. Production of 50 percent ferrosilicon shall be terminated upon notification from the Department that adverse meterological conditions in association with subject production may result in adverse air quality.

4. Union Carbide shall conduct or have conducted three particulate source tests. The tests shall be conducted over a two-month period beginning within two weeks of start-up of the furnace. Tests shall be run from tap to tap at maximum production rate, simultaneously sampling the control equipment exhaust and roof vent emissions. The test method shall be submitted to the Department prior to testing for review and approval. The Department shall be notified 48 hours prior to each test.

5. Union Carbide shall install as soon as possible a roof vent transmissometer with continuous recorder capable of spanning the entire distance across the exhaust stack of No. 1 furnace. This unit shall have automatic zero and span capabilities. Accuracy shall be plus or minus 3 percent. The unit shall be operational at least 30 days during the

variance period. The location and type of transmissometer is subject to prior review by the Department.

LOREN KRAMER
Director

TRB/mw

See Attachments
10/8/75

UNION CARBIDE CORPORATION

FERROALLOYS DIVISION

PORTLAND WORKS, POST OFFICE BOX 03070, PORTLAND, OREGON 97203

October 2, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT - 3 1975
OFFICE OF THE DIRECTOR

Mr. Loren Kramer
Director, Dept. of Environmental Quality
1234 S. W. Morrison
Portland, Oregon 97205

Re: Air Contaminant Discharge Permit #26-1873

As a result of poor market conditions this past summer we were placed in the position of having to reduce production of ferromanganese. In our letter of June 25 we requested a variance to our subject permit for the production of 50% ferrosilicon, in furnace #1, as an alternative to reducing our work force by 30 to 40 people.

In the short interim between our request for a variance and its approval, the market for 50% ferrosilicon had deteriorated rapidly and, as a consequence, we were not able to complete our plans as scheduled. In fact we were forced to shut down furnace #4 with the resultant layoff of 34 employees.

The market for FeMn is yet to revive and, with our inventory at an all time high, we are faced with further reductions in its production and the unpleasant prospect of curtailing our labor force even further. The market for 50% FeSi, however, has improved somewhat and by switching furnace #1 from FeMn to 50% FeSi we can avoid further layoffs.

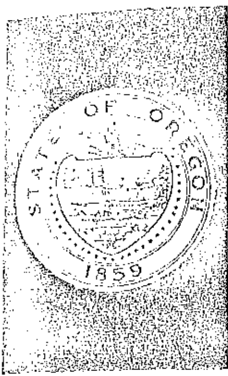
On this basis we now plan to produce 50% FeSi in No. 1 Fce. on or about October 22 under the 90 day variance granted in your letter of July 16 and which expires on November 1. We request your support in seeking an extension of the original 90 day variance from the EQC to permit us to operate for the full 90 days. We will, of course, follow through on the furnace modifications as outlined in our letter of June 25 and are making arrangements to fulfill the monitoring requirements directed by the DEQ in their proposal submitted to the EQC on July 10.

R. D. Forgeng

R. D. Forgeng
Manager Portland Works

cc: Mr. T. R. Bispham
Mr. J. J. Armour

/ir



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The Dalles

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. A, July 10, 1975, EQC Meeting

Emergency Variance Request - Union Carbide Ferroalloy Division Multnomah County

Background

Union Carbide Corporation operates an electrometallurgical plant at 11920 North Burgard, Portland, which produces ferromanganese, silicomanganese and ferrosilicon as alloys to be used in the manufacture of steel.

By industry standards, this is a small plant. It has operated continuously since 1942 and presently employs 170 people.

During the process of melting and tapping of raw materials particulate matter can escape from each of three electric arc furnaces.

In 1970 Union Carbide completed the installation of air contaminant control equipment and reduced annual particulate emissions to 36 tons per year at a cost in excess of one million dollars. This control installation resulted in total compliance with Department regulations.

In July 1972 the company requested and received a 30 day variance to process 50 percent ferrosilicon in No. 4 furnace. Producing 50 percent ferrosilicon causes violent reactions which result in excessive particulate emissions and the variance was granted on an experimental basis.

Since the termination of the above variance the company has produced only standard products and has generally maintained compliance.

Analysis

On May 30, 1975, representatives of Union Carbide met with the Department and stated that due to severe cutbacks in the steel industry they were over-stocked with standard ferromanganese and would like to process 50 percent ferrosilicon for three to four months in order to avoid the layoff of 30 to 40 men. Based upon the results of processing 50 percent ferrosilicon in 1972 which resulted in excessive emissions, the Department advised that some manner of improved particulate control would have to be incorporated into any major product change. At that time it was indicated by Union Carbide that an improved system of collecting and controlling fume leakage would be prepared and submitted for Department analysis.

In a letter to Union Carbide dated June 5, 1975, the Department stated that although the economic impact associated with the non-production of 50 percent ferrosilicon appeared to be sufficient grounds for a variance, the Department would process the matter under a Notice of Construction provision based on the company's belief that compliance could be attained by improved emission controls.

In a subsequent meeting, Union Carbide stated that interim controls would not be economically feasible due to a projected cost of $250,000. The company therefore advised the Department of their intent to submit a variance request. Said variance request was received on June 25, 1975, and the urgency of the situation was re-emphasized in a letter dated July 2, 1975. A copy of each letter is attached.

The Department has reviewed the subject request and determined that the production of 50 percent ferrosilicon in one furnace could increase particulate emissions in the range of 25 pounds per hour. Actual emissions are expected to essentially double the emission limitations in the company's Air Contaminant Discharge Permit. The magnitude of the projected emissions if conducted for a one year period would be equivalent to the introduction of a new 100 tons per year source within the Portland airshed. Particulate emissions in downtown Portland could be increased by as much as 0.2 ug/m^3.

In an effort to minimize emissions the company proposed to produce 50 percent ferrosilicon in furnace No. 1 (previously produced in No. 4) which utilizes larger electrodes and thus may result in reduced fume leakage. In addition, the company proposes to increase the capacity of the existing control equipment by 14 percent.

Although located in an industrial area, Union Carbide is within ½ mile of an area of high population density. Therefore, any visible or particulate emissions could result in public complaint. The Department would expect any complaints to be esthetic in nature rather than due to property damage or adverse health effects.

Considering that the subject variance would occur during periods of potentially poor air quality, the Department believes that curtailment of production may be necessitated during any periods of extended air stagnation.

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.

Conclusions

1. Union Carbide operates an electrometallurgical plant in North Portland, adjacent to the Rivergate Industrial Area and within ½ mile of private residences.

2. Union Carbide states that current economics in the steel industry has resulted in a surplus of standard ferromanganese alloy.

3. To prevent the displacement of up to 40 people, Union Carbide has requested a variance from the emission limitations in their existing Air Contaminant Discharge Permit for a three to four month period to produce 50 percent ferrosilicon in No. 1 furnace. The earliest date for personnel layoff is projected for no later than August 1, 1975.

4. Past operation with 50 percent ferrosilicon has resulted in the emission of excessive particulate matter.

5. To minimize emissions the company proposes to process the subject material in No. 1 furnace which utilizes larger electrodes and also increase the collection capacity of the existing control equipment by 14 percent.

6. From an overall environmental standpoint, the granting of the requested variance would result in some degradation of the local air quality. Specifically, particulate emissions would increase within a range of 25 pounds per hour and would be associated with a visible plume.

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

8. Granting of a variance not in excess of 90 days is permitted by the Environmental Protection Agency without amending the Oregon Implementation Plan and conducting the associated hearings.

Recommendations

It is the Director's recommendation that the Commission finds that strict compliance would result in substantial curtailment or closing down of a business, plant, or operation and that a variance be granted to Union Carbide subject to the following conditions:

1. The variance period shall extend from August 1, 1975 to November 1, 1975, and shall be subject to review upon actual operation and may be terminated if emissions occur substantially in excess of those anticipated herein.

2. Production of 50 percent ferrosilicon shall be conducted only in furnace No. 1 which shall have been modified as stated in the company's letter of June 25, 1975.

3. Production of 50 percent ferrosilicon shall be terminated upon notification from the Department that adverse meterological conditions in association with subject production may result in adverse air quality.

4. Union Carbide shall conduct or have conducted three particulate source tests. The tests shall be conducted over a two month period beginning within two weeks of start up of the furnace. Tests shall be run from tap to tap at maximum production rate, simultaneously sampling the control equipment exhaust and roof vent emissions. The test method shall be submitted to the Department prior to testing for review and approval. The Department shall be notified 48 hours prior to each test.

5. Union Carbide shall install as soon as possible a roof vent transmissometer with continuous recorder capable of spanning the entire distance across the exhaust stack of No. 1 furnace. This unit shall have automatic zero and span capabilities. Accuracy shall be plus or minus 3 percent. The unit shall be operational at least 30 days during the variance period. The location and type of transmissometer is subject to prior review by the Department.

LOREN KRAMER
Director

See Attachments
pd 7/7/75

UNION CARBIDE CORPORATION
FERROALLOYS DIVISION
PORTLAND WORKS, POST OFFICE BOX 03070, PORTLAND, OREGON 97203

July 2, 1975

Mr. R. E. Gilbert
Administrator, Portland Region
Oregon Dept. of Environmental Quality
1010 N. E. Couch Street
Portland, Oregon 97232

Re: Air Contaminant Discharge Permit No. 26-1873

In connection with our letter of 6/25/75 (copy attached) requesting a variance to operate our #1 furnace on 50% ferrosilicon, the demand for our normal products has further deteriorated. It now appears that a curtailment of ferromanganese production is imminent and will result in shutting down a furnace no later than August 1.

We, therefore, seek your good offices in supporting our request for a variance from the E.Q.C. as soon as possible. The sense of urgency results from the lead time necessary to procure the required reducing agent which is shipped from West Virginia.

If the variance is granted we will plan a production run of 3-5 months, depending upon the demand for ferromanganese.

R. D. Forgeng

R. D. Forgeng
Manager Portland Works

/ir

Encl.

cc: Loren Kramer
J. J. Armour

UNION CARBIDE CORPORATION
FERROALLOYS DIVISION

PORTLAND WORKS, P. O. BOX 03070, PORTLAND, OREGON 97203

June 25, 1975

Mr. Kessler Cannon
Dept. of Environmental Quality
1234 S. W. Morrison
Portland, Oregon 97205

Re: Air Contaminant Discharge Permit No. 26-1873

Due to the recent drop in ferromanganese sales it appears that, in a few months, our inventory position will force us to shut down one of the two furnaces now producing this product. By operating this furnace to produce 50% ferrosilicon we can prevent the lay off of 30 to 40 men. The Portland plant, therefore, desires a variance in our air quality permit which would enable us to produce 50% ferrosilicon in furnace #1 for a period of 3 to 4 months starting in August or September 1975.

A review has been made of several suggested changes to the existing emission control system which may reduce potential particulate emissions from 50% ferrosilicon operation to the compliance level normally achieved during manganese alloy production. The following actions have been selected and will be undertaken immediately upon approval by the Department of Environmental Quality to permit production of 50% ferrosilicon in furnace No. 1:

1. The current fan speed of the existing Buffalo scrubber system will be increased from ~1590 to 1820 RPM which will increase the scrubber gas handling capacity by about 14% from ~1420 to 1625 ACFM.

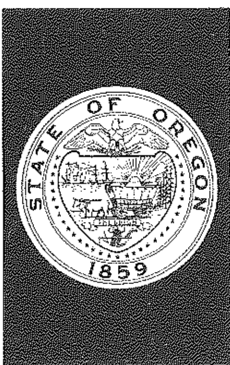
2. The current innercones on the furnace allow an approximate thirteen inch wide opening around the 35 inch diameter electrodes for feeding mix. Innercones are available for installation that will allow an eleven inch wide opening which will decrease the total open area around the electrode by about 20%. Although mix addition to the furnace will be more difficult, it is expected that the reduction in potential fume escape area, coupled with increased gas removal by the Buffalo scrubber will significantly reduce particulate emission to the atmosphere.
   (Enclosed diagrams illustrate the possible change in open area around electrode.)

DEPARTMENT OF ENVIRONMENTAL QUALITY

R. D. Forgeng
R. D. Forgeng
Manager Portland Works

cc: Mr. J. Kowalczyk
Mr. R. Gilbert
Mr. J. J. Armour

/lr
Encl.



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MORRIS K. CROTHERS
Salem

RONALD M. SOMERS
The Dalles

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item G(3), October 24, 1975, EQC Meeting

Salem Iron Works, Salem - Consideration of Variance from Department's Opacity Rule and Proposed Compliance Schedule Extension to March 1976

Background

Gerlinger Industries, an Oregon corporation, owns and operates a gray iron foundry located at 117 Front Street N.E., Salem, Oregon, known as the Salem Iron Works. The existing foundry building was constructed in 1859. The firm's major products are castings for farm machinery and municipal use.

The Front Street foundry is located just north of Boise Cascade's Salem Paper mill and is bounded on the west by the Willamette River and on the north and east by commercial and industrial businesses located adjacent to the downtown area.

Salem Iron Works has applied to the Department for an extension to an existing compliance schedule issued by the Mid-Willamette Valley Air Pollution Authority (MWVAPA) requiring completion of a new foundry now under construction and subsequent phase-out of operation of a cupola furnace at the Front Street facility which violates the former MWVAPA and Department emission standards. The foundry is now under the jurisdiction of the Department following the dissolution of the MWVAPA on August 1, 1975.

Air Quality

The emissions discharged from Salem Iron Works' cupola furnace have been found to be in violation of the 20% opacity limitation on visible emissions. (Oregon Administrative Rules, Chapter 340, Section 21-015(2)(b) and Rules and Regulations of the MWVAPA, Section 32-010(b).)

Contains Recycled Materials

DEQ-46

Both rules specify that visible discharges shall not exceed 20% opacity except for an aggregate three (3) minute period in any one hour.

Observations of the cupola furnace throughout the years have revealed that the emission limitation is violated whenever the cupola is operating. The cupola is not equipped with any air contaminant control equipment.

In terms of the mass rate of emissions discharged, no acutal sampling of the cupola exhaust has been conducted. Annual emissions have been estimated to be 24 tons of particulate and 200 tons of carbon monoxide based on published EPA emission factors and an annual gross melt of 2900 tons.

The Department recently established four special monitoring stations to evaluate the impact on the surrounding area of fine particulate escaping from the Boise Cascade property. Analysis of the samples has shown that greater than normal amounts of sand, soot, ash and other combustion products are present on the sampler located next to Salem Iron Works. These excesses are believed to be caused by the emissions discharged from the cupola furnace.

