EQCMeeting1of1DOC19760220

2/20/1976

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS

DEQ

State of Oregon
Department of Environmental Quality

AGENDA

PUBLIC MEETING

Oregon Environmental Quality Commission
February 20, 1976
Multnomah County Courthouse - Room 602
1021 S. W. Fourth - Portland, Oregon

- -

9:00 a.m.

A. Minutes of regular EQC Meeting of December 12, 1975 and telephone EQC Meeting of December 24, 1975

B. November and December 1975 Program Activity Reports

C. Tax Credit Applications

D. Chem-Nuclear Systems, Inc. - Application for license to establish and operate an Environmentally Hazardous Waste Disposal Site near Arlington, Oregon

10:00 a.m.

E. PUBLIC HEARING - Proposed adoption of Rules Pertaining to Management of Environmentally Hazardous Wastes

F. Glenmorrie Health Hazard Annexation to the City of Lake Oswego - Certification of revised plans for sewerage system

G. DEQ vs. Lahti & Son, Inc. - Review of Contested Case Hearing on nine (9) subsurface disposal permits in Clackamas County

H. Variance Request - by Klamath County to operate portable rock crusher not in compliance with OAR chapter 340, division 2, subdivision 1, section 21-015 (opacity limits)

I. Rule Adoption - proposed amended subsurface sewage disposal permit fee schedule for Linn County

J. Variance Request - By Oregon Portland Cement Company, Lime, to test-fire coal with sulfur content in excess of Standard limit.

- -

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

The Commission will be meeting for breakfast at 7:30 a.m. in Room 508 Terminal Sales Building (DEQ Headquarters) and any of the items above may be discussed. Lunch will be at the Hilton Trees only if the meeting extends into the afternoon.

MINUTES OF THE SEVENTY-FIFTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

February 20, 1976

On Friday, February 20, 1976, the seventy-fifth meeting of the Oregon Environmental Quality Commission convened in the Multnomah County Courthouse, Room 602, 1021 S.W. Fourth Avenue, Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Dr. Morris K. Crothers, Vice Chairman; Dr. Grace S. Phinney; Mrs. Jacklyn L. Hallock; and Mr. Ronald M. Somers. Present on behalf of the Department were its Director, Mr. Loren Kramer, and several members of the Department's staff.

MINUTES OF THE DECEMBER 12, 1975 EQC MEETING & TELEPHONE MEETING OF DECEMBER 24, 1975

It was MOVED by Commissioner Somers, and seconded by Commissioner Hallock that the minutes be approved as presented. The motion carried unanimously.

MONTHLY ACTIVITY REPORTS FOR NOVEMBER AND DECEMBER 1975

It was MOVED by Commissioner Somers, and seconded by Commissioner Hallock that the reports be approved as presented. The motion carried unanimously.

TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Somers, and seconded by Commissioner Hallock that the tax credit applications be approved as submitted. The motion carried unanimously.

VARIANCE REQUEST - BY KLAMATH COUNTY TO OPERATE PORTABLE ROCK CRUSHER NOT IN COMPLIANCE WITH OAR CHAPTER 340, DIVISION 2, SUBDIVISION 1, SECTION 21-015 (OPACITY LIMITS)

Mr. Earl E. Kessler and Mr. J.R. Dalton from the Klamath County Road Department spoke in favor of granting the variance.

Mr. Jim Broad said that the variance as prepared would allow them to operate at this site until the new Specific Industrial Standards are adopted, at which time the problem at that site would have to be reconsidered.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and unanimously carried that the Director's recommendation be approved that the Commission grant Klamath County Road Department a variance to operate its portable crusher at all fourteen sites out of compliance with OAR 340, Section 21-015, or with any amendment thereof until 60 days after the adoption of such amendment, but not to extend past January 1, 1977 in any event.

RULE ADOPTION - PROPOSED AMENDED SUBSURFACE SEWAGE DISPOSAL PERMIT FEE SCHEDULE FOR LINN COUNTY

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and unanimously carried that the Director's recommendation be approved that the Commission adopt the proposed amendment to OAR Chapter 340, Section 72-015(4) to become a permanent rule, effective March 1, 1976.

VARIANCE REQUEST - BY OREGON PORTLAND CEMENT COMPANY, LIME, TO TEST-FIRE COAL WITH SULFUR CONTENT IN EXCESS OF STANDARD LIMIT

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and unanimously carried that the Director's recommendation be approved that the Environmental Quality Commission enter a finding that strict compliance with OAR Chapter 340, Section 22-020 is inappropriate during the experimental program described above because strict compliance may be unreasonable. It was also recommended that the Commission grant Oregon Portland Cement Co. a variance to operate its Huntington plant outside of strict compliance with OAR Chapter 340, Section 22-020 until whichever occurs first: (1) 1500 tons of coal containing more than 1.0% sulfur are burned, or (2) March 31, 1976.

CHEM NUCLEAR SYSTEMS, INC. - APPLICATION FOR LICENSE TO ESTABLISH AND OPERATE AN ENVIRONMENTALLY HAZARDOUS WASTE DISPOSAL SITE NEAR ARLINGTON, OREGON

Mr. Pat Wicks from the Land Quality Division reviewed the staff report. He reiterated that two hearings had been held before the Commission; one in 1972 on the application and the second in September 1974 in The Dalles.

Dr. Phinney asked what the specific comments of the State Health Department were regarding this site.

Mr. Wicks said that Dr. Parrott from the Health Department testified at the hearing in September 1974, stating that he felt it was an acceptable site.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and unanimously carried that the permit be granted with the modification on page 5-B-15 to read as follows: The licensee shall not receive, store or dispose of radioactive wastes at the site; on page 5-B-13, the last sentence in that paragraph be modified to read "satisfactory to the licensee." That the licensee shall conduct a chemical environmental program as approved by the Department.

Mr. Roy Hemmingway from the Oregon Environmental Council said he had a couple of comments to make on the license. He stated that he felt an $18,000 cash bond requirement is not sufficient if this company does default on this license. He felt the $75,000 bond should be continued throughout the term of the license.

Mr. Hemmingway also stated that the license does not state what wastes are going to be disposed of at the site and how they are going to be disposed of.

Commissioner Hallock asked Mr. Wicks if he knew what wastes would be stored there.

Mr. Wicks said he knew of some, but again, the proposals have not yet been made. They will be made on a waste-by-waste basis and they will propose certain wastes and a certain disposal method for the waste at the site.

By unanimous consent on page 5-B-13, second line after the word "waste" the words "other than radioactive waste" be inserted.

PUBLIC HEARING - PROPOSED ADOPTION OF RULES PERTAINING TO MANAGEMENT OF ENVIRONMENTALLY HAZARDOUS WASTES

Mr. Wicks from the staff said these rules are needed to insure proper handling and disposal of hazardous wastes; the proposed rules have been substantially amended as a result of comments received at the September 22, 1975 public hearing and subsequent discussions with the parties; the scope of the rules have been limited to cover only initially the most obvious hazardous waste problems and so as to not overextend the Department's capabilities; and it is expected that the Commission will be requested to classify additional wastes as environmentally hazardous as the need is identified.

Mr. Wicks said that one letter had been received by the Department from Dr. Gary Farmer, consultant. Dr. Farmer recommended that the rules not be adopted as he believes they are outlandish, intolerable and unconstitutional. He notes that he testified at the September 1975 hearing and asked for cost/benefit analysis, and certain other things be done before these rules are adopted.

Mrs. Hallock asked Mr. Wicks why the subsection that would have required the posting of signs at hazardous waste sites was deleted.

Mr. Wicks said that after reviewing all the testimony and other considerations, the staff did not feel it was necessary, it would pose perhaps an undue requirement on some people and probably would establish a requirement that we might not be able to enforce. He said that Workmans Compensation Board has certain requirements, or will be adopting rules in the future for storage of hazardous materials and that our rules may be conflicting with theirs. That is another reason the posting of signs was removed from the rules.

Commissioner Somers reiterated that the rule doesn't necessarily have to be enforced, but it gives anyone injured cause of action for it not being posted.

Mr. Mark S. Dodson from the Oregon Railroad Association spoke in opposition to the proposed rules. His statement has been made a part of the permanent files.

Mr. Roger Emmons and Mr. Bill Weber as a team from the Oregon Sanitary Service Institute testified asking changes in regulations and programs.

Dr. Craig Eagleson from the Western Agricultural Chemical Association testified that he thought things had been a little bit exaggerated as far as toxic materials as about 90% of the pesticides we use are not toxic, not hazardous to humans and not at all hazardous to the environment when properly used.

Judge Ray T. Hirai, Malheur County Court, suggested that the DEQ provide forms filled in by the hazardous waste facility or user in transporting decontaminated waste to collection points.

J. Ned Dempsey, Century Testing Laboratory submitted a prepared statement which has been made a part of the permanent files.

Mr. David A. Graham, Forest Service, U.S. Department of Agriculture, submitted a written statement which has been made a part of the permanent files.

No action was taken on this item as it was a public hearing.

GLENMORRIE HEALTH HAZARD ANNEXATION TO THE CITY OF LAKE OSWEGO - CERTIFICATION OF REVISED PLANS FOR SEWERAGE SYSTEM

Mr. Clarence Hilbrick, Construction Grants Section, Water Quality summarized the staff report and said it is the Director's recommendation that the Commission approve revised preliminary plans and certify its approval to the City of Lake Oswego.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and unanimously carried that the Director's recommendation be approved.

DEQ vs. LAHTI & SON, INC. - REVIEW OF CONTESTED CASE HEARING ON NINE (9) SUBSURFACE DISPOSAL PERMITS IN CLACKAMAS COUNTY

Mr. Robert Haskins, Department of Justice, DEQ Counsel said that the Department had responded to an application for the above on April 7, 1975 and found that the subdivision was not suitable and indicated so on the application.

Mr. Jerry Marshall, Soil Scientist, Clackamas County Department of Public Works testified to examination of the site in October 1973.

Mr. Raymond Rask reviewed a chronology according to the record of how this matter came here and how Lahti & Sons got involved in the transaction.

After much discussion it was MOVED by Dr. Crothers, seconded by Dr. Phinney and carried that the above case be remanded to the hearing officer for the taking of additional evidence.

There being no more business, the meeting was adjourned.

MINUTES OF THE SEVENTY-FOURTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

December 12, 1975

Pursuant to required notice and publication, the seventy-fourth meeting of the Oregon Environmental Quality Commission was called to order at 9:00 a.m. on Friday, December 12, 1975. The meeting was convened in Room 602 of the Multnomah County Courthouse, 1021 S.W. 4th Avenue, Portland, Oregon.

Commissioners present 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 its Director, Mr. Loren (Bud) Kramer, and several additional staff members, including Mr. E.J. Weathersbee (Technical Programs), Mr. Kenneth H. Spies (Land Quality), Mr. Harold M. Patterson (Air Quality), and Mr. Frederick M. Bolton (Regional Operations). Mr. Raymond Underwood, Counsel to the Commission, was present.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and unanimously carried that the Commission approve the proposed minutes of the October 24, 1975 Commission meeting.

OCTOBER 1975 DEPARTMENT PROGRAM ACTIVITY REPORT

With reference to page 9 of the report, Mr. Fredric Skirvin of the Department's Air Quality Program explained to Commissioner Phinney that the total sources requiring permits was unequal to the sum of sources either under permit or with an application pending because some of the applications pending were applications either for renewal by a source already under permit or for modification of an existing permit.

It was MOVED by Commissioner Somers and seconded by Commissioner Hallock that the Commission approve the Program Activity Report for October of 1975.

Commissioner Somers inquired of Mr. Underwood if the Commission approval of the report, including any application denials which might be set forth therein, would constitute a final order with respect to the denials which would abridge the applicant's right to a hearing and be subject to attack in the Court of Appeals. It was the view of Mr. Underwood that Commission approval was approval only of the report as set forth before the Commission and that such approval would not foreclose case by case review through formal administrative channels. Commissioner Somers stated he had always interpreted the report to be informational and its approval to be approval of the Department's progress with its workload. He stated his approvals had not been with the intention of handing down a final order without a hearing. He cited as an example of his concern the recent litigation between the agency and Pacific Northwest Power Company over the Company's proposed dam on the

Middle Snake River. Mr. E.J. Weathersbee explained that Air Quality Plan Approval was a Commission function. He cited expedition as the reason why the Department took action on Plan review and then sought confirmation from the Commission each meeting. It was added that statutory change had empowered the Director to act in Solid Waste and Water Quality approval matters. These latter concerns were in the report, it was explained, for informational and historical purposes. Mr. Underwood suggested some rewording of the Commission's action might be worth pursuing.

The Commission then unanimously adopted the motion before it regarding the Program Activity Report.

TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and unanimously carried that the Commission approve the tax credit applications included in the mailing of materials to the Commission the week before with the exception of application T-711 whose withdrawal had been requested by the applicant. The above motion was so phrased to exclude additional tax credit application matters set before the Commission on the day of the meeting so that the Commission might deal with them separately.

It was MOVED by Commissioner Hallock and seconded by Commissioner Crothers that the Director's recommendation with regard to Tax Credits T-718, T-720, and T-721 be adopted (the applications having been placed before the Commission on the meeting day).

It was MOVED by Commissioner Somers that the motion be amended to condition the granting of application T-721 on the applicant's agreement to repay any return on investment in excess of 40% prior to taxes. The motion was made, he said, primarily for purpose of discussion. The motion went without a second.

Commissioner Richards inquired of Mr. Underwood whether the Commission would be empowered to condition a pollution control certificate as had been moved by Commissioner Somers. He explained that the application in question had revealed that, even though installed for pollution control, the device in question could result in profits which would have economically justified its installation in any event.

It was Mr. Underwood's preliminary opinion that the Commission's powers did not include this prerogative. He offered to research the question, along with Commissioner Somers' question of whether the economic advantages of some pollution control facilities might be construed as barring a tax credit by negating the inference that the facility was installed for purpose of pollution control.

Commissioner Hallock's motion as stated above was approved by the Commission with all Commissioners except Commissioner Somers voting in the affirmative. Commissioner Somers voted against the motion.

OREGON CUP AWARD RENEWALS

Reciting the Commission's approval of renewed CUP awards to five industries on September 26, 1975, Commissioner Richards presented the awards to representatives of the five companies involved, thanking each for his company's efforts in preventing or cleaning up pollution. The five companies were as follows: Publishers Paper Company (Oregon City and Newberg mills), American Can Company (Halsey Pulp and Paper plant), Willamina Lumber Company, ESCO Corporation, and Cascade Construction Company. It was noted that the awards entitled the companies to display the Oregon CUP insignia on products produced in the facilities awarded. This, it was hoped, would inform consumers as to which local industries were considered to be making extra efforts to protect the environment.

RULE ADOPTION: PERMANENT AMENDMENT TO RULE ALLOWING BENEFICIAL USES OF MOTOR VEHICLE PARTS IN WATERS OF THE STATE AND PERMANENT AMENDMENT TO EXEMPT CERTAIN SUBSURFACE SEWAGE DISPOSAL FACILITIES FROM SURETY BOND REQUIREMENTS

Commissioner Richards, noting that a previous public hearing on both rules had resulted in no adverse testimony, presented an invitation for testimony which went unanswered.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and unanimously carried that the Director's recommendation to adopt the rules be followed; subject to a grammatical correction in the rule relating to vehicle parts, the substitution of the word "context" for the word "contract" in the rule relating to sureties bond requirements, and the addition of parenthesized liter equivalents in the former rule wherever gallon figures appear.

RULE ADOPTION: MORATORIA ON NEW SUBSURFACE SYSTEMS IN KINGSTON HEIGHTS AND PRINCETON HEIGHTS SUBDIVISIONS OF NORTH ALBANY

It was MOVED by Commissioner Somers and seconded by Commissioner Hallock that the Director's recommendation be approved to adopt a rule prohibiting installation of new subsurface sewage disposal systems in the Kingston Heights and Princeton Heights subdivisions of Benton County.

Commissioner Richards asked for and received the Hearing Officer's confirmation that no adverse testimony had resulted despite indication that mailings to all affected property owners had been effective with only one exception.

Commissioner Phinney received Mr. Underwood's view that, as indicated in the staff report, it was counsel's opinion that the instant proposal was legislative in nature, not quasi-judicial. He explained that an abundance of caution had prompted the mailing to every property owner.

Commissioner Phinney asked if, given that the matter of imposing such moratoria was considered legislative, the Department would propose to use newspaper publication and other rulemaking procedures to invoke moratoria in larger areas wherein personal service of all property owners would be impractical. The Director reported no other moratoria on subsurface sewage disposal systems are currently contemplated.

Commissioner Somers explained that his reservations regarding moratoria without personal service on the affected owners had been based not merely on legal considerations but also on fundamental fairplay. He noted that many owners do not live in the area wherein their property is located.

Referring to the North Albany community's need for a common sewage treatment system, Commissioner Crothers inquired of Mr. Kramer what progress could be expended. Mr. Kramer stated himself unable to make any sound prediction and reported hearing of a bond issue being pursued in Benton County toward financing a system. Mr. Kramer added that he had informed the Benton County Commissioners that the Department would not approve a separate system for the North Albany community for purposes of federal funding. It was his understanding that at present the bond issue was lying dormant while attempts were being made to reach agreement to hook on to the Albany regional system. This system's availability at public expense argued conclusively for its use in Mr. Kramer's view. It was his hope that Benton County would proceed on a Phase I grant application, an exercise which might demonstrate to the community the advantages and disadvantages of their alternatives. Perhaps he conjectured, they would discover the disadvantages of annexation to Albany not as great as had been supposed.

It was agreed by the Director and Commissioner Crothers that the Department would have no resistance to the community's financing its own treatment plant.

The Commission unanimously approved the motion to accept the Director's recommendation and adopt the rule under discussion.

AUTHORIZATION FOR PUBLIC HEARINGS: AMENDMENTS TO PROCEDURAL RULES AND AMENDMENTS TO LINN COUNTY SUBSURFACE SYSTEM FEE SCHEDULE

It was MOVED by Commissioner Somers and seconded by Commissioner Hallock that the Commission authorize public hearings before a hearing officer on proposed amendments to the Commission's rules governing administrative procedure and a proposed amendment to the fee schedules for subsurface sewage permits in Linn County.

It was explained by the hearing officer that the former proposals were in rough form and undergoing review by the Attorney General's office. In addition, it was stated that the proposals were largely in response to the newly amended Administrative Procedure Act.

DISCUSSION OF EPA AND CORPS OF ENGINEERS ACTIVITIES REGARDING THE REGULATION OF AGRICULTURAL AND SILVACULTURAL NONPOINT SOURCE WATER POLLUTION

Commissioner Somers noted that recent indications were that EPA and the Army Corps of Engineers are planning to invoke a permit program regarding point and nonpoint sources which could severely impair agricultural and logging activities. He cited as an example the possibility that a nine month permit process might have to precede the installation of a culvert under a logging road. He cited also a recent federal judicial ruling which would

subject to federal regulation all states without adequate regulations dealing with the use of pesticides or fertilizers which eventually reach the streams.

In order to insure that the regulatory program not take the State and affected industry by surprise without opportunity for local involvement, Commissioner Somers MOVED that the Commission hold a meeting in the first or second week of January to discuss the matter. The motion also contemplated inviting representatives of the Corps, EPA, the State Department of Agriculture, Mr. Stafford Hansell and Mrs. Janet McLennan of the Governor's Office, and several State legislators. Also suggested were invitations to the Chairman of the Wheat League and the head of the Forestry Association, Weyerhaeuser, Georgia Pacific, and other large timber companies. The purpose of the meeting was described as consideration of whether rule making activities should be conducted so as to obtain federal delegation of authority to administer programs for point and nonpoint source problems. It was suggested that experts from the academic community might be invited to attend.

The motion, seconded by Commissioner Hallock, was carried with the approval of all five Commissioners.

PROGRESS TOWARD IMPLEMENTATION OF REGIONAL INDIRECT SOURCE PROGRAMS

At the request of Commissioner Richards, Mr. Kramer reported that investigation was underway to determine how soon Regional Indirect Source Plans could be implemented and to determine if Indirect Source Permits should be subject to a fee schedule as with other air contaminant permits. The latter question, he added, had not yet been resolved.

Mr. John Kowalczyk of the Department's Air Quality Division, reported that the outlook was not favorable in the former area since counties have indicated little willingness to devote their limited resources to the development of Regional Indirect Source Plans. He noted that a formal report to the Commission was planned for early 1976. Mr. Kowalczyk explained that the goal was for the local governments to adopt plans which would then be reviewed by the Department. Acceptable plans, he added, would result in phasing out the source by source review which now draws much criticism.

PUBLIC HEARING AND RULE ADOPTION: PROPOSED PERMANENT ADOPTION OF PREVIOUS TEMPORARY RULES RELATING TO AGRICULTURAL OPEN BURNING

Mr. Scott Freeburn of the Department's Air Quality Division presented the staff report and the Director's recommendation to adopt as permanent rules those rules governing agricultural open burning which, due to their temporary enactment in July of 1975, had expired on November 8, 1975.

Commissioner Richards, with respect to Section 26-013 of the proposals, asked if the rules, silent on the allocation of acreages to be open burned in 1976 and 1977, would have to be augmented by such allocations in a later Commission action preceded by a hearing. The answer was affirmative. It

was added that some rule revision between the present and March 1 would be needed so that the registration of acreage could commence. After the registration, he explained, the question of allocation would come up. It was Mr. Freeburn's suggestion that no rule making on allocation take place until after April 1 (the date when all acreage registration would be complete).

Mr. Freeburn added that other revisions in the rules might be sought prior to April 1, revisions which had not yet been drafted. Commissioner Richards expressed his desire to see both the proposed staff revisions and all available information regarding the industry's progress in finding alternatives to open field burning. Mr. Freeburn suggested that the Commission might call on the field sanitation committee representative and a spokesman from Oregon State University for information.

It was Mr. Freeburn's understanding that rules were needed now both to provide a foundation for field sanitizer certification rules (to be dealt with later in the meeting) and to control so-called fourth priority burning which, absent immediate rule making, might go uncontrolled in the valley.

Commissioner Somers suggested that fourth priority burning, given the weather, might not be a problem and that it were wiser to adopt no rules until such time as the staff comes forward with the rules in final, revised form. He took exception to the uncertainty fostered by repeated rule changes.

Commissioner Richards pointed out that, in his understanding, the rule was desired by those affected by it and was directed toward a small, well informed segment of the population with ability to keep abreast of future developments.

It was Commissioner Phinney's understanding that the rules were needed not for summer field burning, but as a prelude to rules governing field burning machines and that the latter rules were needed to provide security for purchasers and manufacturers.

Mr. Bill Rose of the Field Sanitation Committee stated that the total acreage registered for burning could not be burned due to the sale of lands, changing of plans, and other variables. Hence, he argued, a 5.5% attrition rate should be expected based on past experience. He stated the Commission to have been mistaken in cutting the legislative maximum acreage by 1000 acres in the July meeting. It was his contention that the Legislature set its maximum with the intent that machines should burn the acreage registered in excess of its maximum. (The Commission had reduced the legislative maximum upon its finding that machines could burn 1000 acres in 1975 - an issue which Commissioner Richards had ruled not presently before the Commission). Mr. Rose stressed that, in his opinion, the machines remain experimental even after 1975 trials. He concurred with Mr. Freeburn's and Commissioner Somers' earlier understanding that acreage to be burned next season was largely determined by crops already planted.

Commissioner Somers inquired as to the accuracy of an article in The Dalles Chronicle indicating that the Legislative Counsel Committee had restored the 1000 acres which the Commission removed from the 1975 total allocation. Mr. Kramer's recollection was that the issue had been rendered moot by the industry's inability to burn the total allocation. Commissioner Hallock contended that the Committee had no authority to reverse the Commission's decision.

It was Commissioner Somers' thought that reference to the allocation of 234,000 acres for 1975, though a matter of history, might well be deleted from the current proposal as a surplusage which would tend to defy the Legislative Counsel Committee's decision that the Commission had acted erroneously in setting that allocation in July.

The Director and Mr. Underwood felt that it were well to simply perpetuate in its totality the temporary rule as it was earlier adopted and leave to the future the matter of revisions to fit the needs of the coming field burning season. Mr. Underwood added that the Legislative Counsel Committee is without authority to change the Commission's allocations.

Commissioner Hallock concurred and added that not all are convinced that the Commission's actions were mistaken.

Mr. Rose reiterated his contention that the Legislature's maximums were set with the use of machines in mind and that any further reductions should not be based on expected machine use. He informed Commissioner Somers that he had no position on whether or not to leave reference to the 1975 allocation in the rules.

Mr. Freeburn explained that the primary purpose of the staff today was to obtain rules governing field sanitizing machines early enough to permit manufacturing and purchasing in time for the 1976 industry, a purpose which was said to be desirable by the industry. He informed Commissioner Hallock that failure to adopt the rules would have an adverse effect on machine production and, hence, on all valley citizens injured by open burning.

Mr. Glen Odell, consulting engineer to the Field Sanitation Committee explained that throughout the year a certain amount of agricultural burning takes place and that the current proposals were needed to govern winter time burning. He concurred in earlier statements that the general burning rules were needed also to provide a framework for the proposals regarding field sanitizers, proposals needed now to aid manufacturers and growers in investment decisions. Mr. Odell reported that the latter set of rules had been worked out through cooperation between the industry and the Department's staff. He disagreed with Commissioner Somers' conjecture that due to inclement weather no burning would take place until such time as the staff could present a rule in revised form.

Mr. David Nelson of the Oregon Seed Council endorsed adoption of the rules before the Commission with the understanding that a meeting was pending between his Council and staff members to address rule changes desired for the 1976 season, a course which he felt could not be completed in one month. He concurred with earlier remarks to the effect that rules governing winter burning were now needed. He was reluctant toward Commissioner Somers' suggestion that surplusage not now needed should be deleted from the rules prior to their adoption.

It was MOVED by Commissioner Crothers, and seconded by Commissioner Phinney that the Commission adopt the Director's recommendation to make permanent the temporary rules on agricultural burning which were adopted by the Commission on July 10, 1975. Commissioner Somers urged the Commission to be wary of enacting rules which, by their very nature, are intended to be revised in the near future. Citing the public discontent with ever-changing regulations, he suggested the Commission ought not to adopt any rules not expected to stay in tact for at least a year. Commissioner Crothers, while unwilling to yield to anyone in his opposition to the needless proliferation of rules, felt that the orderly administration of the agency called for the adoption of the rules as had been moved. The motion carried with support of all Commissioners with the exception of Commissioner Somers who voted against it.

PUBLIC HEARING AND RULE ADOPTION: PROPOSED RULES GOVERNING EMISSIONS AND CERTIFICATION OF ALTERNATE METHODS TO OPEN FIELD BURNING (FIELD SANITIZERS AND PROPANE FLAMERS)

Dispensing with a reading of the staff reports previously put before the Commissioners, Commissioner Somers obtained the assurance of Mr. Scott Freeburn of the Department's Air Quality Program that no further revision of the proposed rules was foreseen at the present time.

Mr. Tom Miles, consulting engineer to the Oregon Field Sanitation Committee reported that much of his intended testimony had already been brought to the Commission's attention. He took issue with the conclusion of the staff report that mobile field sanitizers appear to be agronomically superior to open field burning. Mr. Miles felt the conclusion was worded too strongly. In his opinion there was some reason to believe the sanitizers might be superior.

Commissioner Somers who had previously MOVED adoption of the Director's recommendation on the proposed rule wished to amend his motion to include the deletion of conclusion number 3 of the staff report. With the approval of the Commission, the Director withdrew the third conclusion which read as follows: "Present sanitizers are economically unacceptable on all but very specialized seed types." Mr. Miles took no exception to the withdrawal of this conclusion and added that experiences with the machines over the last season had somewhat dampened the Committee's optimism regarding them. Commissioner Richards felt the matter of withdrawal to be of marginal importance since it was not to be a part of the rule itself. He did point out that the conclusion might appear misleadingly to be dispositive of some issues which would not be taken up by the Commission until the time of acreage allocation by the Commission for 1976.

Mr. James Rear, a manufacturer of sanitization machines informed the Commission that, in his view, the advent of the present rules would not stimulate his production of machines. If he presently had ten orders for machines, he stated, he would not accept them. Mr. Rears reported that experience with those machines argues for more research before any attempts to build more. He predicted that the ultimate solution might be improved open burning methods.

Commissioner Somers' motion to accept the Director's recommendation with the third conclusion of the staff report withdrawn was seconded by Commissioner Crothers and carried with the supporting votes of all Commissioners.

1976 COMMISSION MEETING SCHEDULE

Mr. Kramer suggested that the Commission adopt a procedure of scheduling regular meetings on a bi-monthly basis, starting in February, with special meetings to be called as needed. Mr. E.J. Weathersbee, coordinator of technical programs, informed Commissioner Somers that, for the most part, Commission plan approval could be timed to coincide with the bi-monthly meetings. Mr. Harold M. Patterson of the Department's Air Quality Division foresaw no difficulty except in the case of denials. He reminded the Commission that failure to act on a plan within sixty days results in its approval by law. Commissioner Somers felt that a bi-monthly schedule should be adopted only if no delays in Department business would occur. Mr. Kramer assured the Commission that he would not permit the schedule to cause delays.

PUBLIC HEARING AND RULE ADOPTION: AMENDMENTS TO FEE SCHEDULE AND PROCEDURE FOR AIR CONTAMINANT DISCHARGE PERMITS

Mr. Fredric Skirvin of the Department's Air Quality Division presented the staff report calling for an increased fee schedule for air contaminant discharge permits due to a legislative decision requiring increased funding of the program from permit fees, the elimination of small boilers outside the Willamette Valley from permit requirements, and updated fiscal information. The revised fee schedule was intended, he reported, to produce a biennial income of about $540,000, an amount deemed necessary to augment public funding. Mr. Skirvin reported proposed changes in the fees required for different types of sources and proposed housekeeping changes such as the deletion of portions of the requirements relating to regional air pollution authorities.

The proposals, it was explained, had been preceded by discussions with industry representatives. It was concluded that implementation of the proposed fee schedule would result in fee support of 49% of the cost of the Air Contaminant Discharge Permit Program. Mr. Skirvin addressed himself to Table A, Item I of the proposal and amended the wording to read "commercial seed cleaning, including cooperatives, located in special control areas not elsewhere included." He explained his action in that the Department did not intend to require permits of farmer-operated seed cleaning operations. It was the Director's recommendation that the proposals be adopted subject to any amendments deemed desirable in the light of the public hearing.

Commissioner Richards recalled that the statute requires the permit fees to be based on the estimated costs of filing, investigation, issuing, denying, and monitoring. It was reported that the budget notes of the Ways and Means Subcommittee refer to a 50% increase in air permit fees. Commissioner Richards stated himself convinced that the Legislature did not intend to require more than a 50% increase but had inadvertently done so because of an erroneous estimate of cost submitted to the Legislature by the Department. His estimate of the present situation was that the Commission did not have authority to do other than base the fee schedule on estimates of program cost so that half the program would be fee funded, even though the Legislature may have intended that fees be raised by no more than 50%. He stated his intention to recommend that the Emergency Board be asked to appropriate additional funds to allow rebate of fees in such amounts as would be necessary to result in an increase of from 50% to 62%. He added that the subcommittee had appropriated $480,000 to the Emergency Board to be available to the agency to solve potential problems in the 1976-1977 biennium.

Commissioner Richards urged those planning to testify not to dwell on the equity of seeking so much revenues by fee, noting that this question had been foreclosed by the Legislature and was now up to the Emergency Board.

State Senator Tony Meeker (District 15) reported himself to have been a member of the Ways and Means Committee which worked on the agency's budget. He concurred with the remarks of Commissioner Richards regarding the legislative intent of the Committee. He cautioned that he spoke only on his own behalf. He said the intended 50% increase in fees was later raised to 62% to cover salary increments in final legislative action. He added his understanding that the Committee had been given a revenue estimate by the agency which had proven to be $174,000 high. Senator Meeker recalled that other problems, such as fees generated by septic tank permits, had resulted in the Committee's working on the agency budget for nearly the entire legislative session. He added that the Committee had hoped for a fee schedule which would better recognize the cost of controlling small industries as compared to the greater cost of regulating large industries which, though of the same type, involve more emissions, and more regulatory action (at a greater cost to the Department). He cited the lesser ability of some smaller industries to absorb the cost of fees. Regarding the proposal to eliminate inspection of small boilers, Senator Meeker reported Legislative Fiscal's estimate that $18,000 could be lost to the Department this way. He stated his intention to seek the estimated savings to the Department which would result in spending no time and money on this category of inspection, noting that several hundred boilers are involved.

Mr. Skirvin informed Commissioner Hallock that some industries now undergo an incremental fee schedule based on the size of operation of each source. Senator Meeker added that he knew of several industries where size of operation varies and no incremental fee schedule is imposed.

Mr. Frank Morse, representing Oregon Concrete and Aggregate Producer's Association and the Oregon Asphalt Paving Association, offered criticism of the proposed fee schedule. He contended that the activities listed as comprising the permit program in the staff report were in many instances not applicable to his industry; or applicable only on a limited basis. Identification of sources was said to have been completed. There was argued to be extensive duplication of effort made by staff and private consultants in determining compliance.

Inspection time was said to be minimal due to the seasonal and hourly operation of plants in the concrete and asphalt industry. Substantial compliance throughout his industry, he argued, rendered strategizing for control unnecessary.

He objected that his industry has only a 1% impact on Oregon's particulate problem, pays 23% of present fees, and would have to pay more under the proposed fees.

Few citizen complaints against his industry, Mr. Morse said, were indicative of the minimal need for monitoring activities.

Mr. Morse added that permit fees totaling $1,625 for Morse Brothers, Inc., had been followed by only one visit from agency personnel over the past year. The new schedule, he reported, would raise fees to $3,250, a 100% increase in fees after the company had already successfully completed its compliance program.

Noting an increase since 1970 of 366% in DEQ Personnel, Mr. Morse urged the Commission to review agency administration to see that increased fees would not simply be the result of an expanding bureaucracy.

He stated that the activities attributed to the program go far beyond the filing, investigating, issuing, denying, and inspecting mentioned in the Statute.

Commissioner Somers, in response to Mr. Morse's skepticism over Department staff increase, pointed out that the agency's area of authority had been trebled by recent legislative action. He noted that the largest increase in staff had occured in the area of subsurface sewage regulation.

Commissioner Somers noted that some asphalt facilities are portable and require Departmental visits each time the facility is moved. He recalled instances in eastern Oregon where repeated visits by agency personnel had been necessary due to complaints. He added that the facilities, though designed to comply with emissions standards in general, often resulted in problems due to the characteristics of the areas in which they are set up.

Commissioner Somers accepted responsibility for the erroneous budget figures given the legislature and concurred with the suggestion of Commissioner Richards that the Emergency Board should be asked to appropriate additional funds. It was his understanding, however, that the increase in costs had not been the result of expansion in the Program staff. He expressed the hope that figures now expected by the Commission to be forthcoming early in 1976 would afford the Commission a better opportunity to study the budget of the agency and avoid future mistakes.

Mr. Verner Adkison, representing the Lane Regional Air Pollution Authority, spoke in support of the proposed rule amendment, citing figures indicating that only 32% of his Authority's program will be fee supported over the next budgetary period. Mr. Adkison felt that higher fees would help insure that the polluter would pay his way. Increased fee revenues, he added, would help his agency pay for major studies regarding impact on the air shed. He cited fee revenues as a partial explanation of his area's ability to exceed federal standards. Offering his great respect for the progress of the asphalt industry Mr. Adkison cautioned that agency review of the work of private consultants had, on at least one occasion, resulted in the discovery of a mistake whose potential cost to the source would have been approximately a half million dollars.

Mr. Thomas Donaca, representing the Air Quality Committee of Associated Oregon Industries, reported that previous negotiations with the Department had resulted in some significant provisions in the proposals. He reported his association to have been acting in reliance, as had the Ways and Means Committee, on the erroneous budget estimate submitted by the agency. In this reliance, he reported, his association had acquiesced in a 50% fee increase where it would have vigorously opposed an increase of the magnitude now sought.

Mr. Donaca questioned whether the small boilers outside urban growth and AQMA areas should be exempted from fee requirements at a time when more revenue is needed. He pointed out that the remaining boilers, constituting 892 of the 2060 permits issued, were scheduled to receive no fee increase. In a like category were reported to be small incinerators which, together with the remaining boilers, were said to constitute 973 of the present outstanding permits. Mr. Donaca found it inequitable that almost half the sources would receive no increase, leaving the remaining 1100 odd sources to carry the entire load of required revenue increase.

He suggested review of the management of the program and the program itself, particularly with regard to duplication of inspection efforts by differing agencies. He cited the activities of the Department and the Department of Commerce with regard to high pressure boilers as a possible example. He suggested an interdepartmental agreement to avoid duplication in view of the Governor's policy of avoiding duplication of government efforts. He contended that, while boilers inside the AQMAs bear watching, they are not a significant problem.

