

12/24/1975

**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS**



**State of Oregon
Department of
Environmental
Quality**

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MINUTES OF SPECIAL MEETING

of the

OREGON ENVIRONMENTAL QUALITY COMMISSION

December 24, 1975

Pursuant to the required notice and publication, a special meeting of the Environmental Quality Commission was convened by way of conference telephone call on Wednesday, December 24 at 10:00 a.m. The press was informed and a telephone made available for use by the press.

Commissioners participating in the conference call included: Mr. Joe B. Richards, Chairman; Dr. Morris Crothers, Vice Chairman; Dr. Grace S. Phinney; (Mrs.) Jacklyn L. Hallock; and Mr. Ronald M. Somers.

The Department was represented by Mr. E.J. WEathersbee and additional staff members.

MOTION TO ADOPT DIRECTOR'S RECOMMENDATION TO AMEND COMMISSION ACTION REGARDING RULES OF PROCEDURE FOR AIR CONTAMINANT DISCHARGE PERMITS (AS SET FORTH IN MEMORANDUM TO THE COMMISSION ON DECEMBER 19, 1975)

After brief discussion on the motion it was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and unanimously carried that the Commission act as follows with regard to the Commission action of December 12, 1975 regarding the rules of procedure and fee schedule for Air Contaminant Discharge Permits:

- 1) On page 2, section 20-033.12(1), sentence 1, line 4; after "Table A" add "which shall be applicable during the period of January 1 through December 31, 1976."
- 2) On TABLE A, after "ASSOCIATED FEE SCHEDULE," add: "For 1976 CALENDAR YEAR."
- 3) The conditions imposed on the Department for adoption be withdrawn.
- 4) The proposals be adopted (in addition to the fee schedule adopted on December 12 for the 1976 calendar year) subject to the amendments set forth in (1), (2), and (3) above; to become effective as permanent rules upon filing with the Secretary of State.

- 5) The Director be instructed to make a request of the Emergency Board to restore some of the General Funds needed because of the over estimation of income made by the Ways and Means Committee and the direction of the Ways and Means Committee to increase fees by approximately 50%; and that if restoration of the General Funds is made, partial refunds will be made on an equitable basis, to be determined by the Commission, to persons who have filed for permits or renewals prior to such restoration as well as to make changes in the fee schedule for the balance of 1976 to reflect the restoration of General Funds; and
- 6) That the Director be instructed to initiate a study and appoint a task force to study the entire air quality permit program and its costs, utilizing both staff and persons outside the agency. And such a study should be completed and in the hands of the Commission prior to July 1, 1976, so that it's on hand well before the agency's next budget is formulated.

CANCELLATION OF PROPOSED JANUARY 9 SPECIAL MEETING TO CONSIDER INTERLOCKING JURISDICTION OVER NONPOINT SOURCE WATER POLLUTION FROM AGRICULTURAL AND SILVACULTURAL OPERATIONS

Mr. Jack Weathersbee, coordinator of technical programs for the Department, pointed out that little had developed from discussions with officials of the Environmental Protection Agency, the Corps of Engineers, the Division of State Lands and the Forestry authorities. It was reported that EPA had not yet even promulgated regulations regarding agricultural and silvacultural nonpoint source runoff. The Corps was reportedly without instructions from national headquarters regarding implementation of recently promulgated rules under Section 404 of the Water Pollution Control Act. It was locally understood, Mr. Weathersbee reported, that the 404 program would commence on January 1 on a phased basis with application to traditionally navigable waters. The Division of State Lands and others more directly concerned than the Department were reported to be informed of the Corps' upcoming program.

It was proposed that the staff should precede any special meeting with a detailed report on each element of jurisdiction over nonpoint source problems and the status of activity under each jurisdictional area. To this end, cancellation of the proposed January 9 meeting was suggested.

In response to inquiry by Commissioner Phinney, Mr. Harold Sawyer head of the Department's Water Quality Division, noted that the report could include information on the current status of the Section 208 program for area-wide waste water treatment planning. He confirmed Commissioner Phinney's understanding that the program would address itself to both point

sources and nonpoint sources and added that 208 activities tended to overlap with both EPA's NPDES permit activities and the Corps' Section 404 activities. It was noted that, while under court order to promulgate rules for NPDES permits pertaining to feedlots, irrigation return waters, urban runoff, agricultural runoff, and silvacultural runoff, the EPA had achieved this mandate only with regard to recently proposed rules addressing themselves to feedlots. In a similar position with regard to the courts was reported to be the Corps of Engineers. The Corps, it was said, was required to implement Section 404, dealing with the return of runoff from dredge and fill operations to the navigable waters.

Commissioner Somers expressed his concern that the Commission involve itself with EPA, the Soil Conservation Service, the State Forestry Department, and others early in the planning process to guard against promulgation of rules which would prove unworkable to the timber and agriculture industries and overcome the Water Quality Division with permit review activities. It was his understanding that the Governor's office shared this concern.

Commissioner Somers added that he would like an opportunity in a special meeting to review the fiscal report due from the Department on January 1.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and unanimously carried that the Special Meeting proposed for January 9 be cancelled. It was agreed that the staff would forward as soon as possible a detailed report on the nonpoint source jurisdictional problems and the fiscal report being prepared for the Commission.