Enforcement History

A lengthy enforcement history has been compiled against Salem Iron Works since 1969 when negotiations concerning phaseout of cupola operation were initiated. The MWVAPA attempted to enforce four separate orders issued by the Board of Directors requiring cessation of operation of the cupola furnace or the installation of control equipment. In each instance, Salem Iron Works ultimately demonstrated that factors beyond their control were responsible for their failure to comply with the orders. In one instance installation of controls at their present site was prevented by the announcement that the downtown site would be needed for an urban renewal project.

In another instance, a proposed new plant location was usurped by proposed expansion of Interstate 5 Highway. The MWVAPA assessed civil penalties totalling nearly $10,000 in November, 1974 for violations of the visible emission standard and violation of the latest Board order. The penalties were remitted by the Board of Directors with the exception of one $500 penalty imposed for violation of the order and subsequently paid by the company.

The present schedule of compliance, adopted November 26, 1974 by the MWVAPA Board, required completion of a new foundry and phaseout of cupola operation by October 1, 1975. Salem Iron Works has requested an extension of the final compliance date to March 31, 1976. A copy of the Company's existing permit containing the schedule is attached. (attachment A)

Discussion

The status of new foundry construction was reviewed with Salem Iron Works' representatives on September 19, 1975. At that time the site preparation work was finished and the new foundry building was nearly complete. The induction furnace was scheduled to be installed by the end of October. Other equipment remaining to be installed included the sand handling system, several cranes and hoists and the air pollution control system.

Salem Iron Works has conservatively projected a completion date of February 28, 1976 for the new facility. The Company anticipates the installation of the air contaminant control system and an overhead crane to have the highest potential for delay. The baghouse dust collector for the control system has been shipped and a consulting firm is completing engineering work on the ductwork system. The new plant is being constructed on a regulated industrial park in a much more compatible surrounding than the downtown site.

After completion of the new facility, Salem Iron Works anticipates an additional 30 days of operation of the downtown foundry to provide time for shakedown and testing of the new foundry. The Company is reluctant to close the downtown plant without an operable replacement facility because they feel they may lose a portion of their skilled workforce and local customers are dependent upon their production.

Financing for the new foundry was obtained from the Small Business Administration which granted the Company the first loan for air pollution control equipment in Oregon. Funding is in hand, a new engineer is on the job, construction is well underway and it appears that construction can be completed and the new plant made operable within the proposed revised time schedule.

Conclusions

1. Salem Iron Works has continued to operate a cupola furnace at 117 Front Street, Salem, in violation of the 20% opacity limitation on visible emissions.

2. Factors mostly outside the control of Salem Iron Works have prevented the Company from complying with past orders requiring phaseout of cupola operation.

3. The Company is progressing with construction of a new foundry properly located in an industrial park; however, the currently projected compliance deadline of March 31, 1976 is beyond the compliance schedule deadline of October 1, 1975 which was approved by MWVAPA and is contained in the Company's present permit.

4. Shutdown of the cupola furnace prior to production at the new foundry would cause undue hardship to Salem Iron Works and local customers.

5. The emissions discharged from the cupola furnace produces a readily apparent impact on particulate sampling stations established to monitor emissions from Boise Cascade; however, the effect of the pollutants on the downtown Salem area is primarily aesthetic. (high opacity plume when cupola is operating)

Director's Recommendation

It is the recommendation of the Director, in light of Salem Iron Works' recent progress in attempting to comply with the Board Order issued by the MWVAPA that a temporary variance to the Department's opacity rule and particulate emission rules (OAR 21-015, 21-030 and 21-040) be given and the Department proceed to issue the firm's proposed attached (attachment B) renewal permit with the following conditions:

1. The final date for compliance be extended from October 1, 1975 to March 31, 1976.

2. Salem Iron Works shall proceed as rapidly as possible to complete the new foundry facility and shut down the downtown Salem plant, and that progress reports on new foundry construction and startup be submitted to the Department in writing on December 1, 1975, January 1 and February 1, 1976.

LOREN KRAMER
Director

RHF:vt

Attachments A and B

Attachment A.

Existing Permit

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4. Renewal, Termination Modification, and Suspension of Permits 6

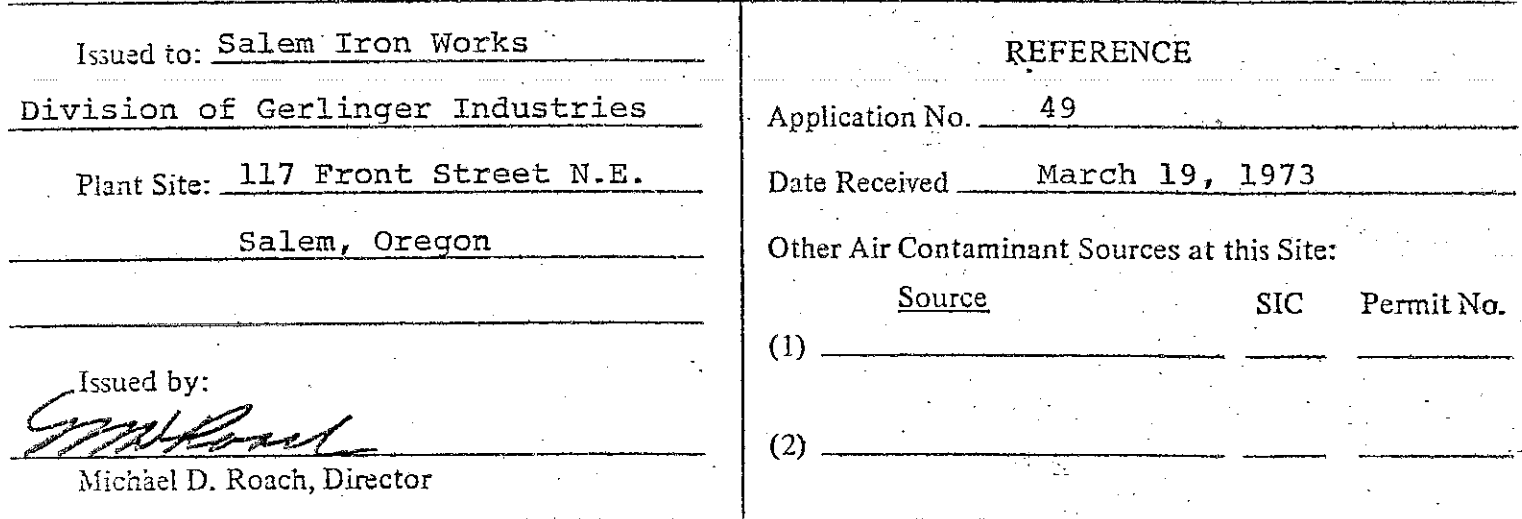
MID-WILLAMETTE VALLEY AIR POLLUTION AUTHORITY
2585 State St., Salem, Oregon 97301
Phone (503) 581-1715

Permit Number 245400
Expiration Date 8-1-75
Page 1 of 7 Pages

Air Contaminant Discharge Permit

(Issued in accordance with provisions of MWVAPA Rules, Title 22)

PERMIT IDENTIFICATION



Issued to: Salem Iron Works
Division of Gerlinger Industries
Plant Site: 117 Front Street N.E.
Salem, Oregon

Issued by:
Michael D. Roach, Director

REFERENCE

Application No. 49
Date Received March 19, 1973
Other Air Contaminant Sources at this Site:

	Source	SIC	Permit No.
(1)			
(2)			

Payment Schedule for Permit Compliance Determination (PCD) Fee

Date	Fee	Date	Fee
June 1, 1975	$125.00		

Source(s) Permitted to Discharge Air Contaminants
(As listed in Item 3 of Application)

		SIC No.	Permit Section	Page
3a	Gray Iron Foundry	3321	A	
3b				
3c				
	Sources as listed in Item 3 of Application			

For Requirements, Limitations and Conditions of this Permit, see attached Section (s)

MID-WILLAMETTE VALLEY AIR POLLUTION AUTHORITY
2585 State St., Salem, Oregon 97301
Phone (503) 581-1715

SECTION A

Source: 3a -Gray Iron Foundry SIC No. 3321

1. Permitted Activities

Until such time as this permit expires or is modified or revoked, Salem Iron Works, a Division of Gerlinger Industries, is herewith permitted to discharge air contaminant emissions from the gray iron foundry including a cupola furnace and associated sand handling, core baking, mold shakeout and shot blast equipment located at 117 Front Street N.E., Salem, Oregon. These air contaminant discharges, based upon a maximum normal foundry production of 6000 pounds per hour, are permitted in accordance with the requirements, limitations, and conditions of this permit.

Specific listing of requirements, limitations, and conditions contained herein does not relieve the permittee from compliance with all rules of the Mid-Willamette Valley Air Pollution Authority, nor waives the right of the Authority to require compliance therewith.

2. Performance Standards and Emission Limits

(a) The maximum particulate discharge rate allowed by this permit shall not exceed that permitted by the process weight standard (MWR 32-050 through 32-070). This standard restricts particulate emissions from the foundry to 7.37 pounds per hour based upon a production rate of 6000 pounds per hour.

(b) Except as specifically allowed by section 3.1, the permittee shall not allow any discharge into the atmosphere from any single source of emission whatsoever of any air contaminants, for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 20% opacity except for the presence of uncombined water (MWR 32-010 and 32-020). This standard restricts visible emissions during furnace charging and also applies to all other periods and sources of visible emissions.

(c) The permittee shall not allow any discharge from any single existing source of emission in the manufacturing process which exceeds 0.2 grains for each standard cubic foot of exhaust gas (MWR 32-030); the permittee shall not allow any discharge from any single new source of emission in the manufacturing process, constructed since July, 1968, which exceeds 0.1 grains for each standard cubic foot of exhaust gas (MWR 32-035).

(d) The permittee shall not allow unnecessary amounts of particulate matter to become airborne from buildings, roads, driveways, open areas, or materials handling processes (MWR 32-040).

MID-WILLAMETTE VALLEY AIR POLLUTION AUTHORITY
2585 State St., Salem, Oregon 97301
Phone (503) 581-1715

SECTION

Source: 3a - Gray Iron Foundry SIC No. 3321

(e) Notwithstanding the general and specific emission standards and regulations of the Authority, the highest and best practicable treatment and control of air contaminant emissions shall in every case be provided by the permittee so as to maintain overall air qualit 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 contaminants, 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 20-001).

(f) 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 Authority.

3. Compliance Schedule

(a) The permittee shall complete construction of the new foundry and phase out operation of the cupola furnace located at 117 Front Street by October 1, 1975 in accordance with the following provisions:

(1) Submit finalized equipment layout plan by December 5, 1974.

(2) Submit finalized building layout, building plans and documentation of bid activity on building and equipment by January 14, 1975.

(3) Submit building permit documentation by January 31, 1975.

(4) Submit final engineering plans for equipment by February 14, 1975.

(5) Submit purchase orders for building and equipment by February 28, 1975.

(6) Initiate onsite construction by March 15, 1975.

(7) Submit status reports on new foundry construction every 30 days.

(8) Initiate equipment installation by September 1, 1975.

MID-WILLAMETTE VALLEY AIR POLLUTION AUTHORITY
2585 State St., Salem, Oregon 97301
Phone (503) 581-1715

SECTION A

Source: 3a - Gray Iron Foundry SIC No. 3321

(9) Demonstrate compliance by October 1, 1975.

(10) Immediately cease operation of the cupola furnace should any of the above requirements not be fulfilled within 30 days of the scheduled date.

4. Monitoring and Reporting

(a) The permittee shall regularly monitor and inspect the operation of the plant to insure that it operates in continual compliance with the Rules and Regulations of this Authority. Specifically, the permittee shall regularly:

(1) Inspect all air contaminant emission sources, including but not limited to sand handling and shot blast to insure compliance with all the provisions of this permit.

(b) An annual registration report shall be submitted on forms provided by this Authority. The report shall include annual production, operating hours, solid waste data as required in the General Requirements Section of this permit, and other information as requested.

(c) In the event that the permittee is temporarily unable to comply with any of the provisions of this permit due to upsets or breakdowns of equipment, the permittee shall notify the Authority by telephone within one hour, or as soon as is reasonably possible, of the upset and of the steps taken to correct the problem. Upset operation shall not continue longer than forty-eight (48) hours without approval nor shall upset operation continue during Air Pollution Alerts, Warnings, or Emergencies or at any time when the emissions present imminent and substantial danger to health (MWR 21-045).

5. Conditions of Operation

(a) The permittee shall at all times maintain and operate all air contaminant generating processes and all contaminant control equipment at full efficiency and effectiveness, such that the emission of air contaminants are kept at the lowest practicable levels.

(b) Specifically, the permittee shall:

(1) Only charge the furnace with clean scrap or pig iron that is free of soil, oil, grease and other impurities that might cause excessive emissions.

(c) The permittee shall submit plans and specifications for

MID-WILLAMETTE VALLEY AIR POLLUTION AUTHORITY
2585 State St., Salem, Oregon 97301
Phone (503) 581-1715

SECTION A

Source: 3a - Gray Iron Foundry SIC No. 3321

all new foundry equipment and processes, as required by Section B (2) of this permit, for review and approval prior to construction and operation. After such review and approval, this portion of the permit may be modified.

6. Emergency Emission Reduction Plan

(a) The permittee shall implement the following emission reduction plan during episodes when so notified by this Authority in accordance with Chapter V, Title 51, of the rules of the Authority:

Alert: Prepare to cut back production.

Warning: Cease operation of cupola furnace.

Emergency: Continue warning measures. Shut down all processes with air contaminant emissions.

Attachment B

Proposed Renewal Permit

PROPOSED

245400.

AIR CONTAMINANT DISCHARGE PERMIT

Department of Environmental Quality
1234 S.W. Morrison Street
Portland, Oregon 97205
Telephone: (503) 229-5696
Issued in accordance with the provisions of
ORS 449.727

ISSUED TO:	REFERENCE INFORMATION
GERLINGER INDUSTRIES SALEM IRON WORKS DIVISION P.O. BOX 2008 SALEM, OREGON 97308	Application No. 49 (MWVAPA) Date Received JUNE 20, 1975
PLANT SITE: SALEM IRON WORKS 117 FRONT STREET NE SALEM, OREGON	Other Air Contaminant Sources at this Site:
ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY _______________ Director ________ Date	

	Source	SIC	Permit No.
(1)			
(2)			

SOURCE(S) PERMITTED TO DISCHARGE AIR CONTAMINANTS:

Name of Air Contaminant Source	Standard Industry Code as Listed
GRAY IRON FOUNDRY	3321

Permitted Activities

Until such time as this permit expires or is modified or revoked, SALEM IRON WORKS, DIVISION OF GERLINGER INDUSTRIES is herewith permitted to discharge particulate emissions in a controlled manner from those processes and activities directly related or associated thereto in conformance with the requirements, limitations and conditions of this permit from its GRAY IRON FOUNDRY located at 117 FRONT STREET NE, SALEM, OREGON.