He concurred with Mr. Morse's concern that costs of activities charged to the program had extended beyond the statutory criteria for cost allocation. He contended that monitoring the compliance status of all sources on permits and reporting the status of major sources to the US-EPA was clearly outside the pervue of intended fee revenues and offered the same criticism with regard to review of Significant Deterioration (federal) and review of New Source Performance Standards.

Mr. Donaca cited the staff report for authority that most permit review activities will now be confined to renewal. He argued that 80% of the sources seeking renewal would need no modification whatsoever and that this would result in reduction of the Department's activities to simply reissuing the permits. He called for a system whereby the applicant should be required to verify compliance, such verification, if borne out by the applicant's historical record, to result in permit renewal. Such an abbreviated procedure, he added, was employed by many permit issuing agencies, including the Department of Commerce.

Mr. Donaca recommended that review of the program should take place with interested parties participating and should be completed prior to January 1, 1977. He recommended that the presently proposed fee schedule be adopted only for the calendar year 1976.

Recalling the relative novelty of the program, Mr. Donaca cautioned that most new legislative programs need shaking down. He urged the agency to exercise discretion in its unbridled power to impose fees.

Mr. Gerald Meindl, an attorney representing the Oregon Feed, Seed, and Supplier's Association, expressed his appreciation for the Chairman's willingness to approach the Emergency Board for additional funds.

Mr. Meindl reported that the $250 initial fee and $175 renewal fee for seed cleaning operations was inequitable because the industry had previously been charged no fee and the exempt operators (connected with agricultural operations) far outnumber the commercial operators. He cited these circumstances as having led former Director L. B. Day to the conclusion that the commercial cleaners should be exempt. Mr. Meindl urged a reduction for the commercial cleaners. He added that the statute requires fees based on actual administrative costs. This, he said, could be interpreted to mean that actual administrative costs allocable to efforts regarding each individual source are to be that source's fee.

Mr. Joseph L. Byrne, representing Martin Marietta Aluminum, addressed himself to the fee for aluminum reduction plants. He reported that, under current proposals, the fee for his plant would increase from $175 to $2,000 for a determination of compliance. He stated that his facility was presently conducting monthly sampling of primary and secondary scrubbers, monitoring ambient air, and reporting monthly to the DEQ. This, he said, had been done for three years at a cost ranging annually from thirty to forty thousand dollars. He reported that, in twenty minutes, a technician on his staff had done the figuring necessary for three annual compliance determinations. This had been done, he added, from the numbers supplied to the Department and would represent, under the current proposals, $6,000 worth of compliance determination.

The facts cited by Mr. Byrne were indication to him that the proposed fee is unreasonably high. He added that current regulations would still require his facility to conduct the same monitoring, sampling, and reporting efforts even in the absence of a permit. On this basis, he argued, the permit program's only result for his facility was increased costs.

Asked how many duplicate inspections by various agencies his plant must undergo, Mr. Byrne cited several inspections by EPA, OSHA and DEQ personnel. It was conceded that the total cost of hearings involving his facility would be high and contended this cost was independent of the permit program.

Commissioner Somers noted that fee covered activities include investigation and wondered if it would be wise to consider a statute requiring payment of costs by any party who initiates an investigation in bad faith. He analogized with certain consumer litigation wherein the prevailing party is allowed costs. Commissioner Somers noted that part of the agency's investigation cost is regarding citizen complaints.

Mr. Byrne recalled that skepticism regarding the company's monitoring system had led to a separate monitoring system in The Dalles which was provided by the company at no cost.

Mr. Stanley Cellers of the Oregon Seed Trade Association pointed out that the market value of his Association's product had dropped 30% in the last two years, a difference he hoped the Commission would consider. As president of Buchanon-Cellers Grain Company, Mr. Cellers reported that his two facilities, operating under three permits, undergo one-trip inspection for compliance with all three permits. Mr. Cellers took issue with charging three fees for one inspection.

Mr. Lynn Engdahl, representing the Western Environmental Trade Association, called for exact cost accounting from the Agency, recognition of the reduced work involved in renewing a permit already issued, a standard other than actual costs by which to judge needs, checks against inefficiency, demonstration of increased environmental protection commensurate with increased costs, justification other than legislative unwillingness to fund for the increase (Mr. Engdahl conceded this point to have been adequately addressed by the Chairman's suggestion regarding the Emergency Board), and the consideration of alternatives to the increased fee schedule.

Mr. Vernon Hulit of Mayflower Farms Feed Division stated the Chairman's opening remarks to have been dispositive of some of Mayflower's concerns. He stated his sympathy with rising costs while calling for more justification for the 67% increase in his company's permit fees. He suggested that cost per inspection might be a better policy regarding firms seldom requiring inspection.

Mr. David Nelson of the Oregon Seed Council expressed concern over the establishment of fees for the seed cleaning industry. He stated support of the suggestion that the Emergency Board be approached and of the remarks by Mr. Cellers.

Mr. Matthew Gould, representing Georgia Pacific Corporation, charged the agency with efforts to recoup a deficit through an oppressive and inequitable fee schedule. He stated the real issue to be sound fiscal and management practices.

Alleging a general aversion for industry involvement in Departmental management, Mr. Gould suggested the present circumstances would indicate industry involvement in Departmental management of the Air Quality Permit Program.

He asserted that the staff report is ambivalent on the subject of increased costs, ranging from 13% to 309%. He contended further that the staff report indicated issuance of most permits and a winding down of the program, facts inconsonant with a substantial fee increase.

Addressing the program, Mr. Gould charged that unnecessary administrative time is being spent negotiating permit conditions not set forth in the regulations of the Environmental Quality Commission, an activity which he argued to be both costly and unwarranted. Mr. Gould called for elimination of detailed operational procedures and types of equipment from the permits, arguing that only the applicable regulations, ambient standards, civil penalties, and reporting/monitoring provisions should be included.

Mr. Gould questioned review of applications with an eye to non-degradation requirements, noting that federal review of the confusion between non-degradation and highest and best practical treatment is underway.

Mr. Gould urged the Director to reduce the number of personnel involved in the permit program, noting that many persons are involved while few are involved full time.

He took issue with the conclusion that inspection of small boilers outside the Valley is not cost effective and questioned the legality of exempting them.

Mr. Gould suggested a management by objective approach with objectives of maximizing manpower and money use, guidance for utilization of revenue sources, and a meaningful basis for all concerned to review the management of the program.

Mr. Gould conceded that the fees might be assigned differently among Standard Industrial Classifications and that half of the program costs should be borne by point sources, sources contributing half the particulate emissions.

Mr. Gould contended that the original fee schedule, based on one adopted for the Los Angeles Area, is indefensible for Oregon with her different industrial base.

Mr. Gould called for appointment of a task force to conduct a ninety day review of the permit program and to develop sound fiscal criteria objectives to report to the EQC. He suggested that the resulting fee schedule should be made retroactive to January 1, 1976, to insure financial security to the program. It was urged this would supply the Commission with the tools for sound management.

Finally, Mr. Gould stressed confinement of fee revenues to the permit program rather than day to day administration of the agency, an activity which in his view should be supported by the taxpayer.

Mr. Skirvin explained to Commissioner Richards that the Department's estimates of manhours spent on the permit program was the result of a poll of each employee in the permit program, asking for his estimate of time spent on permit activities. He responded to the testimony regarding the annual compliance fee for Aluminum plants with the explanation that the Department reviews the data submitted by the source to determine compliance monthly; not just annually. He added that fees were based on time spent on each Standard Industrial Classification, leaving the possibility that time spent on a given individual in the set of sources might fall above or below the average.

Commissioner Crothers felt the idea of cost allocation on an individual basis to be fallacious. He noted that many who hold professional licenses at an annual fee receive little attention from their licensors, citing the bar association and the board of medical examiners as examples. Should Reynolds, for example, have to pay the entire cost of reviewing their new emissions control system prior to its being permitted, he noted, they would be in a less favorable position than is indicated by the permit modification fee.

Commission Somers, empathizing with industry dissatisfaction at the results of the agency's mistaken budget estimate to the legislature, MOVED that the fee schedule 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 it is on hand well before the agency's next budget is formulated.

Mr. Kramer felt the calendar year of 1976 to be a reasonable time period for accomplishment and one which industry could recognize in its budgeting. He reassured Commissioner Somers that early January would be the time when a present study on agency resources and expenditures would be available, cautioning that the forthcoming report would not contain the kind of information sought in Commissioner Somers' motion regarding the task force.

After discussion regarding the difficulty inherent in determining which agricultural seed cleaning operations resulted in occasional commercial sales of the product, it was decided that the Commission would be without authority to impose a token fee on agricultural operations, a possibility raised by the Chairman. Commissioner Somers questioned whether stepped-up enforcement procedures to catch offenders might be in order.

It was agreed by the Commissioners that Commissioner Somers' motion would encompass the revision of the fee burden as apportioned among certain industrial classifications based upon the results of the proposed study.

The motion, seconded by Commissioner Crothers, was carried with the support of all Commissioners.

PORTLAND GENERAL ELECTRIC BETHEL TURBINE GENERATING FACILITY: AIR CONTAMINANT DISCHARGE PERMIT ISSUANCE

Mr. John Kowalczyk of the Department's air quality program presented the staff report. The Commission had previously instructed the Department to propose a short duration permit with a limit on total operating hours and a precise definition of when emergency operation of the facility would be allowed. Mr. Kowalczyk dealt only with the above three issues.

Mr. Kowalczyk informed the Chairman that, to his knowledge, the requested attorney general's opinion regarding infra sound had not yet been forthcoming. In response to Commissioner Richard's inquiry, he gave his opinion that the permit could be modified in the light of any new regulations that might be enacted. He was unsure of the Department's authority to modify the permit based on new data which might become available.

Commissioner Phinney noted that the data on oxides of nitrogen emitted by the plant was incomplete and ventured that the permit should provide for an option to modify in the light of any new data on this subject occurring during the life of the permit.

Commissioner Somers was told that the permit fees set forth in General Condition Number 13 would have to be altered due to change in the fee schedule. Mr. Kramer suggested it might be well to delete specific fee figures from the permit conditions. Commissioner Phinney suggested fees might be set forth in an attachment to accompany the permit so the applicant could know the fee schedule as of the date of the permit but would not be assured of the schedule's remaining the same.

Commissioner Somers received the opinion of Mr. Raymond Underwood, legal counsel to the Commission, that the Commission probably was without authority to condition the permit on the applicant's obtaining noise easements over nearby property where such condition would go to infra sound, which is not addressed in the Commission's regulations.

In response to two questions by (Mrs.) Marlene Frady, Mr. John Hector of the Department's noise control program reported that the Department had been unsuccessful in seeking funds from EPA Region X to assist in further noise study while the Bethel facility is operating and was now seeking funds from EPA headquarters. It was explained that measurements of 100 and 95 DbA at two nearby residences made by a private consulting firm were measurements at frequency levels below those regulated by the Commission's noise rules and were of a single peak, short duration type which was not duplicated upon using the Department's instrumentation to test for the same.

Mr. Underwood concurred with Commissioner Somers that violation of the agency's noise rules might constitute nuisance per se in any private litigation.

Mr. Hector clarified for Commissioner Hallock that it was both the case that the measurements of the private consultant were of a type of noise not addressed by Commission regulation and that it is unlikely that the Department's instrumentation could measure noise like this when the noise's occurrence is of such short duration. Mr. Hector concluded from the consultant's report that the origin of the noises had been the turbines, reserving doubt as to whether the noise could be subjectively perceived. Mr. Hector explained that not even an impulse meter would be likely to pick up the sound in question, adding that no other jurisdiction has set standards based on the criteria used by the private consultant.

Mrs. Jan Egger of the Oregon Environmental Council asked what would happen if the permittee exhausted his operating hour limitation and applied for an extension. Mr. Kramer explained that the procedure would then be to take the matter before the Commission again for a hearing on the question of extension. Mrs. Egger inquired why the permit condition regarding emergency operation had been drafted without language suggested by the Public Utility Commissioner providing that "the last station to operate shall be Bethel." Mr. Kowalczyk confirmed Commissioner Phinney's understanding that the language had been deleted to avoid the possibility that the permit might require bringing on line some now inoperative stations, such as L Station, whose operation would be more environmentally detrimental than that of Bethel. He assured Commissioner Richards that the staff would check into a reported discrepancy in the address of the facility before issuing a permit.

Mr. Hector informed Commissioner Hallock that, even if the Attorney General's office were of the opinion that the Commission has statutory authority to regulate infra sound, the Department was without sufficient knowledge to recommend standards protective of health and welfare and was perhaps without sufficient budget for much activity in this area. He added his lack of certainty whether classic infra sound exists in connection with operation of the Bethel facility.

Commissioner Somers stated himself to be in favor of the Director's recommendation on the ground that he did not want to overstep his statutory authority, adding that if the Commission had the power to do so, he would probably favor denial of the permit. He noted that there was little consolation for the people living in the vicinity of Bethel that the plant could operate for only 31 days during the life of the permit but noted that the community of Salem might be in vital need of this operation at some point in time.

Commissioner Crothers MOVED that the Director's recommendation to issue the permit be approved with the condition that the permit last for only two years instead of five as had been proposed. The motion was seconded by Commissioner Phinney.

Commissioner Somers suggested that reduction in the life of the permit should be accompanied by a commensurate reduction in the operating hour limitation. Commissioner Crothers argued that a reduced operating hour limitation would be inappropriately threatening to the community in the event that Trojan needs repairs or some other emergency develops.

The motion carried with the support of all Commissioners except Commissioner Somers who voted against the motion.

AUTHORIZATION FOR PUBLIC HEARING: A PROPOSED AIR CONTAMINANT DISCHARGE PERMIT FOR PORTLAND GENERAL ELECTRIC'S HARBORTON TURBINE GENERATING FACILITY

Mr. Kramer amended his proposed permit orally, withdrawing reference to renewal of the permit set forth in one of its general conditions. He noted that his proposal was not to renew the permit.

Commissioners Richards and Somers agreed that the staff report had been before the Commission some time and was not requiring of a reading and that the proposal was merely to have a public hearing before a hearing officer, a proposal that called for no discussion on the merits of the proposed permit.

It was moved by Commissioner Somers, seconded by Commissioner Phinney, and carried with all Commissioners supporting that the Director's recommendation be adopted.

There being no further business, the meeting was adjourned.

ENVIRONMENTAL QUALITY COMMISSION

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

ROBERT W. STRAUB
GOVERNOR

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item B, February 20, 1976, EQC Meeting

November and December 1975 Program Activity Reports

Discussion

Attached are the November and December 1975 Program Activity Reports.

ORS 468.325 provides for approval or disapproval of Air Quality plans and specifications by the Environmental Quality Commission. Water and Solid Waste facility plans and specifications approvals or disapprovals and issuance, denials, modifications and revocations of permits are prescribed by statutes to be functions of the Department, subject to appeal to the Commission.

The purposes of this report are to provide information to the Commission regarding status of the reported program activities, to provide a historical record of project plan and permit actions, and to obtain the confirming approval of the Commission of actions taken by the Department relative to air quality plans and specifications.

Recommendation

It is the Director's recommendation that the Commission take notice of the reported program activities and give confirming approval to the Department's actions relative to air quality project plans and specifications as described on page 8 of the November 1975 report (Appendix A) and on pages 8 and 9 of the December 1975 report (Appendix B).

LOREN KRAMER
Director

RLF:ee
2/4/76

APPENDIX A

Department of Environmental Quality
Technical Programs

Plan and Permit Actions

November, 1975

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Air, Water and Land Quality Division (Program) — November, 1975 (Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans
	Month	Fis.Yr.	Month	Fis.Yr.	Month	Fis.Yr.	Pending
Air							
Direct Sources	9	49	7	57			17
Indirect Sources							
Total	9	49	7	57			17
Water							
Municipal							
~~T & D~~	41	430	53	446	0	0	10
~~S & PS~~	—	—	—	—	—	—	—
Industrial	5	88	6	71	1	6	7
Total	46	518	59	517	1	6	17
Solid Waste							
General Refuse	7	35	10	38			15
Demolition	1	2	1	2			2
Industrial	3	12	4	17			3
Sludge		3		4		1	
Total	11	52	15	61		1	20
Hazardous Wastes							
GRAND TOTAL	66	619	81	635	1	7	54

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PLAN ACTIONS COMPLETED - 59

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sewerage Projects - (53)			
Prineville Crook	Yancy Addition Sewers	11/3/75	Provisional Approval
CCSD #1 Clackamas	Stanhelma Hts. Subdivision Sewers	11/3/75	Provisional Approval
Salem (Willow) Marion	Parkway Subdivision Sewers	11/3/75	Provisional Approval
CCSD #1 Clackamas	Woods Terrace No. 2 Subdivision Sewers	11/3/75	Provisional Approval
Milwaukie Clackamas	C.O. #2, 3 & 4 Interceptor Sewer Project	11/3/75	Approval
USA (Aloha) Washington	Brooklawn Park - Plat. No. 2 Sewers	11/4/75	Provisional Approval
Hillsboro (Westside) Washington	Mae Augusta Acres Subdivision Sewers	11/4/75	Provisional Approval
BCVSA Jackson	West Gibbon Acres Subdivision Sewers	11/4/75	Provisional Approval
Gov. Camp S.D. Clackamas	0.225 MGD STP w/ Effluent Polishing	11/7/75	Provisional Approval
Seaside Clatsop	Necanicum Subdivision Sewers	11/7/75	Provisional Approval
Shoreline S.D. Clatsop	Westshore Drive Sewer	11/7/75	Provisional Approval
Gresham Multnomah	Vista Terrace Subdivision Sewers	11/7/75	Provisional Approval
Pioneer Villa Linn	Sewerage Report	11/7/75	Approval
Milwaukie Clackamas	Anna Addition Subdivision Sewers	11/12/75	Provisional Approval

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PLAN ACTIONS COMPLETED (59 Continued)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sewerage Projects (continued)			
Tualatin Washington	Western Metro Sewer Extension	11/12/75	Provisional Approval
USA (Fanno) Washington	Dave Peccie Sanitary Sewer	11/12/75	Provisional Approval
USA (Rock Creek) Washington	Add. #1 to Contracts No. 20, 28 A, B & C, & 31 - STP Project	11/12/75	Approval
Corvallis Benton	Western View, 2nd Addition Sewers	11/12/75	Provisional Approval
Weyerhaeuser Co. Klamath	Camp 14 - 1.30 AC Sewage Lagoon - Irrigation	11/13/75	Provisional Approval
Hines Harney	Strawn Mobile Home Park Sewer, P.S. & Force Main	11/13/75	Provisional Approval
Oregon City Clackamas	Josephine & Netzel Street Sewers	11/17/75	Provisional Approval
Bend Deschutes	Purcell Rd. & Pilot Butte Prof. Park Sewers	11/17/75	Provisional Approval
USA (Durham) Washington	Change Order No. 15 - STP Project	11/17/75	Approval
USA (Rock Creek) Washington	Beaverton-Rock Creek Interceptor Sewer	11/17/75	Provisional Approval
Oregon City Clackamas	Dixie's Place Subdivision Sewers	11/20/75	Provisional Approval
Portland Multnomah	C.O. #6 - Outfall Project	11/20/75	Approval
BCVSA Jackson	Sunset Drive Sewer Extension	11/20/75	Provisional Approval
The Dalles Wasco	T.P. Daniels Trailer Park, Sewer Project	11/20/75	Provisional Approval

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PLAN ACTIONS COMPLETED (59 Continued)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sewerage Projects (continued)			
Harbor S.D. Curry	C.O. # 1, 2, 3 & 4 - Sewerage Project	11/21/75	Approval
Cave Junction Josephine	White Subdivision Sewers	11/21/75	Provisional Approval
USA (Rock Creek) Washington	Contracts 36 A & B - STP Project	11/24/75	Provisional Approval
Sweet Home Linn	C.O. #3 - STP Project	11/24/75	Provisional Approval
Eastside Coos	C.O. #9 - Pump Station Project	11/25/75	Approval
Oak Lodge S.D. Clackamas	S.E. Gayle Street Sewer Extension	11/25/75	Provisional Approval
USA (Rock Creek) Washington	Add. No. 1, Contract 35 - STP Project	11/25/75	Approval
Harbeck-Fruitdale Josephine	C.O. No. 1 - South Allen Int.	11/25/75	Approval
Forest Grove Washington	Gales Creek Rd. Sewer	11/25/75	Provisional Approval
Chiloquin Klamath	Add. No. 2 - STP Project	11/25/75	Approval
Culver Deschutes	Revised plans - Sewerage Project	11/26/75	Provisional Approval
Oak Lodge S.D. Clackamas	Janet Park Subdivision Sewers	11/26/75	Provisional Approval
Springfield Lane	East Moor Replat. Sewer, Burnett Sewer	11/26/75	Provisional Approval
Bunker Hill S.D. Coos	C.O. #1 - Pump Station Project	11/28/75	Approval
Stayton Marion	Santiam Street Sewer Extension	11/28/75	Provisional Approval

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PLAN ACTIONS COMPLETED-(59 Continued)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Industrial Waste Sources - 6			
Huntington Baker	Oregon Portland Cement Cooling Water Recirculation	10/15/75	Approved
Oregon City Clackamas	Willamette Hi-Grade Concrete Co. Waste Treatment Facilities	11/3/75	Approved
Newberg Yamhill	Hickory Hill Hog Farm Animal Waste	11/3/75	Plans returned
Boardman Morrow	Portland General Electric Boardman Generating Plant - Storm Water Runoff Control	11/5/75	Approved
Tillamook	Little Nestucca County Boat Launch Sanitary Facilities	11/13/75	Approved
Eugene Lane	J. H. Baxter Eliminate Yard Drainage	11/24/75	Approved
Big Creek Clatsop	Big Creek Salmon Hatchery Waste Treatment - Preliminary Plans	11/25/75	Approved

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

SUMMARY OF WATER PERMIT ACTIONS

	Applications Received				Permit Actions Completed				Permit Actions Pending		Sources Under Permits		Sources Reqr'g Permits	
	Month		Fis.Yr.		Month		Fis.Yr.							
	*]	**	*]	**	*]	**	*]	**	*]	**	*]	**	*]	**
Municipal [1]														
New	1	0	2	1	0	0	0	4	2	2				
Existing	0	0	0	4	0	0	10	3	2	5				
Renewals	3	0	12	0	0	0	0	10	14	6				
Modifications	--	--	--	--	7	0	33	0	22	1				
Total	4	0	14	5	7	0	43	17	40	14	285	43	289	50
Industrial														
New	2	0	5	6	0	0	5	9	6	4				
Existing	0	0	3	4	0	0	3	9	7	11				
Renewals	3	0	13	1	0	0	0	17	17	15				
Modifications	--	--	--	--	5	0	28	1	65	0				
Total	5	0	21	11	5	0	36	36	95	30	415	61	429	75
Other (Hatcheries, Moorages, Etc.)														
New	0	0	2	0	0	0	0	0	2	0				
Existing	0	0	0	0	0	0	0	0	0	1				
Renewals	0	0	0	0	0	0	0	0	0	1				
Modifications	--	--	--	--	1	0	5	0	7	0				
Total	0	0	2	0	1	0	5	0	9	2	58	3	60	4
GRAND TOTALS	9	0[2]	37	16[2]	13	0	84	53	144	46	758	107	777	129

* NPDES Permits
** State Permits

[1] Includes all domestic sewage. Does not include municipally operated industrial waste facilities or water filtration plants.

[2] Since permit modifications do not always involve an application they have been left out of these totals.

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PERMIT ACTIONS COMPLETED - 13

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sources (7)			
Corvallis Benton	Corvallis Mobile Home Park Sewage Disposal	11/17/75	NPDES Permit Modified
Eugene Lane	City of Eugene Sewage Disposal	11/17/75	NPDES Permit Modified
Lebanon Linn	City of Lebanon Sewage Disposal	11/17/75	NPDES Permit Modified
Linn	Pioneer Villa Sewage Disposal	11/17/75	NPDES Permit Modified
Tangent Linn	Tangent Elementary School Sewage Disposal	11/17/75	NPDES Permit Modified
Lane	Twin Oaks Elementary School Sewage Disposal	11/17/75	NPDES Permit Modified
Corvallis Benton	West Hills Sanitary District Sewage Disposal	11/17/75	NPDES Permit Modified
Industrial & Commercial Sources - (6)			
Portland Multnomah	Widing Transportation Truck Washing	11/7/75	State Permit Modified
Linn	Dept. of Fish & Wildlife Roaring River Hatchery	11/17/75	NPDES Permit Modified
Griggs Linn	Willamette Industries Griggs Division	11/17/75	NPDES Permit Modified
Philomath Benton	Willamette Industries Philomath Division	11/17/75	NPDES Permit Modified
Foster Linn	Willamette Industries Foster Division	11/17/75	NPDES Permit Modified
Sweet Home Linn	Willamette Industries Sweet Home Division	11/17/75	NPDES Permit Modified

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PLAN ACTIONS COMPLETED-7

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Direct Stationary Sources (7)			
Hines, Harney	E. Hines Lumber Co., new Doyle scrubber for #5 hog fuel boiler.	11/6/75	Approved
Portland, Multnomah	Bird & Son, Inc., Replacement of existing mechanical shaker baghouse with new larger pulse jet baghouse.	11/6/75	Approved
Portland, Multnomah	Columbia Steel Casting, new baghouse for handling particulate emissions from four grinding booths.	11/19/75	Approved
Hood River, Hood River	Hood River Memorial Hospital, replacement of existing incinerator with a new multichamber incinerator.	11/21/75	Approved
Medford, Jackson	Morton Milling, replacement of two existing cyclones with an air lift and baghouse.	11/20/75	Approved
Idanha, Marion	Green Veneer, Inc., new cyclone for chip unders.	11/25/75	Approved
North Bend, Coos	Menasha, upgrading existing multiclones.	11/26/75	Approved

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

SUMMARY OF AIR PERMIT ACTIONS

	Applications Received		Permit Actions Completed		Permit Actions Pending	Sources under Permits	Sources Reqr'g Permits
	Month	Fis.Yr.	Month	Fis.Yr.			
Direct Sources							
New	0	2	0	3	2		
Existing	6	26	23	208	74(*)		
Renewals	3	6	5	20	20		
Modifications	2	5	4	16	1		
Total	11	39	33	247	97	2006	2068
Indirect Sources							
New	2	27	5	16	25		
Existing	NA	NA	NA	NA	NA		
Renewals	NA	NA	NA	NA	NA		
Modifications	1	1	1	1	--		
Total	3	28	6	17	25	19	NA
Fuel Burning							
New	(Included in Direct Sources)						
Existing							
Renewals							
Modifications							
Total							
GRAND TOTALS	14	67	39	264	122	2025	2068

(*) These pending actions are for existing sources which are operating on automatic extensions or on temporary permits.

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PERMIT ACTIONS COMPLETED-39

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Direct Stationary Sources (33)			
Clatsop, Astoria	Port of Astoria (04-0028), Grain Elevator	11/24/75	Permit Issued
Deschutes, Bend	Brooks-Scanlon (09-0001), Reissued	11/24/75	Permit Reissued
Klamath, Klamath Falls	Presbyterian Intercommunity Hospital (18-0056), Boiler, Incinerator	11/24/75	Permit Issued
Malheur, Ontario	Ontario Rendering Co. (23-0004), Rendering Plant	11/24/75	Permit Issued
Marion, Aurora	Northwest Organic Products (24-1002), Prepared Feeds, Boiler	11/24/75	Permit Issued
Multnomah, Portland	Mayflower Farms (26-2012), Grain Mill, Boiler	11/24/75	Permit Issued
Polk, McCoy	McCoy Warehouse (27-6023), Grain Elevator, Seed Cleaning	11/24/75	Permit Issued
Umatilla, Pilot Rock	Kerns Furniture (30-0037), Furniture	11/24/75	Permit Issued
Union, Island City	Union County Grain Growers (31-0004), Grain Mill, Seed Cleaning	11/24/75	Permit Issued
Portable	Acme-Vickery (37-0077), Ready Mix Concrete	11/24/75	Permit Issued
Portable	Sun Studs (37-0089), Rock Crusher	11/24/75	Permit Issued
Portable	Morse Bros. (37-0113), Asphalt Plant	11/24/75	Permit Issued
Portable	O'Hair Construction Co. (37-0083), Asphalt Plant	11/17/75	Permit Issued
Portable	Norcap Construction (37-0086), Asphalt Plant	11/17/75	Permit Issued

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PERMIT ACTIONS COMPLETED-(39 con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Multnomah, Portland	Pennwalt Corp. (26-2424), Reissued	11/26/75	Permit Reissued
Clackamas, Sandy	Olaf M. Oja Lumber (03-2650), Sawmill	11/11/75	Permit Issued
Portable	Roseburg Sand & Gravel (37-0126), Reissued	11/13/75	Permit Issued
Grant, John Day	Blue Mountain Hospital (12-0020), Boiler, Incinerator	11/17/75	Permit Issued
Grant, John Day	Edward Hines Lumber (12-0024), Sawmill, Boiler	11/17/75	Permit Issued
Lake, Lakeview	Lake Hospital (19-0015), Boiler, Incinerator	11/17/75	Permit Issued
Marion, Stayton	Wilco Farmers (24-7007), Grain Elevator	11/17/75	Permit Issued
Umatilla, Hermiston	Union Pacific Railroad (30-0032), Boiler, Incinerator	11/17/75	Permit Issued
Umatilla, Pendleton	St. Anthony Hospital (30-0059), Incinerator	11/17/75	Permit Issued
Wallowa, Enterprise	Wallowa Memorial Hospital (32-0010), Boiler, Incinerator	11/17/75	Permit Issued
Multnomah, Portland	Palmco, Inc. (26-2938), Boiler	11/11/75	Permit Issued
Multnomah, Portland	McCormick & Baxter Creosoting (26-1964), Boiler, Wood Preserving	11/11/75	Permit Issued
Multnomah, Portland	Brand S Corporation (26-2054), Boiler, Sawmill	11/11/75	Permit Issued
Multnomah, Portland	Publishers Paper Co. (26-2075), Boiler, Sawmill, Plywood	11/11/75	Permit Issued
Clackamas, Sandy	Olaf M. Oja Lumber (03-1790), Sawmill	11/11/75	Permit Issued

PERMIT ACTIONS COMPLETED-(39 con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Washington, Hillsboro	Washington County Central Services (34-2630), Incinerator	11/11/75	Permit Issued
Washington, Forest Grove	Forest Grove Lumber Co. (34-2081), Addendum #1	11/5/75	Addendum Issued
Columbia, St. Helens	Boise Cascade (05-2565), Sawmill, Veneer	11/11/75	Permit Issued
Clackamas, Wilsonville	Joe Bernert Towing Co. (03-2657), Rock Crusher	11/11/75	Permit Issued
John Day, Grant	Edward Hines Lumber Company, sawmill	11/17/75	Final permit issued

Indirect Sources (6)

Cedar Hills, Washington	St. Vincents Hospital, 434 space parking addition	11/28/75	Final permit issued
Beaverton, Washington	Washington Square, 725 space employee Christmas parking	11/21/75	Temporary permit issued
Fairview, Multnomah	Fairview Thriftway, 100 space parking facility	11/28/75	Modified permit issued reflecting change in ownership
Fairview, Multnomah	Fairview Shopping Center, 150 space parking facility	11/28/75	Final permit issued
Clackamas, Clackamas	U-Mark Warehouse Market, 95 space parking facility	11/28/75	Final permit issued
Oak Grove Area, Clackamas	Stuart Andersons' Cattle Company Restaurant, 115 space parking facility.	11/12/75	Final permit issued

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PLAN ACTIONS COMPLETED (15)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Portland, Multnomah	LaVelle-Yett Landfill Expansion of Existing Site Design & Operational Plans	11/3/75	Provisional Approval
Eugene, Lane	Cabax Mills Existing Site Operational Plan	11/3/75	Letter of Authorization
Burns, Harney	Harney County Landfill Existing Site Operational Plan	11/4/75	Provisional Approval
Whiteson, Yamhill	Whiteson Sanitary Landfill Existing Site Revised Operational Plan	11/5/75	Approved
Harper, Malheur	Harper Landfill New Site Design & Operational Plan	11/7/75	Provisional Approval
Juntura, Malheur	Juntura Landfill New Site Design & Operational Plan	11/7/75	Provisional Approval
Riddle, Douglas	Roseburg Lumber Co. Existing Site Operational Plan	11/12/75	Provisional Approval
Brothers, Deschutes	State Highway Disposal Site Existing Site Operational Plan	11/18/75	Provisional Approval
Medford, Jackson	Jackson County Sports Park Existing Site Operational Plan	11/18/75	Approved
Lane Co.	Request for Proposal Document for Resource Recovery Facility	11/21/75	Review and Comments
Springfield, Lane	Weyerhauser Co. Truck Road Landfill Existing Site Operational Plan	11/24/75	Provisional Approval

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PLAN ACTIONS COMPLETED-(15 con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Reedsport, Douglas	Reedsport Mill Existing Site Operational Plan	11/26/75	Provisional Approval
Lake Co.	Lake Co. Solid Waste Management Plan - Regional Plan	11/26/75	Approved
Metropolitan Service District	Resource Recovery Byproducts Environmental Assessment	11/26/75	Reviewed
Metropolitan Service District	Sanitary Landfill Report	11/26/75	Reviewed

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

SUMMARY OF SOLID AND HAZARDOUS WASTE PERMIT ACTIONS

	Applications Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Regr'g Permits
	Month	Fis.Yr.	Month	Fis.Yr.			
General Refuse							
New	2	5	5	15	8		
Existing			2	21	71 (*)		
Renewals	1	9		13	3		
Modifications	3	7	5	9			
Total	6	21	12	58	82	192	200
Demolition							
New		2		2			
Existing				1	2 (*)		
Renewals	1	2	2	2			
Modifications							
Total	1	4	2	5	2	13	13
Industrial							
New	2	4	1	6	1		
Existing	3	3	3	17	23 (*-8)		
Renewals	1	4	2	7	2		
Modifications	1	1	1	2			
Total	7	12	7	32	26	74	82
Sludge Disposal							
New	1		1	1			
Existing					1 (*)		
Renewals				2			
Modifications							
Total	1		1	3	1	9	9
Hazardous Waste							
New					1		
Existing							
Renewals							
Modifications							
Total					1	0	0
GRAND TOTALS	15	37	22	98	112	288	304

(*) Sites operating under temporary permit authorizations until regular permits are issued.