SUITE FOR DECLARATORY RELIEF FILED IN JACKSON COUNTY BY KEITH CORP. ET AL

It was agreed that the Director should be authorized to write the Attorney General's Office and ask that Office to represent each of the Commissioners in a suit for declaratory relief regarding subsurface sewage disposal system construction permits filed by Keith Corp. et al of Jackson County. It was further agreed that the Commission's Secretary should telephone the Attorney General's office and ask that Mr. Underwood call opposing Counsel to obtain his agreement not to take a default without further notice to the Commission's Counsel.

PROPOSAL TO CONDUCT REGULAR COMMISSION MEETINGS ON A BI-MONTHLY BASIS

BI-MONTHLY MEETINGS

Commissioner Hallock expressed her concern that any move toward bi-monthly Commission meetings should not result in undue delay in handling the agency's business. Commissioner Phinney added that telephone conference meetings do not give the public access to the Commission's deliberations in a sufficient manner.

Mr. Weathersbee predicted that a bi-monthly regular meeting schedule would require more frequent special meetings of the Commission and would probably result in more frequent telephone conference meetings to dispose of routine matters.

He assured that the Department did not intend to unduly delay important business.

Commissioner Crothers and Commissioner Hallock agreed that, as had been envisioned by the Director, special meetings could be called when needed.

There being no further business, the meeting was adjourned.



State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

To: EQC

Date: December 19, 1975

From: Bud Kramer *Bud*

Subject: Revision of Air Contaminant Discharge Permit
Fee Schedule and Procedural Rule and Non-Point
Source Meeting

It has been brought to my attention that the motion carried in the subject rule adoption action left some unresolved issues:

1. The motion made no reference to the rules or the Director's Recommendation. It referred only to "fee schedules" (see Attachment A).
2. The motion was for the rule to be effective only for the 1976 calendar year, a provision which should be included in the text of the rule -- applying to fee schedules only.
3. The motion to adopt was conditioned on the Department's approach to the E. Board and its provision for rebate if E. Board funds are forthcoming. Another condition was the assignment of a management review task force. We feel the rule should not be conditioned on these tasks. Rather, the tasks should be assigned the Department separately from the rule.

In addition, our information regarding non-point source problems indicates that there may be arrangements forthcoming which will resolve this issue satisfactorily. We are in need of further time to examine this issue prior to a meeting so that our information at the time of meeting will be as complete as possible.

We propose to arrange a conference call at 10:00 a.m. on Wednesday, December 24th, between Jack Weathersbee and staff and as many Commissioners as possible. We wish to see if the Commission will adopt the amended Director's Recommendation with regard to the December 12th meeting (Attachment B) and consider postponing the January 9th meeting. As you are aware, I will be out of town on Wednesday and unable to participate.

If there is a redrafted motion any Commissioner would like considered, please have it prepared. Any difficulties with the above approach can hopefully be brought to our attention prior to the conference call.

LK:cm
Attachments

ATTACHMENT A

I MOVE that the fee schedules as submitted be adopted for the calendar year of 1976 conditioned on:

a. That the Director make a request of the Emergency Board to restore some of the General Funds needed because of the overestimation of income made by the Ways and Means Committee and the direction of the Ways and Means Committee to increase fees by approximately 50% and that if restoration of the General Funds is made, partial refunds will be made on an equitable basis to be determined by the Commission, to persons who have filed for permits or renewals prior to such restoration as well as to make changes in the fee schedule for the balance of 1976 to reflect the restoration of General Funds; and

b. That the Director initiate a study and appoint a task force to study the entire air quality permit program and its costs, utilizing both staff and persons outside the agency. And such a study should be completed and in the hands of the Commission prior to July 1, 1976, so that its on hand well before our next budget is formulated. That's basically the motion.

ATTACHMENT B

The Commission action of December 12, 1975 with regard to the rules of procedure and fee schedule for Air Contaminant Discharge Permits should be amended prior to its filing with the Secretary of State as follows:

- 1) On page 2, section 20-033.12(1), sentence 1, line 4 is amended as follows: After "Table A" add "which shall be applicable during the period of January 1, through December 31, 1976."
- 2) On Table A, after "ASSOCIATED FEE SCHEDULE," add: "FOR 1976 CALENDAR YEAR."
- 3) The conditions imposed on the Department for adoption be withdrawn.
- 4) The proposals be adopted subject to the amendments set forth in 1, 2, and 3 above; to become effective as permanent rules upon filing with the Secretary of State.
- 5) The Department be instructed to carry out the activities set forth in the conditions withdrawn in paragraph (3) hereof.



State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

To: Bud Kramer

Date: December 24, 1975

From: EJW

Subject: EQC Telephone Conference Meeting 12/24/75

We had our telephone conference meeting to consider the items addressed in your memo of December 19.

All Commission members participated.

They adopted the revised motion relative to the Air Permit Rule and Fee Schedule and re-emphasized their intent that the matter be brought before the E. Board and the Staff/Industry Task Force reviews of permit programs proceed.

They also agreed to postpone setting up a special meeting to consider the impact of EPA Agriculture and Silviculture rules and Corps of Engineers 404 permit program until the staff could give them a complete written status report on this subject and then determine need and urgency. They were told that a staff report could be forthcoming within the next two weeks.

Ron Somers also expressed a desire to receive the Department's Fiscal Report by January 1 as promised and thought the Commission should meet shortly thereafter to discuss the implications of that report.

Pete McSwain will prepare minutes of the telephone meeting. (A tape was recorded). Harold Sawyer will prepare the staff report on EPA/USC of E permit programs.

cc: Pete McSwain
Harold Sawyer