The specific listing of requirements, limitations and conditions contained herein does not relieve the permittee from complying with all other rules and standards of the Department.

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 levles.

2. The permittee shall comply with the following emissions limitations and in accordance with the compliance schedules set forth in Condition No. 6*of this permit:

   a. An emission rate of 7.37 pounds per hour from the FOUNDRY EMISSION POINTS. ; ~~pounds per hour from the~~ ________; and ________ ~~pounds per hour from the~~ ________.

   b. 0.2 grains per standard cubic foot of exhaust gas for sources existing prior to July 1, 1968.

   c. 0.1 grains per standard cubic foot of exhaust gas for sources existing after July 1, 1968.

   d. An opacity equal to or greater than twenty percent (20%) for a period or periods aggregating more than three (3) minutes in any one (1) hour.

3. The permittee shall at all times control the ancillary sources of air contaminants such as, but not limited to, * ________ so as to maintain the highest possible level of air quality and the lowest possible discharge of air contaminants.

   * THE SHAKEOUT, SAND HANDLING, CORE BAKING AND SHOT BLAST EQUIPMENT

4. The permittee shall control fugitive dust emissions from roads, driveways, open areas and materials handling processes.

Monitoring and Reporting

5. The permittee shall effectively monitor the operation and maintenance of the plant 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 plant site at all times for inspection by the authorized representatives of the Department. Unless otherwise agreed to in writing the information collected and recorded shall include, but not necessarily be limited to, the following parameters and monitoring frequencies:

Parameter	Minimum Monitoring Frequency
a. The starting time and period of operation of the ~~plant~~ CUPOLA ~~processes~~. FURNACE.	Daily
b. The amount ~~of materials processed in each operation~~. AND TYPE OF MATERIAL CHARGED.	Daily

6. The permittee shall complete construction of the new foundry and phase out operation of the cupola furnace located at 117 Front Street NE by March 31, 1976 in accordance with the following provisions:

   a. Formal status reports on new foundry construction are to be submitted to the Department every 30 days. These reports are to include both completed and projected work.

   b. In addition to the formal reports required in section a~~x~~, the Department is to be advised of progress on new foundry construction at least every 15 days. These advisements are to emphasize any aspects that may jeopardize compliance by March 31, 1976.

Emergency Emission Reduction Plan

7 The permittee will implement an emission reduction plan during air pollution episodes when so notified by ~~this~~ THE DEPARTMENT.

a During Alert:

(1) Reduce air contaminants generated from processes by curtailing, postponing, or deferring production.

(2) Prepare to take Warning measures.

b During Warning:

(1) Shut down cupola furnace.

(2) Prepare to take Emergency measures.

c During Emergency:

(1) Shut down all operations.

(2) Discontinue use of motor vehicles except in emergencies and with approval of local or state police.

General Conditions

G1. A copy of this permit or at least a copy of the title page 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 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 taken to prevent a future recurrence of a similar condition.

G12. Application for a modification 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~~

ENVIRONMENTAL QUALITY COMMISSION

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

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The Dalles

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. H, October 24, 1975, EQC Meeting

Policy Pertaining to Log Handling in Oregon Waters - Proposed Adoption of Revised Policy

Pursuant to Commission instructions following consideration of this item at the September 26, 1975 meeting in Newport, the Department prepared and circulated the attached draft of the Proposed Implementation Program and Policy for Log Handling in Oregon's Public Waters. This draft includes potential changes in language suggested by the Commission.

New written communications were received from the following:

1. Oregon Shores Conservation Coalition (10/6/75) - - requests return to pre 9/9/75 language.

2. Clatsop County Commissioners (10/6/75) - - Opposes restriction of use of waterways for transportation of logs. Cites adverse impact on roads if water transportation is eliminated.

3. North Bend Chamber of Commerce (10/2/75) - - Expresses concern over economic and environmental impacts resulting from alteration of present log handling practices. Requests supplemental environmental impact statement relative to the log grounding issue.

4. Coos-Curry Council of Governments (10/3/75) - - Cites belief that proposed policy mandates conversion to alternate methods of log transportation and storage. Requests short and long-range environmental impact assessment of alternatives.

5. Columbia River Towboat Association (10/6/75) - - Submitted copy of statement presented at 9/26/75 meeting.

Contains
Recycled
Materials

DEQ-46

6. Industrial Forestry Association (10/6/75) - - Urges adoption of policy as drafted following 9/26/75 hearing.

There appear to be two issues for further discussion:

1. Are transportation and storage of logs in public waters a legitimate use?

   Article 1, Section 18 of the Oregon Constitution answers this in part as follows:

   "Private property or services taken for public use. Private property shall not be taken for public use, nor the particular services of any man be demanded, without just compensation; nor except in the case of the state, without such compensation first assessed and tendered; provided, that the use of all roads, ways and waterways necessary to promote the transportation of raw products of mine or farm or forest or water for beneficial use or drainage is necessary to the development and welfare of the state and is declared a public use."

   This article refers only to transportation. Since it is difficult to practicably separate transportation of logs in water and short-term storage in water, it seems reasonable to consider limited storage to be a legitimate use also.

2. Should DEQ be required to prepare an environemtnal impact assessment of alternatives to transportation and/or storage of logs in public water before adoption of the proposed policy? Before imposing specific control requirements on an individual company?

   For the Coos Bay area, an areawide economic-environmental impact statement has already been prepared. The proposed policy is consistent with the findings of that report.

   Operating under the proposed policy as now drafted, DEQ would proceed as follows:

   a. Identify specific areas where water quality problems exist or are likely to occur as a result of log handling or storage.

   b. Discuss such problems with individual companies whose operations contribute to the problem.

   c. Draft and issue permits to each company which set forth specific objectives and timetables designed to correct the problems. Such permits would require each company to evaluate the technical, economic, and related environmental impacts of alternatives for solving the problem and propose a specific alternative for implementation.

Such proposal would have to be approved by the Department prior to implementation.

d. If environmental or other issues are raised by individual permittee proposals which are areawide in nature or beyond the ability of the permittee and the Department to resolve, such issues would be brought before the Environmental Quality Commission. The environmental trade off-public benefit questions are most likely to end up before the Commission for resolution.

e. If the Department and permittee are unable to agree on a program, ample opportunity to appeal the matter to the EQC exists in the policy statement and in the Department's regulations regarding permit issuance.

The Department believes these procedures as set forth in the draft policy are adequate to deal with environmental impact concerns and that a separate DEQ prepared environmental impact statement for each proposed individual company control program is not necessary.

Conclusions

After evaluating the comments received and following the hearings held to date, the Department concludes that the proposed policy as attached should not be further modified.

Director's Recommendation

It is recommended that the "Implementation Program and Policy for Log Handling in Oregon's Public Waters" as contained in the attached draft including amendments through 9/29/75 be adopted.

LOREN KRAMER

HLS:ak
October 13, 1975

Attachment A

Note:
New language (9/9/75)
Underscored.
Deletions (9/9/75)
Bracketed.
New Language 9/29/75)
Italicized.
Deletions (9/29/75)= //.

(Proposed)

Implementation Program & Policy

for

LOG HANDLING IN OREGON'S PUBLIC WATERS

DEPARTMENT OF ENVIRONMENTAL QUALITY

September, 1975

GENERAL SUMMARY OF PROBLEMS

Based on the Department's field evaluations, experience and review of pertinent literature, the following general conclusions about the effects of logs in public waters are drawn:

1. There is ample and conclusive evidence that the bark, debris and leachate releases resulting from dumping, storage and millside handling of logs in public waters can have an adverse effect on water quality. The magnitude of the effect varies with the size and characteristic of the waterway and the nature and magnitude of the log handling operation.
2. Free fall log dumping causes the major release of bark and other log debris.
3. Bark and log debris are the major waste products resulting from logs in water. These materials range in size from microscopic particles to whole logs. Some float but most will sink in a short time. Numerous particles may travel submerged a considerable distance before dropping to the bottom. Bottom deposits of these substances may blanket the benthic aquatic life and fish spawning areas. During submerged decomposition stages the wood products rob overlying waters of dissolved oxygen and often give off toxic decay products.
4. Leachates from logs in water [~~are a~~] can be a significant source of biochemical oxygen demand and dark color. These generally have minimal impact in larger flowing streams but their effect may be compounded in quiet waters.
5. Where logs go aground during tidal changes or flow fluctuations, they [~~are~~] can be a detriment to bottom dwelling aquatic life and can be the cause of increased turbidity.

6. Even though significant improvements have been made at certain log handling areas, further improvements are needed and can be accomplished on a short-term basis by improved log dumping, handling and storage practices at operations that still adversely impact aquatic life and water quality.

7. Because alternatives to the storage and handling of logs in public waters can result in undesirable as well as desirable environmental trade-offs, it is imperative that each operation be carefully evaluated on its own merits.

IMPLEMENTATION PROGRAM

Based on the statement of general policy which follows and case by case water quality problem assessments, a proposed state permit will be developed for each log handling operation in public waters where problems exist *or are likely to occur* that will:

1. State specific objectives designed to bring that operation into acceptable compliance with water quality standards.
2. Require the permittee to evaluate alternatives and submit a program and time schedule for meeting specific objectives.
3. Require implementation of a control program as approved by the Department, giving consideration to *the impact of alternative methods on the environment.* ~~environmental trade-offs.~~

In accordance with existing permit issuance regulations, each proposed permit would then be subject to review and comment by both the permittee and the public prior to issuance.

STATEMENT OF GENERAL POLICY

The following statement of general policy is set forth to guide both the staff of the DEQ and timber industry representatives in matters pertaining to log handling in public waters:

1. *The Environmental Quality Commission and the Department of Environmental Quality acknowledge that transportaion and storage of logs is one of the appropriate uses of public waters of the state so long as such operations are controlled to adequately protect environmental quality, natural resources, public health and safety and the economy of the state.*

~~1~~ *2.* The construction of new wood processing plants which must receive logs directly from public waters will not be approved by the Department without specific authorization of the Environmental Quality Commission. In general, new operations will not be permitted where water quality standards or other beneficial uses would be jeopardized.

~~2~~ *3.* Existing log dumping, storage and handling shall be adequately controlled, or if necessary phased out, to insure that violations of water quality standards are not caused by such activities. [~~met at all times.~~] Any control program requiring more than five years to implement shall be subject to approval by the Environmental Quality Commission.

~~3~~ *4.* Establishment of new log storage areas where logs go aground on tidal changes or low flow cycles will not be approved by the Department without specific authorization of the Environmental Quality Commission. Where there is evidence *that such areas result in more than nominal* ~~of~~ [~~resulting~~] ~~significant~~ damages to aquatic life and/or water quality, the existing log storage areas where logs go aground shall be phased out in accordance with an approved schedule *unless specific authorization for continuance is granted by the Commission in consideration of environmental trade-offs*. Any phase-out program taking more than five years shall be subject to approval by the EQC.

~~4~~ *5.* New free-fall log dumps shall not be permitted. Existing free-fall dumps shall either be phased out as soon as practicable by the installation of DEQ approved easy-let-down devices or controlled in a manner equivalent to the installation of easy-let-down facilities. Any requests for special consideration shall be subject to approval by the EQC.

~~5~~ *6.* Best practicable bark and wood debris controls, collection and disposal methods, as approved by the Department, shall be employed at all log dumps, raft building areas and millside handling sites in accordance with specifically approved programs.

~~6~~ *7.* The inventory of logs in public waters for any purpose shall be kept to the lowest practicable number for the shortest practicable time *considering market conditions and the quality of the water at the storage site.* [~~, not to exceed one year except by specific approval of the Department.~~]

7 *8.* Upon specific request, the industry shall provide information to the Department relative to log volumes and usage site locations in public waters.

8 *9.* All dry land log storage, wood chip, and hog fuel handling and storage facilities located adjacent to waterways shall be designed, constructed and operated to control leachates and prevent the loss of [~~wood products~~] bark, chips, sawdust and other wood debris into the public waters. Plans and specifications must be approved by the Department prior to construction of new or modified facilities. (Additional approvals may be required relative to air quality and noise impacts).

9 *10.* Subsequent to adoption of this policy each industry shall be responsible for cleanup and removal of sunken logs, piling, docks, floats and other structures from its log dumping, handling, and storage sites in public waters when use thereof is to be permanently terminated. *Discontinuance for a period of five years is prima facie evidence of the permanence of the termination.*

Oregon Shores Conservation Coalition/ P.O. Box 488 • Portland, Oregon 97207

Dedicated To The Preservation Of Our Shoreline Resources

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Administrative Assistant

PHONE: 503-222-1963

October 6, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 8 1975
WATER QUALITY CONTROL

Mr. Loren Kramer, Director
Department of Environmental Quality
1234 SW Morrison Street
Portland, Oregon 97205

ATTN: Harold Sawyer
RE: Comments on Policy for Log Handling in Public Waters

At the annual membership meeting of the Oregon Shores Conservation Coalition at Astoria on October 4, the following resolution was adopted in regard to suggested changes in the implementation program and policy dealing with log handling in the public waters of this state:

"Because the Environmental Quality Commission at its hearing of September 26, 1975, suggested some potential changes in language to the proposed IMPLEMENTATION PROGRAM AND POLICY FOR LOG HANDLING IN OREGON'S PUBLIC WATERS which substantially softened the proposed rules and made them more permissive; because other changes which weaken the rules were proposed on September 9, 1975; and because the magnitude of these proposed changes would be especially adverse to water quality throughout the coastal zone, Oregon Shores Conservation Coalition recommends that all suggested changes which water down the proposed rules be rejected by the Commission.

"Since the changes suggested last-minute are of such scope and character as to warrant further analysis and comment by the public, it is further recommended that an additional 15 to 30 days be provided to receive comment."

As the enclosed mark-up indicates, it is the position of Oregon Shores Conservation Coalition that the excellent language that existed prior to the September 9, 1975, suggested changes would provide a much more suitable implementation program and policy -- and that this earlier language would serve the environmental quality needs well with no harm to the economy or the industry.