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PERMIT ACTIONS COMPLETED (22)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
General Refuse (Garbage) Facilities (12)			
Douglas	Roseburg Disposal Site New Facility	11/12/75	Permit issued
Gilliam	Condon Disposal Site Existing Facility	11/12/75	Permit issued
Wallowa	Joseph Drop Box Site New Facility	11/14/75	Permit issued
Douglas	Myrtle Creek Disposal Site Existing Facility	11/18/75	Permit amended
Douglas	Oakland Disposal Site Existing Facility	11/18/75	Permit amended
Curry	Huntley Park Disposal Site New Facility	11/21/75	Permit issued
Douglas	Oakland Transfer Station New Facility	11/21/75	Permit issued
Marion	Brown's Island Landfill Existing Facility	11/21/75	Permit amended
Yamhill	Whiteson Landfill Existing Facility	11/21/75	Permit amended
Multnomah	St. Johns Landfill Existing Facility	11/24/75	Permit amended
Baker	Baker Sanitary Landfill Existing Facility	11/26/75	Permit issued
Klamath	Chiloquin Transfer Station New Facility	11/26/75	Permit issued

PLAN ACTIONS COMPLETED-(22 con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Demolition Solid Waste Disposal Facilities (2)			
Multnomah	LaVelle & Yett Landfill Existing Facility	11/24/75	Permit issued (renewal)
Deschutes	Bend Demolition Site Existing Facility	11/28/75	Permit issued (renewal)
Sludge Disposal Facilities (1)			
Deschutes	Oregon Highway Division New Facility	11/18/75	Letter authorization issued
Industrial Solid Waste Disposal Facilities (7)			
Lane	Cabax Mills New Facility	11/3/75	Letter authorization issued
Linn	U.S. Plywood, Lebanon Existing Facility	11/14/75	Permit issued (renewal)
Marion	Stout Creek Lumber Co. Existing Facility	11/14/75	Permit issued
Coos	Elkside Lumber Co. Existing Facility	11/18/75	Permit amended
Lane	Weyerhaeuser, Cottage Grove Existing Facility	11/18/75	Permit issued (renewal)
Douglas	International Paper, Gardiner Existing Facility	11/19/75	Permit issued
Linn	Crown Zellerbach, Lebanon Existing Facility	11/21/75	Permit issued

APPENDIX B

Department of Environmental Quality
Technical Programs

Plan and Permit Actions

December, 1975

Department of Environmental Quality
Technical Programs

Monthly Activity Report

Air, Water and Land Quality Divisions (Program) — December, 1975 (Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans
	Month	Fis.Yr.	Month	Fis.Yr.	Month	Fis.Yr.	Pending
Air							
Direct Sources	12	60	12	69			17
Indirect Sources							
Total	12	70	12	69			17
Water							
Municipal							
~~T & D~~	28	458	37	483			10
~~S & PS~~	—	—	—	—	—	—	—
Industrial	8	96	10	81		6	11
Total	36	554	47	564		6	21
Solid Waste							
General Refuse	5	40	6	44			13
Demolition		2		2			2
Industrial	2	14	2	19			4
Sludge		3		4		1	
Total	7	59	8	69		1	19
Hazardous Wastes							
GRAND TOTAL	55	673	67	702		7	57

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PLAN ACTIONS COMPLETED - 47

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sewerage Projects - 37			
Salem (Willow) Marion	C. O. #3 - STP Project	12/1/75	Approved
Depoe Bay S.D. Lincoln	East Bay Dr. Sewer	12/3/75	Provisional Approval
USA (Rock Cr.) Washington	Add. #1, cont. 30 & #3 cont. 17B	12/3/75	Approved
Salem (Willow) Marion	Promontory Park Subdn. Sewers	12/3/75	Provisional Approval
Milwaukie Clackamas	S.E. Beckman Terrace Sewer	12/3/75	Provisional Approval
Salem (Willow Lake) Marion	12th St., S.E. Sewer Repl.	12/8/75	Provisional Approval
Lafayette Yamhill	C.O. #4 - STP Project	12/8/75	Approved
Depoe Bay S.D. Lincoln	Allen St. Sewer	12/8/75	Provisional Approval
Black Butte Ranch Deschutes	Aspen Houses Addn. Sewers	12/8/75	Provisional Approval
Gresham Multnomah	El Camino - Phase 8 Subdn Sewers	12/8/75	Provisional Approval
Bonbright Prop. (Mission Interchange, I-5) Umatilla	1.20 AC Non-overflow Sewage Lagoon	12/9/75	Provisional Approval
USA (Rock Cr.) Washington	Add. #1, contr. 36 - STP Project	12/9/75	Approved
Echo Umatilla	C.O. #B-4 - STP Project	12/9/75	Approved

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PLAN ACTIONS COMPLETED - 47 (continued)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sewerage Projects - 37 (continued)			
Reedsport Douglas	Scott Terrace Subdn. Sewers	12/9/75	Provisional Approval
Hillsboro (Rock Creek) Washington	C.O. #6-16 - STP Project	12/11/75	Approved
USA (Rock Cr.) Washington	Add. #2 - contr. 30 - STP Project	12/11/75	Approved
Harbeck-Fruitdale Josephine	C.O. #2 - South Allen Int.	12/12/75	Approved
Salem (Willow) Marion	Riverview North No. 2 Subdn. Sewers	12/12/75	Provisional Approval
	Riverview North - Ph. II, Rivergrove Ct. Sewers	12/12/75	Provisional Approval
Gladstone Clackamas	Ridgegate Subdn. Sewers	12/15/75	Provisional Approval
Oregon City Clackamas	Oregon City Public Schools Sewer	12/18/75	Provisional Approval
Portland Multnomah	S.E. 75th & Clinton St. Sewer	12/18/75	Provisional Approval
USA (Fanno) Washington	Westridge Subdn. Sewers	12/18/75	Provisional Approval
Happy Vy. Mobile Home Park Clackamas	Flow measurement flume	12/22/75	Provisional Approval
Chiloquin Klamath	C.O. #1 Sewer Rehabilitation Project	12/22/75	Approved
Long Creek Grant	Revised Sewer System Plans	12/22/75	Provisional Approval

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PLAN ACTIONS COMPLETED -47 (Continued)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Industrial Waste Sources - 10			
Bonneville Multnomah	National Marine Fisheries - Bonneville Hatchery - Waste Treatment	12/4/75	Approved
Perrydale Polk	Houston - Porter Hog Farm - Animal Wastes	12/4/75	Approved
Central Point Jackson	Jim McCune - Animal Wastes	12/8/75	Approved
Klaskanine R. Clatsop	Oregon Fish & Wildlife - Klaskanine Hatchery - Waste Treatment	12/9/75	Approved
Cottage Grove Lane	Weyerhaeuser Co - Transformer Oil Berms	12/15/75	Approved
Cottage Grove Lane	Weyerhaeuser Co - Log Pond Recirculation	12/16/75	Approved
Vida Lane	Oregon Fish & Wildlife - McKenzie River - Waste Treatment - Final Plans	12/22/75	Approved
Molalla Clackamas	Avison Lumber - Log Pond Outlet Structures	12/24/75	Approved
Ontario Malheur	Ore-Ida Outfall Sampling Manhole	12/26/75	Approved
Springfield Lane	Springfield Quarry Rock Products - Waste Water Recirculation	12/30/75	Approved

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

SUMMARY OF WATER PERMIT ACTIONS

	Applications Received				Permit Actions Completed				Permit Actions Pending		Sources Under Permits		Sources Reqr'g Permits	
	Month		Fis.Yr.		Month		Fis.Yr.							
	*]	**	*]	**	*]	**	*]	**	*]	**	*]	**	*]	**
Municipal 1/														
New	0	0	2	1	0	1	0	5	2	1				
Existing	0	0	0	4	0	1	10	4	2	4				
Renewals	3	1	15	1	0	1	0	11	17	6				
Modifications	-	-	-	-	4	0	37	0	22	1				
Total	3	1	17	6	4	3	47	20	43	12	285	45	289	50
Industrial														
New	0	0	5	6	1	2	6	11	5	2				
Existing	0	0	3	4	0	2	3	11	7	9				
Renewals	4	1	17	2	0	2	0	19	21	14				
Modifications	-	-	-	-	11	0	38	2	62	0				
Total	4	1	25	12	12	6	47	43	95	25	416	65	429	75
Agricultural (Hatcheries, Dairies, Etc.)														
New	0	0	2	0	0	0	0	0	2	0				
Existing	0	0	0	0	0	0	0	0	0	1				
Renewals	0	0	0	0	0	0	0	0	0	1				
Modifications	-	-	-	-	0	0	5	0	7	0				
Total	0	0	2	0	0	0	5	0	9	2	58	3	60	4
GRAND TOTALS	7	2 2/	44	18 2/	16	9	99	63	147	39	759	113	778	129

* NPDES Permits
** State Permits

1/ Includes all domestic sewage. Does not include municipally operated industrial waste facilities or water filtration plants.

2/ Since permit modifications do not always involve an application they have been left out of these totals.

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PERMIT ACTIONS COMPLETED-24

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Municipal Sources (7)			
Long Creek Grant	City of Long Creek Sewage Disposal	12/4/75	State Permit Issued
Vale Malheur	City of Vale Sewage Disposal	12/4/75	State Permit Renewed
Brownsville Linn	City of Brownsville Sewage Disposal	12/11/75	NPDES Permit Modified
White City Jackson	Bear Creek Valley San. Auth. White City STP	12/11/75	NPDES Permit Modified
Cave Junction Josephine	City of Cave Junction Sewage Disposal	12/11/75	NPDES Permit Modified
Richland Baker	City of Richland Sewage Disposal	12/15/75	State Permit Issued
Corvallis Benton	City of Corvallis Sewage Disposal	12/19/75	NPDES Permit Modified
Industrial & Commercial Sources (17)			
Arlington Gilliam	Portland General Electric Pebble Springs Nuclear	12/1/75	NPDES Permit Issued
Eugene Lane	Greene's Meat Company Slaughterhouse	12/4/75	State Permit Issued
Pendleton Umatilla	Pendleton Ready Mix Aggregate Plant	12/4/75	State Permit Renewed
Milton-Freewater Umatilla	Ready Mix Sand & Gravel Aggregate Plant	12/4/75	State Permit Renewed
Albany Linn	Pacific Power & Light Co. Albany Water Treatment	12/11/75	NPDES Permit Modified
Gold Beach Curry	U.S. Plywood Gold Beach Division	12/11/75	NPDES Permit Modified

Monthly Activity Report

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

PERMIT ACTIONS COMPLETED (24 - Continued)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Industrial & Commercial Sources - Continued			
Josephine	Jack & Betty McCain Grave Creek Placer Mine	12/15/75	State Permit Issued
Cave Junction Josephine	R & R Placer Mining Corp. Placer Mine	12/15/75	State Permit Issued
Albany Linn	Western Kraft Corp. Albany Paper Mill	12/19/75	NPDES Permit Modified
Portland Multnomah	Union Carbide Corp. Ferroalloys Division	12/19/75	NPDES Permit Modified
Dillard Douglas	Roseburg Lumber Co. Dillard Operations	12/19/75	NPDES Permit Modified
Riddle Douglas	Roseburg Lumber Co. Riddle Plant #4	12/19/75	NPDES Permit Modified
Hammond Clatsop	Alaska Packers Assn. Hammond Fish Plant	12/19/75	NPDES Permit Modified
Warrenton Clatsop	New England Fish Company Warrenton Plant	12/19/75	NPDES Permit Modified
Astoria Clatsop	Northwest Fur Breeders Assn. Columbia Street Plant	12/19/75	NPDES Permit Modified
Newport Lincoln	Bumble Bee Seafoods Newport Plant	12/19/75	NPDES Permit Modified
Newport Lincoln	Peterson Seafoods Newport Plant	12/19/75	NPDES Permit Modified

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PERMIT ACTIONS COMPLETED-12

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Direct Stationary Sources (12)			
White City, Jackson	Rogue Valley Plywood, Installation of 2 new bag filters to handle wood waste material	12/8/75	Approved
Portland, Multnomah	Pierres Bakery, New pneumatic flour conveying system and bag filter	12/10/75	Approved
Portland, Multnomah	Portland General Electric Co. New DeVilbviss truck and trailer paint spray booth.	12/10/75	Approved
Portland, Multnomah	Palmco Oil, New gas/distillate fuel oil standby boiler	12/10/75	Approved
Portland, Multnomah	Speeds Automotive, Inc. New DeVilbviss automotive paint spray booth	12/12/75	Approved
Portland, Multnomah	FMC Corporation, Atmospheric control of sand-blasting dust	12/12/75	Approved
Ashland, Jackson	Ashland Community Hospital Modification to existing incinerator	12/12/75	Approved
Portland, Multnomah	Trumbull Asphalt Company, Installation of a smoke meter for fuel oil fired boiler	12/15/75	Cancelled
North Bend, Coos	Weyerheauser, Installation of sampling platform and ports on main exhaust stack	12/26/75	Approved
Salem, Marion	Gerlinger Casting Company, New steel foundry	12/30/75	Approved

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

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 (completed)			
Wilsonville, Clackamas	Dammasch State Hospital, New residual fuel oil fired boiler	12/31/75	Approved
Portland, Multnomah	Esco Corporation New Argon-Oxygen decarbonization vessel	12/31/75	Approved

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

SUMMARY OF AIR PERMIT ACTIONS

	Applications Received		Permit Actions Completed		Permit Actions Pending	Sources under Permits	Sources Reqr'g Permits
	Month	Fis.Yr.	Month	Fis.Yr.			
Direct Sources							
New	2	4	0	3	4		
Existing	17	43	7	215	84 (*)		
Renewals	16	22	4	24	32		
Modifications	5	10	7	23	5		
Total	40	79	18	265	125	2024	2087
Indirect Sources							
New	3	30	7	23	21		
Existing	NA	NA	NA	NA	NA		
Renewals	NA	NA	NA	NA	NA		
Modifications	0	1	0	1	--		
Total	3	31	7	24	21	26	NA
Fuel Burning							
New	(Included in Direct Sources)						
Existing							
Renewals							
Modifications							
Total							
GRAND TOTALS	43	110	25	289	146	2050	2087

(*) These pending actions are for existing sources which are operating on automatic extensions or on temporary permits.

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PERMIT ACTIONS COMPLETED-25

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Direct Stationary Sources (18)			
Portable	Curry County Crushers 37-0104, Rock Crusher	12/9/75	Permit issued
Portable	North Santiam Sand & Gravel 37-0122, Rock Crusher	12/9/75	Permit issued
Portable	Polk County Road Department 37-0124, Rock Crusher	12/9/75	Permit issued
Malheur Ontario	Ore-Ida Foods 23-0003, Boiler, Incinerator	12/15/75	Permit issued
Multnomah Portland	Bunge Corporation 26-2003, Addendum #1	12/18/75	Addendum issued
Umatilla Pendleton	St. Anthony Hospital 30-0059, Addendum #1	12/19/75	Addendum issued
Multnomah Portland	Georgia Pacific Corp. 26-2911, Addendum	12/16/75	Addendum issued
Clackamas Oregon City	PED Manufacturing 03-2505, Addendum #1	11/28/75	Addendum issued
Douglas Glide	Little River Box Co. 10-0021, Addendum #2	12/9/75	Addendum issued
Multnomah Portland	Willamette Hi-Grade Concrete 26-1909, Rock Crusher, Concrete Plant	12/11/75	Permit issued
Polk Dallas	Willamette Industries 27-0177, Sawmill, Plywood(Renewal)	12/9/75	Permit issued
Douglas Riddle	Lone Star Industries 10-0066, Rock Crusher	12/9/75	Permit Re-issued
Josephine Selma	M & Y Lumber 17-0019, Sawmill	12/9/75	Permit Re-issued
Marion Salem	Columbia Millwork 24-4339, Millwork	12/9/75	Permit issued

PERMIT ACTIONS COMPLETED-(25 con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Yamhill Willamina	Boise Cascade Corp. 36-8031, Veneer Mfg. (Renewal)	12/9/75	Permit issued
Portable	J. C. Compton Co. 37-0078, Asphalt Plant (Renewal)	12/9/75	Permit issued
Multnomah Portland	Martin Bros. Container & Timber Products, 26-2544, Addendum #1	12/10/75	Addendum issued
Crook Prineville	Louisiana Pacific 07-0008, Addendum #1	12/15/75	Addendum issued

Indirect Sources (7)

Gresham, Multnomah	Gresham Cinema Center 299 space theater parking facility	12/31/75	Final permit issued
Johns Landing, Multnomah	Windsor Door Building, 120 space parking facility	12/31/75	Final permit issued
Beaverton, Washington	Herzog Motors, 91 space auto sales facility	12/8/75	Final permit issued
Milwaukie Clackamas	JAFCO Store, 246 space parking facility	12/31/75	Final permit issued
Salem, Marion	North Santiam Highway, 30,000 ADT	12/16/75	Final permit issued
Portland, Multnomah	Rhodes Building, (Olds & King), 113 space parking facility	12/17/75	Final permit issued
Salem, Marion	Capitol Mall, 415 space parking facilities	12/31/75	Final permit issued

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PLAN ACTIONS COMPLETED (8)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Rattlesnake, Lane	Rattlesnake Transfer Site New Site Construction & Operational Plans	12/1/75	Approved
Veneta, Lane	Veneta Transfer Station New Site Construction & Operational Plans	12/1/75	Approved
Corvallis, Benton	Coffin Butte Sanitary Landfill Existing Site Operational Plan	12/3/75	Provisional Approval
Heppner, Morrow	Turner Landfill Site New Site Development & Operational Plans	12/8/75	Approved
Mill City, Marion	Stout Creek Lumber Co. Existing Site Operational Plan	12/10/75	Approved
Oakridge, Lane	Pope & Talbot, Inc. Existing Site Operational Plan	12/15/75	Provisional Approval
Eugene, Lane	Lane County Solid Waste Center New Site Preliminary Construction Plans	12/18/75	Review and Comments
Woodburn, Marion	Woodburn Sanitary Landfill Existing Site Construction Plan	12/23/75	Provisional Approval

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

SUMMARY OF SOLID AND HAZARDOUS WASTE PERMIT ACTIONS

	Applications Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Regr'g Permits
	Month	Fis.Yr.	Month	Fis.Yr.			
General Refuse							
New		5	5	20	3		
Existing			3	24	68(*)		
Renewals	6	15	1	14	7		
Modifications		7		9			
Total	6	27	9	67	78	194	197
Demolition							
New	2	3	1	3	1(*)		
Existing				1	2(*)		
Renewals		2		2			
Modifications							
Total	2	5	1	6	3	13	13
Industrial							
New		4	2	8			
Existing	2	5	2	19	22(*-16)		
Renewals		4	2	9			
Modifications		1		2			
Total	2	14	6	38	22	73	79
Sludge Disposal							
New		1		1			
Existing					1(*)		
Renewals	1	1		2	1		
Modifications							
Total	1	2		3	2	8	8
Hazardous Waste							
New					1		
Existing							
Renewals							
Modifications							
Total					1	0	0
GRAND TOTALS	11	48	16	114	106	288	297

(*) Sites operating under temporary permit authorizations until regular permits are issued.

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PERMIT ACTIONS COMPLETED (16)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
General Refuse (Garbage) Facilities (9)			
Malheur	Harper Landfill New Facility	12/8/75	Permit issued.
Malheur	Juntura Landfill New Facility	12/8/75	Permit issued.
Marion	Macleay Transfer Station New Facility	12/8/75	Permit issued.
Curry	Brookings Disposal Site Existing Facility	12/18/75	Permit issued.
Curry	Nesika Beach Disposal Site Existing Facility	12/18/75	Permit issued.
Lake	Lakeview Disposal Site Existing Facility	12/18/75	Permit issued.
Lane	Five Rivers Landfill Existing Facility	12/19/75	Permit issued. (renewal)
Lane	Rattlesnake Transfer Station New Facility	12/24/75	Permit issued.
Lane	Veneta Transfer Station New Facility	12/24/75	Permit issued.
Demolition Solid Waste Disposal Facilities (1)			
Clackamas	L. D. McFarland New Facility	12/23/75	Letter authorization issued.
Sludge Disposal Facilities (0)			

Department of Environmental Quality
Technical Programs

Monthly Activity Report

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

PERMIT ACTIONS COMPLETED-(16 con't)

City and County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Industrial Solid Waste Disposal Facilities (6)			
Lane	Weyerhaeuser, Truck Road Existing Facility	12/18/75	Permit issued. (renewal)
Linn	Willamette Industries, Sweet Home; Existing Facility	12/18/75	Letter Authorization issued.
Jackson	Jackson Co. Sports Park Existing Facility	12/19/75	Permit issued.
Linn	Old Timber Owners Pond New Facility	12/19/75	Permit issued.
Linn	Western Kraft, Albany Existing Facility	12/24/75	Permit issued. (renewal)
Marion	Stuckart Lumber Co. Existing Facility	12/31/75	Permit issued.

DEPARTMENT OF ENVIRONMENTAL QUALITY

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

ROBERT W. STRAUB
GOVERNOR

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item C, February 20, 1976, EQC Meeting

Tax Credit Applications

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

Director's Recommendation

It is recommended that the Commission act on the seven (7) applications for tax credit relief after consideration of the Director's recommendations on the attached table.

LOREN KRAMER
Director

Attachments
Tax Credit Summary
Tax Credit Review Reports

TAX CREDIT APPLICATIONS

Applicant/Plant Location	Appl. No.	Facility	Claimed Cost	% Allocable to Pollution Control	Director's Recommendation
Stayton Canning Co. Brooks Plant #5 Stayton	T-617 T-707	Spray Irrigation System	$ 362,505.85	80% or more	Issue
Menasha Corporation Paperboard Div. North Bend	T-719	Waste Water Screening	6,664.00	80% or more	Issue
Jeld Wen Hardboard Plant Klamath Falls	T-723	Boiler Incinerator	505,732.00	80% or more	Issue
Jeld Wen Hardboard Plant Klamath Falls	T-724	Carter Day Baghouse	27,471.00	80% or more	Issue
Johnson Rock Products P.O. Box 548 North Bend	T-726	Asphalt Batch Plant	100,415.00	80% or more	Issue
American Can Co. Halsey	T-729	Opacity Monitor	9,449.25	80% or more	Issue
American Can Co. Halsey	T-731	Oxygen Monitor	6,113.90	80% or more	Issue

Proposed 1976 totals to date:

Air Quality	$ 143,449.15
Water Quality	369,169.85
Land Quality	505,732.00
Total	$1,018,351.00

1975 Calendar Year Totals (1975)

Air Quality	$17,205,117.79
Land Quality	4,636,110.63
Water Quality	14,737,318.29
	$36,578,546.71

Total Certificates Awarded (monetary values) since inception of Program (excludes proposed January & February 1976 Certificates)

Air Quality	$ 94,942,211.75
Land Quality	18,860,518.27
Water Quality	80,407,156.78
	$194,209,886.80

Appl. T-617 & T-707

Date November 7, 1975

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

---

1. Applicant

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

The applicant owns and operates a vegetable canning and freezing plant near Brooks, Oregon in Marion County.

Application T-617 was submitted December 16, 1974 and Application T-707 was submitted September 30, 1975.

2. Description of Claimed Facility

The facility claimed in these applications consists of 330 acres of land adjacent to the Brooks Plant and irrigation equipment to spray waste water on this land. The applications are considered as one since T-617 is for the land and T-707 is for the spray irrigation equipment.

The claimed facility was approved by the Department in January 1975 prior to construction and was placed in operation June 1975.

The percentage claimed for pollution control is 100%.

The combined costs claimed in both applications is $362,505.85. (Accountant's certification was submitted.)

3. Evaluation of Application

Prior to the installation and startup of the claimed facility, waste water was irrigated on an insufficient area of land. As a result, during wet periods of the year, waste water would have to be discharged to the public waters. With the claimed facility, there is sufficient land for waste disposal and the discharge of waste water to public waters has been eliminated.

Investigation of the claimed facility has found that, during the first summer of operation, some problems occurred. These have been corrected and it appears the facilities should operate satisfactorily in the future.

Presently, the company receives $16,000 annually from a farmer who farms the land claimed in these applications. Operating costs including depreciation of the irrigation equipment, is claimed to be $12,873.66. The difference between the income and the operating costs is $3,126.34.

It has been determined that at a 20% interest rate (indicated by the applicant as the lowest acceptable rate) the income produced by the claimed facility over its claimed life would not be sufficient to consider the facility as less than 100% allocable to pollution control.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $362,505.85 with 80% or more of the cost allocated to pollution control be issued for the facility claimed in Tax Applications T-617 and T-707.

RJN:em
January 12, 1976

Appl. T - 719

Date December 17, 1975

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

---

1. Applicant

Menasha Corporation
Paperboard Division
P. O. Box 329
North Bend, Oregon 97459

The applicant owns and operates a NSSC pulp and paper mill near North Bend, Oregon.

The application was received November 21, 1975. Portions of the application were amended by letter submitted December 9, 1975

2. Description of Claimed Facility

The claimed facility is a screening system which screens waste waters from the secondary fiber area. The system consists of the following basic components:

1. 36" Bauer Hydrasieve
2. 13 A2 B Gorman Rupp pump
3. 1000 gallon collection sump
4. Roura solids hopper
5. Associated piping, valves and controls

The claimed facility was approved for construction on July 15, 1975 but was not specifically required by the waste discharge permit. It was constructed and placed in operation in October 1975.

Certification must be made under the 1969 Act and the percentage claimed for pollution control is 100%

Facility Cost: $6,664 (Receipts and copies of expense ledgers were submitted to verify cost.)

3. Evaluation of Application

Prior to the installation of the claimed facility, pieces of plastic, tapes, and other material generated in the secondary fiber area would be discharged to the treatment system. Since this material is essentially nondegradable and buoyant, it would float through the system and be discharged to the Pacific Ocean. With the installation of the facility, this material is removed and disposed of before it can enter the waste treatment system.

The claimed facility has been inspected. It appears to be well designed and constructed and appears to operate satisfactorily.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate for $6,664 with 80% or more allocated to pollution control be issued for the facilities claimed in Tax Application T-719.

RJN:ak
December 30, 1975

Appl. T-723

FEB 4 1976

Date 2/5/76

State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

Applicant

JELD-WEN, INC.
Thomas Lumber Co. & JELD-WEN FIBER PRODUCTS
3303 Lakeport Boulevard
Klamath Falls, Oregon 97601

The applicant owns and operates Thomas Lumber Company, sawmill and planing mill which manufactures kiln dried pine lumber and JELD-WEN FIBER PRODUCTS which manufactures doors, windows, door frames, and sash parts from shop lumber at Klamath Falls, Oregon. The applicant installed a new boiler facility which utilizes hogged fuel instead of oil or gas used by the old boiler to produce steam for plant operations.

Description of Claimed Facility

The claimed facility is utilizing hogged fuel to produce steam and consists of:

a. Boiler plant.

b. Storage bin and surge bin.

c. High pressure material lines.

d. Steam and water lines.

e. Other ancillary equipment including tank, pumps, valves, electrical and control equipment.

The claimed facility was placed in operation in January 1975. Certification is claimed under ORS 468.165 (1)(b) as a facility which obtains useful material or energy resources from material that would otherwise be solid waste. Facility costs $505,732 (Accountant's certification was attached to application.) Notice of construction was submitted to the Department prior to construction as required under ORS 468.175 (1973) and was approved.

Evaluation of Application

Hogged waste produced by the sawmill and planing mill was previously stockpiled in large quantities at various locations on the plant property. Early in 1974, JELD-WEN, Inc. began construction of JELD-WEN FIBER PRODUCTS which needed steam to operate their press, steam pressurized refiner and fiber drying system. Rather than build a separate oil and natural gas fired boiler, costing substantially less initial capital investment, for the new plant it was decided to construct a boiler plant utilizing hogged fuel to produce steam for both plants, and to eliminate land pollution from the piling of hogged waste generated by the plants.

The facility is operating at a rate of utilizing approximately 9,000 units of hogged fuel annually which are reduced to approximately 30 units of combustion residue. Savings in terms of fuel oil or natural gas could amount to $100,000 annually.

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

Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued pursuant to ORS 468.165 (1)(b) for the claimed facilities in application T-723, such certificate to bear the actual cost of $505,732.

MS:sa

Appl T-724
Date 1/22/76

State of Oregon
Department of Environmental Quality

Tax Relief Application Review Report

---

1. Applicant

JELD-WEN, INC.
P. O. Box 1329
KLAMATH FALLS, OREGON 97601

The applicant owns and operates a small, medium-density hardboard plant at their wood products complex in Klamath Falls, Oregon.

2. Description of Claimed Facility

The claimed facility is a baghouse which captures sanderdust and wood fines emitted from the plant's belt sander, door skin sizer and sander, hog, and fiber line reject points. It consists of:

a.	Carter-Day 144RJ84 baghouse	$17,696
b.	baghouse support	3,745
c.	input chute - baghouse feeder	503
d.	feeder assembly	4,549
e.	baghouse foundation	978

The construction on the plant was started in February 1974, and the control facility construction was installed on September 12, 1974 and placed in operation in February 1975.

The application is submitted under current statutes and the percentage claimed for pollution control is 100%.

Facility costs: $27,471 (Accountant's certification was provided).

3. Evaluation of Applicant

The need for baghouses at this plant was brought up in a conference between the Department and Jeld-Wen on July 6, 1973. An application for an Air Contaminant Discharge Permit was submitted by Jeld-Wen on April 22, 1974 which included the plan for the claimed baghouse. A notice of construction was received from Jeld-Wen on April 22, 1974 for the claimed baghouse, and the Department gave approval on August 20, 1974. The hardboard plant was certified as in compliance by the Department on August 5, 1975.

The estimated value of the fines captured is $504 per year, which is more than offset by baghouse operating expenditures estimated at $1552 per year. It is concluded that the claimed baghouse can have 100% of its cost allocated to air pollution control.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $27,471 with 80% or more allocated to pollution control be issued for the facilities claimed in Tax Credit Application T-724.

PBB:cs
2/9/76

Appl T-726

Date 12-23-75

State of Oregon
Department of Environmental Quality

Tax Relief Application Review Report

---

1. Applicant

Johnson Rock Products, Inc.
P. O. Box 548
North Bend, Ore 97459

The applicant owns and operates an asphalt batch plant adjacent to the south end of the Highway 101 bridge across Coos Bay, in the city of North Bend, Oregon.

2. Description of Facility

The facility claimed in this application is an air pollution control system on a 5000 lb/batch asphalt concrete plant. It consists of:

1. Stan-Kleen Baghouse, automatic damper, 2 fans and 2 motors, exhaust stack with sampling ports. $76,475

2. Stansteel 12 ft. dia. cyclone, No. 612A, and connecting duct-work of 3/16" mild steel plate, scavenging line, and struct-ure. 21,440

3. Electrical wiring. 2,500

The facility's assembly was begun in April 1973, completed and placed in operation in May 1973.

Certification is claimed under the 1969 act and the percentage claimed for poll-ution control is 100%.

Facility costs: $100,415 (Accountant's certification was provided.)

3. Evaluation of Application

Johnson Rock Products was required to control the air contaminants from their asphalt batch plant by the Department's regulations and by their Air Contaminant Discharge Permit. Johnson did not submit a Notice of Construction for this pro-ject, but tax credit law does not require it for projects begun before October 5, 1973. Johnson Rock Products not only bought a control system which was guaranteed to meet the Department's 0.100 gr/scf particulate emission standard, but also the Federal 0.040 gr/scf standards. On July 19, 1974 the stack was tested at 0.019 gr/scf, and the Department certified the claimed facility as in compliance.

The cyclone and baghouse capture an estimated 4000 lb/day of fines which are returned to the process. Sand is worth about $3.80 per ton, so $7.60 per day may work out to about $1000 worth of sand for the paving season, which is less than the estimated $2000 annual operating expenses of the claimed facility.

Appl T-726
Date 12-23-75

State of Oregon
Department of Environmental Quality

Tax Relief Application Review Report

It is concluded that the cyclone and baghouse were installed solely for air pollution control, and that 100% of the cost can be allocated to pollution control.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $100,415 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-726.

PBB:je

Appl T-729
Date 1-22-76

State of Oregon
Department of Environmental Quality

Tax Relief Application Review Report

JAN 30 1976

---

1. Applicant

American Can Company
P.O. Box 215
Halsey, Oregon 97348

The applicant owns and operates a pulp mill at Halsey, Oregon.

2. Description of Facility

The facility claimed in this application consists of an opacity monitor on the recovery furnace. The monitor includes:

a.	Lear Siegler Transmissometer (Model RM4)	$6,487.25
b.	Recorder and miscellaneous	1,000.00
c.	Alterations to sampling platform	1,162.00
d.	Installation labor	800.00

The facility was started in November 1973, completed and placed in operation in February 1974.

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

Facility costs: $9,449.25 (copies of purchase orders and accounting ledgers were sent to substantiate costs).

3. Evaluation of Application

American Can was required by condition 19(a) of their Air Contaminant Discharge Permit, issued on August 2, 1973, to install a continuous particulate monitor in this recovery boiler. Conversations with C.R. Clinton of the Department constitute the submittal and approval of the claimed equipment. At that time, there was only one transmissometer with self-calibrating and self-zeroing features which the Department was approving, and that is the type that American Can installed.

The claimed facility allows American Can to fine tune the electrostatic precipitator in the Recovery Boiler. Data from the transmissometer is being used to assist in scheduling maintenance, to better control emissions through increased awareness of the electrostatic precipitator's performance, and as a basis for determining compliance with particulate regulations. The former grab sampler was unable to provide data except on a once a day measurement, with a several day lag in test data availability. The transmissometer provides continuous readings, with negligble response time, that are recorded for later analysis.

State of Oregon
Department of Environmental Quality

Tax Relief Application Review Report

The resulting increased performance of the electrostatic precipitator yields fewer emissions from the recovery boiler but the amount is not quantifiable. The electrostatic precipitator was improved just prior to installation of the transmissometer. American Can recovers valuable chemicals from the electrostatic precipitator, but the amount allocable to the transmissometer installation cannot be established except by guessing. It is a reasonable approximation to allocate all of the increased chemicals recovered to the precipitator improvement.

It is concluded that 100% of the claimed facility's cost can be allocated to air pollution control, and that the unknown amount of chemical recovery need not cause the Environmental Quality Commission to deny or reduce this application.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $9,449.25 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-729.

PBB:je

Appl T-731
Date 1-22-76

State of Oregon
Department of Environmental Quality

Tax Relief Application Review Report

---

1. Applicant

American Can Company
P.O. Box 215
Halsey, Oregon 97348

The applicant owns and operates a pulp mill at Halsey, Oregon.

2. Description of Facility

The facility claimed in this application consists of an oxygen monitor on the gases being emitted from the mill's lime kiln. The monitor includes:

a. Westinghouse 2828A07G09 O_2 Analyzer	$4,271.74
b. Installation materials	718.16
c. Installation labor	1,124.00

The facility was started in November 1973, completed and placed in operation on February 19, 1974.

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

Facility costs: $6,113.90 (copies of purchase orders and accounting records were sent to substantiate costs).

3. Evaluation of Application

American Can was required by condition 13 of their Air Contaminant Discharge Permit, issued on August 2, 1973, to control the TRS emissions from their lime kiln. The TRS in the lime kiln gases can be chemically burned to less odorous gases if sufficient excess air containing oxygen is present. The mill decided to install oxygen monitors to assure that enough air was introduced into the kiln to maximize combustion of the TRS. Conversations with C.R. Clinton of the Department constituted the mill's submittal and Department approval of the claimed facility.

The introduction of excess air to the kiln and the destruction of TRS are pure air pollution control actions which offer no monetary gain to American Can. On the contrary, increasing the excess air to the kiln slightly increases the fuel requirements of the kiln.

It is concluded that 100% of the claimed facility's cost can be allocated to air pollution control.

4. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of $6,113.90 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-731.

PBB:je

ENVIRONMENTAL QUALITY COMMISSION

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. D, February 20, 1976

Proposed Hazardous Waste Disposal Site License for Chem-Nuclear Systems, Inc. Site near Arlington, Oregon

Background

In June of 1972, Chem-Nuclear Systems, Inc. submitted an application to the Department for a license to dispose of chemical and low-level radioactive wastes at a site near Arlington. A public hearing on the application was held at Arlington in September 1972. Because of questions raised at that hearing, an advisory committee was formed to evaluate Chem-Nuclear's financial status. Chem-Nuclear was also requested by the Department to study the feasibility of disposal of only chemical wastes at the site, since the need for disposal of radioactive wastes was questioned. The financial advisory committee recommended that Chem-Nuclear should be issued a license, with certain conditions. As a result of the company's feasibility study, Chem-Nuclear indicated that it would not be economical to operate a site for disposal of only chemical wastes, and that disposal of both chemical and low-level radioactive wastes would be necessary for an economical operation.

In early 1974, the Department drafted a license for the Chem-Nuclear site which provided for disposal of chemical wastes and a limited quantity of radioactive wastes. The Commission held a public hearing on this proposed license at The Dalles on September 6, 1974 to receive expert and public comment on the proposal. Considerable testimony was received at the hearing. Of the objections raised, the most prevalent one concerned disposal of radioactive wastes.

Following the hearing, the license was revised and at the November 22, 1974 EQC meeting, the Commission was requested to issue the license. The Commission adopted a motion to amend the license to exclude disposal of radioactive wastes, which would have allowed for disposal of only chemical wastes at the site. Following the Commission's motion a Chem-Nuclear representative stated that the company could not operate a chemicals-only site without subsidy. The Commission then instructed the staff to look into the matter further and seek assistance from the legislature if needed.

In December 1974, the Department submitted a proposed bill to the Legislature to allow the Department to establish and operate a hazardous waste disposal site. During the 1975 Legislative session, the bill was changed substantially. The measure enacted by the Legislature (Chapter 483, Oregon Laws 1975) provides:

1. That no disposal site for radioactive wastes may be established, operated or licensed within Oregon prior to January 1, 1978.

2. Standards for licensing radioactive waste disposal sites.

3. That the Legislature finds there is an urgent need for a hazardous chemical waste disposal site in Oregon and that such a site should be regulated but not operated by DEQ. To secure such a site, the Commission may modify or waive any requirements of ORS 459, but not items 1 and 2 above, if it finds such waiver or modification necessary to make operation of the site economically feasible and will not endanger the public health and safety.

Factual Analysis

In June 1975, Chem-Nuclear met with the Department to request specific chemical waste disposal procedures acceptable to the Department so that the company could evaluate the feasibility of a chemicals-only disposal site. During the next several months, the Department and Chem-Nuclear met on several occasions to discuss the disposal procedures, general and specific license requirements and bonding requirements. The company also evaluated the potential market during this same period.

On November 26, 1975, Chem-Nuclear formally requested consideration for licensing of their site near Arlington for chemical waste disposal. Several additional discussions were held with the company regarding license conditions and bonding requirements to reach agreement on these matters. On December 22, 1975 Chem-Nuclear advised the Department that the company's market survey indicates a chemical waste disposal site would be economically feasible, subject to their ability to acquire a fair share of the available business.

The license which has been developed and is attached to this report is similar to the license considered by the Commission in November 1974, with the following exceptions:

1. Disposal of radioactive wastes at the site is prohibited in accordance with the Commission's wishes and the 1975 legislation. Disposal of only chemical wastes would be permitted.

2. Monitoring requirements in the license have been increased.

3. Specific approval of the Department would be necessary for disposal procedures to be used for each type of waste.

4. Bonding requirements have been revised to provide for a first year $75,000 surety bond, to be replaced by a cash bond which will be paid in full over an eleven-year period. The total bonding costs will be reduced by substituting the first year surety bond, requiring one-fourth of the cash bond in the second year and annual payments of $5,625 for the next ten years. These modified bonding requirements are less restrictive than in the earlier proposed license, since no radioactive wastes would be disposed and would substantially assist in making the operation economically feasible, as permitted by the 1975 legislation.

Several other relevant factors which have been previously brought to the Commission's attention should also be reiterated. The proposed site is suitable for disposal of hazardous chemical wastes. Seven State agencies and one Federal agency have reviewed the proposed operation as outlined in the 1972 application and none of these agencies recommended disapproval. Additional safeguards were recommended by several of the agencies, which have been incorporated in the license.

It should also be noted that the Department's rules (OAR 340, 62-035, copy attached) require a 14-day waiting period after mailing of the Department's recommendations to the Commission, during which time interested persons may submit written comments. After the 14-day waiting period, the Commission may act on the Department's recommendations.

Conclusions

Based on the foregoing, the following conclusions have been reached:

1. A site within Oregon to provide for adequate disposal of environmentally hazardous chemical wastes is urgently needed.

2. The proposed site is suitable for the disposal of environmentally hazardous wastes.

3. The license for the proposed site and its operation has been properly conditioned to protect the environment and the public health and safety.

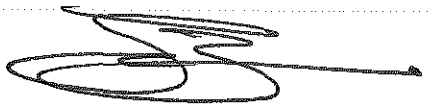
4. The major objection to issuance of a license for this site in the past has been disposal of radioactive wastes. The attached license should eliminate this objection since disposal of radioactive wastes is prohibited pursuant to legislation enacted in 1975.

Recommendations

The Director recommends that the Commission issue the attached license for Chem-Nuclear Systems, Inc. and that such action be taken at the February 20, 1976 EQC meeting. Pursuant to Chapter 483, Oregon Laws (1975), it is further recommended that in taking this action, the Commission find that modification of the requirements of ORS 459.590 and 459.600, pertaining to bonding:

1. Is necessary to make operation of the site economically feasible; and

2. Will not endanger the public health and safety.



LOREN KRAMER
Director

PHW:mm
1/19/76
Attachments: Proposed license, OAR 340, 62-005 to 62-045

DIVISION 6

SOLID WASTE MANAGEMENT

Subdivision 2

Procedures for Issuance, Denial, Modification and Revocation of Licenses for the Disposal of Environmentally Hazardous Wastes

[ED. NOTE: Unless otherwise specified, sections 62-005 through 62-045 of this chapter of the Oregon Administrative Rules Compilation were adopted by the Department of Environmental Quality March 24, 1972 and filed with the Secretary of State April 5, 1972 as DEQ 40.]

62-005 PURPOSE. The purpose of these regulations is to prescribe uniform procedures for obtaining licenses from the Department of Environmental Quality for establishing and operating environmentally hazardous waste disposal sites and facilities as prescribed by ORS 459.410-459.690.

62-010 DEFINITIONS. As used in these regulations unless otherwise required by context:

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

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

(3) "Director" means the Director of the Department of Environmental Quality.

(4) "Dispose" or "Disposal" means the discarding, treatment, recycling or decontamination of environmentally hazardous wastes or their collection, maintenance or storage at a disposal site.

(5) "Disposal Site" means a geographical site in or upon which environmentally hazardous wastes are stored or otherwise disposed of in accordance with the provisions of ORS 459.410-459.690.

(6) "Environmentally Hazardous Wastes" means Environmentally Hazardous Wastes as defined by ORS 459.410, which includes discarded, useless or unwanted pesticides or pesticide residues, low-level radioactive wastes and receptacles and containers used therefor, that, because of their high concentration and/or persistence of toxic elements or other hazardous properties, and which have not been detoxified or cannot be detoxified by any practical means, may be classified by the Environmental Quality Commission as Environmentally Hazardous Wastes pursuant to ORS 459.410, but shall not include Environmentally Hazardous Wastes which have been detoxified by treatment, reduction in concentration of the toxic element or by any other means and formally declassified by the Environmental Quality Commission as no longer hazardous to the environment.

(7) "License" means a written license issued by the Commission, bearing the signature of the Director, which by and pursuant to its conditions authorizes the licensee to construct, install, modify or operate specified facilities or conduct specified activities for disposal of environmentally hazardous wastes.

(8) "Person" means the United States and agencies thereof, any state, any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever.

62-015 LICENSE REQUIRED. (1) No person shall dispose of environmentally hazardous wastes upon any land in the state other than real property owned by the state of Oregon and designated as a disposal site pursuant to the provisions of ORS 459.410-459.690 and these regulations.

(2) No person shall establish or operate a disposal site without a license therefor issued by the Commission pursuant to ORS 459.410-459.690 and these regulations.

(3) Licenses issued by the Department shall establish minimum requirements for the disposal of environmentally hazardous wastes, limits as to types and quantities of materials to be disposed, minimum requirements for operation, maintenance, monitoring and reporting and supervision of disposal sites, and shall be properly conditioned to ensure compliance with

pertinent local, state and federal standards and other requirements and to adequately protect life, property and the environment.

(4) Licenses shall be issued to the applicant for the activities, operations, emissions or discharges of record, and shall be terminated automatically upon issuance of a new or modified license for the same operation.

62-020 NECESSITY FOR A DISPOSAL SITE. Any person proposing to establish or obtain a license for a disposal site for Environmentally Hazardous Wastes shall prepare and submit to the Department a detailed report with supporting information, justifying the necessity for a disposal site as proposed, including anticipated sources of wastes and types and quantities of wastes to be disposed. Environmentally Hazardous Wastes generated outside the State of Oregon and proposed to be imported for disposal in Oregon shall receive specific approval by the Environmental Quality Commission prior to said disposal.

62-025 APPLICATION FOR LICENSE.

(1) Any person wishing to obtain a new, modified or renewal license from the Department shall submit a minimum of eight (8) copies of a written application on forms provided by the Department. All application forms must be completed in full, signed by the applicant or his authorized representative and shall be accompanied by a minimum of eight (8) copies of all required exhibits.

(2) An application for a license shall contain but not be limited to:

(a) The name and address of the applicant and person or persons to be directly responsible for the operation of the disposal site.

(b) A statement of financial condition of the applicant, prepared by a certified public accountant and including assets, liabilities and net worth.

(c) The experience of the applicant in construction, management supervision or development of disposal sites for environmentally hazardous wastes and in the handling of such substances.

(d) The management program for the operation of the disposal site, including the person or persons to be responsible for the operation of the disposal site and a resume of his qualifications, the proposed method of disposal, the proposed method of pretreatment or decontamination upon the disposal site, if any, and the proposed emergency measures and safeguards to be provided for the protection of the natural resources, the public and the employees at the disposal site.

(e) A schedule and description of sources, types and quantities of material to be disposed and detailed procedures for handling and disposal of each.

(f) A description of the size and type of facilities to be constructed upon the disposal site, including the height and type of fencing to be used, the size and construction of structures or buildings, warning signs, notices and alarms to be used, the type of drainage and waste treatment facilities and maximum capacity of such facilities, the location and source of each water supply to be used and the location and the type of fire control facilities to be provided at such site.

(g) A preliminary engineering sketch and flow chart showing proposed plans and specifications for the construction and development of the site and the waste treatment and water supply facilities, if any, to be used at such site.

(h) The exact location and place where the applicant proposes to operate and maintain the disposal site, including the legal description of the lands included within such site.

(i) A preliminary geologist's survey report indicating land formation, location of water resources and directions of the flows thereof and his opinion relating to possible sources of contamination of such water resources.

(j) A proposed program for continuous monitoring and surveillance of the disposal site and for regular reporting to the Department.

(3) License applications must contain or be accompanied by the following:

(a) A nonrefundable fee of $5,000 which shall be continuously appropriated to the Department for administrative expenses.

(b) A proposal and supporting information justifying the amounts of liability insurance proposed to protect the environment and the health, safety and welfare of the people of this state, including the names and addresses of the applicant's current or proposed insurance carriers and copies of insurance policies then in effect.

(c) A proposal and supporting information justifying the amount of a cash bond proposed to be posted by the licensee and deemed to be sufficient to cover any costs of closing the site and monitoring it or providing for its security after closure and to secure performance of license requirements.

(d) A proposal and supporting information justifying the proposed fees to be paid to the Department based either on the quantity and type of material accepted at the disposal site or a percentage of the fee collected for disposal or both, in amounts estimated to produce over the period of use of the site for disposal a sum sufficient to provide for any monitoring or protection of the site after closure.

(4) The Department may require the submission of such other information as it deems necessary to make a decision on granting, modifying or denying a license.

(5) Applications which are incomplete, unsigned or which do not contain the required exhibits, clearly identified, may be excluded from consideration by the Department at is discretion and the applicant shall be notified in writing of the deficiencies.

62-030 ENGINEERING PLANS REQUIRED. Before a disposal site or operation may be established, constructed, maintained or substantially modified, an applicant or licensee must submit to the Department final detailed engineering plans and specifications, prepared by a registered professional engineer, covering construction and operation of the disposal site and all related facilities and receive written approval of such final plans from the Department.

62-035 HEARINGS AND ISSUANCE OR DENIAL OF A LICENSE. (1) Upon receipt of an application, the Department shall cause copies of the application to be sent to affected state agencies, including the State Health Division, the Public Utility Commissioner, the Fish Commission of the State of Oregon, the State Game Commission and the State Engineer and to such other agencies or persons that the Department deems appropriate. ORS 459.410-459.690 provides that each agency shall respond by making a recommendation as to whether the license application should be granted. If the State Health Division recommends against granting the license, the Commission must deny the license.

(2) After determination that an application for a license is complete, the Department will notify the applicant of its intent to schedule a hearing or hearings and the timetable and procedures to be followed. The Commission shall conduct hearings at such other places as the Department considers suitable. At the hearing the applicant may present his application and the public may appear or be represented in support of or in opposition of the application.

(3) Prior to holding hearings on the license application, the Commission shall cause notice to be given in the county or counties where the proposed disposal site is located, in a manner reasonably calculated to notify interested and affected persons of the license application.

(4) The Department shall make such investigation as it considers necessary and following public hearings make a recommendation to the Commission as to whether or not a license should be issued. The recommendations of the Department, including proposed license provisions and conditions if the Department recommends issuance of a license, shall be forwarded to the applicant, to members of the Commission and, at the discretion of the Department, to other interested persons for comment. All comments must be submitted in writing within fourteen (14) days after mailing of the Department's recommendations if such comments are to receive consideration prior to final action on the application.

(5) After fourteen (14) days have elapsed

since the date of mailing of the Department's recommendations and after reviewing the Department's recommendations the Commission shall decide whether to issue the license or not. It shall cause notice of its decision to be given to the applicant by certified mail at the address designated by him in his application.

(6) If the Commission refuses to issue a license, it shall afford the license applicant an opportunity for hearing after reasonable notice, served personally or by registered or certified mail. The notice shall contain:

(a) A statement of the party's right to hearing or a statement of the time and place of the hearing.

(b) A statement of the authority and jurisdiction under which the hearing is to be held.

(c) A reference to the particular sections of the statutes and rules involved.

(d) A short and plain statement of the matters asserted or charged.

62-040 RENEWAL, MODIFICATION, TERMINATION OR EXPIRATION OF LICENSE. (1) An application for renewal, modification or termination of a license or to allow a license to expire shall be filed in a timely manner, but not less than ninety (90) days prior to the expiration date of the license. Procedures for issuance of a license shall apply to renewal, modification, termination or expiration of a license except that public hearings will not be held unless desired by the Commission. A license shall remain in effect until final action has been taken by the Commission on any appropriately submitted and complete application pending before the Commission.

(2) In the event that the Commission finds it necessary to modify a license due to changed conditions or standards, receipt of additional information or any reason it deems would threaten public health and safety, the Department shall notify the licensee or his authorized representative by certified mail of the Commission's intent to modify the license. Such notification shall include the proposed modification and the reasons for modification. The modification shall become effective twenty (20) days from the date of mailing of such notice unless within that time the licensee requests a hearing before the Commission. Such a request for hearing shall be made in writing and shall include the reasons for such hearing. At the conclusion of any such hearing the Commission may affirm, modify or reverse the proposed modification.

62-045 SUSPENSION OR REVOCATION OF A LICENSE. (1) Whenever, in the judgment of the Department from the results of monitoring or surveillance of operation of any disposal site, there is reasonable cause to believe that a clear and immediate danger to the public health and safety exists from the continued operation of the site, without hearing or prior notice, the Department shall order the operation of the site halted by service of the order on the site superintendent.

(2) Within twenty-four (24) hours after such order is served, the Department will appear in the appropriate circuit court to petition for such equitable relief as is required to protect the public health and safety and may commence proceedings for the revocation of the license of the disposal site if grounds therefore exist.

(3) In the event that it becomes necessary for the Commission to suspend or revoke a license due to violation of any provision of ORS 459.410-459.690, noncompliance with these rules or the terms of the license, the threat of degradation of a natural resource, unapproved changes in operation, false information submitted in the application or any other cause the Department shall schedule a public hearing and notify the licensee by certified mail of the Commission's intent to suspend or revoke the license and the timetable and procedures to be followed. Any hearing held shall be conducted pursuant to the regulations of the Department.

ENVIRONMENTALLY HAZARDOUS WASTE DISPOSAL SITE LICENSE

DEPARTMENT OF ENVIRONMENTAL QUALITY
1234 S. W. Morrison Street
Portland, Oregon 97205
Telephone: (503) 229-5913

Issued in accordance with the provisions of

ORS CHAPTER 459

ISSUED TO:

(Licensee)
Chem-Nuclear System, Inc.
P. O. Box 1866
13401 Bellevue-Redmond Road
Bellevue, Washington 98009

LOCATION:

S 1/2 of NE 1/4 of Section 25 and
N 1/2 of NE 1/4 of Section 36, T2N,
R20E, W.M.

ISSUED BY THE ENVIRONMENTAL QUALITY COMMISSION

LOREN KRAMER

Director, Department of Environmental Quality

Effective Date

REFERENCE INFORMATION

Facility Name: Oregon Pollution Control Center and Hazardous Waste Repository

County: Gilliam

Operator: Chem-Nuclear Systems, Inc.
P. O. Box 1866
Bellevue, Washington 98009

Until such time as this license expires or is modified or revoked, Chem-Nuclear Systems, Inc. is herewith authorized to establish, operate and maintain a site for the disposal and handling of environmentally hazardous wastes as defined by ORS 459.410 and rules of the Department of Environmental Quality, except any radioactive material. Such activities must be carried out in conformance with the requirements, limitations and conditions which follow. This license is personal to the licensee and non-transferable.

LICENSE CONDITIONS

A. GENERAL CONDITIONS

A1. Authorized representatives of the Department of Environmental Quality (hereinafter referred to as the Department) shall have access to the site at all reasonable times for the purpose of inspecting the site and its facilities and the records which are required by this license.

A2. The Department, its officers, agents and employees shall not have any liability on account of the issuance of this license or on account of the construction, operation or maintenance of facilities permitted by this license.

A3. The issuance of this license does not convey any property right or exclusive privilege, except pursuant to the lease for the State owned portion of the site, nor does it authorize any injury to private property or any invasion of personal rights, nor any violation of Federal, State or local laws or regulations.

A4. The Department may revise any of the conditions of this license or may amend the license on its own motion in accordance with applicable rules of the Department.

A5. Transportation of wastes to the site by or for the licensee shall comply with rules of the Public Utility Commissioner of Oregon, the State Health Division and any other local, State or Federal Agency having jurisdiction.

A6. A complete copy of this license and approved plans and procedures shall be maintained at the site at all times.

A7. The licensee shall not conduct, or allow to be conducted, any activities that are not directly associated with the construction, operation or maintenance of the disposal facilities at the site as authorized by this license, without written approval from the Department for such other activities.

A8. The licensee shall not sell or otherwise dispose of any portion of the site without prior written approval from the Department. This condition shall survive the expiration, revocation, suspension or termination of the license for any reason other than those specified in condition C7 for a period of two years during which time the Department shall have exclusive right and option to purchase all of the site and improvements thereon not theretofor deeded to the State at book value of the site and improvements on the books of the licensee, net of depreciation and depletion.

LICENSE CONDITIONS

B. SPECIAL CONDITIONS

Management of the site, including all activities related to processing, treatment handling of storage and disposal of wastes at the site, construction and maintenance of facilities at the site, and monitoring and maintenance of records concerning operation of the site shall conform with the following conditions, limitations and provisions:

B1. No construction activities related to waste disposal facilities at the site may be undertaken by the licensee until the Department has approved in writing final plans for facilities proposed by the licensee.

B2. Following written approval by the Department of final detailed engineering plans, the licensee shall proceed expeditiously with construction of the approved facilities.

B3. No disposal activity may be undertaken by the licensee until the Department has inspected the site and certified in writing that the facilities provided for disposal activities are satisfactory and comply with approved final detailed engineering plans.

B4. Following certification of the site and facilities (condition B3), the licensee shall commence operation of the site and facilities as soon as possible thereafter. Operation shall not be discountinued without the approval of the Department, except for temporary work suspension caused by conditions beyond the control of the licensee such as, but not limited to, labor disputes, weather conditions, equipment failure, shortages of materials or unavailabilty of qualified personnel. In the case of a temporary discontinuance of disposal activities which exceed 5 working days, the licensee will notify the Department in writing, giving the reason for the shut down and the estimated time of the temporary closure. During any temporary discontinuance of disposal activities, the licensee shall maintain the security and integrity of the site.

B5. Conditions B1, B2, B3, and B4 and other conditions of this license shall apply to initial facilities and operations and to any subsequent facilities and operations proposed by the licensee.

B6. Transportation, handling, disposal, treatment, monitoring and other activities at the site shall comply with procedures and plans approved by the Department and other conditions of this license.

B7. In the event of fires, accidents or emergencies that occur at the site, or during transportation of wastes to the site, the licensee shall employ emergency procedures approved by the Department. The occurrence of any fires, accidents, emergencies or other unusual conditions at the site, or in connection with transportation of wastes to the site, shall be reported, to the Department as soon as possible such that the Department can monitor or direct clean up or other activities necessary to rectify conditions resulting from the incident. If deemed necessary, the Department may require special precautions to be taken during or as the result of fires, accidents or emergencies.

LICENSE CONDITIONS

B8. Before use of the site for disposal is terminated, the licensee shall restore the site to its original conditions, to the extent reasonably practicable. No less than one year prior to intended closure of the site the licensee shall submit detailed plans for the Department's approval indicating steps to be taken to properly close and restore the site.

B9. Upon completion of each burial trench, a granite or concrete marker shall be erected at the end of the trench. To such trench markers shall be attached a bronze or stainless steel plate which shall contain the following information: a trench identification number; dimension of the trench and its location relative to the marker; volume of waste buried; and dates of beginning and completion of burial operations.

B10. The licensee may at any time propose in writing for the Department's consideration changes in previously approved facilities or procedures, or the addition of new facilities or procedures.

B11. The licensee is authorized to accept and dispose at the site only those chemical wastes for which specific treatment and disposal procedures or research programs have been approved by the Department. Treatment and disposal of chemical wastes at the site shall be conducted only in facilities approved by the Department.

B12. Within 14 days after receipt of a written request for service from a waste generator or source specifying the volumes and chemical and physical composition of wastes requiring disposal, if treatment and diposal procedures have not been previously approved by the Department, the licensee shall forward a copy of such request to the Department together with either:

A. Proposed treatment and disposal procedures; or

B. A proposed research program for development of disposal procedures and the time required for completion; or

C. A determination that the wastes should not be accepted at the site and the reasons therefor.

The Department shall review such requests in a timely fashion and shall submit a written response to the licensee no later than 14 days following receipt of a request.

Any treatment or disposal procedures or research programs which are approved by the Department pursuant to such requests shall be undertaken by the licensee as soon as practicable.

State of Oregon
Dapart of Environmental Quality

LICENSE CONDITIONS

B13. Notwithstanding the provisions of condition B12., item c., if the Department determines that any specific waste, other than radioactive waste, originating in Oregon should be disposed at the site, based on unavailability or unfeasibility of alternative disposal methods or other factors, the licensee shall provide disposal for such waste under treatment or disposal procedures directed by the Department utilizing existing site facilities and equipment. In the event the treatment or disposal procedures directed by the Department require additional facilities or equipment, the obligation of licensee shall depend upon financial commitments by the waste generators satisfactory to licensee.

B14. No less than 24 months and no more than 36 months after the effective date of this license, the licensee shall submit a report to the Department which outlines the feasibility of adding incineration facilities at the site. This report shall include an analysis of: the types and volumes of organic wastes that would be amenable to incineration; volumes of such wastes that have been disposed at the site by other means; conceptual design for appropriate incineration facilities including capital and operating costs; method of feed, hourly feed rate, hours of operation, quantity and character of air contaminants to be emitted and proposed monitoring equipment, if any; and other information pertinent to incineration.

B15. The licensee shall designate a site superintendent. The licensee shall advise the Department of the name and qualifications of the superintendent. The superintendent shall be in charge of all activities at the site within his qualifications. The licensee shall also advise the Department of the individual to be contacted on any problem not within the site superintendent's qualifications. The licensee shall immediately notify the Department if any change is made in these designated individuals.

B16. The licensee shall not open burn any wastes or materials at the site, without prior written approval by the Department.

B17. The licensee shall not receive, store or dispose of any radioactive wastes at the site.

B18. As provided in agreements or contract between the licensee, the Department and other persons, ownership may be retained by other persons over certain wastes disposed at the site by the licensee. Such agreements shall further provide that the Department shall not be liable for any expenses associated with future recovery or re-disposal of such wastes and that following any future recovery or re-disposal operations, the site shall be returned to a condition satisfactory to the Department.

LICENSE CONDITIONS

C. BONDING, FEE, LEASE AND INSURANCE CONDITIONS

C1. Within 45 days following the effective date of this license, the licensee shall file a surety bond executed in favor of the State of Oregon in the amount of $75,000. The bond shall be approved in writing by the Department prior to its execution and the bond shall be for a term no longer than one year. The bond shall be forfeited to the State of Oregon by a failure of licensee to perform as required by this license, to the extent necessary to secure compliance with the requirements of this license, and the bond shall indemnify the State of Oregon for any cost of closing the site and monitoring it and providing for its security after closure.

C2. On or before the expiration date of the performance surety bond the licensee shall post a cash bond, as provided by ORS 459.590(2)(f), with the Department in the amount of $18,750. Thereafter, annual additions to the cash bond shall be posted by the licensee in the amount of $5,625, for each of the next 10 years, within 15 days of the cash bond anniversary date. The following shall be eligible securities deemed equivalent to cash: bills, certificates, notes, bonds or other obligations of the United States or its agencies. The cash value at the time of posting shall not be less than the required bond amount.

Interest earnings on the cash bond shall be paid annually by the Department to the licensee, except for the amount necessary to offset inflationary increases in monitoring, security and other costs to be funded by the cash bond.

C3. The licensee shall pay a license fee to the Department in the amount of $1,081 within 30 days after the effective date of this license. Thereafter, the licensee shall pay the Department an annual licnese fee of $4,324 within 30 days after July 1 each year.

C4. Within 30 days after the effective date of the license, and prior to disposing any wastes thereon, the licensee shall deed the following properties at the site to the State: chemical disposal area, potliner resource recovery area and chemical evaporation ponds. Within 60 days after completion of on-site roads, the licensee shall deed such roads to the State.

Within 30 days after deeding of these properties to the State, a lease between the licensee and the Department for these properties shall be executed. The lease shall be maintained for the duration of this license.

C5. The licensee shall maintain liability insurance for operation of the site, with respect to all types of wastes, in the amount of not less than $1,000,000. Liability insurance shall also be maintained by the licensee in the amount of not less than $1,000,000 to cover transportation of all types of wastes to the site. The licensee shall provide the Department with certified copies of such insurance policies within 30 days after the effective date of this license and of all policy changes within 30 days after each such change. All such insurance policies shall provide that such insurance shall not be cancelled or released except upon 30 days prior written notice to the Department.

LICENSE CONDITIONS

C6. The licensee shall submit copies of: Audited Annual Report, Form IO-K Report to the S.E.C., and unaudited quarterly management reports for the Arlington operation. Any reports shall be treated as confidential to the extent permitted by Oregon laws and rules. These reports shall be submitted to the Department within 30 days after completion by the licensee.

C7. The licensee shall convey title for the entire site to the State, except for those portions previously owned by the State, in the event of any one of the following circumstances:

a. Expiration of the license due to failure of the licensee to seek renewal.

b. Termination or expiration of the license due to utilization of the site to its full capacity, as determined by the Department.

This condition shall survive the expiration or termination of the license.

LICENSE CONDITIONS

D. RECORDS AND REPORTING CONDITIONS

D1. The licensee shall maintain records and submit monthly reports to the Department indicating quantities and types of wastes received, stored and disposed at the site and fees collected therefor. Such reports shall be on forms approved by the Department.

D2. The licensee shall maintain records, on forms approved by the Department, indicating the type, quantity and location of wastes which have been buried in burial trenches at the site. Such records shall be submitted to the Department biannually.

D3. The licensee shall maintain survey records for each burial trench, referenced to the nearest U.S.G.S. bench mark to define the exact location and boundaries of each trench. Within 60 days after completion of trenches, the licensee shall forward the required marker information and a copy of survey records to the Department.

D4. All findings and results from the licensee's environmental monitoring program shall be recorded on appropriate forms and shall be reported to the Department quarterly.

E. ENVIRONMENTAL MONITORING CONDITIONS

The licensee shall conduct a chemical environmental monitoring program as follows:

E1. On-site dry test wells (wells number B-1, B-2, B-3, B-4, B-5, and B-6) will be checked annually when the water table in the area is at its highest level. Water samples will be obtained from each well in which water is observed.

E2. Monitoring wells in each chemical burial trench will be checked quarterly for the presence of water. If water is observed, a water sample will be taken and the Department will be notified immediately. If no water is observed, a sample of sediment (soil) from the monitoring well will be obtained biannually. Once per year, a sample of soil from trench monitoring wells will be sent to the Department.

E3. All water and soil samples required by items a. and b. above will be analyzed for zinc, copper, arsenic, cadmium, chromium, lead, mercury, cynaides, chemical oxygen demand, total organic carbon, chlorides, specific conductance, chlorinated hydrocarbons and phenols using procedures approved by the Department.

E4. A sample of the resident vertebrate population and of vegetation will be obtained annually. These samples will be analyzed for zinc, copper, arsenic, cadmium, chromium, lead, mercury, cyanides, chlorinated hydrocarbons and phenols.

F. APPROVED PLANS AND PROCEDURES

As referred to in conditions F1., F2. and F3., the licensee's management plans shall mean the licensee's June 14, 1974 Program for Management of Hazardous Materials and revisions and additions thereto submitted to the Department by letters of September 24, 1974, December 31, 1975 and January 8, 1975.

F1. The following general plans and procedures are approved:

a. Location of facilities at the site as described on Licensee's Plot Plan (Drawing No. 1), dated December 29, 1975.

b. Security plans as described on pages 4 and 5 of the licensee's management plans, except that a three strand barb wire fence shall be maintained around the perimeter of the site.

c. Firefighting procedures as described on pages 6 and 7 of the licensee's management plans, except that the requirements of condition B7 shall also apply.

d. Fire and water systems as described on page 2 and Figure G-5 of the licensee's management plans as amended January 8, 1976.

e. Operations center as described on page 2 and Figure G-4 of the licensee's management plans.

f. Machine and storage building as described on page 1 and Figure G-2 of the licensee's management plans.

F2. The following plans and procedures for transportation, handling, disposal and treatment of chemical wastes are approved:

a. Chemical staging area (drum storage pad) and tank farm as described on pages 2 and 3 and Figure C-1 of the licensee's managment plans.

b. Chemical process building as described on page 1 and Figures G-3 and C-4 of the licensee's management plan, except that only facilities for office, laboratory, sanitary facilities and emergency shower are approved.

c. Evaporation ponds, 3 only, as described on page 17 item 1, and Figure C-5 of the licensee's management plans.

d. Chemical burial trench, 3 only, as described on page 14, item 1, and Figure C-2 of the licensee's management plans, with the following additions and exceptions:

(1) Trench floor and gravel ditch to be sloped at 1 foot per 100 feet toward trench entrance. Trench floor also to be sloped toward gravel ditch at 1 foot per 100 feet and gravel ditch to be placed at trench edge rather than trench center.

(2) 3 sample pipes (monitoring wells) shall be placed in each trench. Location and design of such wells shall be approved by the Department and shall be in place before disposal of wastes in trench is begun.

(3) An earthern berm of 2 feet minimum height or ditch of 2 feet minimum depth, shall be maintained along the uphill edge of an active trench (stockpiling of excavated soil along the uphill edge will satisfy this requirement). A drainage ditch of 2 feet minimum depth shall be maintained adjacent to each end of the trench.

(4) Burial of wastes shall commence in the end of the trench opposite the monitoring well. Equipment operating in the trench shall not travel on or across the gravel ditch.

(5) Final mounding of completed trenches is to extend 2 feet beyond the trench edge. Suitable vegetation is to be established and maintained on completed and mounded trenches.

e. Procedures for the pickup and transportation of chemical wastes as described on pages 55 and 56 of the licensee's management plans.

ENVIRONMENTAL QUALITY COMMISSION

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. E, February 20, 1976 EQC Meeting

Public Hearing and Adoption of Rules Pertaining to Management of Environmentally Hazardous Wastes

Background

The Department has been developing rules for hazardous waste management for over one and one-half years. As recently authorized by the Commission, a public hearing was held in Portland on September 22, 1975 to receive public and expert comment on these proposed rules. A hearing officer's report on the hearing is attached.

Since the hearing, several meetings and discussions have been held with certain pesticide industry representatives, landfill operators, experts from Oregon State University, and representatives of the Department of Agriculture and local government. The purpose of these discussions has been to obtain additional comments on the proposed rules and to provide these interested parties with a better understanding of the rules.

Due to major revisions to the rules, a second public hearing is considered necessary and has been scheduled for the February 20, 1976 EQC meeting. Required public notice of the hearing was given February 1, 1976 in the Secretary of State's Bulletin and interested parties have been notified.

Factual Analysis

The proposed rules are needed to assure proper handling and disposal of hazardous wastes. These presently proposed rules will establish general and specific requirements for storage, handling and disposal of environmentally hazardous wastes, classify certain pesticide and radioactive wastes as environmentally hazardous and declassify certain pesticide wastes.

The proposed rules have been amended substantially based on comments received at the September 22, 1975 public hearing and as a result of discussions with interested parties since the hearing.

The rules have also been substantially changed to limit their scope. The previous version of the rules would have designated (classified) a large number of wastes as environmentally hazardous, based on fairly broad general criteria for radioactivity, toxicity, flammability and reactivity. In the revised rules, the general criteria have been deleted and only certain pesticide and radioactive wastes would be classified as environmentally hazardous. This change was made so that the Department's ability to administer and enforce the rules would not be overextended and so that only the most obvious problems would be addressed initially by the rules.

Revisions to the rules are summarized below. References in this summary pertain to the proposed rules, as revised.

1. In Section 63-005, reference to criteria for designation of environmentally hazardous wastes has been removed, since these general criteria have been deleted from the rules.

2. Under Section 63-010, the definitions of transport, flash point and locked enclosure were unnecessary and were deleted. Subsection(1) was added to provide a definition of container disposal site. Several of the other definitions were expanded or clarified because of comments received at the hearing. Also, subsection(27) was modified to reduce the required container rinse volume, as requested in the public hearing.

3. Criteria for classification of environmentally hazardous waste have been deleted from the rules, as noted above. It will be noted in the hearings officer's report that Mr. Donaca suggested this approach.

4. In Section 63-015(1), a subsection that would have required posting of signs at hazardous waste storage areas was deleted. In subsection(d), the requirements for hazardous waste storage were modified to be less stringent. The starting date in subsection(f) for maintenance of records by hazardous waste facilities was changed to January 1, 1977 from January 1, 1976. Subsection(h), was added at the request of Mr. Emmons. In addition, several other minor modifications were made in section(1).

5. Section 63-015(4) was amended to require written authorization from the Department for hazardous waste collection sites, rather than requiring permits for such sites. Authority of the Department to require permits was questioned during the public hearing.

6. Section 63-015(6) was modified slightly for clarification.

7. In Section 63-015(10), the reference to occupational health rules was changed as requested during the hearing.

8. Under subsection(1) of Section 63-035, criteria for pesticide wastes to be classified as environmentally hazardous were added due to the deletion of the criteria mentioned in item 3 above.

9. Subsection(2) of 63-035, pertaining to declassified wastes, has been modified so that only the most toxic pesticide containers (those bearing the signal word "Danger") will be required to meet the general storage and disposal provisions of 63-015. This change in subsection(2) was recommended by Dr. Eagleson of the Western Agricultural Chemicals Association. It should be noted, however, that all pesticide containers will have to be rinsed and accompanied by a certificate when delivered to a collection, disposal or recycling facility. Several other minor changes suggested during the hearing were also made to subsection(2).

10. In 63-035, subsection(3), has been amended as follows: to permit, under certain conditions, open burning of all combustible (paper) containers; to clarify the procedure for decontaminating fumigant containers; to allow certifying of groups or lots of rinsed containers; and to extend the effective date for container rinsing and certificate requirements. These changes were suggested during the hearing and/or in discussions subsequent to the hearing.

11. Under Section 63-040, subsection(1), criteria for radioactive wastes to be classified as environmentally hazardous were added due to the deletion of these criteria as mentioned in item 3 above.

12. Section 63-040, subsection(2) was amended to more closely follow 1975 legislative revisions (Chapter 483, Oregon Laws 1975) and was further clarified on the advise of legal counsel.

13. It will be noted that an addendum is attached to the proposed rules in which four additional amendments to the rules are indicated. The need for these changes became evident after the rules were printed and distributed. Although these revisions are minor, they are needed for clarification or on the advice of legal counsel.

Immediately following adoption of these rules, the Department will begin evaluating other potentially hazardous wastes to determine the necessity for classifying any of these other wastes as environmentally hazardous. ORS 459 provides that only the Commission may classify wastes as environmentally hazardous. Therefore, contingent on the results of the Department's evaluation of such other wastes, it is expected that the Commission will be requested to classify additional specific wastes as environmentally hazardous as the need is identified.

Conclusions

1. These rules are needed to assure proper handling and disposal of hazardous wastes.

2. The proposed rules have been substantially amended as a result of comments received at the September 22, 1975 public hearing and subsequent discussions with interested parties.

3. The scope of the rules has been limited to cover initially only the most obvious hazardous waste problems and so as to not overextend the Department's capabilities.

4. It is expected that the Commission will be requested to classify additional wastes as environmentally hazardous as the need is identified.

Recommendations

The Director recommends that the Commission:

1. Receive testimony at this time from interested parties who may wish to comment on the revised proposed rules.

2. Adopt these rules, with any modifications that may be warranted based on the hearing testimony.

LOREN KRAMER
Director

PHW:mm
1/23/76

Attachments: Proposed rules OAR 340, 63-005 to 63-040,
Hearing Officer's Report.

Department of Environmental Quality

Proposed Rules Pertaining to Management
of
Environmentally Hazardous Wastes

OAR Chapter 340, Division 6, Subdivision 3

63-005 PURPOSE. The purpose of these rules is to establish requirements for environmentally hazardous waste management, from the point of waste generation to the point of ultimate disposition, to classify certain wastes as environmentally hazardous, and to declassify certain wastes as not being environmentally hazardous. These rules are adopted pursuant to Oregon Revised Statutes, Chapter 459.

63-010 DEFINITIONS. As used in these rules unless otherwise required by context:

(1) "Authorized container disposal site" means a solid waste disposal site operated under a valid permit from the Department and authorized in writing to accept empty pesticide containers for disposal.

(2) "Authorized container recycling or reuse facility" means a facility authorized in writing by the Department to recycle, reuse or treat empty pesticide containers and which operates in compliance with ORS Chapters 454, 459 and 468 and rules adopted pursuant thereto.

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

(4) "Container" means any package, can, bottle, bag, barrel, drum, tank or anything commonly known as a container. If the package or drum has a detachable liner or several separate inner containers, then the outer package or drum is not considered a container for the purposes of these rules.