Sincerely,

George Diel

OREGON SHORES CONSERVATION COALITION
George Diel, Executive Director

Enclosure
CC: Allied Organizations

Attachment A

Note:
New language (9/9/75) Underscored.
Deletions (9/9/75) Bracketed.
New Language 9/29/75) Italicized.
Deletions (9/29/75)= //

(Proposed)

Implementation Program & Policy

for

LOG HANDLING IN OREGON'S PUBLIC WATERS

DEPARTMENT OF ENVIRONMENTAL QUALITY

September, 1975

GENERAL SUMMARY OF PROBLEMS

Based on the Department's field evaluations, experience and review of pertinent literature, the following general conclusions about the effects of logs in public waters are drawn:

1. There is ample and conclusive evidence that the bark, debris and leachate releases resulting from dumping, storage and millside handling of logs in public waters can have an adverse effect on water quality. The magnitude of the effect varies with the size and characteristic of the waterway and the nature and magnitude of the log handling operation.
2. Free fall log dumping causes the major release of bark and other log debris.
3. Bark and log debris are the major waste products resulting from logs in water. These materials range in size from microscopic particles to whole logs. Some float but most will sink in a short time. Numerous particles may travel submerged a considerable distance before dropping to the bottom. Bottom deposits of these substances may blanket the benthic aquatic life and fish spawning areas. During submerged decomposition stages the wood products rob overlying waters of dissolved oxygen and often give off toxic decay products.
4. Leachates from logs in water [are a] can be a significant source of biochemical oxygen demand and dark color. These generally have minimal impact in larger flowing streams but their effect may be compounded in quiet waters.
5. Where logs go aground during tidal changes or flow fluctuations, they [are] can be a detriment to bottom dwelling aquatic life and can be the cause of increased turbidity.

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6. Even though significant improvements have been made at certain log handling areas, further improvements are needed and can be accomplished on a short-term basis by improved log dumping, handling and storage practices at operations that still adversely impact aquatic life and water quality.

7. Because alternatives to the storage and handling of logs in public waters can result in undesirable as well as desirable environmental trade-offs, it is imperative that each operation be carefully evaluated on its own merits.

IMPLEMENTATION PROGRAM

Based on the statement of general policy which follows and case by case water quality problem assessments, a proposed state permit will be developed for each log handling operation in public waters where problems exist *or are likely to occur* that will: [delete]

1. State specific objectives designed to bring that operation into acceptable compliance with water quality standards.
2. Require the permittee to evaluate alternatives and submit a program and time schedule for meeting specific objectives.
3. Require implementation of a control program as approved by the Department, giving consideration to *the impact of alternative methods on the environment.* ~~environmental trade-offs.~~ [delete]

In accordance with existing permit issuance regulations, each proposed permit would then be subject to review and comment by both the permittee and the public prior to issuance.

STATEMENT OF GENERAL POLICY

The following statement of general policy is set forth to guide both the staff of the DEQ and timber industry representatives in matters pertaining to log handling in public waters:

[delete]

1. *The Environmental Quality Commission and the Department of Environmental Quality acknowledge that transportaion and storage of logs is one of the appropriate uses of public waters of the state so long as such operations are controlled to adequately protect environmental quality, natural resources, public health and safety and the economy of the state.*

1 — 1 2. The construction of new wood processing plants which must receive logs directly from public waters will not be approved by the Department without specific authorization of the Environmental Quality Commission. In general, new operations will not be permitted where water quality standards or other beneficial uses would be jeopardized.

2 — 2 3. Existing log dumping, storage and handling shall be adequately controlled, or if necessary phased out, to insure that violations of water quality standards are not caused by such activities. [~~met at all times.~~] Any control program requiring more than five years to implement shall be subject to approval by the Environmental Quality Commission.

3 — 3 4. Establishment of new log storage areas where logs go aground on tidal changes or low flow cycles will not be approved by the Department without specific authorization of the Environmental Quality Commission. Where there is evidence *that such areas result in more than nominal* of [~~resulting~~] significant damages to aquatic life and/or water quality, the existing log storage areas where logs go aground shall be phased out in accordance with an approved schedule *unless specific authorization for continuance is granted by the Commission in consideration of environmental trade-offs*. Any phase-out program taking more than five years shall be subject to approval by the EQC.

4 — 4 5. New free-fall log dumps shall not be permitted. Existing free-fall dumps shall either be phased out as soon as practicable by the installation of DEQ approved easy-let-down devices or controlled in a manner equivalent to the installation of easy-let-down facilities. Any requests for special consideration shall be subject to approval by the EQC.

5 — 5 6. Best practicable bark and wood debris controls, collection and disposal methods, as approved by the Department, shall be employed at all log dumps, raft building areas and millside handling sites in accordance with specifically approved programs.

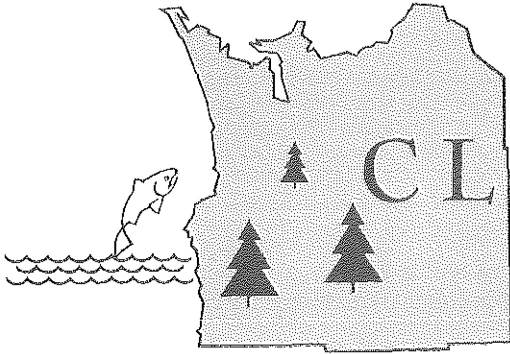
6 — 6 7. The inventory of logs in public waters for any purpose shall be kept to the lowest practicable number for the shortest practicable time *considering market conditions and the quality of the water at the storage site.* [~~, not to exceed one year except by specific approval of the Department.~~]

(Handwritten margin notes: "delete", "restore", "delete")

7 — ~~7~~ 8. Upon specific request, the industry shall provide information to the Department relative to log volumes and usage site locations in public waters.

8 — ~~8~~ 9. All dry land log storage, wood chip, and hog fuel handling and storage facilities [located adjacent to waterways] (delete) shall be designed, constructed and operated to control leachates and prevent the loss of [~~wood products~~] bark, chips, sawdust and other wood debris into the public waters. Plans and specifications must be approved by the Department prior to construction of new or modified facilities. (Additional approvals may be required relative to air quality and noise impacts).

9 — ~~9~~ 10. Subsequent to adoption of this policy each industry shall be responsible for cleanup and removal of sunken logs, piling, docks, floats and other structures from its log dumping, handling, and storage sites in public waters when use thereof is [to be permanently] (delete) terminated. [*Discontinuance for a period of five years is prima facie evidence of the permanence of the termination.*] (delete)



CLATSOP COUNTY

Courthouse . . . . Astoria, Oregon 97103

October 6, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT - 7 1975
OFFICE OF THE DIRECTOR

Oregon Environmental Quality Commission
Terminal Sales Building
1234 S.W. Morrison
Portland OR 97205

RE: Objection to adoption of proposed policy pertaining to log handling in Oregon waters.

Gentlemen:

At the hearing held September 26, 1975, you indicated you would leave the record open for ten days to permit further public input.

The Board of County Commissioners of Clatsop County desire to supplement the record as being firmly opposed to the proposed restriction of the use of Oregon waterways for the transportation of logs.

It is our opinion that the restriction of the use of the waterways in Clatsop County for the use of rafting and transporting logs will have a devasting impact on our local economy and upon the local land transportation systems.

You have received testimony from the lumber industry in this area which indicated the proposed restriction would be extremely harmful to their business operations. We are in agreement with their evaluation. This area is classified as economically depressed. The citizens of Clatsop County, the public officials, the State Department of Economic Development and the Governor's office are doing everything we can to promote economic development based upon sound planning. We believe your proposed regulation and restrictions will succeed in making our recovery even more difficult, if not permanently cripple it. Such a blow is made even more intolerable when the basis of the proposed regualtion is based on little more than mere speculation. If harm is being caused it should be substantiated before such severe hardships are imposed on log handling in the coastal bays and rivers.

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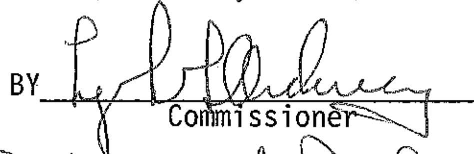
The other basic impact identified by this Board as a result of the proposed regulation is upon the transportation system in this area. If the waterways are not used, then the logs must be trucked. This trucking will have a severe impact because of the lack of roads and because the existing roads are already undermaintained due to the lack of county and state road funds. Clatsop County does not have the resources to increase its road services to meet the need that would be created. The State Highway Department has demonstrated it is in a similar position by the condition of the existing state highways and the delay of the state in proceeding with its scheduled new highway work in this area.

We do not feel that Clatsop County's status is unique in these problems. Rather, our problems are shared by most of the other counties that have large timber processing activities in close proximity to major waterway networks.

We hope you will very carefully consider the impact and effect your regulations will have in relation to what you are trying to protect. Further, we feel that such regulation must be justified by thorough evaluation and such can only be done after very thorough and well documented study. To impose such a harpship based on little more than speculation would cause a very real question of credibility.

We would be pleased to offer our assistance in further consideration of this matter. Please keep us informed of your activities in this matter.

BOARD OF COUNTY COMMISSIONERS
CLATSOP COUNTY, OREGON

BY 
Commissioner

BY
Commissioner

BY
Commissioner

NORTH BEND Chamber of Commerce

IN THE HEART OF THE GOLD COAST OF OREGON — LOCATED BY THE BRIDGE

TELEPHONE 756-4711

NORTH BEND, OREGON 97459

State of Oregon
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State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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OFFICE OF THE DIRECTOR

October 2, 1975

Mr. Loren Kramer, Director
Department of Environmental Quality
1234 SW Morrison St.
Portland, Oregon 97205

Dear Mr. Kramer:

It is the understanding of the North Bend Chamber of Commerce that the Department of Environmental Quality has seen fit to try to gain jurisdiction and/or control of water log storage areas where logs are grounded due to tidal action. This affects up to 90 percent of the 500 million board feet annual production in the Coos Bay Area. It is our opinion that severe economic impact as well as unacceptable environmental impact would occur if current practices are significantly altered.

Economically the survival of our bay area is dependent upon the competitive manufacturing of wood products. If the cost of production is increased to the extent required by changing storage practices, then our position in the marketplace will be jeopardized. Because of our dependence on that industry and a current unemployment rate of 14 percent, as a community we cannot afford to have that situation occur.

In addition to the economic impact, certain environmental considerations must be recognized. If up to 90 percent of our 500 million board feet annual production must be stored on land and transported to the mill by other than water transportation some of the following conditions would occur in varying degrees:

There would be an adverse impact on vehicular traffic since it is estimated that 50 to 60 log trucks are required to carry what one tow boat can handle in a two raft tow.

The additional truck traffic would cause greater consumption of petroleum resources at a time when we can least afford it.

Residents would be forced to accept additional noise and air pollution because of increased truck traffic.

More congestion and accidents are probable with so many more trucks turning onto and off of U.S. 101.

Dry land storage could cause additional air pollution in summer months when dust would be blown into adjacent areas by prevailing winds. Additionally, these dry land storage areas would have to be acquired from potential industrial sites. The Coos Bay area needs these sites for expansion of its industrial base to industries unrelated to wood products.

NORTH BEND Chamber of Commerce
IN THE HEART OF THE GOLD COAST OF OREGON LOCATED BY THE BRIDGE
TELEPHONE 756-4711
NORTH BEND, OREGON 97459

Our bay is the resource upon which everything else depends. If it is not used properly, which includes for industrial purposes, we lose a vital link in our socio-economic well being. It is unreasonable to expect our residents to accept the alternatives to current practices of using the bay in wood production.

Therefore, the North Bend Chamber of Commerce believes it is necessary that a supplemental environmental impact statement be required since the grounding of logs was not a part of the original study. This is in the best interest of our citizens and we ask for your careful consideration on our behalf.

Sincerely,

Ken Sandine, Vice President
NORTH BEND CHAMBER OF COMMERCE

P.S. On October 3, 1975 the proposed Implementation Program and Policy for Log Handling in Oregon's Public Waters, Attachment A, dated September 1975, came to the attention of the chamber. Reference Statement of General Policy paragraph 1: The North Bend Chamber of Commerce Board of Directors unanimously supported the verbatim content of this paragraph.

COOS-CURRY COUNCIL OF GOVERNMENTS

P. O. BOX 647
NORTH BEND, OREGON 97459

SANDRA DIEDRICH
PLANNING DIRECTOR
PHONE 756-2563

B. L. HIGGINS, Chairman
WILLIAM TANKERSLEY, Vice-Chairman
C. W. HECKARD, Treasurer

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October 3, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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OCT 7 1975
WATER QUALITY CONTROL

Environmental Quality Commission
1234 S.W. Morrison St.
Portland, Oregon 97205

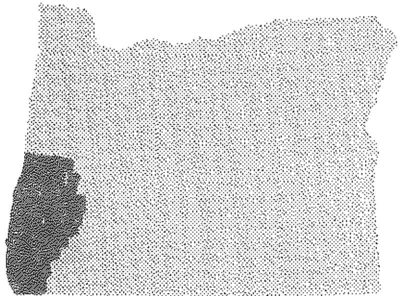
Gentlemen:

The Coos-Curry Council of Governments as a regional association of units of local government and as an area-wide planning body has identified concerns related to the adoption of the proposed policies for log handling in Oregon's public waters which are significant to the Commission's consideration of these proposed policies.

While it is recognized that at the Chairman's motion, language was added to the proposed policies which acknowledges that an appropriate use of Oregon's public waters is for the transportation and storage of logs, the policies, nevertheless, propose to implement a program which will limit that use. Thereby, the proposed policies mandate the development of alternate methods of log transport and storage. The Council further recognizes that the development of the proposed policies has involved input from various interests and has assessed impacts of present methods of transport, handling and storage.

However, the concerns of the Council relate to the specific absence of the assessment of environmental impacts the proposed policies may have. It is clearly the intent of the proposed policies to limit and control log handling and storage in public waters. Such limitation and control will force the utilization of alternate methods if the forest products dependent economy of this area sustains itself at the present level or recovers from the current economic distress. If the economy is either sustained or recovers, then all current handling and storage in public waters must be maintained or an alternative such as dry land storage must be implemented. Such implementation could occur without adequate assessment of environmental impacts of dry land storage.