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

(6) "Dermal LD_{50}" or "Dermal lethal dose fifty" means a measure of dermal penetration toxicity of a substance for which a calculated dermal dose is expected, over a 14day period, to kill 50% of a population of experimental laboratory animals, including but not limited to mice, rats or rabbits. LD_{50} is expressed in milligrams of the substance per kilogram of body weight.

(7) "Dispose" or "Disposal" means the discarding, burial, treatment, recycling, or decontamination of environmentally hazardous wastes or their collection, maintenance or storage at an EHW disposal site.

(8) "Empty container" means a container from which the product contained has been removed except for the residual material retained on interior surfaces after emptying.

(9) "Environmentally hazardous wastes" or "EHW" means discarded, useless or unwanted materials or residues in solid, liquid or gaseous state and their empty containers which are classified as environmentally hazardous, but excluding those wastes declassified, by or pursuant to these rules.

(10) "EHW collection site" means a site, other than an EHW disposal site, for the collection and temporary storage of environmentally hazardous wastes, primarily received from persons other than the owner or operator of the site.

(11) "EHW disposal site" means a geographical site licensed by the Commission in or upon which EHW are disposed of by, but not limited to, land burial, land spreading, soil incorporation and other direct, permanent land disposal methods, in accordance with the provisions of ORS 459.410 to 459.690.

(12) "EHW facility" means a facility or operation, other than an EHW disposal site or EHW collection site, at which EHW is produced, treated, recovered, recycled, reused or temporarily stored in compliance with ORS Chapters 454, 459 and 468 and rules adopted pursuant thereto.

(13) "Home and garden use" means use in or around homes and residences by the occupants, but excludes all commercial agricultural operations and commercial pesticide application.

(14) "Inhalation LC_{50}" or "inhalation lethal concentration fifty" means a measure of inhalation toxicity of a chemical substance for which a calculated concentration when administered by the respiratory route is expected, during exposure of 1 hour, to kill 50% of a population of experimental laboratory animals, including but not limited to mice, rats or rabbits. LC_{50} is expressed in milligrams per liter of air as a dust or mist or in milligrams per cubic meter as a gas or vapor.

(15) "Jet rinse" or "jet rinsing" means a specific treatment or decontamination of empty pesticide containers using the following procedure:
   (a) A nozzle is inserted into the container such that all interior surfaces of the container will be rinsed.
   (b) The container is rinsed with the nozzle using water or an appropriate diluent for 30 seconds or more.
   (c) Rinses shall be added to the spray or mix tank. If rinses cannot be added to the spray or mix tank, then disposal of the rinses shall be as otherwise required by these rules.

(16) "Maximum permissible concentration (MPC)" means the level of radioisotopes in waste which if continuously maintained would result in maximum permissible doses to occupationally exposed workers and as specified in Oregon Administrative Rules Chapter 333, Division 2, Subdivision 2, Section 22-150.

(17) "Median tolerance limit" or "TLm" or "LC_{50}" or "median lethal concentration" means that concentration of a substance which is expected, over a 96-hour exposure period, to kill 50 percent of an aquatic test population, including but not limited to important fish or their food supply. TLm and LC_{50} are expressed in milligrams of the substance per liter of water.

(18) "Oral LD_{50}" or "Oral Lethal dose fifty" means a measure of oral toxicity of a substance for which a calculated oral dose is expected, over a 14-day period, to kill 50% of a population of experimental laboratory animals, including but not limited to mice, rats or rabbits. LD_{50} is expressed in milligrams of the substance per kilogram of body weight.

(19) "Pesticide" means any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling or mitigating of insects, fungi, weeds, rodents or predatory animals or other pests, including but not limited to defoliants, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides.

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

(21) "Radioactive material" means any material which emits radiation spontaneously.

(22) "Radiation" means gamma rays and x-rays, alpha and beta particles, neutrons, protons, high-speed electrons and other nuclear particles.

(23) "Recovery" means processing of EHW to obtain useful material or energy.

(24) "Recycling" means any process by which EHW is transformed into new products in such a manner that the original waste may lose its identity.

(25) "Reuse" means return of EHW into the economic stream for use in the same kind of application as before without change in its identity.

(26) "Treat or decontaminate" means any activity of processing that changes the physical form or chemical composition of EHW so as to render it less hazardous or not environmentally hazardous.

(27) "Triple rinse" or "triple rinsing" means a specific treatment or decontamination of empty pesticide containers using the following procedure:

(a) Place volume of water or an appropriate diluent in the container in an amount equal to at least 10% of the container volume.
(b) Replace container closure.
(c) Rotate and up end container to rinse all interior surfaces.
(d) Open container and drain rinse into spray or mix tank.
(e) Second rinse: repeat steps (a) through (d) of this subsection.
(f) Third rinse: repeat steps (a) through (d) of this subsection and allow an additional 30 seconds for drainage.
(g) If rinses cannot be added to spray or mix tank, and cannot be used or recovered, they shall be considered to be EHW.

63-015 GENERAL REQUIREMENTS FOR STORAGE AND DISPOSAL OF ENVIRONMENTALLY HAZARDOUS WASTES

(1) Any person producing environmentally hazardous wastes or operating an EHW facility shall:
  (a) Use best available and feasible methods to reuse, recycle, recover or treat any or all compounds of the EHW.
  (b) Not dilute or alter waste from its original state except if alteration is to recycle, recover, reuse or treat the EHW.
  (c) Dispose EHW that cannot be reused, recycled, recovered, treated, or decontaminated at an EHW disposal site, EHW collection site, EHW facility or authorized disposal facility outside the State.
  (d) Store environmentally hazardous wastes in a secure enclosure, including but not limited to a building, room or fenced area, which shall be adequate to prevent unauthorized persons from gaining access to the waste and in such a manner that will minimize the possibility of spills and escape to the environment.
  (e) Label all containers used for onsite storage of environmentally hazardous wastes. Such label shall include but not necessarily be limited to the following:
    (A) Composition and physical state of the waste;
    (B) Special safety recommendations and precautions for handling the waste;
    (C) Statement or statements which call attention to the particular hazardous properties of the waste;
    (D) Amount of waste and name and address of the person producing the waste. This subsection shall not apply to storage in non-transportable containers.
  (f) Maintain records, beginning January 1, 1977, indicating the quantities of environmental hazardous waste produced, their composition, physical state, methods of reuse, recovery, or treatment, ultimate disposition and name of the person or firm providing transportation for wastes transferred to another location. This information shall be reported annually to the department on or before February 28, for the previous calendar year.
  (g) Not store environmentally hazardous wastes for longer than two (2) years unless the Department determines that an acceptable disposal method is not available.
  (h) Not place EHW in a collection vehicle or waste storage container belonging to another person for the purpose of storage, collection, transportation, disposal, recycling, recovery or reuse unless:
    (A) The waste is securely contained or is a rigid decontaminated pesticide container, and
    (B) The waste collector is furnished, at the time of removal, a written statement incorporating the information required by subsection(1)(e) of this section or a certificate as required by section 63-040, subsection(3)(c), for pesticide containers.

(2) Subsection(1)(f) of this section shall not be applicable to environmentally hazardous wastes transferred to EHW collection sites. Subsections(1)(e) and (1)(f) of this section shall not be applicable to empty pesticide containers, but see section 63-035, subsections(2) and (3).

(3) Transportation of environmentally hazardous waste shall be in compliance with the rules of the Public Utility Commissioner of Oregon and other local, State or Federal agencies if applicable.

(4) EHW Collection Sites.
(a) An EHW collection site may not be established, operated or changed unless the person owning or controlling the collection site obtains written authorization therefor from the Department.
(b) Written authorizations by the department shall establish minimum requirements for the collection of environmentally hazardous wastes, limits as to types and quantities of wastes to be stored, minimum requirements for operation, maintenance, monitoring and reporting and supervision of collection sites and to ensure compliance with pertinent local, state and federal standards and other rules.
(c) EHW collection sites may charge fees for waste delivered to such sites.
(d) Any solid waste disposal facility authorized by permit from the Department may also operate as an EHW collection site, if authorized in accordance with subsections(4)(a) and (4)(b) of this section.

(5) EHW disposal sites, except as specifically provided herein, shall be operated in accordance with ORS Chapter 459.

(6) An EHW facility may be established or operated without an EHW disposal site license or EHW collection site authorization.

(7) All accidents or unintended occurrences which may result in the discharge of an environmentally hazardous waste to the environment, or the discharge to the environment of a substance which would be an environmentally hazardous waste except for the fact that it is not discarded, useless or unwanted, shall be immediately reported to the Department. If the Department cannot be contacted or if public health and welfare are endangered by such accidents or occurrences, the Emergency Services Division of the Executive Department shall be notified at its Salem office (378-4124).

(8) No person shall dispose of EHW except in accordance with these rules and other applicable requirements of ORS Chapter 459.

(9) EHW shall be stored and handled in such a manner that incompatible wastes or materials are not mixed together, causing an uncontrolled dangerous chemical reaction.

(10) Any person producing, reusing, recycling, recovering, treating, storing or disposing of EHW, in addition to complying with these rules, shall also comply with the following statutes and rules adopted pursuant thereto, as such statutes and rules may relate to those activities:

(a) ORS Chapter 454, pertaining to sewage treatment and disposal systems;
(b) ORS Chapter 459, pertaining to solid waste management and environmentally hazardous wastes;
(c) ORS Chapter 468, pertaining to air and water pollution control; and
(d) ORS Chapter 654 and OAR Chapter 437, Sections 22-001 to 22-200, pertaining to occupational safety and health.

63-020 LIABILITY FOR IMPROPER DISPOSITION OF EHW.

(1) Any person having the care, custody or control of an EHW or a substance which would be an EHW except for the fact that it is not discarded, useless or unwanted, who causes or permits any disposition of such waste or substance in violation of law or otherwise than as reasonably intended for normal use or handling of such waste or substance, including but not limited to accidental spills thereof, shall be liable for the damages to person or property, public or private, caused by such disposition.

(2) It shall be the obligation of such person to collect, remove or treat such waste or substance immediately, subject to such direction as the Department may give.

(3) If such person fails to collect, remove or treat such waste or substance immediately when under an obligation to do so as provided by subsection (2) of this section, the Department is authorized to take such actions as are necessary to collect, remove or treat such waste or substance.

(4) Any person who fails to collect, remove or treat such waste or substance immediately, when under an obligation to do so as provided in subsection (2) of this section, shall be responsible for the necessary expenses incurred by the State in carrying out a clean-up project or activity under subsection (3) of this section.

63-025 ENFORCEMENT. Whenever it appears to the Department that any person is engaged or about to engage in any acts or practices which constitute a violation of ORS 459.410 to 459.690 or the rules and orders adopted thereunder or of the terms of a license, without prior administrative hearing, the department may institute proceedings at law or in equity to enforce compliance therewith or to restrain further violations thereof.

63-030 VIOLATIONS. Violation of these rules, shall be punishable upon conviction as provided in ORS 459.992, Section (4).

63-035 PESTICIDE WASTES.

(1) Classified Wastes.
  (a) All wastes containing pesticides and pesticide manufacturing residues which meet the criteria under subsection(1)(b) of this section and empty pesticide containers are hereby classified as environmentally hazardous wastes, except as provided in subsection (2) of this section.
  (b) Pesticide wastes which meet one or more of the following criteria are classified as environmentally hazardous:
    (A) Oral toxicity. Material with an oral LD_{50} equal to or less than 500 milligrams per kilogram.
    (B) Inhalation toxicity. Material with an inhalation LC_{50} equal to or less than 2 milligrams per liter as a dust or mist or an inhalation LC_{50} equal to or less than 200 milligrams per cubic meter as a gas or vapor.
    (C) Dermal penetration toxicity. Material with a dermal LD_{50} equal to or less than 200 milligrams per kilogram.

(D) Aquatic Toxicity. Material with 96-hour TLm or 96-hour LC_{50} equal to or less than 250 milligrams per liter.

(2) Declassified wastes. The following wastes are declassified as not being environmentally hazardous:

(a) Empty pesticide containers bearing the signal words "Danger" on their labels, which have been decontaminated and certified in accordance with subsections(3)(a) and (3)(c) of this section and which have been transferred for disposal to an EHW collection site, authorized container disposal site or authorized container recycling or reuse facility.

(b) Empty pesticide containers bearing the signal word "Warning"or "Caution" on their labels and which have been decontaminated in accordance with subsection (3)(a) of this section. Such containers, if accompanied by a certificate required by subsection(3)(c) of this section, may be disposed in an EHW collection site, authorized container disposal site or authorized container recycling or reuse facility.

(c) Empty pesticide containers that have been employed for home and garden use. These wastes may be disposed with other household refuse pursuant to OAR 340, Division 6, Subdivision 1.

(d) Wastes equal to or less than the following quantities:

(A) 5 empty pesticide containers per EHW facility per year which have been decontaminated in accordance with subsection(3)(a) of this section. These wastes may be disposed by burial in a safe location such that surface and ground water are protected.

(B) 5 pounds (2.3 kg) of unwanted, unusable or contaminated pesticides, in any form or concentration, per EHW facility per year. These wastes may be disposed in a landfill operated under a valid solid waste disposal permit from the Department, if transferred directly to the landfill. The Department or landfill operator may restrict the total amount of such waste disposed at any landfill.

(3) Approved Disposal Procedures For Classified Wastes. In addition to the requirements for storage and disposal of EHW specified in section 63-015 of these rules, the following procedures and methods are approved for disposal of pesticide wastes classified as EHW:

(a) Noncombustible containers, including but not limited to cans, pails or drums constructed of steel, plastic or glass, shall be decontaminated by triple rinsing or jet rinsing of containers for liquid or solid pesticides or by other methods approved by the Department. Noncombustible fumigant pesticide containers shall be decontaminated by standing open to the atmosphere with closure removed in an upsidedown position for a period of five (5) or more days. Decontamination shall be performed immediately but not to exceed two (2) days after emptying of containers.

(b) Combustible containers, including paper bags and sacks, but not including plastic containers, shall be disposed by:

(A) Burning of combustible containers in an incinerator or solid fuel fired furnace which has been certified by the department to comply with applicable air emission limits or;

(B) Open burning of not more than 50 pounds in any day, except those used for organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic. Open burning shall be conducted in compliance with open burning rules, OAR Chapter 340, Division 2, Subdivision 3, according to requirements of local fire departments and districts and in such a manner as to protect public health, susceptible crops, animals, surface water supplies and waters of the State.

(C) Transfer to EHW collection site or authorized container disposal site.

(c) A container or each lot of containers, bearing the signal word "Danger" on their labels, transferred to an EHW collection site, authorized container disposal site or authorized container recycling or reuse facility in accordance with subsections(3)(a) and (3)(b)(C) of this section shall be accompanied by a certificate. Such certificate shall:

(A) Certify that all noncombustible containers in such lot have been decontaminated by triple rinsing, jet rinsing or other methods approved by the department;

(B) Indicate the number of non-combustible containers and the number of combustible containers in such lot;

(C) Indicate the name and address of the person or business which used the pesticide and the signature of the person in charge of using the pesticide.

(d) Subsections(3)(a), (3)(b) and (3)(c) of this section shall not apply to pesticide containers for which direct reuse is intended.

(e) Subsections(3)(a) and (3)(c) of this section shall become effective July 1, 1976. Prior to July 1, 1976, containers may be disposed in authorized container disposal sites.

63-040 RADIOACTIVE WASTES.

(1) Classified Wastes. All wastes containing radioactive materials are hereby classified as environmentally hazardous wastes if such materials are licensed by the Oregon State Health Division as provided in Oregon Regulations OAR, Chapter 333, Division 2, Subdivision 2, and have a concentration when leaving the premises above maximum permissible concentration (MPC), except exempt quantities or concentrations of radioactive materials as specified in Part B, Sections B.3 and B.4 of Oregon Regulations for the Control of Radiation.

2) Approved Disposal Procedures. Notwithstanding the requirements for storage and disposal of EHW specified in section 63-015 of these rules, no disposal site for any radioactive material, including that produced by a nuclear installation, shall be established, operated or licensed within the State. Such wastes requiring disposal shall be transferred to a legal disposal site outside the State.

Addendum to Proposed Rules OAR 340, Division 6, Subdivision 3

Additional Amendments to proposed rules:

1. On page 1, in section 63-010, subsection(9), fourth line, the words "statutes or" should be added after the words "by or pursuant to".

2. On page 4, in section 63-015, subsection(1)(h)(B), third line, the words "section 63-040" should be replaced by "section 63-035".

3. On page 7, in section 63-035, subsection(2), after subsection (2)(d), a new subsection(2)(e) should be added as follows: "(e) Wastes other than those in subsections(2)(a), (2)(b), (2)(c) and (2)(d) of this section which do not meet the criteria in section(1)(b) of this section.".

4. On page 7, in section 63-035, subsection(3)(b), first line, the word "sacks" should be replaced by the word "drums".

1/29/76

ENVIRONMENTAL QUALITY COMMISSION

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

To: Environmental Quality Commission

From: Hearing Officer

Subject: Hearings Report: September 22, 1975 Public Hearing on Proposed Rules Governing the Disposal of Environmentally Hazardous Wastes.

SUMMARY

At 9:00 a.m. on September 22, 1975 the hearing, preceded by requisite notice to the public, was convened in Room 602 of the Multnomah County Courthouse at 1041 S.W. 5th, Portland, Oregon.

Present to hear testimony and answer questions was Mr. Pat Wicks of the Department's Solid Waste program.

Of some thirty persons present, nine offered testimony regarding the rules.

TESTIMONY

Mr. John Holmes delivered testimony on behalf of Dr. Craig Eagleson of Farmcraft Incorporated and the Western Agricultural Chemical Association. Dr. Eagleson is principally concerned with the regulation of pesticides and their containers. He calls for a compromise between farmers (desiring no regulation at all) and environmentalists (wanting very strict regulation). He warns that many farmers would disregard regulations found to be unreasonable.

With regard to pesticides, Dr. Eagleson argues against classification of them as environmentally hazardous when the LD_{50} equals or falls below 500 mg/kg. In his estimate, 200 mg/kg or less would be an acceptable LD_{50} threshold.

Addressing proposed Section 63-010 (Definitions), Dr. Eagleson calls for a definition of "waste" as any discarded, useless, or unwanted substance as more specifically detailed in Section 63-015(1). He criticizes the classification of EHW containers as EHW and calls for classification only of the residues left on the containers.

63-010(29) (definition of triple rinse) was criticized. While supporting the triple rinse method, Dr. Eagleson urges that, for larger containers (55 gallon drums) the required 20% volume of water was unnecessarily voluminous and would involve handling heavy poundage three times. He reminds that residues remaining in containers are quantifiably related to surface, not volume. He urges a requirement that only 10% of the volume be used.

He suggests, as an alternative, four rinses with 5% volume. He says 63-020(2) should exempt empty containers from the wastes required to be stored in locked, durable, corrosion resistant, water-tight containers.

He feels 63-025 is written too broadly. It could result in DEQ requirements to collect, remove, or treat useful pesticides. Subsection (1) should read: "Any person having the care, custody or control of an EHW who causes or permits any disposition of such waste substance in violation of law, including but not limited to accidental spills thereof, shall be liable for the damages to persons or property, public or private, caused by such disposition." Subsections (2), (3), and (4) should have the words "or substance" deleted wherever they occur, he adds.

He states 63-040(2)(a) (declassification of empty, triple rinsed containers) should be shortened to read: "Empty pesticide containers that have been decontaminated and certified in adherence with subsection (3)(a) of this section." This would eliminate the necessity of the containers' removal to an authorized facility prior to declassification.

63-040(3)(A) (permitting declassification of up to 5 empty containers per year) should be deleted. It is ambiguous. Five empty containers per year per family member? Five empty containers of each pesticide? Of all pesticides?

In general, he feels the Department should seek a case by case solution of each problem, working in cooperation with the holder of pesticides, rather than write a rule which attempts to cover every contingency.

Mr. Jack Lenhardt who is involved in the air application of farm chemicals testifies that a disposal site should precede the adoption of any regulations. Establishment of a disposal site, he argues, is long overdue.

Mr. Mike Bakkela testified on behalf of the Oregon Farm Bureau Federation. He cautions that proposed section 63-020 (general requirements for storage and disposal of environmentally hazardous wastes) is written so broadly as to constitute a potential snare for many agricultural employers. He urges that the proposal be re-written to provide a step by step delineation of those persons to whom it is intended to apply. He questions the propriety of limiting storage to two years where other disposal methods are available. (63-020(2)(a))

With regard to 63-020(4) (Permit requirements for EHW Collection Sites), Mr. Bakkela feels that a definite fee schedule for protective landfills should be incorporated into the proposal. In support of this contention he notes that operators will not venture into this industry unless assured of a profit and users will be reluctant to accept an exhorbitant fee schedule.

Conceding that the criminal penalty provided by proposed 63-035 is statutorily required, Mr. Bakkela urges the staff to work with his organization to seek statutory correction of this harsh condition.

Speaking of 63-040(3)(a) and 63-040(3)(c), Mr. Bakkela suggests that "rigid" be substituted by "unburnable" and "non-rigid" be replaced by "burnable." He feels that containers made of plastic, fiberboard, or paper, even if rigid, should properly be burned in lieu of their transportation to a disposal site.

Finally, Mr. Bakkela urges that means be sought to gain manufacturers' cooperation through the use of standard sized reusable containers which would alleviate many problems posed to farmers by the rules.

Noting that he had not received notice of the agency's intended action until approximately three weeks prior to the hearing, Mr. Bakkela asks that the agency postpone action until such time as the proposals can be introduced to the 8,000 members of his organization for their evaluation.

Mrs. P. W. Shultz, Sr. cautions that disposal of nuclear waste is a critical matter and recommends the reading of page five of the National Observer, week of August 23. She inquired of the scientific expertise among members of the Commission. She questions the propriety of handling nuclear materials at the Hanford Plant in view of her understanding that radioactive bones have been found five miles from the site.

Mr. John R. Kimberly of Resource Recovery Corporation (Seattle, Washington) is in the business of industrial waste collection and disposal. He feels the rules are commendable in their overall approach and are preferable to rules and regulations currently pertaining in the State of Washington. He stresses the importance of a future attempt to include regulations covering certain types of industrial wastes (i.e., oxidizers, sensitizers, acids, and bases). He hopes that no expansion of the present proposals will impair other companies or his own in the appropriate collection and recycling of industrial wastes.

Mr. George Ward, consulting engineer representing the nonprofit Land Use Research Institute, commends the rules generally while objecting that there had been insufficient notice preceding the hearing. He reports having seen the notice in the newspaper only one day prior to the hearing. He feels that interest generated by the hearing itself may warrant additional time for comment prior to adoption of the rule.

Mr. Ward informs that industry in general is willing to cooperate with the Department in various programs, including the exploration of approved mixing procedures whereby two materials, when combined, become less hazardous and more amenable to disposal. He states that cooperation in such efforts among industries is aligned with the philosophy of the Land Use Research Institute.

He suggests further public discussion with those interested in the trucking of hazardous wastes. He laments what appears to be a lack of specificity in Department of Transportation (State and Federal) rules and regulations governing the transport of hazardous wastes. Rules requiring increased transportation to distant sites, he argues, expose us to a greater risk of mishaps occuring in transit.

Mr. Ward cautions against delay in establishing a disposal site, blaming delay on the presumption that out-of-state sites, such as that in Idaho, will continually be available for the disposition of Oregon wastes. A Mr. Ed Baker, head of the Solid Waste Disposal Program in Idaho, Mr. Ward reports, has written him indicating that continued availability of the Idaho site for the disposal of pesticides and related wastes from Oregon is not a safe prediction.

Mr. Ward suggests the Department confirm the present position of all states contiguous to Oregon with regard to their receipt of wastes exported from Oregon. He suggests further that public discussion of the transportation question be commenced with experts from the state and federal Departments of Transportation present.

Mr. Thomas Donaca of Associated Oregon Industries is skeptical of the Commission's authority to adopt a scheme of disposal based on storage at a collection site or facility other than a licensed disposal site prior to final disposition through recycling or disposal. His apprehension is founded in the wording of ORS 459.510(1)*. It is Mr. Donaca's view that the Statute may require that any hazardous waste be transported immediately to a disposal site. In such a case, he contends, the Statute would be unworkable and the proposed rules possibly beyond the Commission's authority to invoke.

Mr. Donaca states that a member of his organization is informed by a representative of the Interstate Commerce Commission that the ICC has a regulation prohibiting the transportation of used containers.

Mr. Donaca suggests that the existence of such a regulation be either confirmed or denied prior to Commission action.

With regard to 63-020(3) of the proposals, Mr. Donaca argues that the requirement that transportation be in compliance with the rules of the Public Utility Commissioner of Oregon and other local, State, or federal agencies, if applicable, is not worded sufficiently to put persons on notice of the exact requirements imposed on them.

Mr. Donaca finds no Statutory authority for the Commission to require a permit for collection sites (63-020(4)). He notes that the statute speaks only to licenses for disposal sites. Mr. Donaca negates Section 4 of 1975 Oregon Laws, chapter 483, as a plenary grant of power to the Commission which would correct any defect of statutory jurisdiction over "collection sites."

*Reading as follows: No person shall dispose of environmentally hazardous wastes in or upon any real property in the State other than real property designated as a disposal site pursuant to the provisions of ORS 459.410 to 459.690 and no person shall dispose of environmentally hazardous wastes by storage in or upon any real property in the State other than real property owned by the State of Oregon. (Note also ORS 459.410 defining "Dispose" as "... collection, maintenance or storage at a disposal site.")

With regard to 63-010(5)(14)(18) and (19), which employ the terms "experimental animals" and "test population", Mr. Donaca cautions that these terms may be too vague and result in the use of differing animals and the derivation of differing "TLm", Inhalation LC_{50}, "Oral LD_{50}" and "Dermal LD_{50}" results for identical wastes.

Speaking to 63-015(1)(b)(D) (Aquatic toxicity threshold for EHW classification), Mr. Donaca contends it would classify many common chemicals, possibly including table salt, bleach and other household chemicals. It is suggested by Mr. Donaca that empty household containers which wind up in solid waste disposal sites might be a problem of sufficient magnitude to warrant regulations in the rules.

Mr. Donaca suggests the agency were better off to proceed with proposals less broad than the current one, and attempt to address only specific, manageable problems from the standpoint of agency resources and expertise. In support of this suggestion he cites his understanding that at least half of the counties have indicated disinterest in operating a collection site.

In closing, Mr. Donaca laments the circumstance whereby legal impediments to out-of-state transportation of EHW are compounded by practical barriers to in-State disposal.

Dr. Ralph Rodia, Assistant Manager of Occupational Health in the Workmen's Compensation Board, expressed concern that the proposals do not adequately protect workmen or employees who handle the EHW. He agrees fundamentally with the intent of the proposed rules.

Mr. Rodia suggests the rules be broadened to classify wastes which cause incapacitation or loss of bodily function. It is his contention that the proposals would permit the average person to become exposed to greater concentrations of hazardous materials than would be permitted for workers by Occupational Health and Safety Rules. This, he says, is inappropriate in that the public at large consists of infants, the aged, the infirm, and others not able to withstand exposures considered tolerable to the average worker.

Dr. Rodia adds the consideration that many contaminants harmful to man may not be harmful to test animals. He calls for at least a specification of what animals are to be used in test methods.

He suggests that Lethal Dose values as applied to animals should be extrapolated to the value estimated to be protective of man. He concedes that this may have been done to some extent in the proposed oral toxicity classification criterion (63-015(1)(b)(A)).

Speaking to 63-015(1)(d) (Reactivity), Dr. Rodia suggests that the classification be broadened to include not only materials volatile in themselves, but materials which, combined with other materials, may form volatile materials. He cited as an example styrene which, combined with a peroxide catalyst, becomes explosive.

The use of the word "person" in 63-020 is questioned in that it might result in legal action against a naive employee merely following the instructions of his employer.

Dr. Rodia informs that OAR Chapter 333, as cited in 63-020(10)(d), has been renumbered OAR Chapter 437.

63-040(2)(b), in Dr. Rodia's contention, should address itself to empty pesticide containers which were "designed" or "intended" for home use rather than only those so employed. As written, he says, the rule might include containers used by professional exterminators and containers of any size which were "employed for home and garden use."

Dr. Rodia criticizes the phrase "standing open" as found in 63-040(3)(a) (decontamination of rigid fumigant pesticide containers). In his view, it is susceptible of interpretation as "standing out in the atmosphere with the lid on".

Unless there is sufficient protection afforded by the Commission's rules regarding open burning in general, Dr. Rodia sees great potential for defoliation and other detriment in 63-040(3)(c)(C) which permits open burning of certain combustible non-rigid containers. He cites organic phosphates as a category of substances which would not decompose and might be poisonous if burned in the open. Asbestos is also cited.

References in the proposed rules to other codes, regulations, rules and statutes are thought to be insufficiently informative by Dr. Rodia.

Finally, Dr. Rodia points out that Jet Rinsing (63-010(15)) may not be adequate for certain substances not soluble in water.

While declining to register as witnesses and offer formal testimony for the record, several persons, during a question and answer session after the testimony, offered general discussion. Mr. Verner Hahne of the Washington Department of Ecology discoursed at length on various methods employed in Europe and elsewhere, including wastes exchange systems. He reports that Washington is headed in the direction of obtaining a site first and regulations later. He agrees with Dr. Rodia that lethal dosage is an inadequate barometer for classification of EHW. He cites reliable certification as to the exact nature of wastes to be a problem encountered in Europe.

Darrell Miller of Benton County Vector Control was assured that containers which could not be rinsed, but were intended for direct reuse needn't be discarded (63-040(3)(d)). He discussed the need for adequate training of personnel handling EHW. He points out with regard to 63-040(2)(c)(B) that pesticide poundage usually refers to actual toxicant, not concentrate. He says five pounds of actual toxicant could amount to hundreds of gallons of concentrate.

Mr. John Kimberly added to his testimony his understanding that Federal regulation prohibited the reuse of unreconditioned containers in shipping, whether shipping EHW or other freight.

It was Mr. Kimberly's recollection that the Federal authorities plan to promulgate a set of rules governing transportation of EHW.

Mr. Kimberly urges that government refrain from operating treatment facilities for EHW and relegate this function to private industry.

He finds a lack of reliability in the process of tagging empty containers (63-040(3)(a)).

In Mr. Kimberly's understanding, intrastate carriers not licensed as interstate carriers would be exempt from federal regulations regarding freight containers.

Mr. Werner Hahne was of the understanding that manufacturers had forbidden the sale for reuse of their containers based on apprehension of legal liability.

Mr. Gary Farmer, a consultant in the areas of nuclear radiation and ecological sciences, drew several conclusions from his communications with EPA as well as other state and federal agencies: Pesticides in general and some other types of EHW have not been adequately evaluated. The proposed thresholds for classification are of a tentative and scarcely useful nature. A cost/benefit analysis for the rules is incumbent upon the Department as a moral obligation to the taxpayers. The regulations are fundamentally unsound. The rationale for regulation of the materials covered in them would also support similar regulation of honey, dill weed, potato chips, and a host of other materials containing toxic components. Mr. Farmer recommended that the Department compare the harm to people from EHW episodes with that flowing from cigarettes, alcohol, and other such causes. Such a study would, in his opinion, reveal to the Department that its program is not justified by the risks involved. Governmental action was blamed for elimination of safe pesticides and their subsequent replacement by dangerous ones. The program, he said, addresses itself in vain to a quagmire of insolvable problems.

Data gathered by the Department pursuant to Mr. Farmer's recommendation should, in his contention, show the amount of poisonings to be laid at the door of organic phosphates forced upon us by governmental restrictions on less harmful pesticides. Obtaining repeal of the Statute governing Environmentally Hazardous Waste was suggested as an appropriate Department goal.

Mr. Jack Lenhardt, with the support of George Ward, formally requested that a new draft of the rules be made, followed by another hearing. He suggested the draft be a product of collaboration between staff and members of affected industry. He objects to the nonrefundable nature of the $5,000 application fee for an EHW disposal site license.

Mr. George Ward informed that in his understanding, from conversing with a federal DOT representative, there are insufficient safeguards on the shipment of EHW out of state.

WRITTEN TESTIMONY

The record having been left open for ten days after the hearing, written testimony was submitted as follows:

By letter of September 12, William B. Culham, Director of Solid Waste Management for the City of Portland, suggests rewording of four of the sections in the proposals, (Attachment A).

By letter of September 16, Mr. Ed Dornlasoof the Benton County Health Department suggests that the test animals used in deriving respiratory, dermal, ingestive, and aquatic toxicity should be specified. He adds that the rules appear compatible with Benton County's Vector Control Program.

By letter of September 22, Mr. Roger Emmons of the Oregon Sanitary Service Institute urges that no EHW be disposed of in general solid waste sites unless they are licensed for EHW, or, by special permit conditions, allowed to accept empty, treated containers. He agrees with staff that this is statutorily provided.

He suggests that the rules and this statute should be amended to require knowledge on the part of the offender for a finding of violation by disposing of EHW at a general disposal site. This is founded in his contention that most site managers are not sophisticated enough to be expected to recognize or search out EHW.

It is Mr. Emmon's opinion that doubt about the contents of any load tendered a disposal site should result in the attendant's notification to the Department prior to and refusal to allow unloading.

He urges required labeling, special handling instructions, and any other duties necessary to insure that sources do not conceal EHW in loads brought to general disposal sites.

Mr. Emmons speculates that some members of his industry may be interested in operating collection sites and transportation systems.

Finally, Mr. Emmons makes specific suggestions for drafting, (Attachment B).

By letter of September 25, Mr. Don Hodel of the Bonneville Power Admin - stration supports the Department's efforts in general, calls for Departmental approval of a disposal site within the state, reiterates earlier comments on the rules (Attachment C), and suggests the following: Central or regional record keeping would be as adequate as the proposed record keeping at each facility while proving less burdensome. Consideration should be given to designating one site for extremely hazardous wastes with other sites being used for disposal of those substances posing less of a hazard. Categorization of substances along dimensions of their physical and chemical properties

should be accomplished to facilitate discrimination between sites as suggested above. Guidelines for transportation from the issuing office to the site should be included. Properly treated containers should become exempt from the regulations: It should be clarified whether "producers" of EHW includes the user (63-020(1) and (10)).

By letter of September 26, Mr. Keith Read, Director of Parks and Sanitation for Klamath County, comments on the possibility of an eventual EHW storage site in Klamath County. In the interim, he noted disposal of certified "safe" pesticide containers in local landfills was possible by special arrangement.

He urged the proper training for personnel handling EHW.

He reports that the Klamath Solid Waste Advisary Committee is against expenditure of public funds on a solid waste center because its purpose would be to deal with a specialized industry problem. Recyclable containers for toxic pesticides and industry attention to the problem are urged.

By letter of October 7, Mr. James Kirk of the State Health Division's Vector Control Section calls for the classification of wastes based on chronic toxicity, and carcinogenic, teratogenic and mutagenic aspects as well as on the basis of respiratory, dermal, ingestive and aquatic toxicity.

He argues that these latter levels of toxicity, as set forth in 63-015(1)(b) are vague and not relevant to human health.

It is contended that chemicals should be considered on the basis of their mobility (i.e., vapor pressure and solubility) and persistance as well as along other dimensions.

Mr. Kirk feels that it should be specified who is to decide if a chemical is classified, what test animals are to be used, whether testing is to be done with pure materials, and what will be the result if data on one type of toxicity is unavailable.

With regard to 63-040 (2)(b), Mr. Kirk contends that home and garden pesticide use should be exempted only if it is registered for general use, used by the homeowner, and used other than by a pest control operator and on other than garden crops intended for market.

Finally, Mr. Kirk objects that 63-010 (29)(g) read with 63-020 (1)(b) would prohibit triple rinsing of a pesticide where no recycling, recovery, reuse, or treatment can be done.

PROCEDURAL ISSUES

1. Has the proposal been reviewed by the Energy Facility Siting Counsel (Oregon Laws 1975, Chapter 606)?

2. Does the inclusion of " maintenance" and "storage" in the definition of "dispose". (See ORS 454.410 (4)), taken together with the definition of "Disposal Site" (ORS 459-410 (5)) prohibit a scheme employing temporary storage at collection sites not licensed as disposal site? Isn't all storage temporary?

PROCEDURAL ISSUES

1. Does the inclusion of "maintenance" and "storage" in the definition of "dispose" (See ORS 459.410(4)), taken together with the definition of "Disposal Site" (ORS 459(5)) prohibit a scheme employing temporary storage at collection sites not licensed as a disposal site? Isn't all storage temporary where done as an interim measure prior to disposition?

2. Is it necessary or desirable to parrot the requirements of other agencies in our rules? Would it do to simply have a provision withholding approval of any activity found in violation of the provisions of other agencies such as the Health Division, DOT, etc.? Does it make sense or fall within our jurisdiction to declare violation of the regulations of other agencies a violation of our regulations.