Not only are there serious land use concerns related to alternate methods, but also are there air quality, energy, traffic circulation, and aesthetic concerns. Dry land storage will necessitate



MEMBER AGENCIES

COOS COUNTY, CURRY COUNTY, BANDON, BROOKINGS, COOS BAY, COQUILLE, EASTSIDE, GOLD BEACH, LAKESIDE, MYRTLE POINT, NORTH BEND, PORT ORFORD, POWERS, PORT OF BANDON, PORT OF COOS BAY, PORT OF BROOKINGS, PORT OF GOLD BEACH, COOS BAY/NORTH BEND WATER BOARD, LAKESIDE WATER DISTRICT, LOWER BAY WATER DISTRICT, COOS BAY SCHOOL DISTRICT, COQUILLE SCHOOL DISTRICT, BANDON SCHOOL DISTRICT, BROOKINGS-HARBOR SCHOOL DISTRICT, GOLD BEACH HIGH SCHOOL DISTRICT, GOLD BEACH SCHOOL DISTRICT 3C, MYRTLE POINT SCHOOL DISTRICT, SOUTHWESTERN OREGON COMMUNITY COLLEGE

transport by trucks which may have significant impacts on energy consumption, air pollution, traffic circulation patterns, visual resources and land resources. The policies recommend a program for implementation without first having assessed the environmental impacts of the explicit and implicit effects of the proposed policies. This does not appear to be in keeping with the mandate of the Environmental Quality Commission. Alleviating one system of environmental impact only to create the potential for even more serious and irreversible systems of environmental impact does not appear to be an environmentally sound procedure.

The Council does, therefore, request that the Commission initiate an assessment of the short-term and long-range environmental impacts of the alternatives which the proposed policies may mandate. Without an understanding of trade-offs, adoption of the proposed policies may be premature and unseemingly for a Commission charged with preserving the environmental quality of the air, land and water resources of the State of Oregon. Further, it appears that without appropriate environmental assessments, the Commission may be performing de facto land use planning by necessitating the use of land resources for a specified purpose.

Thank you for your consideration of our concerns and for your consideration of initiating an assessment of the environmental impacts of alternatives of present log handling and storage practices.

Sincerely,

Sandra Diedrich
Planning Director

CC: Sen. Jack Ripper
Rep. Ed "Doc" Stevenson
Rep. William Grannell

SD:pa

WHITE, SUTHERLAND, PARKS & ALLEN
ATTORNEYS AND COUNSELORS AT LAW
1200 JACKSON TOWER
PORTLAND, OREGON 97205
224-4840

THOMAS J. WHITE
WILLIAM F. WHITE
NORMAN E. SUTHERLAND
ALEX L. PARKS
E. WAYNE CORDES
RUSSELL M. ALLEN
THOMAS J. GREIF
DENNIS E. STENZEL

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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OFFICE OF THE DIRECTOR

October 6, 1975

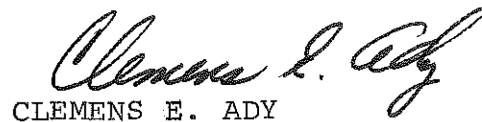
Mr. Loren Kramer
Director
Department of Environmental
Quality
1234 S. W. Morrison
Portland, Oregon 97205

Dear Mr. Kramer:

Enclosed are additional comments to the DEQ in regards to the proposed log handling regulations.

Very truly yours,

WHITE, SUTHERLAND, PARKS & ALLEN



CLEMENS E. ADY

CEA:mbe
Enclosures

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WATER QUALITY CONTROL

COLUMBIA RIVER TOWBOAT ASSOCIATION

1200 JACKSON TOWER
PORTLAND, OREGON 97205
TELEPHONE 228-4559

October 6, 1975

MEMBERS
ATLAS TUG SERVICE
BRUSCO TOWBOAT CO.
COLUMBIA PACIFIC TOWING CORP.
DIESEL TOWING CO.
KNAPPTON TOWBOAT CO.
THE MIRENE CO.
PACIFIC INLAND NAVIGATION CO.
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SHEPARD TOWING CO.
SMITH TUG & BARGE CO.
TIDEWATER BARGE LINES, INC.
WESTERN TRANSPORTATION CO.
WILLAMETTE TUG & BARGE CO.

STATEMENT OF COLUMBIA RIVER TOWBOAT ASSOCIATION ON LOG HANDLING AND OREGON'S PUBLIC WATERS BEFORE OREGON ENVIRONMENTAL QUALITY COMMISSION BASED UPON TEN-DAY EXTENSION ALLOWED AT NEWPORT, OREGON ON SEPTEMBER 26, 1975

Mr. Chairman and Ladies and Gentlemen, this statement is on behalf of the Columbia River Towboat Association and is intended to supplement the oral statements given at Newport, Oregon on September 26, 1975 by the representative for the Columbia River Towboat Association. The statements given at that meeting would be respectfully requested to be made part of the record and this written statement to be merely supplemental.

The basic concern of the Columbia River Towboat Association is the regulation of activities in the Columbia River and the Willamette River by the Department of Environmental Quality and the Oregon Environmental Quality Commission. All evidence to date indicates that there has been little or no reduction in the water quality in the above-mentioned areas due to the transportation and storage of logs and log rafts.

The major impact on the environment in regard to the industry of logging seems to come from (1) vertical dumping of logs, and (2) the storage of logs at mill areas where a major accumulation of logs may result in damage to the water quality,

particularly in regard to biological oxygen demand ratio reduction. A third area, which seems to be the major import of the proposed regulation, is the result of impacting of submerged lands due to changes in tide levels. Since the Commission is aware that there are few, if any, mills on either the Willamette or Columbia Rivers, the fears expressed by the Commission as to lowering of water quality levels in these areas is probably not well founded. Further, there is very little storage of logs at mill sites and therefore the second fear is not well founded. Thirdly, the Columbia and Willamette Rivers are not really affected to any appreciable degree by tidal changes and therefore damage to benthic organisms as a result of impacting of the submerged land is also not justified.

There is currently a large national movement to preserve our environment. There is probably not one person in the United States that does not feel that the environment should be protected. However, much of the proposed legislation and the standards established by respective agencies have been based upon inadequate and insufficient evidence which has created hardships not only on the industries and individuals affected by the agencies' regulations, but upon the economy as a whole. The environmental studies done to date on log dumping and storage have been severely limited in number, and it can be truthfully stated that all the evidence is not yet in. This does not mean that there should not be some type of regulation imposed until evidence can be accumulated, but a

situation-by-situation analysis is certainly called for. The Columbia River and the Willamette River do not seem to be affected to any measurable degree by the use of the waterways for transportation and storage of logs. Part of the implementation of any stringent requirements by the Department of Environmental Quality, and before the implementation of storage requirements, members of the industry should be allowed to research and investigate impacts of their industry upon the environment and to make necessary changes, if any are required, in order to conform to standards suggested.

Permitting procedures do not appear to be necessary at this time for those users of the Willamette and Columbia Rivers. All the evidence presented to the Commission points this way. Hopefully, the intent of the Commission is to protect the water quality in those areas that have the problems of storage of logs in mill areas and in those areas affected by tidal changes.

Of paramount importance is the inescapable fact that alternate methods of log storage and log transportation may have a much greater impact upon the environment than the present system of storage and transportation in navigable waters. As the example given at the Newport hearing so graphically demonstrates, storage of the same amount of logs on land [as are now stored in navigable waters] and the transportation of those same logs by means of truck and/or rail [as contrasted with the movement of logs by water] would have a much greater impact upon air quality, highway deteriora-

tion and fuel consumption than a continuation of the present system of storage in, and transportation upon, navigable waters.

Further, it is hoped that those members of the industry in the Willamette and Columbia Rivers be allowed to research and investigate and to implement any changes that may or may not be necessary.

Respectfully submitted,

COLUMBIA RIVER TOWBOAT ASSOCIATION

By:
Executive Secretary

ALP:jez

INDUSTRIAL FORESTRY ASSOCIATION

SERVING FOREST OWNERS, LOGGERS, WOOD USERS
THROUGHOUT THE DOUGLAS FIR REGION

1220 S.W. COLUMBIA STREET
PORTLAND, OREGON 97201

Telephone:
(503) 222-9505

October 6, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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WATER QUALITY CONTROL

Mr. Loren Kramer, Director
Department of Environmental Quality
1234 S. W. Morrison Street
Portland, OR 97205

Dear Mr. Kramer:

We are writing on behalf of the Industrial Forestry Association Log Handling and Storage Committee in response to the most recent revisions to the proposed "Implementation Program and Policy for Log Handling in Oregon's Public Waters." At the September 26, 1975 hearing we presented comments regarding the Department's proposal dated September, 1975, which is primarily directed at the most recent additions proposed by the Commission.

We believe most of the changes in italics make the policy more specific and better defined and, therefore, provide better guidance to the staff for their implementation. Two specific areas that have been addressed by the Commission suggestions are of particular interest. The first is the addition of a preamble policy that appears to be a combination of our proposal and the Commission Chairman's wording. We believe this final proposal is better than either individual proposal. It recognizes that log handling in public waters is a valid use so long as all aspects of the environment are protected. The tone set by this statement is certainly nothing new, but follows a long history of legislative indications as well as present and past use history. See ORS 532-010(8); ORS 526-215; Oregon Const. Art. 1, Sec. 18. We believe this is in keeping with the philosophy of protecting the interest and welfare of the vast majority of citizens of Oregon who believe, as we do, that the environment must be protected while assuring that employment potential is not lost. These two issues are compatible and this preamble helps provide for practical implementation which will promote this compatibility.

The second area of major revision is that of the grounding policy. The addition of a specific consideration of environmental trade-offs provides a necessary dimension to the question of the impacts of any proposed phase out.

In summary, we believe this extensively considered policy is necessary to the practical administration of water quality standards to the particular area of log handling. In order for your staff to constructively pursue their tasks, we encourage you to proceed with adoption of the policy as revised subsequent to the September 26 hearing.

If we can be of any further assistance, please do not hesitate to contact us.

Sincerely yours,

Harold E. Hartman
Environmental Specialist

HEH:jm

ENVIRONMENTAL QUALITY COMMISSION

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

ROBERT W. STRAUB
GOVERNOR

JOE B. RICHARDS
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Corvallis

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Portland

MORRIS K. CROTHERS
Salem

RONALD M. SOMERS
The Dalles

To: Environmental Quality Commission

From: Director

Subject: Agenda Item I-1, October 24, 1975 EQC Meeting

Authorization to Hold a Public Hearing Relating to Proposed Rules: Emission Standards for Mobile Field Sanitizers

BACKGROUND

Pursuant to Senate Bill 311, Section 9, the Environmental Quality Commission shall "establish emission standards for certified alternative methods to open field burning."

The Field Sanitation Committee has informed the Department of the status of the field sanitizers and requested that rules relative to their operation be adopted. Proposed rules establishing emission limitations and certification requirements are attached. (Attachment A)

The staff has conferred with representatives of the Field Sanitation Committee and have observed machines of several designs in operation. While the machinery operated acceptably under ideal conditions, their operation under less favorable conditions produced substantial quantities of smoke. Wide variations between grass varieties and field conditions produce extremes in performance.

DISCUSSION

At the present stage of development, it is clear that the sanitizers cannot operate perfectly under all field conditions.

The Committee consultants report that they have developed the field sanitizer as far as possible without the benefit of extensive field use and farm experience.

To promote the use of field sanitizers to the greatest extent possible and encourage further development, it is necessary to get a number of sanitizers approved, manufactured and operating. The purchasers of these early model machines need to be assured of the authorization to use their new machines long enough to reasonably amortize their investment. It was the staff's intent to allow the amortization of costs of mobile field

Contains Recycled Materials

sanitizers over a period of five years as a policy of the Department. However, the Field Sanitation Committee has expressed the need to have this commitment as part of the rule. If this is the desire of the Commission, the staff will recommend inclusion of section 26-011(2)(b)(C) as per Attachment B.

CONCLUSIONS

It is concluded that while field sanitizing machines are not yet fully satisfactory, further development depends upon extensive utilization and experience. The attached proposed regulations are intended to provide the opportunity to obtain that experience, and allow sanitizing of fields without open field burning.

DIRECTOR'S RECOMMENDATION

It is the recommendation of the Director that a public hearing before the Environmental Quality Commission be authorized for the purpose of considering for adoption rules governing alternate methods to open field burning at the next regularly scheduled meeting of the Environmental Quality Commission on Friday, November 21, 1975, or at such other time as may be designated by the Director.

LOREN KRAMER
Director

RLV 10/14/75

ATTACHMENT A

PROPOSED AMENDMENTS TO
OAR CHAPTER 340, SECTIONS 26-005 and 26-011

26-005 (16) "Approved Experimental Field Sanitizer" means any field burning device that has been approved by the Field Sanitation Committee and the Department as a potentially feasible alternative to open field burning, or the operation of which may contribute information useful to further development of field sanitizers.

(17) "After-Smoke" means persistent smoke resulting from the burning of a grass seed or cereal grain field with a field sanitizer, and emanating from the grass seed or cereal grain stubble or accumulated straw residue at a point ten (10) feet or more behind a field sanitizer.

(18) "Leakage" means any smoke which is not vented through a stack and is not classified as after-smoke, and is produced as a result of using a field sanitizer.

(19) "Committee" means Oregon Field Sanitation Committee.

10/13/75

26-011 Certified Alternatives to Open Field Burning

(1) Approved field sanitizers, approved experimental field sanitizer, or propane flamers may be used as alternatives to open field burning subject to the provisions of this section.

(2) Approved Field Sanitizers

(a) Procedures for submitting application for approval of field sanitizers.

Applications shall be submitted in writing to the Department and shall include, but not be limited to, the following: (i) Design plans and specifications; (ii) acreage and emission performance data; (iii) details regarding availability of repair service and replacement parts; (iv) operational instructions; (v) letter of approval from the Field Sanitation Committee; (vi) rated acreage capacity.

(b) Emission Standards for Approved Field Sanitizers.

(A) Approved field sanitizers shall be required to demonstrate the capability of sanitizing a representative and harvested grass field or cereal grain stubble with an accumulative straw and stubble fuel load of not less than 1.0 tons/acre, dry weight basis, and which has an average moisture content not less than 10%, at a rate of not less than 85% of rated maximum capacity for a period of 30 continuous minutes without exceeding emission standards as follows: (i) 20% average opacity out of main stack; (ii) leakage not to exceed 20% of the total emissions; (iii) no significant after-smoke originating more than 25 yards behind the operating machine.

(B) The Department shall certify in writing to the Field Sanitation Committee and the manufacturer, the approval of the field sanitizer within 30 days of the receipt of a complete application and successful compliance demonstration with the emission standards of 2 (b)(A). Such approval shall apply to all machines built to the specifications of the Department certified field sanitation machine.

(c) Operation and/or modification of approved field sanitizers.

(A) Operating approved field sanitizers shall be maintained to design specifications (normal wear excepted), ie. skirts, shrouds, shields, air bars, ducts, fans, motors,

etc. shall be in place, intact, and operational.

(B) Modifications to the structure or operating procedures which will knowingly increase emissions shall not be made.

(C) Any modifications to the structure or operating procedures which result in increased emissions shall be further modified or returned to manufacturer's specifications to reduce emissions to original levels or below as rapidly as practicable.

(D) Open fires away from the sanitizers shall be extinguished as rapidly as practicable.

(3) Experimental field sanitizers identified in writing as experimental units by the Committee and not meeting the emission criteria specified in 2 (b)(A) above may receive Department authorization for experimental use for not more than one season at a time, provided:

(a) The Committee shall report to the Department field burning manager the locations of operation of experimental field sanitizers.

(b) The Committee shall provide the Department an end-of-season report of experimental field sanitizer operations.

(c) Open fires away from the machines shall be extinguished as rapidly as practicable.

(4) Propane Flamers. Open propane flaming is an approved alternative to open field burning provided that all of the following conditions are met.

(a) Field sanitizers are not available or otherwise cannot accomplish the burning.

(b) The field stubble will not sustain an open fire.

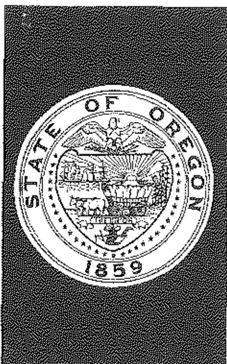
(c) One of the following conditions exist:

(A) The field has been previously open burned and appropriate fees paid.

(B) The field has been clipped so that stubble is no longer than 2" and loose straw has been removed.

26-011 (2)(b)(C)

In the event of the development of significantly superior field sanitizers, the Department may decertify field sanitizers previously approved, except that any unit built prior to this decertification in accordance with specifications of previously approved field sanitizers shall be allowed to operate for a period not to exceed five years from the date of delivery provided that the unit is adequately maintained as per (2)(c)(A).



ENVIRONMENTAL QUALITY COMMISSION

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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. I. 2), October 24, 1975, EQC Meeting

Authorization for public hearings to consider housekeeping amendments to OAR 24-300 through 24-350, Motor Vehicle Emission Control Inspection Test Criteria, Methods and Standards

Background

At its meeting of March 28, 1975, the Environmental Quality Commission adopted rules which became effective May 25, 1975, governing operation of the motor vehicle emission control inspection program. The inspection program began mandatory operation under these rules July 1, 1975. However, by then, the 1975 Oregon legislative assembly had enacted a bill which changed the inspection program from an annual required event to one required only prior to vehicle license renewal -- thus, every other year.

Discussion

Authorization is needed to hold a public hearing to consider housekeeping amendments to OAR 24-300 through 24-350, Motor Vehicle Emission Control Inspection Test Criteria, Methods and Standards. These housekeeping amendments include the addition of emission control limits for specific motor vehicle makes and models which had been overlooked or were not in existence at the time the original rules were adopted. The most significant proposed change is that the enforcement tolerance period be extended through June, 1977 rather than ceasing at the end of June, 1976 as the existing rule requires. This proposed change is recommended so that the enforcement tolerance would still be applied throughout an entire inspection cycle.

Notice for public hearing and copies of the specific proposed rule changes will be made available to the public at least 30 days prior to public hearing.

Contains Recycled Materials

Director's Recommendation

It is recommended that a hearing to consider amendments to the motor vehicle inspection program rules be held by a hearings officer at a time and place to be determined by the Director. Following the hearing, a report is to be prepared for presentation to the Commission for action at its next regular meeting following the public hearing.

LOREN KRAMER
Director

RCH:mg
October 13, 1975

issued a license by the Department pursuant to section 24-350 of these regulations and ORS 468.390.

(13) "Gaseous fuel" means, but is not limited to, liquefied petroleum gases and natural gases in liquefied or gaseous forms.

(14) "Hydrocarbon gases" means a class of chemical compounds consisting of hydrogen and carbon.

(15) "Idle speed" means the unloaded engine speed when accelerator pedal is fully released.

(16) "In-use motor vehicle" means any motor vehicle which is not a new motor vehicle.

(17) "Light duty motor vehicle" means a motor vehicle having a combined manufacturer weight of vehicle and maximum load to be carried thereon of not more than 8,400 pounds (3820 kilograms).

(18) "Light duty motor vehicle fleet operation" means ownership, control, or management, or any combination thereof, by any person of 100 or more Oregon registered, in-use, light duty motor vehicles, excluding those vehicles held primarily for the purposes of resale.

(19) "Model year" means the annual production period of new motor vehicles or new motor vehicle engines designated by the calendar year in which such period ends. If the manufacturer does not designate a production period, the model year with respect to such vehicles or engines shall mean the 12 month period beginning January of the year in which production thereof begins.

(20) "Motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground and weighing less than 1,500 pounds (682 kilograms).

(21) "Motor vehicle" means any self-propelled vehicle used for transporting persons or commodities on public roads.

(22) "Motor vehicle pollution control system" means equipment designed for installation on a motor vehicle for the purpose of reducing the pollutants emitted from the vehicle, or a system or engine adjustment or modification which causes a reduction of pollutants emitted from the vehicle.

(23) "New motor vehicle" means a motor vehicle whose equitable or legal title has never been transferred to a person who in good faith purchases the motor vehicle for purposes other than resale.

(24) "Non-complying imported vehicle" means a motor vehicle of model years 1968 through 1971 which was originally sold new outside of the United States and was imported into the United States as an in-use vehicle prior to February 1, 1972.

(25) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government

Motor Vehicle Emission Control Inspection Test Criteria, Methods and Standards.

24-300 Pursuant to ORS 468.360 to 468.405, 481.190 to 481.200, and 483.800 to 483.825, the following rules establish the criteria, methods, and standards for inspecting light duty motor vehicles, excluding motorcycles, to determine eligibility for obtaining a certificate of compliance or inspection.

24-305 Definitions. As used in these rules unless otherwise required by context:

(1) "Carbon dioxide" means a gaseous compound consisting of the chemical formula (CO_2).

(2) "Carbon monoxide" means a gaseous compound consisting of the chemical formula (CO).

(3) "Certificate of compliance" means a certification issued by a vehicle emission inspector that the vehicle identified on the certificate is equipped with the required functioning motor vehicle pollution control systems and otherwise complies with the emission control criteria, standards and rules of the commission.

(4) "Certificate of inspection" means a certification issued by a vehicle emission inspector and affixed to a vehicle by the inspector to identify the vehicle as being equipped with the required functioning motor vehicle pollution control systems and as otherwise complying with the emission control criteria, standards and rules of the commission.

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

(6) "Crankcase emissions" means substances emitted directly to the atmosphere from any opening leading to the crankcase of a motor vehicle engine.

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

(8) "Director" means the director of the department.

(9) "Electric vehicle" means a motor vehicle which uses a propulsive unit powered exclusively by electricity.

(10) "Exhaust emissions" means substances emitted into the atmosphere from any opening downstream from the exhaust parts of a motor vehicle engine.

(11) "Factory-installed motor vehicle pollution control system" means a motor vehicle pollution control system installed by the vehicle or engine manufacturer to comply with federal motor vehicle emission control laws and regulations.

(12) "Gas analytical system" means a device which senses the amount of air contaminants in the exhaust emissions of a motor vehicle, and which has been

from the exhaust outlets are to be averaged into one reading for each gas measured for comparison to the standards of section 24-330.

(10) If the vehicle is capable of being operated with both gasoline and gaseous fuels, then steps (6) through (8) are to be repeated so that emission test results are obtained for both fuels.

(11) If it is ascertained that the vehicles may be emitting noise in excess of the noise standards adopted pursuant to ORS 467.030, then a noise measurement is to be conducted in accordance with the test procedures adopted by the commission or to standard methods approved in writing by the department.

(12) If it is determined that the vehicle complies with the criteria of section 24-320 and the standards of section 24-330, then, following receipt of the required fees, the vehicle emission inspector shall issue the required certificates of compliance and inspection.

(13) The inspector shall affix any certificate of inspection issued to the lower left-hand side (normally the driver side) of the front windshield, being careful not to obscure the vehicle identification number nor to obstruct driver vision.

(14) No certificate of compliance or inspection shall be issued unless the vehicle complies with all requirements of these rules and those applicable provisions of ORS 468.360 to 468.405, 481.190 to 481.200, and 483.800 to 483.825.

24-320 Light Duty Motor Vehicle Emission Control Test Criteria.

(1) No vehicle emission control test shall be considered valid if the vehicle exhaust system leaks in such a manner as to dilute the exhaust gas being sampled by the gas analytical system. For the purpose of emission control tests conducted at state facilities, except for diesel vehicles, tests will not be considered valid if the exhaust gas is diluted to such an extent that the sum of the carbon monoxide and carbon dioxide concentrations recorded for the idle speed reading from an exhaust outlet is 9% or less. For purposes of enforcement through June, 1976, a 1% carbon dioxide tolerance shall be added to the values recorded.

(2) No vehicle emission control test shall be considered valid if the engine idle speed either exceeds the manufacturer's idle speed specifications by over 200 RPM on 1968 and newer model vehicles, or exceeds 1,250 RPM for any age model vehicle. For purposes of enforcement through June, 1976, a 100 RPM tolerance shall be added to the idle speed limits.

(3) No vehicle emission control test conducted after June, 1976, for a 1968 or newer model vehicle shall be considered valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 483.825 (1), except as noted in subsection (5).

(a) Positive crankcase ventilation (PCV) system

and any agencies thereof.

(26) "PPM" means parts per million by volume.

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

(28) "RPM" means engine crankshaft revolutions per minute.

(29) "Two-stroke cycle engine" means an engine in which combustion occurs, within any given cylinder, once each crankshaft revolution.

(30) "Vehicle emission inspector" means any person possessing a current and valid license issued by the Department pursuant to section 24-340 of these regulations and ORS 468.390.

24-310 Light Duty Motor Vehicle Emission Control Test Method.

(1) The vehicle emission inspector is to insure that the gas analytical system is properly calibrated prior to initiating a vehicle test.

(2) The department approved vehicle information data form is to be completed prior to the motor vehicle being inspected.

(3) The vehicle is to be in neutral gear if equipped with a manual transmission, or in "park" position if equipped with an automatic transmission.

(4) All vehicle accessories are to be turned off.

(5) An inspection is to be made to insure that the motor vehicle is equipped with the required functioning motor vehicle pollution control system in accordance with the criteria of section 24-320.

(6) With the engine operating at idle speed, the sampling probe of the gas analytical system is to be inserted into the engine exhaust outlet.

(7) Except for diesel vehicles, the engine is to be accelerated with no external loading applied, to a speed of between 2,200 RPM and 2,700 RPM. The engine speed is to be maintained at a steady speed within this speed range for a 4 to 8 second period and then returned to an idle speed condition. In the case of a diesel vehicle, the engine is to be accelerated to an above idle speed. The engine speed is to be maintained at a steady above idle speed for a 4 to 8 second period and then returned to an idle speed condition.

(8) The steady state levels of the gases measured at idle speed by the gas analytical system shall be recorded. Except for diesel vehicles, the idle speed at which the gas measurements were made shall also be recorded.

(9) If the vehicle is equipped with a dual exhaust system, then steps (6) through (8) are to be repeated on the other exhaust outlet(s). The readings

trol system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 483.825 (3).

(6) For the purposes of these rules a motor vehicle with an exchange engine shall be classified by the model year and manufacturer make of the exchange engine, except that any requirement for evaporative control systems shall be based upon the model year of the vehicle chassis.

(7) Electric vehicles are presumed to comply with all requirements of these rules and those applicable provisions of ORS 468.360 to 468.405, 481.190 to 481.200, and 483.800 to 483.825, and may be issued the required certificates of compliance and inspection upon request to the Department and payment of the required fee.

24-330 Light Duty Motor Vehicle Emission Control Idle Emission Standards.

(1) Carbon monoxide idle emission values not to be exceeded:

	%	Enforcement Tolerance Through June 1976
ALPHA ROMEO		
1975	-	-
1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.5
pre-1968	6.0	0.5
AMERICAN MOTORS CORPORATION		
1975 Non-Catalyst	1.0	0.5
1975 Catalyst Equipped	0.5	0.5
1972 through 1974	2.0	1.0
1970 through 1971	3.5	1.0
1968 through 1969	5.0	0.5
pre-1968	6.0	0.5
AUDI		
1975	1.0	0.5
1971 through 1974	2.5	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

AUSTIN - See BRITISH LEYLAND

(b) Exhaust modifier system
  (1) Air injection reactor system
  (2) Thermal reactor system
  (3) Catalytic converter system - (1975 and newer model vehicles only)

(c) Exhaust gas recirculation (EGR) systems - (1973 and newer model vehicles only)

(d) Evaporative control system - (1971 and newer model vehicles only)

(e) Spark timing system
  (1) Vacuum advance system
  (2) Vacuum retard system

(f) Special emission control devices
  Examples:
  (1) Orifice spark advance control (OSAC)
  (2) Speed control switch (SCS)
  (3) Thermostatic air cleaner (TAC)
  (4) Transmission controlled spark (TCS)
  (5) Throttle solenoid control (TSC)

(4) No vehicle emission control test conducted after June, 1976 for a 1968 or newer model vehicle shall be considered valid if any element of the factory-installed motor vehicle pollution control system has been modified or altered in such a manner so as to decrease its efficiency or effectiveness in the control of air pollution in violation of ORS 483.825 (2), except as noted in subsection (5). For the purposes of this subsection, the following apply:

(a) The use of a non-original equipment aftermarket part (including a rebuilt part) as a replacement part solely for purposes of maintenance according to the vehicle or engine manufacturer's instructions, or for repair or replacement of a defective or worn out part, is not considered to be a violation of ORS 483.825 (2), if a reasonable basis exists for knowing that such use will not adversely effect emission control efficiency. The Department will maintain a listing of those parts which have been determined to adversely effect emission control efficiency.

(b) The use of a non-original equipment aftermarket part or system as an add-on, auxiliary, augmenting, or secondary part or system, is not considered to be a violation of ORS 483.825 (2), if such part or system is listed on the exemption list maintained by the Department.

(c) Adjustments or alterations of a particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not considered violations of ORS 483.825 (2).