3. Since the proposal quite specifically relates to energy facilities, might it not be well to again submit any revised draft to the Energy Facility Siting Counsel prior to adoption by the EQC? Particularly if any new proposals vary substantially from that in issue.

4. The above are not intended to be inclusive but address themselves only to some of the fundamental questions to be decided prior to the initiation of any new drafting.

Respectfully Submitted

Peter W. McSwain
Hearing Officer

400 S.W. SIXTH AVE.
PORTLAND, OR. 97204

ATTACHMENT A

Gentlemen:

The following comments are submitted on the proposed Rules on Environmentally Hazardous Wastes (OAR Chapter 340, Division 6, Subdivision 3):

Page 1 - 63-010 Definitions.

(8) Environmentally Hazardous Waste Definition proposed is too general - Suggest definition of:

"Hazardous Wastes - means any material or combination of materials or residues discarded as useless, unwanted, and the discarded containers of these materials as waste or as a product, that because of quantity, concentration, or chemical/biological characteristics, pose a substantial present or potential hazard to human and animal health or environment. Such wastes may be either biocentrative, highly flammable, extremely reactive, toxic irritating, corrosive, infectious or a combination of the above.
(These rules will classify or declassify those materials as environmentally hazardous and Environmentally Hazardous Wastes will be referred to also as "EHW" in the rules)

Page 4 - 63-020 (1) (b) - Change to read:

"Not dilute or alter Environmentally Hazardous Wastes from its original state for disposal in a place other than at an EHW Facility, without prior approval of the process and product by DEQ."

Page 7 - 63-040 (2) (c) (B) - Change to read:

"5 pounds (2.3 kg) of unwanted, unusable or contaminated pesticides per year from any source of use or manufacture. These wastes may be disposed in a landfill under a valid solid waste disposal permit from the Department if transferred directly to the landfill. The Department reserves the right to control the total amount of specific or general EHW that may be accepted by that landfill in any on year."

Page 8 - 63-040 (3) (c) (C) - Change to read:

"Open burning of not more than 50 pounds of combustible containers in any day ...."

Very truly yours,

WILLIAM B. CULHAM, Director
Solid Waste Management

WBC:bc

Specific Recommendations

ATTACHMENT B

63-010 (8) "Environmentally hazardous wastes" or "EHW" means discarded, useless or unwanted materials in solid, liquid or gaseous state or residues (and) or their containers which are classified as environmentally hazardous but excluding those wastes declassified by these rules.

Does your definition with that in 63-025?

See also HSWMA comments.

63-010 (29) "Wastes" means useless, unwanted or discarded materials.

Definition is needed for such regulations as 63-015 (1) and others. It parallels "solid waste" and "waste" in 459.005. You might want to add the same wording "in solid, liquid or gaseous state".

63-020 (1) (d) Not place such EHW in any collection vehicle, storage container or refuse container belonging to another person for the purpose of storage, collection, transportation or disposal, recycling, recovery or reuse unless;

(1 The waste is securely contained in a container,

(2 The waste container is labelled with the chemical and common name of the waste together with handling instructions,

Where an EHW collector provides special equipment or service, the collector may waive the container requirement. In that event, a written statement shall be provided to the collector in place of the label.

As the cost of handling/disposal goes up and with the only site in far away Idaho, clandesitne disposal will increase. It poses a serious hazard to collectors, transporters and disposal site operators. The EQC is mandated the responsibility of providing for the safety of these workers in solids wastes in ORS 459.045 (a). How much more critical in EHW handling.

How can a disposal site operator be held liable of EHW disposal is he doesn't know the waste is coming in? Same for the collector/ transporter. See lia bility under ORS 459.992 and 63-025.

You already require similar records to you from the source. See 63-020 (2) (d)

63-020 (4) (e) EHW Collection Sites and Disposal Sites may charge (reasonable fees) fees for EHW delivered to such sites.

This is to avoid getting DEQ in the business of determination of rates. See county forms for sophistication required on the part of the review agency in determining rates.

63-025 (1) Any person having the care, custody or control of an EHW or a substance which would be an EHW except for the fact that it is not discarded, useless or unwanted, who knowingly causes or permits any disposition of such waste or substance in violation of law or otherwise than as reasonabley inteded for normal use (of) or handling of such waste or substance, including but not limited to accidental spills thereof, shall be liable (for the damages to person or property, public or private, caused by such disposition) as provided in this section and ORS 459.992.

The whole essence of an offense is that the person does an act resulting in illegal disposition. He must know before his act produces liability. There is sometimes an intermediate ground that he knows or should have known. Our only objection to that change is who second guesses the driver on the refuse truck or the caretaker or cat operator at the disposal site?

Wherein does DEQ or the Commission have authority to establish a separate civil liability to all affected persons or property? That is a matter for the legislature. Restatement of this section of ORS 459.685 in regulations makes it difficult to obtain the necessary change in law which OSSI may ask in conjunction with others in the next section.

In drafting generally, legislation is not restated or made part of the rules. At most, your rules should footnote ORS 459.685 to indicate to the reader the gross liability involved in EHW waste handling.

63-010 (6) Should burial or other disposition , recovery and reuse be added to the definition of"disposal"? Add "Collection Site"?

(27) Incomplete defintion of "disposal" leqves out some transportation. Included would be transport to disposal site for discard, treatment, recyclying or decontamination. Excluded would be recovery, reuse and possibly others. Excluded would be transport to a "collection site" unless that is considered as an "intermediate transfer point" in which case the term "collection site" which is defined should be substituted.

Comments on DEQ's Proposed Rules Governing the
Disposal of Environmentally Hazardous Wastes

1. There does not appear to be any attempt to categorize hazardous wastes. It appears that the rules for handling materials were developed for the most "hazardous" without regard for the volume of materials to be handled. Why should containers for acetone, fuel oil, and polychlorinated biphenyls, which have different toxicities, all require the same handling procedure?

2. We feel that one site for the extremely hazardous wastes is reasonable, but scattered sites must be found around the state to accept some of the less hazardous high volume waste materials. Lumping all these wastes together and then having only one disposal site would, we believe, create more problems in handling and transporting than it actually solves.

3. Sections 63-010 (10), 63-010 (28), 63-020 (1) and (2), 63-025 (1)(b) (A), (B), and (C), which seem to be in conflict with each other require further clarification. For example, if proper rinsing of containers is performed, it is then assumed that a container is decontaminated. Why then should it be necessary to proceed with all the rules and handling procedures that apply to environmentally hazardous wastes?

4. The proposed rules relating to records, permits, etc., are of some concern. Some of these, namely 63-025 (1)(b)(B), (E), (F), (G), and (H) would create costly and cumbersome paperwork.

ENVIRONMENTAL QUALITY COMMISSION

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item F, February 20, 1976 EQC Meeting

Glenmorrie Health Hazard Annexation to the City of Lake Oswego - Certification of Revised Plans for Sewerage System

Background

The certification of plans for the Glenmorrie area sewerage system was considered by the Environmental Quality Commission at its September 20, 1974 meeting. After taking public testimony on the issue, the Commission approved the Department's recommendation to certify to the Oregon State Health Division that the preliminary plans, specifications and time schedule meet the requirements of Oregon Revised Statutes 222.850 through 222.915. Since that time, two situations have occurred which require minor modification of the original proposal and re-certification by the Commission:

1. House Bill 2109 passed by the 1975 Legislative Session modified ORS Chapter 222 to require EQC Certification of sewerage plans, specifications, and time schedule to the City within sixty days of receipt of preliminary plans. Previously, the statute required certification to the Health Division.

2. As a result of public testimony before the Health Division, the boundaries of the health hazard area were reduced. On December 17, 1975 Mr. Robert Oliver, Administrator of the State Health Division, issued an amended order to annex Glenmorrie to the City of Lake Oswego. The amended order eliminated certain defined properties from the original annexation order.

On January 5, 1976 the Department of Environmental Quality received revised preliminary plans showing a reduction in scope of the earlier sewerage system plans to serve the Glenmorrie area.

Discussion

The revised preliminary plans have been prepared by the City of Lake Oswego. The conditions dangerous to the public health within the annexation area can be removed or alleviated by the construction of sanitary sewers as contained in the revised plans. The time schedule does not change from that originally submitted.

Director's Recommendation

It is the Director's recommendation that the Commission approve the revised preliminary plans and certify the approval to the City of Lake Oswego.

LOREN KRAMER
Director

CPH:rgn

2-5-76

ENVIRONMENTAL QUALITY COMMISSION

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

ROBERT W. STRAUB
GOVERNOR

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item G, February 20, 1976 EQC Meeting

Lahti & Sons, Inc., v. Department of Environmental Quality: Administrative Review of Contested Case Decision

Background

The Commission members have been provided a copy of the record as provided to the parties in this matter. Counsel have been notified of the Commission's intent to review this matter during the February 20, 1976 regular meeting, such review to commence at 11:00 a.m..

Present administrative rules provide that the Commission may, based upon the record made before the presiding officer, substitute its judgment for that of the presiding officer in regard to any finding, conclusion, or order (attached). Both parties have asked that the Commission do so, as can be seen from the correspondence file.

The parties have declined to agree to abridge the record in this matter and review should be based upon the entire record or such portions of the record as are specifically cited in the parties' briefs. The Commission may make findings identical to those of the hearing officer without review of the portions of the record supporting them where such findings were not subject to adequate exception by either party.

ORS 183.470 provides that orders in contested cases, if adversely affecting a party, must be in writing or stated in the record and, in the matter of a final order, accompanied by findings of fact and conclusions of law.

CONCLUSIONS

1. The Commission should proceed to review this matter, sitting as a quasi judicial body and acting consistently with OAR Chapter 340, section 11-132.

2. Whatever disposition the Commission may make in this matter should be reduced to written findings, conclusions, and order by the staff for service upon any adversely affected party.

RECOMMENDATION

It is the Director's recommendation that the Commission review this matter toward the purpose of reaching a decision in this or the next Commission meeting, permitting oral argument by the parties if desired. It is further recommended that the Commission, upon reaching a decision:

1. Indicate said decision through formal motion, and

2. Instruct staff to draft findings, conclusions, and a final order consistent with the Commission's decision for the Chairman's signature and subsequent service upon any adversely affected party.

LOREN KRAMER
Director

PWM:lb
2/4/76
Attachments

cc: Mr. Raymond Rask
cc: Mr. Robert Haskins

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE

STATE OF OREGON

Lahti and Son, Inc., Petitioner v. Department of Environmental Quality, Department.	PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, and FINAL ORDER

SUMMARY

This matter commenced hearing on April 18, 1975. The matter was continued pending the possible taking of further evidence. On July 28, 1975 the record was closed and the following proposals submitted by your hearings officer are based thereon.

ISSUES

Petitioner herein responds to a Negative Evaluation Report of Suitability of Proposed Sewage Disposal issued with regard to his property by the Department.

Petitioner contends the Department wrongfully refuses to issue him a positive site evaluation and/or subsurface sewage disposal system construction permit for undeveloped lots in the Scott Ridge Subdivision which Petitioner owns and which is located in Clackamas County, Oregon. Petitioner seeks a declaratory ruling that said lots are the subject of an acceptable prior approval which the Department must acknowledge pursuant to OAR Chapter 340, section

71-015(8), by issuing Petitioner an affirmative site evaluation and/or construction permit (ORS 454.655).

PROPOSED FINDINGS OF FACT

1. Petitioner is and was at all times herein material the owner of Scott Ridge (formerly El-Don Heights) Subdivision which is located in Clackamas County.

2. At all times material herein the disputed lots have consisted of Lots 2 through 7, Block 1 and Lots 1 through 3, Block 2 of Scott Ridge Subdivision.

3. On November 14, 1969, Mr. John Borden, then a Public Health Sanitarian in the employ of the Clackamas County Health Department, acting in his official capacity, sent a writing to the Clackamas County Planning Commission wherein he stated with reference to Scott Ridge Subdivision, "This property will be suitable for development of septic tank installations on the minimum lot sizes shown on the plat." Mr. Borden was not called to testify with regard to this writing.[1]

4. The parties agree that, if there was vested in a governmental entity the power to grant approvals of septic tank installation plans at the time of Mr. Borden's writing, the Clackamas County Health Department was vested with such power.

5. The record discloses no requirement that approval of subsurface sewage disposal systems at the time of Mr. Borden's

---

1 The parties interviewed Mr. Borden and agree that he has no independent recollection of the writing or circumstances which precipitated it.

writing were required to pertain to specific lots within a subdivision.

6. On August 17, 1970, without requiring any further comment from the Clackamas County Health Department, the Clackamas County Planning Commission granted Petitioner a Building Permit which authorized (with specific approval of the Clackamas County Health Department) the installation of a septic tank disposal system on Lot 1, Block 1, of Scott Ridge Subdivision. This action was taken in conformance with the Planning Commission's rules and routine procedure at the time. The system was installed.

7. The Department, in April of 1975, issued to Petitioner a Negative Evaluation Report of Suitability of Proposed Sewage Disposal (ORS 454.650(6)) going to the remaining, disputed lots in Scott Ridge Subdivision. The document was accompanied by a Specification of Reasons.

8. Among the reasons specified is the Department's contention that, notwithstanding Mr. Borden's writing, the remaining undeveloped lots in Scott Ridge Subdivision are not the subject of an acceptable prior approval under OAR Chapter 340, section 71-015(6).[2] The Department continues in this contention and continues to refuse Petitioner's request for a positive site evaluation and/or permit to construct subsurface sewage disposal systems on the remaining lots of Scott Ridge Subdivision.

---

2 Petitioner does not contend that the disputed lots are capable of approval under any provisions other than those of OAR Chapter 340, section 71-015(8).

9. Acting in reliance on Mr. Borden's writing, Petitioner has improved each of the lots in dispute and the improvements will be of no value to Petitioner unless he is permitted to install sewage disposal systems on said lots.

PROPOSED CONCLUSIONS OF LAW

1. There is no appeals board having jurisdiction in this matter.

2. Insofar as this matter is a contested case matter involving a departmental refusal to grant a positive site evaluation, and insofar as such an evaluation constitutes a step in what is legally a permit application process, the Commission has jurisdiction pursuant to OAR Chapter 340, section 14-035.

3. In its enactment of ORS 454.615 (1973), the Legislature vested in the Environmental Quality Commission authority to adopt rules which would prohibit the installation of subsurface sewage systems which were previously permissible.[3] OAR 71-015(8)[4] is

---

3 OAR 454.615 gives some indication that the Legislature intended the acknowledgement of no governmental approvals wherein construction had not occurred prior to January 1, 1974.

4 In pertinent part, OAR Chapter 340, section 71-015(8) reads as follows:

> (8) Prior Construction Permits or Approvals. All permits or written approvals involving site evaluations issued prior to January 1, 1974 shall be accepted under these rules as valid for construction of a subsurface sewage disposal system providing they expressly authorize use of such facilities for an individual lot or for a specific lot within a subdivision; they were issued by a representative of a state or local agency authorized by law to grant such approval; and they were issued in ac-

an exercise of that authority which delineates the conditions under which the Department may recognize actions of governmental agencies carried out prior to the 1973 Act.

4. The conditions are worded in the conjunctive and all conditions must be met by the subject prior approval or permit.[5]

5. One condition where the site is in a subdivision is that the prior approval authorize the use of the desired facility for "a specific lot" within the subdivision.

---

4 cont.

> cordance with all rules in effect at the time. No person having a valid prior permit or approval meeting the above requirements shall commence construction of a subsurface sewage disposal system until he has made application for a construction permit required by ORS 454.655, has paid the permit fee required by ORS 454.745 and has received a construction permit from the Department. Construction shall conform as nearly as possible with the current rules of the Commission. Before operating or using the system the permittee shall obtain a "Certificate of Satisfactory Completion" as required by ORS 454.665. If it is not possible for construction to be in full compliance with the current rules of the Commission the Certificate of Satisfactory Completion must contain a statement notifying the permittee or owner that the system is substandard and therefore, may not operate satisfactorily and that if it fails and necessary repair cannot be made in accordance with current rules of the Commission the system may have to be abandoned....

[5] Reference to the Statute in effect at the time of Mr. Borden's letter (former ORS 449.150) discloses that facilities had to be approved by the State Board of Health. We find no authority for the proposition that site evaluations were necessary. It has been neither evidenced nor argued whether Mr. Bordon or any authorized person conducted what would constitute a "site evaluation" as required by the present "prior approvals" rule. Owing to the Conclusions herein, we find it unnecessary to take additional evidence or argument on this issue. Indeed, Mr. Borden, having no recollection of the instant transaction, could probably testify only to habit or routine in this regard.

6. We construe Mr. Borden's writing of November 14, 1969 as a prior approval which does not meet this condition of specificity.[6] The subject of Mr. Borden's sentence, "this property," clearly has reference to the entire subdivision. We construe the intent of the rule to be prevention of installations which were approved on a blanket basis, going to an entire subdivision.

7. The above conclusions render it unnecessary to consider whether Mr. Borden's approval was issued in accordance with all rules in effect at the time. In turn, it is unnecessary to rule on the Petitioner's manifold evidentiary and procedural objections to evidence proffered by the Department with regard to the geologic conditions pertaining to the land in issue.[7]

8. We find no basis in Mr. Borden's approval which would

---

[6] It may be argued that Mr. Borden's reference to the plat incorporates each and every lot shown on the plat. Such would be true with regard to any subdivision, however. Such a reading would render the condition of reference to a specific lot within a subdivision meaningless because reference to a subdivision as platted would amount to oblique specification of each and every lot therein.

[7] The Department offered the testimony of an employee of the Clackamas County Health Department with regard to the results of observations he made on the property in 1973. His testimony tended to show that subsurface restrictive layers resulted in a perched winter water table of such duration and shallow depth as to preclude conforming installation of a disposal field above it in 1969. This line of evidence was the subject of strenuous objection by Petitioner on varying grounds. In each instance ruling on the objections was reserved.

give Petitioner reason to rely on its perpetual efficacy.[8]

---

[7] Cont. While the Department's denial of a positive site evaluation was accompanied by written reasons which Petitioner was required to answer when seeking a hearing, Petitioner is deemed the moving party as he seeks a ruling, declaratory in nature, that the disputed writing of Mr. John Borden constitutes a prior approval pursuant to the Administrative Rule dealing with the same. (We have conceded that it was, while finding it unacceptable under the Rule).

In such a pass, the burden correctly lies with Petitioner. It were inappropriate to burden the Department with the task of proving that no transaction in the history of the subject lots had occurred which would constitute acceptable prior approval of them. It is incumbent upon Petitioner to come forward with a showing of acceptable prior approval.

While the parties agreed that the Department was the moving party herein and the presentations were ordered accordingly, the Department's case is construed as a case in rebuttal to the anticipated case of Petitioner. In turn, Petitioner did not attempt to rebut the Department's case. Indeed Petitioner heartily agreed with the Department's contentions that the writing of Mr. Borden was tendered by Petitioner as prior approval and that the Department had refused a positive site evaluation on the subject property. Petitioner did not attempt to introduce his own evidence to refute the Department's showing that the subject property was not appropriate for construction of a subsurface septic system. Petitioner merely proffered evidence tending to prove the existence of prior approval.

Both parties are deemed to have waived objection to the ill-advised order of presentation for which your Hearing Officer must apologize.

Upon the above considerations, none of the Department's evidence need be considered of record for purpose of this PROPOSED FINAL ORDER.

[8] As the Department points out by way of post hearing brief, rules adopted by the State Health Division prior to the 1973 Act caused the approval here in issue to lapse. While we do not construe the Department to hold that the current Rule would not, in an appropriate circumstance, revive a lapsed approval, the history of regulatory and statutory evolution should have put Petitioner, a developer, on notice, it would seem, that such contingencies might affect his previous dealings.

[9] The Department, in any event, is not estopped to negate a prior approval where such retrospect is born of good faith administration of the Rule, a Rule presumably legislatively authorized and duly adopted by the Commission.

PROPOSED FINAL ORDER[9]

Pursuant to ORS 183.410 and 183.470, the Commission rules as follows:

Within the meaning of OAR Chapter 340, section 71-015(6), Mr. John Borden's letter of November 14, 1969 does not constitute an acceptable prior approval for purpose of Petitioner's application for an affirmative site evaluation and/or subsurface sewage disposal system construction permit (ORS 454.655) for the installation of subsurface sewage disposal systems on Lots 2 through 7 of Block 1 and Lots 1 through 3 of Block 2, Scott Ridge Subdivision, Clackamas County, Oregon.

Respectfully submitted,

PETER W. McSWAIN
Hearing Officer

---

[9] OAR Chapter 340, section 11-132(2) provides the parties fourteen days from the date of mailing hereof in which to file with the Commission and serve upon the other party a request for Commission review of this PROPOSED FINAL ORDER. Mailing to the Director of the Department of Environmental Quality is deemed an acceptable manner of filing with the Commission.

CERTIFICATE OF SERVICE

I hereby certify that on July ____, 1975, I served the foregoing PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, and FINAL ORDER on each of the Parties and on the Environmental Quality Commission by mailing a true and correct copy thereof, postage prepaid and correctly addressed to Raymond Pask, Attorney for Petitioner, at 4411 N. E. Tillamook Street, Portland, Oregon, to Robert L. Haskins, Attorney for the Department, at 555 State Office Building, Portland, Oregon, and to Joe B. Richards, Chairman, Environmental Quality Commission at 777 High Street, Eugene, Oregon.

Peter W. McSwain
Hearing Officer

ENVIRONMENTAL QUALITY COMMISSION

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

ROBERT W. STRAUB
GOVERNOR

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. H , February 20, 1976, EQC Meeting

Variance Request from Emission Limits: Klamath County Department of Public Works, Portable Rock Crusher

Background

Klamath County Department of Public Works operates a portable rock crusher at various locations throughout Klamath County. The crusher is composed of a jaw crusher, roll crushers, screens and aggregate belt conveyors; and has a normal production rate of approximately 120 TPH. The plant does not have any form of dust control system.

On June 12, 1975 Departmental personnel inspected the facility while it was set up near Stukel Mountain. The findings during the inspection indicated that the facility, as presently equipped, is not capable of compliance with Departmental regulations.

On August 20, 1975 the Department notified the public and Klamath County Road Department of our intent to issue an Air Contaminant Discharge Permit and submitted a proposed permit for discussion. As a result of the June 12 inspection, a compliance schedule, which requires final compliance by no later than April 1, 1976, was included in the proposed permit. On September 3, 1975 in response to the proposed permit, Klamath County Department of Public Works requested a permanent variance so as to allow the crusher to continue its present uncontrolled operation.

The specific regulations that currently limit emissions from rock crushers are outlined in OAR, Chapter 340, Sections 21-005 through 21-015 (Visible Air Contaminant Limitations) and Section 21-050 through 21-060 (Fugitive Emissions). These rules pertain to all rock crushers at all sites. There are no special exemptions for rock crushers at remote sites.

In response to the Klamath County request and similar situations throughout the state, the Department proposes to adopt a Specific Industrial Standard for rock crushers so as to exempt rock crushers operating at remote sites from the "Visible Air Contaminant Limitations", provided the applicant files for and receives an exemption and provides evidence that emissions will not cause a nuisance condition or have a significant adverse impact. A remote site will be defined in terms of distance from a residence, distance from an incorporated city and general sensitivity of the site location.

While operating at remote sites which have received an exemption, rock crushers will be subject to a regulation to limit nuisance conditions. Water sprays or their equivalent will be required for dry rock crushing operations where emissions are likely to cause such nuisance condition or adverse impact. Strict compliance with the visible limitations while at remote sites may be unnecessary and economically unjustified.

Klamath County claims that all fourteen sites at which they operate are remote and that only one has an available water source. The Department does not concur that all sites are remote. However, final site determination as to remote status is not possible or appropriate until the new rule is officially adopted. Requiring Klamath County to control emissions from their portable crusher at all sites would be an unnecessary economic burden in view of the anticipated Specific Industrial Standard for Rock Crushers. Currently, Klamath County's road department budget has been established through July 1, 1976 with no allowance for pollution controls for the crusher. Klamath County has indicated that if the proposed permit conditions were imposed, they would hold a public supplemental budget hearing for financing a control system or cease operations.

Analysis

Oregon Adminstrative Rules, Chapter 340, Section 21-015 limits visible air contaminants from a single emission point. The Klamath County Road Department portable rock crusher as currently equipped is not capable of continuous compliance with this limit.

The Department believes a variance should be granted based on Oregon Revised Statutes, Chapter 468.345(1):

> Forasmuch as "The Commission (Environmental Quality Commission) may grant specific variances which may be limited in time from the particular requirements of any rule or standard....if it finds that strict compliance with the rule or standard is inappropriate because:
> ....
>
> (a) Conditions exist that are beyond the control of persons granted such variance; (b) Special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or causes; or (c) Strict compliance would result in substantial curtailment or closing down of business, plant or operation;"

Summary and Conclusion

1. Klamath County Department of Public Works owns and operates a portable rock crusher at various sites throughout Klamath County.

2. This crusher does not have a dust control system.

3. Under normal operating conditions this facility is not in compliance with the Department's "Visible Air Contaminant Limitations".

4. Due to budget problems Klamath County Road Department is unable to pay for a control system during the current budgetary period. A new budget will not be available until after July 1, 1976.

5. Klamath County Road Department is requesting a permanent variance for their portable rock crusher while operating at the above mentioned fourteen sites. They believe these sites to be remote. The Department does not concur with the Klamath County belief that all fourteen sites are remote.

6. The Department believes that at some of the fourteen sites a dust control system will be necessary to maintain compliance with the new Specific Industrial Standard for rock crushers.

7. The Department proposes to adopt a Specific Industrial Standard for rock crushers which will address the problem of controlling operations at remote sites.

8. The granting of a variance by the Environmental Quality Commission for all fourteen sites could be allowed until January 1, 1977 in accordance with ORS 468.345.

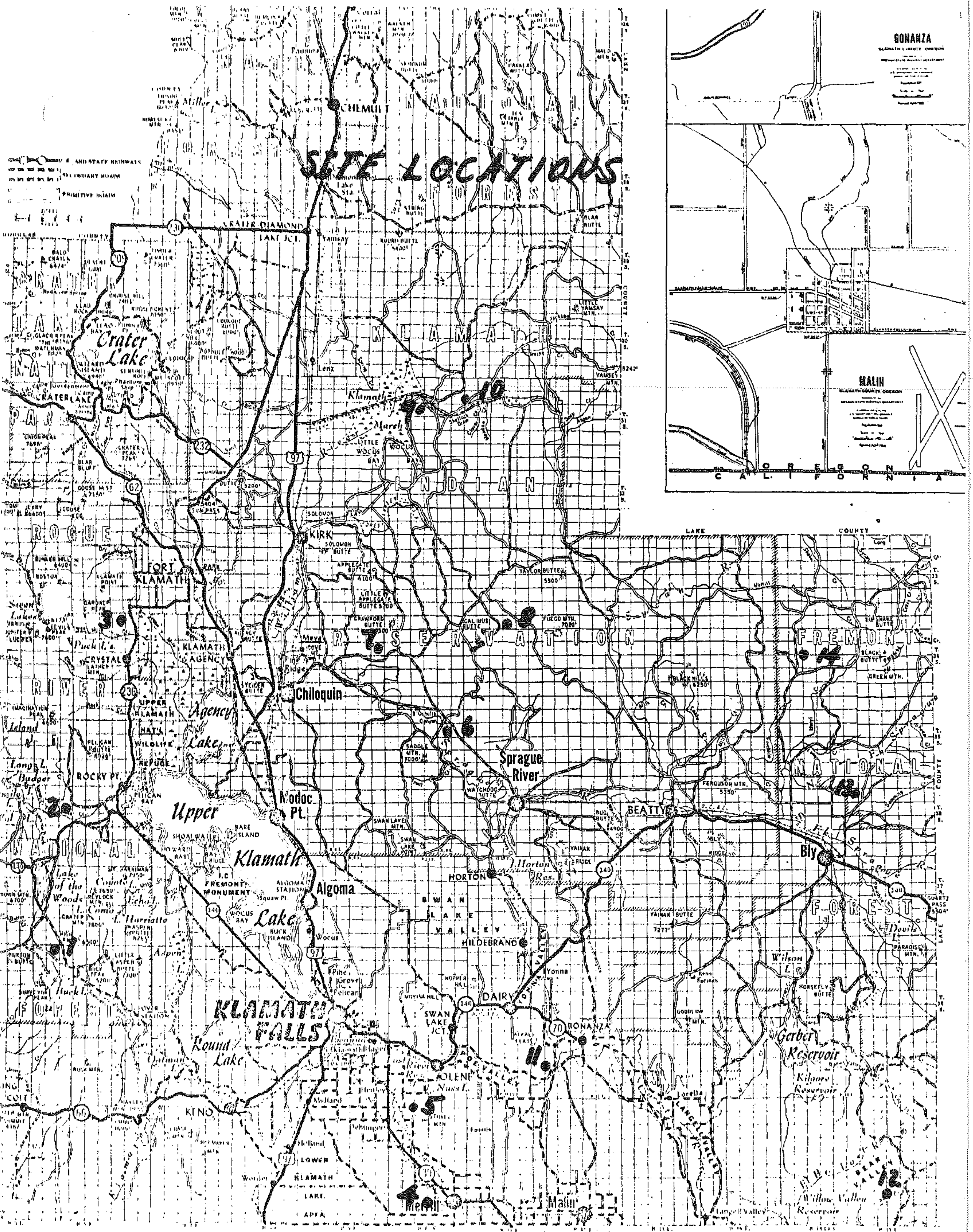
9. The granting of the variance is not expected to cause any violations of ambient air standards beyond these plant site areas.

Director's Recommendation

The Director recommends that the Environmental Quality Commission enter a finding that strict compliance at all fourteen sites is inappropriate in view of the anticipated Specific Industrial Standard for rock crushers. The Director also recommends that the Commission grant Klamath County Road Department a variance to operate their portable crusher at all fourteen sites out of compliance with OAR, Chapter 340, Section 21-015 or with any amendment thereof until 60 days after the adoption of such amendment, but not to extend past January 1, 1977 in any event.

LOREN KRAMER
Director

Attachments (2)
JAB:2/4/76



SITE LOCATIONS
CHEMULT
Crater Lake
KLAMATH
INDIAN
RESERVATION
Klamath Marsh
KIRK
FORT KLAMATH
KLAMATH AGENCY
Chiloquin
Agency Lake
Upper Klamath Lake
Modoc Pt.
Sprague River
BEATTY
Bly
FREMONT
NATIONAL
FOREST
Algoma
HORTON
HILDEBRAND
SWAN LAKE VALLEY
DAIRY
BONANZA
KLAMATH FALLS
Round Lake
KENO
OLENE
LOWER KLAMATH LAKE
Merrill
Malin
Gerber Reservoir
ROGUE RIVER
BONANZA
MALIN
OREGON
CALIFORNIA

Klamath County ~ Public Works Department

VETERANS MEMORIAL BUILDING — 503-882-2501 — KLAMATH FALLS, OREGON 97601

September 3, 1975

Mr. H. M. Patterson, Assistant Director
Air Quality Control Division
Department of Environmental Quality
1234 S.W. Morrison Street
Portland, OR 97205

REF: APPLICATION #0474,
Proposed Air Contaminant
Discharge Permit #37-0019.

Dear Mr. Patterson:

Please consider this letter as our official comments and requests regarding your proposed permit for the portable crusher owned and operated by Klamath County.

Our application for this permit was dated July 23, 1974 and a payment of $200.00 was made. The payment included the first total PCD fee in the amount of $75.00. A temporary permit was issued by your Department on March 4, 1975.

The background data furnished with the proposed permit is correct, but omitted the statement that it is used only at sites in Klamath County that are owned or leased by the County. These sites are remote, isolated and only one has a feasible water source. To the best of my knowledge, there has never been a citizen complaint regarding dust.

Your local field man recently inspected our crusher and wished to discuss compliance dates, which I was reluctant to do without knowing the requirements. It was agreed that compliance would depend upon the requirements of the proposed permit, but in no case would compliance be expected during fiscal year 1975-76, due to budgetary considerations. As you are aware, our Road Department Budget has been established through July 1, 1976 with nothing budgeted for this expenditure. If the decision of a final authority upheld the requirements of the proposed permit, we would hold a public supplemental budget hearing prior to compliance or cease operations.

We hereby officially request a variance to allow our present operation to continue. The variance is requested under the terms of O.R.S. 468.345 (1) (b) and (c) and is based upon the following facts.

1. O.R.S. 468.275 (5) defines air pollution as being likely to be injurious to public welfare, the health of human, plant or animal life, or to interfere with the enjoyment of life and property. Except for our employees on the site, we deny that our crusher produces air pollution within this definition. We do not believe this type of control was within the legislative intent. Our employees are properly protected by safety standards which are thoroughly regulated by another Agency.

2. O.R.S. 468.280 defines policy and the legislative intent. The intent is to undertake the program in a "progressive manner", free air pollution as is "practicable" consistent with "overall public welfare", and accomplish the program by cooperation and conciliation among all parties concerned.

3. Our sites are remote and are not injurious to the public. It would be very difficult to show any damage to plant and animal life. The sagebrush, junipers and sage rats appear to be doing well in the immediate vicinity.

4. The rock we produce is used for road building. It is not sold commercially. It is used only on roads under County jurisdiction. It is used primarily for the paving of roads, which prevents dust in populated urban areas and in agricultural areas. The dust produced at our remote sites seems much more desireable than dust produced on unsurfaced roads.

5. The cost of our rock production has been accelerating rapidly. The normal price rise has been increased by new mining standards, mining and reclamation permits, and safety standards. We are not certain of the fiscal impact of your permit standards, but without adquate water sources, our production costs may require us to cease operations or seriously curtail them. If so, our dust abatement program through the paving of unimproved roads in critical pollution areas will be reduced. The results will be opposite to the legislative intent as set out in the policy statement defined in O.R.S. 486.280.

We request that this variance be granted and that Klamath County be allowed to continue its present operations, with the provision that these operations be only at sites owned, leased or under cooperative agreement within Klamath County and that the material produced by these operations be restricted for use on projects within the jurisdiction of the Klamath County Road Department.

Very truly yours,

Lyle C. Smith
Director of Public Works

LCS:mt
cc: Board of Commissioners
Representative Gary Wilhelms
Senator Fred Heard

ROBERT W. STRAUB
GOVERNOR

ENVIRONMENTAL QUALITY COMMISSION

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item I, February 20, 1976, EQC Meeting

Rule Adoption - PROPOSED AMENDMENT OF OAR CHAPTER 340, SECTION 72-015(4)

Background and Hearing Report

By petition of November 26, 1975 (Attachment B), the Linn County Board of Commissioners petitioned the Environmental Quality Commission for changes in Linn County's fee schedule for subsurface sewage disposal system permits for Installation, Repair, Alteration, Extension, and Evaluation.

Pursuant to Commission authorization, publication in the OAR Bulletin, and required mailing of notice, a hearing on the proposed rule amendment was convened in the Linn County Courthouse at 9:00 a.m. on Thursday, February 5, 1976.

Mr. Dick Swenson, Linn County Sanitarian, offered a cost analysis to the record (Attachment C). This details increased duties with regard to permit processing and assigns costs to the activities (as divided between the fee funding and county expense).

As will be seen from the fourth page of the analysis, the county proposes a fee schedule which will: a) more closely reflect costs in some areas, particularly with regard to new installation permits while b) reducing repair permits even further below cost to provide repair incentive.

The Linn County Sanitarian advised the Commission's hearing officer that March 1, 1976 would be an appropriate effective date for the new fee schedule if it is adopted by the Commission.

No other testimony was given and no other persons were in attendance.

Conclusion

1. The proposed fee schedule amendment (Attachment A) is acceptable to the Department, desired by the affected county's government, and without opposition in the record.

2. Deference to Linn County's budgetary management argues for an effective date of March 1, 1976 for the new schedule.

Director's Recommendation

It is the Director's recommendation that the Commission adopt the proposed amendment to OAR Chapter 340, Section 72-015(4) to become a permanent rule, effective March 1, 1976.

LOREN KRAMER
Director

Attachments A,B.C.