(5) A 1968 or newer model motor vehicle which has been converted to operate on gaseous fuels shall not be considered in violation of ORS 483.825 (1) or (2) when elements of the factory-installed motor vehicle air pollution con-

CHECKER

1975 Non-Catalyst	1.0	0.5
1975 Catalyst Equipped	0.5	0.5
1973 through 1974	1.0	1.0
1970 through 1972	2.5	1.0
1968 through 1969	3.5	1.0
pre-1968	6.0	0.5

CHEVROLET - See GENERAL MOTORS

CHEVROLET L.U.V. - See L.U.V., Chevrolet

CHRYSLER - See CHRYSLER CORPORATION

CHRYSLER CORPORATION (Plymouth, Dodge, Chrysler)

1975 Non-Catalyst	1.0	0.5
1975 Catalyst Equipped	0.5	0.5
1972 through 1974	1.0	1.0
1969 through 1971	1.5	1.0
1968	2.0	1.5
pre-1968	6.0	0.5

CITROEN

1975	-	-
1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

COLT, Dodge

1975	-	-
1971 through 1974	5.0	1.0
pre-1971	6.0	0.5

COURIER, Ford

1975	-	-
1973 through 1974	2.0	1.0
pre-1973	4.0	1.0

BMW

1975	-	-
1974, 6 cyl.	2.5	1.0
1974, 4 cyl.	2.0	1.0
1971 through 1973	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

BRITISH LEYLAND

Austin, Austin Healey, Morris, America and Marina		
1975	-	-
1973 through 1974	2.5	1.0
1971 through 1972	4.0	1.0
1968 through 1970	5.0	1.0
pre-1968	6.5	0.5
Jaguar		
1975	-	-
1972 through 1974	3.0	1.0
1968 through 1971	4.0	1.0
pre-1968	6.0	0.5
MG		
1975	-	-
1973 through 1974 MGB, MGBGT, MGC	3.0	1.0
1971 through 1974 Midget	3.0	1.0
1972 MGB, MGC	4.0	1.0
1968 through 1971, except 1971 Midget	5.0	1.0
pre-1968	6.5	0.5
Rover		
1975	-	-
1971 through 1974	4.0	1.0
1968 through 1970	5.0	0.5
pre-1968	6.0	0.5
Triumph		
1975	-	-
1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.5	0.5

BUICK - See GENERAL MOTORS

CADILLAC - See GENERAL MOTORS

CAPRI - See FORD MOTOR COMPANY, 4 cyl.

FORD MOTOR COMPANY (Ford, Lincoln, Mercury, Capri, except Courier)

1975 Non-Catalyst	1.0	0.5
1975 Catalyst Equipped	0.5	0.5
1972 through 1974, except 4 cyl.	1.0	1.0
1972 through 1974, 4 cyl., except 1971-1973 Capri	2.0	1.0
1971 through 1973 Capri only	2.5	1.0
1970 through 1971	2.0	1.0
1968 through 1969	3.5	1.0
pre-1968	6.0	0.5

GENERAL MOTORS (Buick, Cadillac, Chevrolet, GMC, Oldsmobile, Pontiac)

1975 Non-Catalyst	1.0	0.5
1975 Catalyst Equipped	0.5	0.5
1972 through 1974	1.0	1.0
1970 through 1971, except 4 cyl.	1.5	1.0
1970 through 1971, 4 cyl.	2.5	1.0
1968 through 1969	3.5	1.0
pre-1968	6.0	0.5

GMC - See GENERAL MOTORS

HONDA AUTOMOBILE

1975	-	-
1973 through 1974	3.0	1.0
pre-1973	5.0	1.0

INTERNATIONAL-HARVESTER

1975	-	-
1972 through 1974	3.0	1.0
1970 through 1971	4.0	1.0
1968 through 1969	5.0	1.0
pre-1968	6.0	0.5

JAGUAR - See BRITISH LEYLAND

JEEP - See AMERICAN MOTORS

JENSEN-HEALEY

1973 and 1974	4.5	1.0

CRICKET, Plymouth

1975	-	-
1973 through 1974 (twin carb. only)	3.0	1.0
1972 (twin carb. only)	4.5	1.0
pre-1972 (and 1972 through 1973 single carb. only)	7.5	0.5

DODGE COLT - See COLT, Dodge

DODGE - See CHRYSLER CORPORATION

DATSUN

1975	-	-
1968 through 1974	2.5	1.0
pre-1968	6.0	0.5

DE TOMASO - See FORD MOTOR COMPANY

FERRARI

1975	-	-
1971 through 1974	2.5	1.5
1968 through 1970	4.0	1.5
pre-1968	6.0	0.5

FIAT

1975	-	-
1974	2.5	1.0
1972 through 1973 124 spec. sedan and wgn.	4.0	1.0
1972 through 1973 124 sport coupe and spider	3.0	1.0
1972 through 1973 850	3.0	1.0
1971 850 sport coupe and spider	3.0	1.0
1971 850 sedan	6.0	0.5
1968 through 1970, except 850	5.0	0.5
1968 through 1970 850	6.0	0.5
pre-1968	6.0	0.5

FORD - See FORD MOTOR COMPANY

PEUGEOT

1975	-	-
1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5
Diesel Engines (all years)	1.0	0.5

PLYMOUTH - See CHRYSLER CORPORATION

PLYMOUTH CRICKET - See CRICKET, Plymouth

PONTIAC - See GENERAL MOTORS

PORSCHE

1975	-	-
1972 through 1974	3.0	1.0
1968 through 1971	5.0	1.0
pre-1968	6.5	0.5

RENAULT

1975	-	-
1971 through 1974	3.0	1.0
1968 through 1970	5.0	1.0
pre-1968	6.0	0.5

ROLLS-ROYCE and BENTLEY

1975	-	-
1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

ROVER - See BRITISH LEYLAND

SAAB

1975	2.5	0.5
1968 through 1974, except 1972 99 1.85ℓ	3.0	1.0
1972 99 1.85ℓ	4.0	1.0
pre-1968 (two-stroke cycle)	3.0	3.5

JENSEN INTERCEPTOR & CONVERTIBLE - See CHRYSLER CORPORATION

LAND ROVER - See BRITISH LEYLAND, Rover

LINCOLN - See FORD MOTOR COMPANY

L.U.V., Chevrolet

1975	-	-
1974	1.5	1.0
pre-1974	3.0	1.0

MAZDA

1975	-	-
1968 through 1974, Piston Engines	4.0	1.0
1974, Rotary Engines	2.0	0.5
1971 through 1973, Rotary Engines	3.0	0.5

MERCURY - See FORD MOTOR COMPANY

MERCEDES-BENZ

1975	-	-
1973 through 1974	2.0	1.0
1972	4.0	1.0
1968 through 1971	5.0	1.0
pre-1968	6.0	0.5
Diesel Engines (all years)	1.0	0.5

MG - See BRITISH LEYLAND

OLDSMOBILE - See GENERAL MOTORS

OPEL

1975	-	-
1973 through 1974	2.5	1.0
1970 through 1972	3.0	1.0
1968 through 1969	3.0	1.0
pre-1968	6.0	0.5

PANTERA - See FORD MOTOR COMPANY

ALL VEHICLES NOT LISTED and VEHICLES FOR WHICH NO VALUES ENTERED

1975 Non-Catalyst, 4 cyl.	2.0	0.5
1975 Non-Catalyst, all except 4 cyl.	1.0	0.5
1975 Catalyst Equipped	0.5	0.5
1972 through 1974	3.0	1.0
1970 through 1971	4.0	1.0
1968 through 1969	5.0	1.0
pre-1968	6.5	0.5

(2) Hydrocarbon idle emission values not to be exceeded:

	Enforcement Tolerance Through June 1976	
NO HC Check	-	All two-stroke cycle engines & diesel ignition
1600 ppm	250	Pre-1968, 4 cylinder & non-complying imports, 4 cylinder only
1300 ppm	250	Pre-1968, all non-complying imports (except 4 cylinder)
800 ppm	200	1968 through 1969, 4 cylinder
600 ppm	200	All other 1968 through 1969
500 ppm	200	All 1970 through 1971
400 ppm	200	All 1972 through 1974, 4 cylinder
300 ppm	200	All other 1972 through 1974
175 ppm	50	1975 without catalyst
100 ppm	50	1975 with catalyst

(3) There shall be no visible emission during the steady-state unloaded engine idle portion of the emission test from either the vehicle's exhaust system or the engine crankcase. In the case of diesel engines and two-stroke cycle engines, the allowable visible emission shall be no greater than 20% opacity.

(4) The Director may establish specific separate standards, differing from those listed in subsections (1), (2), and (3), for vehicle classes which are determined to present prohibitive inspection problems using the listed standards.

SUBARU

1975	-	-
1972 through 1974	3.0	1.0
1968 through 1971, except 360's	4.0	1.0
pre-1968 and all 360's	6.0	0.5

TOYOTA

1975	-	-
1968 through 1974, 6 cyl.	3.0	1.0
1968 through 1974, 4 cyl.	4.0	1.0
pre-1968	6.0	0.5

TRIUMPH - See BRITISH LEYLAND

VOLKSWAGEN

1975 Rabbit, Scirocco, and Dasher	0.5	0.5
1975 All Others	2.5	0.5
1974 Dasher	2.5	1.0
1972 through 1974, except Dasher	3.0	1.0
1968 through 1971	3.5	1.0
pre-1968	6.0	0.5

VOLVO

1975	-	-
1972 through 1974	3.0	1.0
1968 through 1971	4.0	1.0
pre-1968	6.5	0.5

NON-COMPLYING IMPORTED VEHICLES

All	6.5	0.5

DIESEL POWERED VEHICLES

All	1.0	0.5

24-340 Criteria for qualifications of persons eligible to inspect motor vehicles and motor vehicle pollution control systems and execute certificates.

(1) Three separate classes of licenses are established by these rules.

(a) Light duty motor vehicle fleet operations.

(b) Fleet operation vehicle emission inspector.

(c) State employed vehicle emission inspector.

(2) Application for a license must be completed on a form provided by the Department.

(3) Each license shall be valid for 12 months following the end of the month of issuance.

(4) No license shall be issued until the applicant has fulfilled all requirements and paid the required fee.

(5) No license shall be transferable.

(6) Each license may be renewed upon application and receipt of renewal fee if the application for renewal is made within the 30 day period prior to the expiration date and the applicant complies with all other licensing requirements.

(7) A license may be suspended, revoked or not renewed if the licensee has violated these rules or ORS 468.360 to 468.405, 481.190 or 483.800 to 483.820.

(8) A fleet operation vehicle emission inspector license shall be valid only for inspection of, and execution of certificates for, motor vehicle pollution control systems and motor vehicles of the light duty motor vehicle fleet operation by which the inspector is employed on a full time basis.

(9) To be licensed as a vehicle emission inspector, the applicant must:

(a) Be an employee of the Vehicle Inspection Division of the Department, or

(b) Be an employee of a licensed light duty motor vehicle fleet operation.

(c) Complete application.

(d) Satisfactorily complete a training program conducted by the Department. Only persons employed by the Department or by a light duty motor vehicle fleet operation shall be eligible to participate in the training program unless otherwise approved by the Director. The duration of the training program for persons employed by a light duty motor vehicle fleet operation shall not exceed 24 hours.

(e) Satisfactorily complete an examination pertaining to the inspection program requirements. This examination shall be prepared, conducted, and graded by the Department.

(10) To be licensed as a light duty motor vehicle fleet operation, the applicant must:

(a) Be in ownership, control or management, or any combination thereof of 100 or more Oregon registered in-use light duty motor vehicles.

(b) Be equipped with an exhaust gas analyzer complying with criteria established in Section 24-350 of these rules.

(c) Be equipped with a sound level meter conforming to Requirements for Sound Measuring Instruments and Personnel (NPCS-2) manual, revised September 15, 1974, of the Department.

(11) No person licensed as a light duty motor vehicle fleet operation shall advertise or represent himself as being licensed to inspect motor vehicles to determine compliance with the criteria and standards of Sections 24-320 and 24-330.

24-350 Gas Analytical System Licensing Criteria.

(1) To be licensed, an exhaust gas analyzer must:

(a) Conform substantially with either:

1. All specifications contained in the document "Specifications for Exhaust Gas Analyzer System Including Engine Tachometers" dated July 9, 1974, prepared by the Department and on file in the office of the Vehicle Inspection Division of the Department, or

2. The technical specifications contained in the document "Performance Criteria, Design Guidelines, and Accreditation Procedures For Hydrocarbon (HC) and Carbon Monoxide (CO) Analyzers Required in California Official Motor Vehicle Pollution Control Stations", issued by the Bureau of Automotive Repair, Department of Consumer Affairs, State of California, and on file in the office of the Vehicle Inspection Division of the Department. Evidence that an instrument model is approved by the California Bureau of Automotive Repair will suffice to show conformance with this technical specification.

(b) Be under the ownership, control or management, or any combination thereof, of a licensed light duty motor vehicle fleet operation or the Department.

(c) Be span gas calibrated and have proper operational characteristics verified by the Department.

(2) Application for a license must be completed on a form provided by the Department.

(3) Each license issued for an exhaust gas analyzer system shall be valid for 12 months following the end of the month of issuance, unless returned to the Department or revoked.

(4) A license for an exhaust gas analyzer system shall be renewed upon submission of a statement by the light duty motor vehicle fleet operation that all conditions pertaining to the original license issuance are still valid and that the unit has been gas calibrated and its proper operation verified within the last 30 days by a vehicle emission inspector in their employment.

(5) Grounds for revocation of a license issued for an exhaust gas analyzer system include the following:

(a) The unit has been altered, damaged or modified so as to no longer conform with the specifications of subsection (1)(a) of this section.

(b) The unit is no longer owned, controlled or managed by the light duty motor vehicle fleet operation to which the license was issued.

(6) No license shall be transferable.

(7) No license shall be issued until all requirements of subsection (1) of this section are fulfilled and required fees are paid.

League of Women Voters of Oregon
Suite 216, 494 State Street
Salem, Oregon 97301

CONTACT: Norma Jean Germond
Phone: 636-4251

TESTIMONY ON THE INDIRECT SOURCE RULE
before the Environmental Quality Commission
October 24, 1975

The League of Women Voters of Oregon urges you to deny the petition to repeal the Indirect Source rule as requested by the Associated General Contractors of America, Inc. and the Oregon State Homebuilders Assoc.

Pollution from the automobile is of greatest concern to the League. We recognize that to achieve clean air standards for our cities, it is necessary to maintain an effective control of indirect sources of air pollution.

We support the purpose of the Indirect Source rule, which is to reduce the dependency on the use of the automobile and thereby reduce ambient air concentrations of automobile related emissions. We believe not only industry and government, but individuals, too, must recognize their responsibility in pollution abatement programs and be willing to accept restrictions on their own activities, particularly with respect to automobiles.

We recognize that any realistic solution to the vehicular emissions problem must include the encouragement of wider use of mass transit systems. Two positive trends have been developing in Portland: 1, carbon monoxide levels in the downtown area have been decreasing, and 2, transit ridership has been increasing significantly. Repeal of the Indirect Source rule may jeopardize these gains.

The League believes the state has the right to set higher standards for pollution abatement than those set by the federal government and has a responsibility to do so when local conditions demand it. EPA's Indirect Source standards are not high enough to help Oregon achieve its Clean Air Implementation Plan.

The League of Women Voters believes an Indirect Source rule is an important tool in the evaluation and control of mobile source emissions. Any weakening of this rule could result in a loss of effectiveness in controlling ambient air concentrations related to mobile source emissions. We urge you to maintain control over Indirect sources of air pollution.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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THE LEAGUE OF WOMEN VOTERS OF OREGON
494 STATE STREET - SUITE 216
SALEM, OREGON 97301
581-5722

October 17, 1975

Mr. Loren Kramer, Director
Department of Environmental Quality
1234 S.W. Morrison Street
Portland, OR 97205

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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WATER QUALITY CONTROL

Dear Mr. Kramer:

The League of Women Voters of Oregon strongly supports log storage policies which will lead to improvement of water quality through adequate standards strictly enforced.

At the national level since 1956 and at the state level since 1967, League members have worked for water pollution control programs. EQC policies on log storage are needed to reduce the damage done in our rivers and estuaries.

The policies as changed at the Newport meeting represent a step back from those proposed by the DEQ staff after considerable study of the evidence of loss of water quality through storage of logs. In our study we have seen no evidence, for instance, that grounding logs <u>are not</u> detrimental to bottom aquatic life. Does the language change from "<u>are</u>" to "<u>can be</u>" indicate that EQC believes that grounding may not be detrimental -- or that bark, debris and leachates <u>do not</u> have an adverse effect on water quality? These changes, while they appear to be minor, are certainly not supported by the evidence and they do reflect not only a weakened position, but also present conflicts within the policies. Such changes may in fact make enforcement of the standards difficult.

The most obvious conflict is in the addition of new paragraph #1. If EQC acknowledges that transportation and storage of logs is one of the appropriate uses of public waters, how can the policies aimed at taking logs out of the water be implemented?

We are aware that present mill process requires the transportation of logs in the water, but we question allowing new wood processing plants which will receive logs from the water. For present plants water transportation must be allowed with strong debris control; but new plants should be designed to take logs from land-side. In the same vein, we question allowing <u>new</u> log storage areas in water when we are trying to reduce and eliminate the old storage areas.

Before final adoption of the policies, we ask EQC to consider eliminating these obvious conflicts. Adequate time should be allowed for converting to dry land storage, but on a set compliance schedule.

Wanda Mays

Wanda Mays, President
Marguerite Watkins, Environmental
Quality Committee member

de

Jim Swenson
229-5327
Pete

DEPARTMENT OF ENVIRONMENTAL QUALITY
1234 S. W. Morrison
Portland, Oregon 97205

October 15, 1975 News Release

The Environmental Quality Commission (EQC) is expected to make a final determination on the operating permit for PGE's Bethel gas turbine generating plant and will further consider its proposed policy for log handling in Oregon waters, at its October meeting. The meeting is scheduled to begin at 9:00 a.m. in Room 602 of the Multnomah County Courthouse, 1021 S.W. Fourth, Portland, Friday, October 24.

Also on the agenda are:

--a proposal for an in-depth study of the Portland area airshed to determine the best control strategies to achieve and maintain air quality standards for the next ten years;

--consideration of a petition requesting repeal or amendment of the Indirect Source Rule" (parking lot air pollution);

--requests for variances for Permaneer Corporation's Dillard and White City plants to amend their air pollution compliance schedules;

--a request to grant a 90-day extension to Union Carbide Ferroalloy Division (Multnomah County) for its compliance schedule for particulates and opacity;

--and a request for extension to March, 1976, for Salem Iron Works' air pollution compliance schedule.

The above agenda is subject to change, but no major issues would be added without sufficient public notice.

Anyone wishing to testify is encouraged to submit written testimony.

The Commission will meet for breakfast at the Hilton Hotel in Portland at 7:30 a.m. and may discuss any of the items on the agenda.

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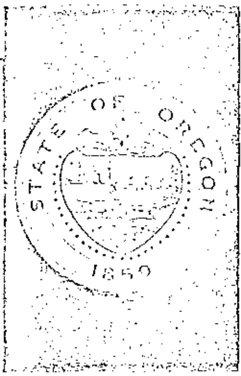


DEPARTMENT OF ENVIRONMENTAL QUALITY

1234 S.W. MORRISON STREET ○ PORTLAND, ORE. 97205 ○ Telephone (503) 229- 5395

ROBERT W. STRAUB
GOVERNOR

October 15, 1975

Mr. T. W. Maul
Assistant State Forester
Forest Protection Division
State Forestry Department
2600 State Street
Salem, Oregon 97310

Dear Mr. Maul:

This is in reply to your letter of October 6, 1975, relative to the Department of Environmental Quality's proposed policy on handling logs in public waters.

We recognize your concern for licensed log salvage operations, and we assure you that the proposed policy is in no way intended to halt those necessary activities. We envision that the policy might affect log salvage under two rarely occurring circumstances:

(1) if sinker logs are beached in a particularly sensitive zone of biological productivity, or

(2) if a salvage operation created untenable water quality conditions.

In either case the problem could be resolved by mutual agreement on adjusted operating procedures rather than resorting to customary enforcement actions.

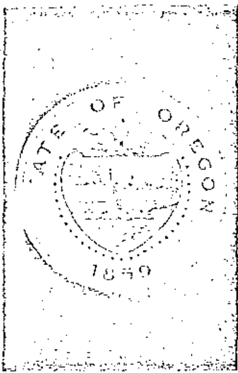
Thank-you for your review of and response to the proposed policy.

Sincerely,

LOREN KRAMER
Director

GDC:elk

DEQ-1



FORESTRY
DEPARTMENT

State of Oregon
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OFFICE OF STATE FORESTER

2600 STATE STREET • SALEM, OREGON • 97310 • Phone 378-2560

October 6, 1975

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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OCT 1 ? 1975
WATER QUALITY CONTROL

Department of Environmental Quality
1234 SW Morrison St.
Portland, OR 97205

Attention: Loren Kramer, Director

Reference: Page 3, Paragraph 4, of the Memorandum on "Implementation Program and Policy for Log Handling in Oregon's Public Waters".

Dear Mr. Kramer:

We are concerned about the effect this section will have on log salvagers on the Columbia River drainage. Salvagers retrieve both floating logs and sunken logs or "sinkers". Sinker storage requires an area where logs can be beached prior to their sale.

The restriction and phasing out of this kind of storage area will put most log salvagers out of business.

The importance of log salvage operation must not be underestimated. One primary purpose of these operations is the removal of logs, etc. from the river to eliminate a serious hazard to navigation by large and small boats. It is also important to get these forest products, which will otherwise be lost, into the manufacturing process.

We will be pleased to provide any additional information needed on this matter.

Sincerely,

J. E. SCHROEDER, State Forester

By
T. W. Maul
Assistant State Forester
Forest Protection Division

TWM:LWW:bbs
Enc.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
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WATER QUALITY CONTROL

Note:
New language (9/9/75) Underscored.
Deletions (9/9/75) Bracketed.
New Language 9/29/75) Italicized.
Deletions (9/29/75)= //.

(Proposed)

Implementation Program & Policy

for

LOG HANDLING IN OREGON'S PUBLIC WATERS

DEPARTMENT OF ENVIRONMENTAL QUALITY

September, 1975

GENERAL SUMMARY OF PROBLEMS

Based on the Department's field evaluations, experience and review of pertinent literature, the following general conclusions about the effects of logs in public waters are drawn:

1. There is ample and conclusive evidence that the bark, debris and leachate releases resulting from dumping, storage and millside handling of logs in public waters can have an adverse effect on water quality. The magnitude of the effect varies with the size and characteristic of the waterway and the nature and magnitude of the log handling operation.
2. Free fall log dumping causes the major release of bark and other log debris.
3. Bark and log debris are the major waste products resulting from logs in water. These materials range in size from microscopic particles to whole logs. Some float but most will sink in a short time. Numerous particles may travel submerged a considerable distance before dropping to the bottom. Bottom deposits of these substances may blanket the benthic aquatic life and fish spawning areas. During submerged decomposition stages the wood products rob overlying waters of dissolved oxygen and often give off toxic decay products.
4. Leachates from logs in water [are-a] can be a significant source of biochemical oxygen demand and dark color. These generally have minimal impact in larger flowing streams but their effect may be compounded in quiet waters.
5. Where logs go aground during tidal changes or flow fluctuations, they [are] can be a detriment to bottom dwelling aquatic life and can be the cause of increased turbidity.

6. Even though significant improvements have been made at certain log handling areas, further improvements are needed and can be accomplished on a short-term basis by improved log dumping, handling and storage practices at operations that still adversely impact aquatic life and water quality.
7. Because alternatives to the storage and handling of logs in public waters can result in undesirable as well as desirable environmental trade-offs, it is imperative that each operation be carefully evaluated on its own merits.

IMPLEMENTATION PROGRAM

Based on the statement of general policy which follows and case by case water quality problem assessments, a proposed state permit will be developed for each log handling operation in public waters where problems exist *or are likely to occur* that will:

1. State specific objectives designed to bring that operation into acceptable compliance with water quality standards.
2. Require the permittee to evaluate alternatives and submit a program and time schedule for meeting specific objectives.
3. Require implementation of a control program as approved by the Department, giving consideration to *the impact of alternative methods on the environment.* ~~environmental trade-offs.~~

In accordance with existing permit issuance regulations, each proposed permit would then be subject to review and comment by both the permittee and the public prior to issuance.

STATEMENT OF GENERAL POLICY

The following statement of general policy is set forth to guide both the staff of the DEQ and timber industry representatives in matters pertaining to log handling in public waters:

1. *The Environmental Quality Commission and the Department of Environmental Quality acknowledge that transportaion and storage of logs is one of the appropriate uses of public waters of the state so long as such operations are controlled to adequately protect environmental quality, natural resources, public health and safety and the economy of the state.*

~~1~~ *2.* The construction of new wood processing plants which must receive logs directly from public waters will not be approved by the Department without specific authorization of the Environmental Quality Commission. In general, new operations will not be permitted where water quality standards or other beneficial uses would be jeopardized.

~~2~~ *3.* Existing log dumping, storage and handling shall be adequately controlled, or if necessary phased out, to insure that <u>violations of</u> water quality standards are <u>not caused by such activities</u>. [~~met at all times.~~] Any control program requiring more than five years to implement shall be subject to approval by the Environmental Quality Commission.

~~3~~ *4.* Establishment of new log storage areas where logs go aground on tidal changes or low flow cycles will not be approved by the Department without specific authorization of the Environmental Quality Commission. Where there is evidence *that such areas result in more than nominal* ~~of~~ [~~resulting~~] ~~significant~~ damages to aquatic life and/or water quality, the existing log storage areas where logs go aground shall be phased out in accordance with an approved schedule *unless specific authorization for continuance is granted by the Commission in consideration of environmental trade-offs.* Any phase-out program taking more than five years shall be subject to approval by the EQC.

~~4~~ *5.* New free-fall log dumps shall not be permitted. Existing free-fall dumps shall either be phased out as soon as practicable by the installation of DEQ approved easy-let-down devices or controlled in a manner equivalent to the installation of easy-let-down facilities. Any requests for special consideration shall be subject to approval by the EQC.

~~5~~ *6.* Best practicable bark and wood debris controls, collection and disposal methods, as approved by the Department, shall be employed at all log dumps, raft building areas and millside handling sites in accordance with specifically approved programs.

~~6~~ *7.* The inventory of logs in public waters for any purpose shall be kept to the lowest practicable number for the shortest practicable time *considering market conditions and the quality of the water at the storage site.* [~~, not to exceed one year except by specific approval of the Department.~~]

7 8. Upon specific request, the industry shall provide information to the Department relative to log volumes and usage site locations in public waters.

8 9. All dry land log storage, wood chip, and hog fuel handling and storage facilities located adjacent to waterways shall be designed, constructed and operated to control leachates and prevent the loss of [~~wood-products~~] bark, chips, sawdust and other wood debris into the public waters. Plans and specifications must be approved by the Department prior to construction of new or modified facilities. (Additional approvals may be required relative to air quality and noise impacts).

9 10. Subsequent to adoption of this policy each industry shall be responsible for cleanup and removal of sunken logs, piling, docks, floats and other structures from its log dumping, handling, and storage sites in public waters when use thereof is to be permanently terminated. *Discontinuance for a period of five years is prima facie evidence of the permanence of the termination.*

5383

November 26, 1975

Mr. V.L. Mecham
Real Estate Representative
Safeway Stores, Incorporated
P.O. Box 14071
Portland, Oregon 97214

Re: Petition to Repeal or Amend Indirect Source Regulations

Dear Mr. Mecham:

On October 24 the Environmental Quality Commission voted to deny the subject petition. This means that, at present, there is contemplated no further formal action regarding the Indirect Source Regulations.

However, in denying the petition, the Commission adopted the Director's proposal to proceed as rapidly as possible toward implementation of Regional Indirect Source plans which would eliminate the current requirements of source by source review.

Civil litigation regarding the regulations is still ongoing in Lane County Circuit Court.

Sincerely,

LOREN KRAMER
Director

Peter W. McSwain
Hearing Officer

PWM:vt

cc: Linda Willis

SAFEWAY STORES, INCORPORATED

P.O. Box 14071, Portland, Oregon 97214 (1139 S.E. Third Avenue)

November 25, 1975

OFFICE OF DEPUTY DIRECTOR
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Peter W. McSwain
Hearing Officer
DEPARTMENT OF ENVIRONMENTAL QUALITY
1234 S. W. Morrison Street
Portland, OR 97205

Air Quality
Indirect Source Regulations

Dear Mr. McSwain:

Could you please tell us the status of the amended petition to repeal OAR Chapter 340, Sections 20-100 through 20-135 filed with the Environmental Quality Commission on September 5, 1975 by Coons, Cole & Anderson, attorneys at law, on behalf of members of the Oregon Chapter of the Associated General Contractors et al.

Very truly yours,

SAFEWAY STORES, INCORPORATED

Lee Mecham
V. L. Mecham
Real Estate Representative

VLM:cab

cc: Gary D. Scott, Attorney