PWM: 2/6/76

PROPOSED AMENDMENT OF OAR CHAPTER 340, SECTION 72-015(4)

Deleted matter in brackets - New matter underscored

(4) Pursuant to ORS 454.745(4) as contained in Section 10 of Chapter 167, Oregon Laws 1975, and to requests of the respective governing bodies of the following counties all of which have agreements with the Department under ORS 454.725, and notwithstanding the fees listed in subsection (1) of this section and subsection (1) of section 72-025,

(a) the fees to be charged by the counties of Clatsop, Crook, Curry, Deschutes, Douglas, Hood River , Jackson, Jefferson, Josephine, Lincoln, [~~Linn,~~] Malheur, Marion, Polk, Sherman, Tillamook and Wasco shall be as follows:

New Construction Installation Permit	$50
Alteration, Repair or Extension Permit	$15
Evaluation Reports	$25

except that in Douglas County the fee for alteration, repair or extension permit shall be $5, [~~and~~]

(b) the fees to be charged by the county of Clackamas shall be as follows:

New Construction INstallation Permit	$25	(in addition to evaluation report fee)
Alteration, Repair or Extension Permit	$25	
Evaluation Report		
- Applicant provides soil information obtained by registered sanitarian or professional engineer	$40	
- Applicant provides test holes for evaluation by county	$55	

- Test holes dug and evaluated by county $75, and

(c) effective from March 1, 1976, the fees to be charged by the county of Linn shall be as follows:

New Construction Installation Permit	$75
Repair Permit	$5
Alteration, Extension Permit	$25
Evaluation Reports	$50.

ATTACHMENT B

LINN COUNTY
BOARD OF COMMISSIONERS
P.O. Box 100
ALBANY, OREGON 97321

Telephone 926-4495

COMMISSIONERS:
GEO. K. MILLER
VERNON SCHROCK
IAN TIMM

STAFF ASSISTANT:
JON LEVY

26 November 1975

Environmental Quality Commission
1234 SW Morrison
Portland, Oregon

Dear Mr. Chairman:

The Linn County Board of Commissioners petitions the Environmental Quality Commission to change permit fees for waste disposal systems in Linn County.

Oregon Administrative Rules, Chapter 340, Section 72-015, Fees for Permits and Licenses, established fees for Linn County as follows:

Construction Installation Permit	$50.00
Alteration, Repair or Extension Permit	15.00
Evaluation Report (Fee is deducted from permit fee)	25.00

The Board of County Commissioners recommend the following changes:

Construction Installation Permit	$75.00
Repair Permit	5.00
Alteration, Extension Permit	25.00
Evaluation Report (Fee is deducted from permit fee)	50.00

We believe the proposed fees are more realistic to cost comparisons except the repair permit. We wish to reduce the cost burden of persons who desire to repair their septic systems and maintain a safe environment.

Your prompt attention in this matter is appreciated.

LINN COUNTY BOARD OF COMMISSIONERS

Geo. K. Miller
Chairman

Vernon Schrock
Commissioner

Ian Timm
Commissioner

ATTACHMENT B

LINN COUNTY

HEALTH DEPARTMENT

1975 Permit Cost Analysis
(Calendar Year)

Recently, the Linn County Board of Commissioners requested the EQC to adopt new fee schedules for Linn County with the following considerations:

a) The fee for obtaining a repair permit should be reduced in the interests of public health so that persons with failing sewage disposal systems would not be discouraged to take corrective action due to cost of permit.

b) The fee for obtaining a permit for a new septic tank installation should more nearly reflect the cost of issuing that permit. This fee should be less than the $100.00 State fee for a new septic tank permit.

Attached is a cost analysis study done for the period covering 1975. The current fee for a new septic tank installation permit is $50.00 and has been in effect since April 1, 1974. Since that time new laws have been adopted and new programs required in the subsurface area that affect cost of processing permits. For example: 1) Applicants now have 90 days from the date of the original application to find a suitable site. In other words, a Sanitarian must go back to a parcel as many times as the applicant provides test sites during that 90 day period. 2) Creation of the variance and rural area programs have increased the Sanitarians' time involved with technical consultations to aid applicants who have been denied permits for standard septic system but may qualify for an alternative system permit. 3) Sanitarians will do a winter water check on

denied parcels to make absolutely sure that the parcel cannot meet the rules or if findings prove different he can reverse the previous denial to an approval.

The philosophy of the program is to work with applicants to find a suitable site and issue permit if at all possible.

Finally, the cost of processing permits for new installations are nearly identical for repairs and alterations. The same permit process, i.e. number of visits is required. Denials cost the same as new installations but the fee is $25.00 since the 2nd $25.00 fee is not collected (no permit issued).

METHOD

Thru daily activity sheets and past experience 70 to 75% of the Sanitarians' time is spent carrying out the DEQ program. The secretary and bookkeeper similarly spend 70 to 75% of their time in the DEQ program. The zoning review takes approximately 0.25 hours (15 minutes)/permit application. An analysis of 25% of the closed permit files reveals the average number of visits to a site is 3 and that 12.24 miles is average distance travelled for 1 site visit. The motorpool indicates vehicle expense/mile = 20¢. Again it is calculated that 70 - 75% of office expense is spent on the DEQ program.

To be conservative the lower 70% figure was used in making the following calculations in the table.

1975 Permit Cost Analysis
(Calendar Year)

1. Sanitarian cost — $58.40

   70% total wages/# of applications
   .7 X $37,548./450 =
   3 Sanitarians/does not include Directors salary

2. Secretary & Bookkeeper — $11.23

   70% total wages/# of applications
   .7 X $7,222./450

3. Zoning Administration — $ 2.25

   0.25 Hrs/Application

4. Automobile Expense — $ 7.34

   $0.20/mile X average 12.24 miles X 3 visits

5. Office Expense — $ 5.39

   .7 X $3,466./450

Total cost per permit	$84.61

CONCLUSION

Under the existing fee schedule the County is subsidizing the various permits as follows:

	Existing	Subsidized	Proposed	Subsidized
New Installation Permit	$50	$34.61	$75.	$ 9.61
Repair	$15	$69.61	$ 5.	$79.61
Alteration, extension	$15	$69.61	$25.	$59.61
Denial	$25	$59.61	$50.	$34.61

Under the proposed rates the hardship would be lessened for repair permits. New installation permits would still not be fee supporting but would show marked improvement over the existing fee schedule.

It should be noted that State law allows a $100.00 fee for new installation permits of which neighboring counties have adopted.

ENVIRONMENTAL QUALITY COMMISSION

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

ROBERT W. STRAUB
GOVERNOR

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. J, February 20, 1976, EQC Meeting

Oregon Portland Cement Company, Lime Oregon
Variance Request -- 1.0% Sulfur Content of Coal

Introduction

On January 29, 1976, Oregon Portland Cement requested a variance to OAR, Chapter 340, Section 22-020 and from Condition 7 of their Air Contaminant Discharge Permit for the purpose of experimentally burning coal containing about 1.6% sulfur and conducting emission tests to determine the effects of product and sulfur oxide emissions. All emission tests would be performed by qualified consultants using methods approved in advance by the Department.

If the variance is approved, the tests will be performed in late February or early March of 1976. The test period should run for seven to eight days. If the test results warrant, Oregon Portland Cement will request a longer term variance to OAR Chapter 340, Section 22-020 and modification of their Air Contaminant Discharge Permit so as to allow routine use of coal with a sulfur content above 1.0%. The proposed tests will provide information for modifying the Air Contaminant Discharge Permit if such action should be warranted. The use of high sulfur coal would help reduce the demand for low sulfur coal, and thus be consistent with the national goal of energy independence and fuel conservation.

Background

Oregon Portland Cement Company owns and operates a wet process cement manufacturing plant located along U. S. Highway 80-N about five miles north of Huntington, Oregon. The plant produces about 550 tons of cement per day and consumes up to 200 tons of coal per day. Plant production generally parallels the construction activity in Eastern Oregon and Boise, Idaho areas. The facility is operating on an approved compliance schedule for controlling particulate emissions from the cement kilns. A variance to the particulate emission limitations in OAR Chapter 340, Sections 21-015, 21-030 and 21-040 has been approved by the Commission during the control program.

Condition No. 7 of the permit for the Huntigton plant (#01-0010) limits the sulfur content of coal used for fuel to 1.0% by weight (OAR Chapter 340, Section 22-020). This sulfur limitation may be unnecessary and burdensome in this case since cement kilns may be well suited for the burning of coal containing more than 1% sulfur due to the conversion of gaseous sulfur oxides to particulates within the kilns. The particulates in turn become a part of the cement clinker. Since all of the sulfur in fuels used in cement kilns is not emitted to the atmosphere as SO_2, use of "high" sulfur fuels, i.e., coal by this industry may be an environmentally sound program.

The following excerpt from the conservation paper dated November 26, 1975, published by the Federal Energy Administration, supports this idea.

> "Assessment of Higher Sulfur Fuels: In terms of fuel requirements, most of the cement industry is potentially an ideal consumer of higher-sulfur fuels, particularly bituminous coal, a commodity which, for environmental reasons is not acceptable for power generating plants or other applications. Because of the nature of the process, cement manufacture can use higher-sulfur fuels without the SOx emission problems experienced by power plants, and such use is in progress at some plants. During the formation of cement clinker, lime-rich materials are found through the kiln. These reactive materials are capable of combining with sulfur oxides formed by combusion of the fuel. In effect, the sulfur from the fuel becomes part of the cement clinker rather than being emitted into the atmosphere. Indeed, lime scrubbing and lime additions are used for reduction of SOx emissions in power plants. The recognition and acceptance of these techniques in both the cement and power industries would make available large deposits of higher-sulfur fuels which remain unused because of environmental regulations and economic considerations. This objective can be achieved without expensive pretreatment of those fuels."

Analysis

The proposed tests require the use of 1500 tons of 1.6% sulfur coal. This is about 7 1/2 days of coal requirement. The test program is not expected to cause either violations of sulfur dioxide standards or adverse enformental effects. Test results will be most beneficial in determining the feasibility of allowing the use of all higher-sulfur coal at this facility.

The Department believes a variance should be granted for the purpose of the test program pursuant to ORS Chapter 468.345(1):

> Forasmuch as, "The Commission (Environmental Quality Commission) may grant specific variance which may be limited in time from the particular requirements of any rule or standard...if it finds that strict compliance with the rule or standard is inappropriate because:
> ...

(a) Conditions exist that are beyond the control of persons granted such a variance; (b) Special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or causes;"

Summary and Conclusions

1. Oregon Portland Cement Company owns and operates a cement manufacturing plant near Huntington, Oregon which is currently using coal for fuel. This coal is limited to 1.0% sulfur by weight by OAR Chapter 340, Section 22-020.

2. The sulfur limitation may be unnecessary and burdensome in this case because some of the sulfur oxides react with the clinker and are not emitted to the atmosphere.

3. OPC proposes to conduct emission tests to determine how much SO_2 is emitted when 1.6% sulfur coal is burned.

4. The Environmental Quality Commission may grant a variance for the period of the test in accordance with ORS 468.345.

5. The granting of the variance is not expected to cause any violation of ambient air standards beyond the plant site area.

6. The test results will provide information for modifying the Air Contaminant Discharge Permit if warranted.

Director's Recommendation

The Director recommends that the Environmental Quality Commission enter a finding that strict compliance with OAR Chapter 340, Section 22-020 is inappropriate during the experimental program described above because strict compliance may be unreasonable. The Director also recommends that the Commission grant Oregon Portland Cement Company a variance to operate its Huntington Plant outside of strict compliance with OAR Chapter 340, Section 22-020 until whichever occurs first: (1) 1500 tons of coal containing more than 1.0% sulfur are burned, or (2) March 31, 1976.

LOREN KRAMER

JAB:cs
2/9/76

Attachment (1)

OREGON PORTLAND CEMENT COMPANY

INCORPORATED 1915

January 29, 1976

Mr. Harold M. Patterson
Assistant Director, Air Quality Programs
Department of Environmental Quality
1234 S. W. Morrison Street
Portland, OR 97205

Dear Mr. Patterson:

In recent months we have discussed with several DEQ staff people the widely held opinion that cement kilns are particularly well suited for the burning of relatively high sulphur coal due to their inherent ability to convert gaseous sulphur to particulates which become a part of the cement clinker produced. We now have an opportunity to work with Consolidation Coal Company in a test program at our Lime, Oregon plant to burn a limited quantity of rather high sulphur coal from their strip mine properties in Emery County, Utah and determine what the effect on SO_2 emissions will be. The Emery coal is projected to run about 1.6% sulphur.

For the purpose of conducting the test with Emery coal, we request that your Department allow us to exceed the 1% limit on coal as set forth in OAR 22-020. The amount of coal exceeding 1% S by weight would be 1500 tons, plus or minus one rail carload. The test would be conducted as soon as possible and would probably be in late February or early March, 1976. Stack testing for sulphur dioxide while burning the Emery coal and while burning our usual low sulphur coal would be performed by a qualified commercial testing company by methods approved in advance by DEQ. We further would invite and welcome DEQ to observe and independently evaluate results obtained.

We anticipate that the results of the tests may be of significant value to all parties concerned and hopefully can contribute in a small way towards our national goal of energy independence. Your early response to our request will be very much appreciated.

Very truly yours,

OREGON PORTLAND CEMENT COMPANY

Edmond L. Miller

Edmond L. Miller
Assistant Vice President - Production

ELM/pk
cc: Jesse J. Jacobsen, Consolidation Coal Company, Denver, CO

111 S.E. MADISON • PORTLAND, OREGON 97214 • (503) 233-5353

GARY FARMER CONSULTING GROUP

Nuclear Radiation—Ecological Sciences

13 February 1976

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

Ref: Proposed Rules Pertaining to Environmentally Hazardous Wastes.

Gentlemen:

These proposed rules should not be adopted. The fundamental principles of proof for classifying certain products as hazardous by the EPA are false, and in fact fraudulent and deceptive. The concepts of carcinogenicity, the scope of assessment, and the testing programs by governmental agencies, including your Department, are actual grounds for a "class action" suit for "lack-of-truth-in-advertizing." A private person or company would surely be prosecuted for using the same fraudulent concepts.

I furnish excerpts from a recent report by the Council for Agricultural Science and Technology, a prestigious and independent group of the finest toxicologists and environmentalists in the world. On the basis of this data, DEQ should postpone further action on these rules and ask the next session of the Oregon legislature to request repeal of OAR 340, Div 6, Subdiv 3.

Paragraph 63-040 is the most outlandish, intolerable, and undoubtedly unconstitutional rule proposed. It represents blatant governmental stupidity and official ignorance. To suggest such a degree of coercion and encroachment on interstate commerce is legal by way of a law and subsequent regulation is a clear example of the extent to which the "tyranny" of governmental power has evolved in Oregon. Public health and safety is one thing; coercive force based on stupidity and ignorance is quite another.

At the 22 Sep 75 hearing, I asked that a cost-benefit-risk analysis be provided for this program. The Council for Agricultural Science and Technology has also looked at the economic impact of similiar EPA actions (on which these rules are based) and in reference to registering pesticides alone, conclude:

(a) The scope of the EPA analysis is excessively narrow.
(b) The economic analysis is inadequate from the standpoint of both the methods used and the items considered.
(c) The benefits derived from the actions in question are neither indicated nor quantified.
(d) The information in hand strongly suggests that there are significant economic impacts requiring that an inflationary impact statement be filed as required under Executive Order 11821.

On this basis, the DEQ should summon the moral integrity to provide the public with an economic accounting of the cost-benefit-risk analysis of the implementation of this program. The taxpayers and science are being "ripped-off" by programs such as this one. If it is sound after an economic analysis , ie., the data can withstand testing, why hasn't one been conducted? What possible harm could come from such an analysis? What is the reason for not doing it? Have Oregon bureaucrats become so powerful they can ignore the public's requests for essential and basic scientific and monetary information?

7315 NW Kaiser Road—Portland, Oregon 97229—Telephone (503) 645-2426

As an example of how flimsy the foundation of this program is, I provide the following information: At the start of the 22 Sep 75 hearing, a statement was read to the public that pesticides as referenced to containers and container disposal was a hazard and that "a number of deaths had ocurred" presumably in Oregon, though it was not clearly stated. Knowing this to be untrue, I asked for specific information in this regard and on 22 Oct 75, I received a letter from Mr. Loren Kramer, signed by Mr. Patrick Wicks, that a death ocurred in Nebraska in 1968, and another one in Texas in the same year. On a cost-benefit-risk basis this would not support a very extensive program in Oregon.

The argument that there have been numerous deaths in livestock and in the international community from toxic pesticides, specifically the organo-phosphates, does not become the Environmental Protection Agency and those state agencies who submitted to the DDT ban, for it is because DDT is not available, that these more toxic agents are being forced on the public.

These inhuman, unethical, and unscientific acts, resulting in economic disaster and suffering wrought by governmental agencies and officials represents the low point in Western civilization. As countless millions are dying from disease, malnutrition, preventable disorders and lack of economic means, thousands are being wasted in this state and millions in this nation on programs which not only adversely impact on the economic well-being of Americans, but the millions in emerging nations who could benefit from the increased productivity that would result if such programs as these were scrapped.

No amount of propaganda, slick advertisement at taxpayers expense, or phony "scientific" data can transform the lie to the truth. It may succeed for a time, at a great cost, but eventually will fall by its own lack of marrow. If the DEQ is truly interested in the public health and safety, let them work in areas where the need exists and the benefits are reproducible, ie., in drowning-prevention, suicide-prevention, auto deaths and a host of other significant health and safety hazards.

Very truly yours,

Gary Farmer, DVM

Enclosure: Comments from CAST (Council for Agricultural Science and Techonology)

PS. I fully realize that those hazards mentioned in the last sentence are not the responsibility of the DEQ, but the honest recognition of such true conditions is the responsibility of all citizens, and DEQ officials should be among the leaders in insisting that "first things first" be done, at the greatest public good for the most economic and scientific gain.

CAST- The Council on Agricultural Science and Technology.

COMMENTS FROM CAST*

CAST RELEASES FOUR REPORTS

In a record numerical achievement, CAST released four reports in a six-day period from October 16 to October 21. All were short, however. First on October 16 was No. 48 entitled CBS CANCER BOGEYMAN. This brief report was prepared by a panel of five scientists who analyzed the CBS television program, THE AMERICAN WAY OF CANCER, aired on the evening of October 15. The basic premises of the program were that America is No. 1 in cancer, that the chemicals of modern industry may well be responsible, and that an epidemic of chemically derived cancer may descend on us in the years ahead. The scientists pointed out what they considered the fallacies in the CBS position. Their statement was released to the press.

Report No. 49, entitled REVIEW OF ECONOMIC IMPACT OF PROPOSED GUIDELINES FOR REGISTERING PESTICIDES IN THE UNITED STATES, was sent forward to EPA on October 16. This report was prepared in response to a notice in the FEDERAL REGISTER inviting comment on the economic impact analysis was not properly done and that, from the various actions taken over a period of years, EPA had selected for examination the actions taken on one day only. The opinion of the panel was that if the analysis had been properly done and if the scope had not been so narrowly defined, the economic impact found would have been much greater and would have justified an inflationary impact analysis.

Reports 50 and 51, dated October 21, were actually sent forward to EPA on October 20. These reports are reviews of draft versions of two documents EPA has prepared to guide states in developing procedures for controlling nonpoint pollution from agricultural sources. The documents, which apply to Section 208 of the Water Pollution Control Act Amendments of 1972 (Public Law 92-500), represent a part of EPA's obligation under the law to provide information to states. Some consider it unlikely that broad land-use legislation will be passed but that a de facto land-use policy will be established by increments. The implications of Section 208, as spelled out in the EPA documents, certainly constitute a major step in this regard. Implementation by states of the EPA interpretations of this section will result in transference of much of the decision-making power in agriculture from the farmer to the government. Pages 1 to 3 in CAST Report No. 50 record the comments of the task force on the basic philosophy.

REVIEW OF ECONOMIC IMPACT OF PROPOSED GUIDELINES FOR REGISTERING PESTICIDES IN THE UNITED STATES

CAST Report No. 49
October 20, 1975

This report represents the joint efforts of a task force including expertise in agricultural economics, agronomy, and weed science. The task force met in Chicago on September 7 and 8, 1975, to discuss the assignment and to prepare a draft of the report. After two revisions of the report, with circulation to members of the task force for comments, a third draft was prepared and sent forward to the Headquarters Office for editing, reproduction, and forwarding to the Environmental Protection Agency.

SUMMARY

This report is a review of the notice entitled "Economic Impact of Proposed Guidelines for Registering Pesticides in the United States," published by the Environmental Protection Agency (EPA) in the FEDERAL REGISTER, Vol. 40, No. 164, pages 36798 to 36802, 1975. As an aid to understanding and evaluation, the task force had available for study the documents prepared by Arthur D. Little, Inc., (ADL) and Development Planning and Research Associates (DPRA) on the same general subject, prepared under contract by the respective organizations for EPA. The ADL document is not an economic impact study. The DPRA document, which was rejected in draft form by EPA, estimates the economic impacts to be significantly greater than those found by EPA.

According to the notice published by EPA, the economic impact is to be determined by ascertaining "the incremental costs occasioned by complying with registration requirements just after final promulgation of the Guidelines to the regulations over the cost which would be incurred just before their promulgation." The guidelines under analysis are part of the EPA activity directed toward implementation of Section 3 of the amended Federal Insecticide, Fungicide, and Rodenticide Act, which became law in 1972.

Only one part of one section of the 1972 legislation was considered by EPA in the analysis, Section 162.8. For determination of economic impact the selection of a single action from the many actions taken over a period of several years seems inappropriate. Although the optimum size of the package for analysis may be debated, analysis of a larger package than Section 162.8 would serve the useful purpose of allaying accusations that the analysis has been divided into excessively fine pieces to avoid the determination of significant economic impacts.

In defining the scope of the analysis, EPA stated that "the guidelines will be imposed only on pesticide active ingredients, not on individual products, and then only under specifically identified conditions." This definition greatly restricts the scope. EPA will no doubt find it necessary to reregister many formulations as well as the active ingredients. If formulations are to be reregistered, the economic impact of such reregistration is a valid part of the analysis. On the other hand, if the requirements for reregistration are being reduced to a portion of the active ingredients, as the quotation implies, this policy should be documented in a definitive statement available to the organization doing the economic analysis and to the chemical industry.

One of the prerequisites of a meaningful economic analysis is that the items expected to have a significant economic impact must be considered. The EPA analysis does not take into account such items as restricted-use pesticides, experimental use permits, state registrations for local needs, presumptive denials, cancellations and suspensions, and monitoring and enforcement of regulations.

A basic problem in the EPA analyses is that it does not use an economic approach suitable for determining the net economic impact of the changes required under the guidelines. Appropriate general methods are not

* The Council for Agricultural Science and Technology.

yet available, and, until they are, the estimates developed will lack the desired quality. In the meantime, the best available methods should be applied to the several components of the analysis. There are several instances in which standard economic principles have not been utilized. For example, the elasticities of supply and demand for pesticides, agricultural inputs, agricultural products or food products are not recognized.

The impact of the guidelines on major crops will probably be an increase in cost of pesticides, agricultural products and food. Some pesticides used on minor crops may be eliminated where adequate substitutes do not exist, resulting in increased production costs or lower yields.

Since the states are required to use the same procedures established by the federal government, some states may be expected to reduce their costs by discontinuing their registration activity. Others will gear up to the federal requirements, increasing their costs.

In addition to the short-run impacts, the increased costs associated with registration and reregistration will reduce the incentive to develop new pesticides, with impacts of the following types: (a) Reduced pesticide sales and crop production wherever satisfactory alternative pesticides are not available as replacements for those to which pests develop resistance. (b) Reduced likelihood that pesticides considered more environmentally acceptable will be developed. (c) Elimination of some small pesticide companies and transfer of part of their market to the larger companies. (d) Decreased attention to pesticides for minor uses. (e) Increased incentive for research on biological controls and crop-management systems.

To measure adequately the economic impacts of a change in public policy, it is necessary to determine the net economic impact of that change. The net impact is the balance of costs and benefits. In addition to the industry-level costs and benefits, the following are suggested for consideration in the economic impact analysis: (a) the safety and health of the public, (b) the shifts in choices of pesticides for specific uses, (c) a proper accounting of increase in employment associated with testing, monitoring and enforcement activities and the decrease in employment associated with removal of certain pesticides from production and (d) the shift from prophylactic use of pesticides in the direction of pest-scouting programs.

In conclusion: (a) The scope of the EPA economic impact analysis is excessively narrow. (b) The economic analysis is inadequate from the standpoint of both the methods used and the items considered. (c) The benefits derived from the actions in question are neither indicated nor quantified. (d) The information in hand strongly suggests that there are significant economic impacts requiring that an inflationary impact statement be filed as required under Executive Order 11821.

CBS CANCER BOGEYMAN

Most cancer is environmentally caused. This assertion was linked to the chemicals produced by modern industry in the CBS television program, "The American Way of Cancer," aired at 10 P.M. eastern time last night. The evidence is indeed that most cancer is environmentally caused, according to a panel of five scientists asked by CAST, the Council for Agricultural Science and Technology, to comment on the CBS program. But the implication that modern chemicals are, or may be, responsible for a widespread epidemic of cancer is conjecture.

The fact is that the cause of most cancers is not known. Cancers are considered to be largely environmentally related because genetic factors do not seem to answer the total question and because environmental relationships have been found in certain industrial situations and in smoking. Moreover, the incidence of different kinds of cancers varies over the world and does not seem associated with race. For example, Japanese have a relatively high incidence of stomach cancer. But when persons of Japanese origin live in the United States, the incidence of stomach cancers decreases, and they have more cancers of the colon, like Americans of predominantly European origin. At least one kind of cancer that is fairly common in Africa does not seem to occur anywhere else in the world.

The CBS statement that "America is Number 1 in cancer" is in conflict with the 1973 World Health Organization Statistics Report, Vol. 26, pp. 30-33, showing that the United States stands midway among the developed countries as regards the death rate from cancer. According to these statistics, the overall death rate from cancer in the United States in 1970 was 161.8 per year per 100,000 of population. But in the same year there were 10 countries with cancer death rates in excess of 200 per year per 100,000 of population.

Age is a primary factor in cancer incidence. The death rate due to cancer is about 6 per year per 100,000 in children in the first few years of life. For people of age 65, it is of the order of 600 per year per 100,000. For people of age 80, the figure is about 1,200 per year per 100,000. The age distribution of the population is therefore an important factor in cancer incidence. The lower rates of cancer in some of the developing countries are related to their age distribution. These countries have not yet controlled infectious diseases as effectively as the more industrialized countries, and so the population is, on the average, younger. Fewer persons are in the "cancer age."

Some of the chemicals associated with industrialization are carcinogens, and special effort must be made to avoid significant exposure of people to such chemicals in their working place, in agriculture, and in food. The incidence of environmentally caused cancer associated with people's occupations, however, accounts for less than 1% of the cancer in industrialized countries, according to statistics compiled by Higginson, Director of the International Agency for Research on Cancer (a part of the World Health Organization).

There is no evidence that an epidemic of industrially caused cancer in the general population either exists or is developing in the United States. Our regulatory agencies are charged with seeing that such an epidemic does not develop, and they are extraordinarily cautious in this regard. If they should let something slip past, they would be the first to get the blame. There is no evidence, for example, that pesticides have caused cancer in people or that residues of diethylstilbestrol (DES) in beef liver or in other foods have

caused cancer in people. The body possesses mechanisms to rid itself of the traces of such substances that we normally encounter.

Chemicals associated with industrialization are relatively convenient subjects for carcinogenicity testing in animals such as the mouse and the rat, and this is perhaps why these chemicals are emphasized so much. A major remaining problem in cancer, however, is what caused the cancers that killed our grandparents before industrialization and still remains a threat to us and our children. The main body of cancer has not changed with industrialization. The differences in kinds of cancer from one part of the world to another are important keys to the causes. We have yet to learn how to use these keys to unlock the secrets of the dread disease.

The panel of scientists responsible for these views included Dr. Ralph Fogleman, Consultant, Ringoes, New Jersey; Dr. Wayland J. Hayes, Professor, Center in Toxicology, Department of Biochemistry, Vanderbilt University; Dr. W. Eugene Lloyd, Professor of Toxicology, College of Veterinary Medicine, Iowa State University; Dr. Keith Long, Director, Institute of Agricultural Medicine and Environmental Health, University of Iowa; and Dr. Sheldon Murphy, Associate Professor of Toxicology, Harvard University School of Public Health. Dr. Fogleman is President-Elect of the American College of Veterinary Toxicologists, and Dr. Murphy is Immediate Past President of the Society of Toxicologists. The Council for Agricultural Science and Technology is an association of 16 agricultural science societies including the American College of Veterinary Toxicologists.

News release from CAST
Ames, Iowa, Oct. 16, 1975

CHLORDANE AND HEPTACHLOR

Following is a summary of CAST Report No. 47, entitled "Chlordane and Heptachlor." The report, prepared by a multidisciplinary group of 22 task force members and 11 consultants, was delivered in Washington by special courier on October 3 for use in the Environmental Protection Agency suspension hearings now in progress. The report discusses the chemistry of chlordane and heptachlor; their behavior in the environment; pest management by persistent insecticides; use of chlordane and heptachlor for control of pests that attack field crops, fruit and vegetable crops, specialty crops, and structures; the hazards of chlordane and heptachlor to nontarget vertebrates, invertebrates, and man; the basis for continued use; and research needs. Special attention is paid to the question of carcinogenicity because the Environmental Protection Agency is making its case on this issue.

SUMMARY

Chlordane and heptachlor are chlorinated hydrocarbon insecticides in the cyclodiene group. Although technical heptachlor contain minor quantities of certain constituents in common, the parent chemicals present in major proportion are not identical either with each other or with aldrin or dieldrin, which also are members of the cyclodiene group insecticides. The basic chemistry, biological activity and degradation products of chlordane and heptachlor are not the same. Consequently, there are certain similarities and also certain differences in the behavior of these two insecticides and in their effectiveness and use for various purposes.

Chlordane and heptachlor are relatively persistent compounds in the environment. Their half-lives in the soil are approximately 1 year and 0.8 year, respectively, when used at agricultural rates. With an annual application of 1 pound of heptachlor per acre, the maximum level in the soil would theoretically approach 2 pounds per acre immediately after an application. Surveys show, however, that such levels rarely occur. Residues rarely persist in detectable quantities more than 5 years after the last application when the insecticides are applied at agricultural rates. Chlordane residues have been found in greatest quantities in soils of urban areas. Concentrations ranging from traces to mean values of 1.5 parts per million of chlordane and its metabolites have been reported.

Chlordane and heptachlor are adsorbed to soil solids and hence tend to remain near the site of application in soils. Only very small amounts are leached downward in soil. Below the plowed layer, residues are either not detectable or present in exceedingly low concentrations. In surface waters, chlordane and heptachlor have been either nondetectable or present in traces up to mean values of 6 parts per trillion. With other chlorinated hydrocarbon insecticides that are strongly adsorbed to soil solids, losses in eroded sediments measured experimentally usually have not exceeded 2% of the amounts present. The same is probably true of chlordane and heptachlor. The volatility of heptachlor exceeds that of chlordane. Although both have low volatility, the evidence indicates that volatilization is a major pathway of loss of these insecticides from soils.

Heptachlor is absorbed by plants from soils, but concentrations in plant tissues have rarely exceeded 1 part per million and are usually much lower. Animals may derive residues from the food they ingest. In earlier years, when heptachlor was being used on extensive areas in the Southeast to control the fire ant, ingestion of residues killed a number of birds and resulted in sublethal accumulations in others. When the program was discontinued, however, the residues gradually disappeared. Reports of heptachlor residues in bodies of predatory birds have been few, and even in these the concentrations have been low and less than those in omnivorous species. There seem to be no reports of heptachlor residues in fish-eating birds even where these birds have contained residues of certain other chlorinated hydrocarbon insecticides. Heptachlor residues have been reported in concentrations up to 20 parts per million in earthworms and 0.45 part per million in fish. Concentrations up to 46 parts per million have been reported in small mammals, particularly rodents. Residues in invertebrates and large mammals have been low or not detectable. There is little evidence of accumulation of heptachlor residues in food chains.

Chlordane similarly is absorbed by plants from soils, but the concentrations found in plants from this source have been low. Mean chlordane residues found in earthworms have ranged from traces to 0.1 part per million. There have been a few reports of chlordane residues in fish, but no reports of residues in birds, reptiles or amphibians. Residues have been found only occasionally in wild mammals. Evidence of concentration of chlordane in food chains is lacking.

The relative persistence of chlordane and heptachlor confers on these insecticides the following advantages in comparison with less persistent compounds: (1) Fewer applications are required for acceptable control. (2) Hazards to humans, economic costs, energy requirements, and mechanical and managerial problems associated with application are reduced. (3) Placement in the soil before the injurious stage of the pest develops reduces early-season damage and prevents pest population peaks. (4) Placement in the target area is improved when the insecticide can be incorporated in the soil before planting as opposed to application by foliar sprays. The incorporation in the soil and immobility after application result in less short-term movement to nontarget areas. (5) The total amount of insecticide required is reduced. (6) The infestation or reinfestation of wood by destructive insects is prevented or reduced over a long time span.

The disadvantages of the relative persistence of chlordane and heptachlor in comparison with less persistent insecticides include the following: (1) The potential for development of insect resistance is greater. (2) The potential for extended loss by erosion is greater. (3) Heptachlor residues from a treatment in one year may cause legally unacceptable residues in carrots or peanuts planted the next year. Another disadvantage of some relatively persistent compounds that does not apply to chlordane and heptachlor is that the potential for concentration in food chains is increased.

One of the most extensive uses of chlordane and heptachlor is for controlling soil-inhabiting insects that attack corn and other field crops. All heptachlor uses are as seed treatments or soil applications. Use of chlordane and heptachlor on fruit and vegetable crops is less extensive than on corn but is important for certain pest problems. The usage on fruit and vegetable crops is such that these commodities are virtually free of chlordane or heptachlor epoxide. Since 1968, more than 98% of U.S. -grown root vegetables have been free of chlordane residues, and 96.8% have been free of heptachlor epoxide residues.

With field crops, the alternative compounds to chlordane and heptachlor for controlling insect species now controlled by chlordane and heptachlor may be feasible. The alternatives would cost more to apply, and the ingredients are more expensive. These added costs would not likely affect consumer prices because not much of the output of the field crop industry would be affected. Loss of chlordane and/or heptachlor would increase costs for certain farmers, however, and these increases could not be passed along to consumers.

Insecticides are one of four key factors in the great increase in the total corn crop in the past few decades. Except for the states in which corn rootworms have developed resistance, the use of substitute insecticides that are less effective than chlordane and heptachlor would cause the loss of part of the profitability of the current cultural system. As a result, there would be a trend in the direction of fewer consecutive years of corn, and the toal number of acres planted to corn and the total corn crop would consequently be reduced. Substitute crops of lower profitability would be grown instead, with a series of consequences that might well have considerable economic impact.

If chlordane were not available, there would be yield losses and increased cash costs where certain vegetables, citrus fruits and strawberries are concerned. According to USDA data, yield losses would be about 3% on the areas affected. With strawberries, however, the losses on affected areas could amount to as much as $75 per acre.

The culture of ornamental plants, including flowers, shrubs, trees and turf grass, is a big business in the United States. In California alone, wholesale nursery production was valued at more than $400 million in 1974. Such plantings rely heavily on chlordane for pest control. Nearly 40% of the chlordane produced in 1974 was used around or on ornamental plants. There are over 16,000 golf courses in the United States, and chlordane is used extensively to protect the greens from soil insects and from predators, including skunks, moles and birds, that would otherwise damage the greens searching for grubs and beetle learvae.

There are more than 25 major insect pests that cause serious damage to ornamental plants and for which there is no equivalent insecticide alternative in some parts of the country. For use on golf greens, there is no available substitute for chlordane.

The greatest need for chlordane in the home garden is to control onion maggots and other root-feeding insects on vegetables. Chlordane is the only insecticide available to control the snowy tree cricket on trees and bush fruits.

As is true of less persistent compounds, chlordane and heptachlor make a valuable contribution to integrated pest management programs when properly used.

No satisfactory replacement exists for chlordane as a residual chemical barrier around houses to keep out the multitude of migrating insect invaders such as ants, weevils, crickets, ground beetles, millipedes, sowbugs, pillbugs and spiders that enter homes by crawling. Chlordane is the present-day replacement for the arsenical pastes and syrups that were used earlier.

Because of the safety, effectiveness and persistence of chlordane, federal and state personnel depend on chlordane where regulations require pest-free stocks for interstate shipment and where forest products and certain other commodities that may be infested with termites and other insects of foreign origin must be treated to eliminate the pests as a condition of entry.

The cyclodiene insecticides are uniquely suited for control of termites that destroy wood structures. These insecticides are toxic to termites at low concentrations, they persist in the soil, they bond to surfaces well enough to stay in place, and their biological availability to termites is vastly superior to that of other insecticides. Heptachlor is the most toxic insecticide available for use against termites. At present, there are no adequate alternatives to heptachlor and chlordane. Proper formulation and application of heptachlor, chlordane or a combination of the two virtually assures that environmental contamination will not occur and that human exposure will not occur except during application. Practically all application of insecticides for termite control is done by trained professional personnel who use low-hazard application machines to apply the materials in the secluded places where termites occur. Other insects that infest and damage wooden structures include carpenter ants, carpenter bees and wood-destroying beetles. Chlordane remains the essential material for controlling these insects.

Houses and other buildings are bothered also by ants, cockroaches, spiders, silverfish, crickets, millipedes, fabric and pantry pests, and other troublesome insects. For many of these pests, chlordane is the chemical of choice and the only one that will produce adequate results. Chlordane has become widely used by the public because it is effective against pests never successfully controlled before, it persists long enough to eliminate the need for frequent repeated applications, it is not acutely hazardous at the concentrations employed and it is cost-effective. In a 1975 survey of uses of insecticides by the pest-control industry, 38 other insecticides tried for similar purposes were ranked less effective than chlordane except for control of the German cockroach. For use against eight other pests, no substitutes were known.

The acute hazard from chlordane and heptachlor to vertebrates is very limited. There is no evidence that acute poisoning in livestock has resulted from the proper use of chlordane and heptachlor, and reports of substantial fish losses related to usage of these products are rare. There is no substantial evidence to support the existence of reproductive or developmental defects in livestock or other animals as a result of exposure to chlordane or heptachlor.

In rodents, experimental feeding of chlordane with DDT resulted in decreased viability of suckling rats and mice. Long-term feeding with heptachlor reduced litter size, increased perinatal mortality and induced cataracts in the pups.

The campaign to eradicate the imported fire ant by applying 2 pounds of heptachlor per acre as a surface application to many thousands of contiguous acres in the Southeast had adverse effects on many species, but no species was eliminated. The fire-ant campaign was predicted to be fatal to the woodcock population because this bird eats mostly earthworms, but the predictions did not materialize. (Both chlordane and heptachlor are highly toxic to earthworms at rates of 5 to 100 pounds per acre, but applications of 2 pounds of heptachlor per acre were found to have no effect on earthworm populations in Louisiana). Populations of the woodcock, an upland game species, increased to such an extent following the campaign that the bag limits and the length of the hunting season were substantially increased. Analyses made of 59 woodcock specimens collected from 1960 to 1963 showed concentrations of heptachlor epoxide averaging 2.1 parts per million. Analyses of animal products marketed for food in Louisiana from 1968 to 1972 and of fish collected from five watersheds in Louisiana in 1973 and 1974 demonstrated further attenuation of the levels of heptachlor epoxide. The effects of the fire-ant eradication program were extreme because of the great contiguous areas of land receiving solid treatment as a surface application and are not to be regarded as indicative of the consequences of normal agricultural usage.

The hazard to the human population, or the likelihood that use of chlordane and heptachlor will result in an adverse effect on humans, is the basis for the current concern about these pesticides. The hazard is a subjective composite of short-term or acute effects and long-term, chronic or delayed effects.

A basic tenet of the science of toxicology is that the hazard is determined by the dose, or degree of exposure, and not by exposure versus no exposure. This principle applies to both short-term and long-term effects.

The lethal-dose 50 (LD_{50}) is the quantity that must be given to experimental animals in a single dose to cause one-half of them to die. The LD_{50} values for chlordane and heptachlor class these compounds as moderately toxic. Two cases in which children drank unknown quantities of concentrated preparations of chlordane have been reported. In both instances, the children were very sick, but they recovered without event. No human deaths due to heptachlor have been reported. Experience thus has shown that the acute threat to human safety is negligible.

The long-term threat to health on the basis of exposure to chlordane and heptachlor in the food supply is very small. For example, the average daily intake of heptachlor and heptachlor epoxide in the United States was estimated at 1.4 micrograms in 1970. At this rate of intake, more than 11,700 years would be required for a person to ingest the equivalent of the estimated minimum acute lethal dose of 6 grams for an adult. And, at this rate of intake, an individual would ingest a total of only 0.04 gram during a lifetime of 80 years. The body, however, has various means of dealing with ingested chemical substances that are not used, and it would be continually excreting the residues. Consequently, the residues present in the body at death would be only a small fraction of the total amount ingested.

There is similarly no evidence that use of chlordane in the home and garden constitutes a significant hazard. In a study of this matter, the concentrations of chlordane found in dust from farm and urban households were less than 10 parts per million, and no chlordane was detected in the blood serum of the householders.

Published human monitoring studies have shown that heptachlor, heptachlor epoxide and oxychlordane were sometimes detectable in samples of human blood, fat or other tissue and that, when present, the concentrations were in the parts-per-billion range. The concentration and incidence seemed to be greatest in the fat.

Of most concern today is the possibility that the traces of chlordane and heptachlor to which the human population is exposed may cause cancers that do not develop until many years after exposure. At present, there is no known evidence that chlordane and heptachlor have induced cancer in humans. In fact, medical studies of humans whose exposure to chlordane in manufacturing plants far exceeded that of the general population have shown no evidence of cancer or other chlordane-associated medical problems.

The possibility of cancer induction in humans from exposure to chlordane and heptachlor has been inferred from the results of unpublished experiments with test animals fed heptachlor and chlordane at relatively high concentrations. Statistically significant increases in incidence of cancer were reported. The reliability of inferences from such results will be considered in a subsequent paragraph.

As a frame of reference for proving carcinogenicity, the Environmental Protection Agency has developed a set of nine principles. Among several points in question in these principles that are not considered settled scientifically are two that are of special concern, namely, the presumptions that (1) development of benign tumors is evidence that the causative agent is a carcinogen and (2) the concept of a threshold or no-effect exposure level for a carcinogenic agent has

no practical significance because there is no valid method of establishing such a level. These presumptions are not to be regarded as authoritative statements of scientific fact.

Elements of a scientific approach to evaluating the hazard of carcinogenicity of chlordane and heptachlor include the following: (1) The compounds are not the same, and evidence must be developed for each. (2) The hazard of each compound is dose-related. There is a no-effect level for each. (3) Retention of chlordane and heptachlor and their metabolites in the body is not evidence of beneficial effects, harmful effects or irreversible anatomic change. (4) If formation of benign tumors is to be regarded as evidence of carcinogenicity, scientific evidence is required to justify this inference for each compound. (5) Potentially carcinogenic or oncogenic agents should be tested in several species. They should be tested at enough dose levels and in sufficient numbers of animals to produce a statistically valid dose-effect relationship. In definitive oncogenic testing, at least two species of animals must show an increase in oncogenic effects to determine "potency." Evidence is needed also to show that the metabolic pathway of the compound in question is similar in humans and in one or more of the test species. (6) Evaluation of human exposure to residues of chlordane and heptachlor in foods and the general environment requires accurate, fully interpretable analytical data concerning the specific residual compounds present. (7) The final estimation of hazard should be made on the basis of human experience and epidemiological study.

The U.S. Congress provided, in Section 3(d)(1)(c) of the Federal Insecticide, Fungicide, and Rodenticide Act, a basis for the continued use of even those pesticides that might be judged to have "unreasonable adverse effects" on the environment, which they defined to include humans. The main thrust of the provisions is that restriction of certain uses will result in one or all of the following: (1) The approved uses would be those which involve minimal introduction of the pesticide into the total environment or into any given environment. (2) The approved uses, formulations and application techniques would involve sites where the pesticide would remain relatively fixed. (3) Applications of pesticides for restricted uses would be made only by certified persons, with the consequence that use of the pesticide would be in the hands of millions fewer people.

If restrictions on use are considered, the most important uses of chlordane meeting the qualifications in the preceding paragraph are probably formulations registered for use in soil, in brush and weeds, and in structures. The most important uses of heptachlor meeting the qualifications are applications in soil where the likelihood of entry into agricultural commodities is minimal.

CHLORDANE-HEPTACHLOR BRUSH-OFF

In the hearings held in the Environmental Protection Agency in Washington, DC, on October 31, EPA Judge Perlman ruled that the health-related portion of the CAST report on "Chlordane and Heptachlor" could not be entered in the record unless the report was a part of USDA's case. Because the CAST report is not a part of USDA's case and was prepared independently, the ruling automatically eliminated the CAST witnesses present. They went home without being heard.

The connection with USDA arose because CAST did not wish to participate in the hearings as an advocate with legal counsel and because USDA attorney Raymond W. Fullerton agreed to act as an intermediary. He originally requested three days of hearing time for the total CAST report. At this stage, six persons were scheduled to be present at various times on October 30 and 31 and November 1 to respond to questions that might be asked by any of the attorneys relative to various sections of the report. The persons scheduled to be present as subject-matter specialists were Dr. J. E. Swift (chairman of the task force), Dr. Kenneth C. Back, Dr. W. G. Eden, Dr. J. C. Headley, Dr. L. D. Newsom, and Dr. Joseph C. Street. Dr. William B. Deichmann was to be present as an additional subject-matter expert to provide help as needed in the area of toxicology. Charles A. Black was to be present to answer questions about CAST and the background of the report.

Mr. Fullerton's request was not granted. Because of the shortness of the time and the crucial nature of the issue of carcinogenicity, admission of only the health-related portion of the report was considered appropriate. A maximum of two days of hearing time was then allocated to consideration of this portion of the CAST report. The witnesses prepared to respond to questions on the agricultural aspects of the report were accordingly discharged, and only Drs. Back, Black, and Deichmann came to participate. On October 31, about one-half hour of legal maneuvering was consumed in eliminating CAST completely.

THE ENVIRONMENTAL PROTECTION AGENCY'S NINE PRINCIPLES OF CARCINOGENICITY

From the testimony of selected witnesses in the aldrin-dieldrin case in 1974, the Environmental Protection Agency developed certain concepts of carcinogenicity as a policy basis for banning the two insecticides in question. For use in the suspension hearings on chlordane and heptachlor, the concepts were brought into sharper focus and were elaborated into nine explicitly stated principles. In other hearings, seventeen principles have been introduced. The principles are not specific to insecticides but are stated in general terms that may be applied to all chemicals.

Realizing that the principles are not scientifically sound, the Velsicol Company (manufacturers of chlordane and heptachlor) moved to refer the principles to the National Academy of Sciences for review and evaluation. Judge Perlman rejected this motion. USDA made a rather similar motion. In this instance, Judge Perlman ruled that he did not have authority to refer the principles to the National Academy. The CAST report on "Chlordane and Heptachlor" contained a brief analysis of the principles, but Judge Perlman ruled that the CAST report was not acceptable as a part of the record except under circumstances that do not apply. The principles are thus still available in inviolate form for use in ruling on the carcinogenicity of chlordane and heptachlor.

In a further attempt to make known the scientific character of the basis for EPA's cancer policy, a CAST

task force is now preparing a report on the nine principles for the benefit of members of Congress, the Environmental Protection Agency, and other interested persons. The report is expected to be published and distributed before the end of the year.

The task force now working on the report includes the following persons: Kenneth C. Back, Supervisory Pharmacologist and Chief of the Toxicology Branch, 6570th Aerospace Medical Research Laboratories, Wright-Patterson Air Force Base; William B. Deichmann, Professor of Pharmacology, Research and Teaching Center of Toxicology, University of Miami; Ralph Fogleman, Consultant, Ringoes, New Jersey; Wayland J. Hayes, Jr., Professor of Biochemistry, Center in Toxicology, School of Medicine, Vanderbilt University; Harold C. Hodge, Professor, Pharmacology and Oral Biology, School of Medicine, University of California at San Francisco; W. W. Kilgore, Professor and Chairman, Department of Environmental Toxicology, University of California at Riverside; W. Eugene Lloyd, Professor of Veterinary Pathology, Iowa State University; Ronald L. Mull, Extension Toxicologist, Department of Environmental Toxicology, University of California at Davis; Paul Neubern, Professor, Massachusetts Institute of Technology; Gary D. Osweiler, Associate Professor, Department of Veterinary Anatomy-Physiology, University of Missouri; Jesse L. Steinfeld, Professor of Medicine, University of California at Irvine, and Chief of Medical Service, Veterans Administration Hospital at Long Beach; Joseph C. Street, Professor, Department of Animal Science, Utah State University; and J. E. Swift, Extension Entomologist and Statewide Pesticide Coordinator, University of California at Berkeley.

END OF PESTICIDES PORTION

ACTIONS & INTERACTIONS

MONITORING FOR RESIDUES IN FOOD-ANIMAL TISSUES

The use of drugs to control or treat animal disease and to promote growth of livestock is a common practice. An estimated 80 percent of U.S. livestock and poultry receives some animal drug during their lifespan. The use of some of these drugs could result in residues which could be hazardous for consumers. In order to protect the public, the Food and Drug Administration and the U.S. Department of Agriculture, through its Animal and Plant Health Inspection Service (APHIS), cooperate in a program to monitor and control the use of these drugs.

FDA requires drug manufacturers to provide proof of the safety and efficacy of every new animal drug before it is approved for marketing. Because of the possibility of drug residues occurring, manufacturers also must submit a method for detecing these residues.

Drug residue detection methods are tested by FDA and APHIS' Meat and Poultry Inspection Program to determine if they are effective before they are approved. The testing is to determine whether they are suitable for use in APHIS' residue monitoring program.

USDA regularly monitors tissue samples from slaughtered animals for approximately 45 drugs, pesticides and heavy metals. Drugs included are: Penicillin, streptomycin, sulfonamides, neomycin, erythromycin, tetracycline, chlortetracycline, oxytetracycline, arsenic, DES, ipronidazole, buquinolate, decoquinate, and carbodox. Other drugs are monitored periodically.

USDA's drug detection program consists of two parts: The "monitoring" phase and the "surveillance" phase.

MONITORING PHASE

The "monitoring" phase uses an objective statistical method of selecting animals to provide a valid random sample of all animals slaughtered at Federally inspected plants. This random sample produces a realistic cross-section of animals slaughtered and a picture of livestock and poultry drug misuse. In Fiscal Years 1973 and 1974, the monitoring phase sampled more than 22,000 animals. Approximately 60,000 different samples were taken from kidney, liver, and muscle tissue. Approximately 150,000 individual assays for drug residues were run on these 60,000 tissue samples.

In Fiscal Year 1974 alone, APHIS reported that its laboratories performed 130,000 individual tissue assays for residues of drugs, pesticides and heavy metals.

The "monitoring" program serves several functions. Its primary purpose is to determine the incidence of the various drug, pesticide, environmental, and agricultural chemical residues occurring in animal tissue. Many of these elements or compounds are present due to incidental natural exposure or are present due to the use of these chemicals by producers following good agricultural practices. The Food and Drug Administration has established tolerances for many of these residues which assure consumer safety so long as the levels are not exceeded. In aiding the producer not to inadvertantly exceed these levels, APHIS notifies the individual producer whenever an analytical result is between 80 and 100 percent of the tolerance. APHIS tests animals from subsequent flocks or herds for assurance that production from that particular farm is in compliance with FDA requirements. The data also are evaluated to determine if special surveillance programs are necessary; if so, such programs are designed and implemented. Lastly, the program does detect the occurrance of above-tolerance (illegal) residues in animal tissue. These findings serve as a basis for further regulatory action by both FDA and APHIS.

When an illegal drug residue is detected, APHIS reports the violation to FDA's Bureau of Veterinary Medicine. The Bureau then requests an investigation by the appropriate FDA District Office. FDA investigators visit the "premises of origin"--i.e., the farm or feedlot--from which the animal went to slaughter. The investigation is aimed at determining the cause of the residue and identifying those responsible. Under FDA regulations, an animal containing an illegal drug residue is considered to be contaminated food the moment it leaves a "premises of origin" destined for a slaughtering plant involved in interstate commerce. Results of the investigation can be used by FDA and APHIS in the second phase of the program to control illegal residues.

SURVEILLANCE PHASE

The second part of the residue program, or "surveillance" phase, employs a subjective sampling method. Animals are sampled in the "surveillance" phase because they belong to producers responsible for re-

The County of Malheur

VALE, OREGON

February 13, 1976

Department of Environmental Quality
1234 S. W. Morrison Street
Portland, Oregon 97200

Re: Proposed rules for hazardous waste handling and disposal hearing to be held February 20, 1976 - written testimony

Gentlemen:

After reviewing the above mentioned proposed rules, Malheur County would comment as follows:

1. We generally concur with the content of the rules as presently proposed providing that a hazardous waste disposal site is always located in Malheur County and that the rules are realistically interpreted by your agency.

2. We offer the suggestion that the Department of Environmental Quality provide forms to be filled in by the hazardous waste facility or user when transporting decontaminated wastes to collection or disposal points. This could be similar to the livestock transportation slip books now in use for brand inspection purposes when transporting livestock.

Inasmuch as Malheur County uses a large percentage of the hazardous waste in the State of Oregon, we support the adoption of the rules and are moving to encourage their support in this area.

Sincerely,

Roy Hirai

Roy Hirai
Malheur County Judge

BEFORE THE

ENVIRONMENTAL QUALITY COMMISSION

20 February 1976

Gentlemen:

I am Dr. Craig Eagleson, Entomologist. I speak for the Western Agricultural Chemical Association as a member of its State Action Committee. I am also authorized to speak for the Oregon Agricultural Chemical Association. On behalf of these organizations, I wish to present the following suggestions which we believe if adopted, would strengthen and clarify the proposed regulations.

I notice a confusing ambivalence of meaning in these regulations created by the failure to differentiate between chemical substances that may be hazardous to the environment, and the empty containers which formerly held such materials. In many of the subparagraphs where the noun "waste" is used, obvious that the regulations speak to the management of the hazardous substances, and this is appropriate. In other places the word "waste" seems to mean not waste, but the empty containers, even after being rendered essentially harmless by tripple rensing. I strongly recommend that the latter be referred to as "Scrap" Websters's New World Dictionary defines scrap as "discarded metal in the form form of machinery, auto parts, etc. suitable only for reprocessing. This is a clear and good definition of a noun useful to clarify the meaning of these regulations. I shall append hereto specific suggestions wherein a better distingtion is made by the use of these two words.

In some places the word "producing" is used in a confusing way. Webster defines the verb "to produce" as: to bear, yield, make, manufacture or to create. I think its use here is not appropriate. People generally do not use these verbs in connection with something unwanted or to be discarded. Would not the words "generate" waste or "generate" scrap be more meaningful? In another place it appears that the word "reduce" may be intended instead of "produced" /see 63-015 (1) (f)/ "Reduce" is defined as "to change to a different physical form as by melting, crusing, grinding, etc.

The organizations I represent strongly support the regulations requiring the tripple rinsing, or jet rinsing of emptied rigid pesticide containers immediately upon emptying, and the use of the rinsings in the spray application. We concur in the need to maintain rigid control over those hazardous chemicals branded with the signal words "Danger - Poison" and the skull and cross bones emblem, as well as the containers which once held them, and to provide for their harmless disposal in a properly certified site. There is much practical merit in the declassification of containers which held the less toxic, and in many cases completely non-toxic pesticides. We will strongly urge the users of agri-

cultural chemicals to scrupulously adhere to these regulations. In-as-much as they appear to be entirely reasonable, we believe farmers will carry out their requirements.

In closing may I remark that it has been very gratifying to deal with Mr. Pat Wicks of the Department. He has considered carefully all suggestions and arguments we have presented, and in a most professional way has created a good and sensible set of regulations for the management of hazardous wastes and scrap. He merits our admiration and support in performing a difficult task. He and I look forward to some solid accomplishments in the matter of developing methods for recycling emptied, rinsed pesticide containers in the very near future.

Respectfully Yours,

Craig Eagleson

Craig Eagleson

Before the ENVIRONMENTAL QUALITY COMMISSION, 20 February 1976

Detailed Proposals for Clarification
of the Proposed Rules.

It is requested that the Rules be changed to read as here below indicated:

63-010 (9) "Environmentally hazardous wastes" or "EHW" means discarded, useless or unwanted materials or residues in solid, liquid or gaseous state which are classified as environmentally hazardous. (delete the following sentence)

Add (9A) "Environmentally hazardous scrap" or "EHS" means discarded, useless or unwanted emptied solid containers which contained EHW.

(10) "EHS collection site" means a site, other than an EHW disposal site, for the collection and temporary storage of environmentally hazardous scrap, primarily received from persons other than the owner or operator ofthe site.

(11) "EHW disposal site" means ... but not limited to, total thermal or chemical decomposition, land burial, spreading, soil incorporation ...

(12) "EHW facility" means a facility ... at which EHW is reduced, treated, recovered ...

63-015 (1) Any person posessing environmentally hazardous wastes or scrap, or operating an EHW facility shall

(a) Use the best available and feasible methods to reuse, recycle, recover or treat all EHW and EHS.

(b) -- no change

(c) Dispose of EHW that cannot ...

(d) -- no change

(e) -- no change

(f) Maintain records, beginning January 1, 1977, indicating the qhantities of environmentally hazardous waste and scrap reduced, their composition, physical state, ...

(g) -- no change

(h)

(A) The waste is securely contained, and

(B) -- no change

(2) Subsection (1)(f) of this section shall not be applicable to environmentally hazardous wastes transferred to EHW collection sites. (Delete the second sentence. If empty containers have been defined as "scrap" they are not included in the perview of Subsection (1))

(3) through (6) -- no change

(7) All accidents or unintended occurrences which may result in the discharge of an environmentally hazardous waste or hazardous substance to the environment shall be immediately reported to the Department. --no further change.

(8) No person shall dispose of EHW or EHS except in accordance with these rules ...

(9) -- no change

(10) Any person reducing, reusing, recycling, ...

63-035 (1) (a) All wastes containing pesticides and pesticide manufacturing residues which meet the criteria under Subsection (1) (b) of this section are hereby classified as environmentally hazardous wastes. (delete the balance of the sentence)

Add (1A) Classified Scrap.

(a) all empty pesticide containers which have been branded with the signal words "Danger - Poison" and bear the skull and cross bones ensignia are hereby classified as environmentally hazardous scrap.

(2) (a) Empty rigid pesticide containers bearing ...

(b) & (c) -- no change

(d) Wastes and Scrap equal to or less than the following quantities:

(A) 5 empty classified scrap containers

generated at one farming operation per year which have been decontaminated in accordance with Subsection (3) (a) ...

(B) 5 pounds (2.3 Kg) of unwanted, unusable or contaminated pesticides, in any form or concentration per farming operation per year. These wastes may be ...

-- no further changes

Without aiming ro pose a threat, may I say that unless changes in the wording of the proposed regulations substantially as outlined above, or with equivalent changes in the thrust of the rules as proposed by the Department, The Agrichemcial industry would have serious objections to the wording, and in some cases to the implied obscure meanings thereof. However the intent behind these rules we consider to be sound and above reproach.

LAHTI & SON INC V. DEQ

TRANSCRIPT INDEX (TESTIMONY ON SOILS)

OSSI

Oregon Sanitary Service Institute

4645 18th Pl. S., Salem, Oregon 97302 Phone 362-1526

Research
Standards
Service

February 20, 1976

ENVIRONMENTAL QUALITY COMMISSION
PROPOSED EHW REGULATIONS

OSSI has more than 150 members statewide engaged in solid waste storage, collection, transportation, disposal and resource recovery. Members operate a number of DEQ permitted solid waste disposal sites, both publically and privately owned. Presentation is by Roger Emmons, OSSI Executive Director and General Counsel.

Our sincere congratulations on sound staff work to revise the proposed regulations to confine the extent of EHW covered, to more clearly specify the EHW handling and disposal procedures and to incorporate much of the protection asked by OSSI for it's collectors and disposal site operators, especially on illegal dumping into our collection and storage vehicles.

As with any detailed and sophisticated new program, there remain some problems and opportunitities we need to share with you. In oral presentation, these will be summarized.

(1) PLACING EHW IN COLLECTION OR STORAGE VEHICLE OR CONTAINER Section 63-015 (1) (h), page 4.

This added protection for our collectors is a must. As costs of disposal or resource recovery of EHW goes up, there will be greater temptation to sneak the material into our containers, drop boxes or collection trucks. That creates unknown hazards to the collector and later to the disposal site or resource recovery facility to which we take the load.

For example, at one site now there is illegal, and so far untraceable, dumping of a hazardous waste that creates small fires upon being exposed to rain. We have had explosions at disposal sites from unknown hazardous wastes and fires in the trucks and storage containers. Whether these are also EHW's, only the waste producer can know.

If the collectors knows what he is handling, then he can take the pesticide containers to an approved and authorized container disposal site, the EHW to an approved EHW facility, collection site or disposal site or refuse to handle the waste:

(a) If he cannot comply with transportation requiresments under Section 63-015;

(b) He cannot handle the wastes in the particular type of collection vehicle he uses for pickup; or

(c) He is not compensated for the unusual and potentially very expensive transportation and lawful disposal under your regulations.

The latter is important too as almost all cities, except Portland, and some 20 or more counties exercise rate control over collection. Some of these will not allow any charge for any service not listed on the

SSI

Oregon Sanitary Service Institute

4645 18th Pl. S., Salem, Oregon 97302 Phone 362-1526

Research
Standards
Service

February 20, 1976

EHW Proposed Regulations - 2

(1) Cont. officially approved rate schedule of the collector. A stringent example is Marion County where I serve as an adviser on the Solid Waste Committee and assisted in preparation of an extensive set of rate regulations and a rate manual.

The collector may not be qualified to handle the wastes. His equipment may not be an appropriate type. He may not have the necessary time. His insurance may not cover this type of transport.

(2) UNCONTROLLED DANEROUS CHEMICAL REACTION Section 63-015 (9), p. 5.

Another must for the collectors is proper segregation of incompatible wastes. Only the source has the knowledge of what combination could cause fires or injury.

We suggest that "handled" be expaned to include "or prepared for collection or transportation".

(3) LIABILITY FOR IMPROPER DISPOSITION OF EHW Section 63-020, (1), p. 6.

Before imposing absolute liability for improper handling of EHW, there must be knowledge that the person has the care, custody or control.

As stated, would not the refuse collector with waste illegally dumped in violation of Section 63-015 (1) (h), p. 4, be liable for handling in his truck and taking it to a regular solid waste disposal site such as Rossmans Landfill at Oregon City? And wouldn't Rossmans also be liable for burying the EHW dumped in by the collector?

The word "Care" seems to imply knowledge. The word "custody" in the lay or legal sense also seems to imply knowledge. But the word "control" could be interpreted or misinterpreted to mean simply that the collector or disposal site operator has physical control of the material.

Whether by change of wording or by a strong and unmistakeable record at this hearing, this problem must be settled. To avoid any further question, we recommend that after "Any person", you insert "who knowingly".

(4) VOLUNTARY USE AS AN AUTHORIZED CONTAINER DISPOSAL SITE This issue is not in the regulations. It has been raised by rumors of possible DEQ action after the regulations are adopted. We have not been told by the staff or Director that this problem exists, but we want to solve it know as part of your decisions.

OSSI

Oregon Sanitary Service Institute

4645 18th Pl. S., Salem, Oregon 97302 Phone 362-1526

Research
Standards
Service

February 20, 1976

EHW Proposed Regulations - 3

(4) Cont. We hear rumors that DEQ intends to pressure disposal sites that can be authorized container disposal sites to take empty pesticide containers for disposal.

A disposal site operator cannot obtain insurance protection against pollution. Both we and the National Solid Wastes Management Association of which we are part have searched the world for protection. None can be purchased.

Without insurance, what do we do in a case like this: A load of smashed empty pesticde containers comes into the site on a wet, rainy day. The "Danger" and tagging have been done, but the bad actor who brings them in has not jet or triple rinsed. He is charged for his load, dumps it in the wet trench. Heavy rain follows adding further mositure plus that he already dumped. The next loads dumped on top of his are high mositure content wastes for a cannery, so wet that they used to go through sewers to the sewage treatment plant before finer screens were installed. The unusual amount of water borne pesticide is born through the underlying gravels and hit the DEQ required monitoring well. What happens now?

In the meantime, our bad actor washes down his truck at the landfill truck wash where waste water is handled by a drainfield septic tank systme. What happens here?

Under the "control" wording of 63-020 (1), our disposal site operator is liable to have to take the material out and possibly dig up the entire route to the monitoring well and beyond. If he doesn't do it, DEQ can and charge him. In addition, he is liable for:

(a) Criminal penalties under the water pollution statutes, the solid waste law, the environmentally hazardous waste law and regulations and the county nuisance abatement law.

(b) Civil penalties under several of those same laws and those are cumulative!

(c) County nuisance abatement and cleanup with a charge to the site operator and land owner.

(d) Revocation of his DEQ landfill site permit or suspension or modification of it.

(e) Suspension, modification or revocation of his county franchise to operate the site.

(f) Unlimited damages.

(g) Uninsured bankruptcy.

SSI

Oregon Sanitary Service Institute

4645 18th Pl. S., Salem, Oregon 97302 Phone 362-1526

Research
Standards
Service

February 20, 1976

EHW Proposed Regulations - 4

(4) Cont. To add insult to injury, the pesticide residue from the truck may wipe out the necessay bacteria in his septic tank for the truck wash.

In view of these civil and criminal liabilities, we insist that any attempt by DEQ or its staff to force an unwilling operator to accept presticide containers is, in effect, a partial condemnation of the private property of the operator and without just compensation. Both are beyond the authority of the EQC or DEQ.

Another area of liability is in protecting the landfill operator from injury. Both under your solid waste regulations and under Oregon's little OSHA, we are liable for providing a safe working environment for our landfill operator employees. Subjecting an employee who is not qualified to handle this material or who lacks the ability to be trained to handle it to exposure to EHW pesticides illegally brought onto site is not complying with the regs or the law.

On the positive side of safety, we are working with Pat Wicks and with Jim Wiles, Administrator of the Workmens Compensation Board on safe handling procedures for those who wish to voluntarily take on the pesticide containers.

On procedures, our member Bill Weber of Valley Lanfills is working to simplify handling procedures of both the applicators and the disposal site operators.

There is another critical issue here, that of endangering our principal mission at DEQ permitted landfill sites. Our mission is to provide for sanitary landfill or modified sanitary landfill disposal of municipal wastes and, to some extent, industrial wastes. Taking on additional highly specialized wastes with a high risk of potential pollution jeopardizes that basic mission. It risks sites so hard to obtain as to be worth more than gold.

We will work hard to make the program work as long as there is a clear and unmistakeable committment to our operators that it is voluntary.

Respectfully submitted,

Roger W. Emmons

POSITION STATEMENT

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

FEBRUARY 20, 1976

Pertaining to the amended proposed rules for
ENVIRONMENTALLY HAZARDOUS WASTES
currently being considered for adoption by
the State of Oregon

I am David A. Graham, Regional Pesticide-Use Coordinator of the U.S. Forest Service, Pacific Northwest Region, Portland, Oregon. I am making this statement in behalf of Regional Forester, Theodore A. Schlapfer.

The Forest Service is vitally interested in the protection of the environment including the proper disposal of environmentally hazardous wastes. Although most of the pesticides we use would not be classified as "Environmentally Hazardous Wastes" we may have to occasionally dispose of such wastes and some qualifying pesticide containers in Oregon. We fully intend to do this in the most environmentally acceptable manner possible, but must also abide by a number of Federal statutes, Federal regulations and Presidential Executive Orders.

Our legal counsel advises us that the proposed definition of "person" by including the United States probably exceeds the Department of Environmental Quality's statuatory authority. Although it is unlikely that National Forest lands would be used for disposal purposes without the concurrence of the involved State, it could occur. If the State for its own purposes wishes to include the United States within the definition of "person," the State must recognize that the United States and Federal agencies are required to follow Federal statutes, Federal regulations and Presidential Executive Orders. In the event of conflict between these and the State definition, the Federal law or regulation would control and the final decision as to the use of Federal lands must rest with the United States and the responsible Federal land managing agency.

The question of how to determine the producer of wastes also seems to need clarification. We suggest that an additional definition be added pointing out whether the land or establishment owner, the leasee and/or the contractor - applicator - user of a qualifying material would be the "producer."

Thank you for the opportunity to make this statement.

Position Statement Before the Environmental Quality Commission Relative to Variance Request By Klamath County, Application #0474, Proposed Air Contaminant Discharge Permit #320019.

A. This statement supplements the official comments and requests contained in our letter of September 3, 1975.

B. The Director states that the installation of emission controls on the County's portable crusher will be an economic burden in our present budget.

C. The Director does not concur that all sites are remote.

D. The Director states that while operating at remote sites which have received an exemption, rock crushers will be subject to a regulation to limit nuisance conditions.

E. Klamath County concurs with the Director that a Specific Industrial Standard be adopted, taking into consideration the following:

1. All cinder pits should have a permanent variance. (Of our 14 sites, 7 are cinder pits)

2. The requirement of 40 days notice to the Department before setting up in remote sites should have a permanent variance.

3. Aggregate produce to be utilized in cold mix operation.

   a. Cold mix operations cannot remove the water and it is impossible to produce quality paving material without proper moisture control.

   b. Klamath County has a sophisticated and economical cold mix operation that is essential if outlying roads are to be paved.

   c. Verbal testimony will be presented by the Supervisor of our operation in regards to cold mix.

4. Type of Quarrys

5. Natural or man made screening

F. I would recommend that the Department of Environmental Quality request the Oregon Association of County Engineers and Surveyors to assist in the drafting of

the proposed Specific Industrial Standards.

1. This Association has members in all the 36 Counties which would give you the opportunity of securing information from every County.

2. The majority of the members operate rock crushers and would have excellent imput.

3. Oregon State Highway Department in regards to Companies meeting your requirements and not complying with their specifications.

G. From the Director's comments, he does not concur that all of our sites are remote. We feel the one site, Stukel (#5) is the site which he does not concur.

There are four (4) homes within one (1) mile of this site and the closest home is 0.28 mile from the site.

1. Complaints have never been made from residents.

2. One of the home owners is Glenn Dehlinger, who developed the subdivision containing other homes.

3. Area is zoned agricultural-forestry and a zone change to residential-agriculture was required for the subdivision.

4. Planning Commission and Board of Commissioners recognized a potential problem if homes were allowed near a quarry site.

   a. The public hearings are documented with testimony from applicant and his engineer that no problem exists and that dust is blown into the mountain by prevailing winds.

   b. The zone change was approved on the condition that a "hold harmless" restriction be placed on owners, purchasers, occupants, representatives, heirs, successors and assigns. The order containing this was recorded with the County deed records. The declaration of restriction was signed by the owner.

   c. Copies of the above two (2) items are submitted with this statement.

H. The Director indicates regulating limit nuisance conditions in exempted remote sites. The nuisance condition mentioned by the Director is thoroughly regulated by another Agency. If the sites under the proposed Specific Industrial Standards determines the site remote, it should have a complete variance.

I. Verbal testimony by Klamath County Road Superintendent.

Thank you for the opportunity to testify before your Commission.

Yours truly,

Earl E. Kessler
Assistant County Engineer

Statement Before The Environmental Quality Commission
Relative to Variance Request By Klamath County,
Application #0474, Proposed Air Contaminant Discharge
Permit #320019

It is essential that Klamath County Road Department continue to pave roads to eliminate dust in critical areas not only for dust abatement but also as a measure to expedite the movement of mail, school buses, and safety related vehicles such as fire trucks and ambulances.

Klamath County Road Department, has, what we think is probably one of the more sophisticated portable "cold mix" plants (Kolberg) available on the market today. As sophisticated as it is, moisture control is still the most critical problem that we have in using the grades of asphalt that are available for "cold mix" Asphaltic Concrete. Cutter type grades of asphalt are no longer available due to the petroleum products being diverted for other purposes such as diesel and gas. Emulsified asphalt is now being utilized and is composed of approximately 40% water by weight, the remainder being emulsifying agents, other chemicals and asphalt. In order to produce a quality Asphaltic Concrete with this type of asphalt, it is imperative that we have as near an absolute control over the moisture content of the aggregate being used as possible.

Adding water to the aggregate in the crushing and screening process for dust abatement creates several undesirable or intolerable situations such as:

1. All the fine particles of aggregates could be washed out.
2. Mud balls could be incorporated into the "mix".
3. Cohesion of Asphalt to aggregate could be greatly reduced.
4. Excessive moisture will cause the Asphalt to "flush" to pavement surface resulting in slick spots and eventual failure.
5. It would be impossible to produce a "mix" of a consistent Asphalt Concrete as the aggregate would have varying degrees of moisture throughout the stock pile.

It is easily understood that in a "hot mix" Asphaltic Concrete where the aggregate goes through a drying process under terrific heat before the introduction of Asphalt, that the moisture content of the aggregate is greatly reduced although the production cost increases accordingly due to a higher capital outlay, the high cost of fuel, and more man power requirements.

At the present time, the cost of producing "cold mix" is approximately 25% less than the "hot mix" and we feel this is a worthwhile savings to the Citizens of Klamath County. Also, air contaminants and pollution are very minimal or non-existant. It is unreasonable for us to think of the capital outlay for a "hot mix" plant for reasons that I am sure you are aware of.

Thank you,

J.R. Dalton

J.R. Dalton
Road Superintendent

OREGON ENVIRONMENTAL QUALITY COMMISSION

Proposed Rules Pertaining to Management of Environmentally Hazardous Wastes

February 20, 1976

STATEMENT OF OREGON RAILROAD ASSOCIATION

This statement is submitted by the Oregon Railroad Association on behalf of its member lines, which are the Class I railroads operating in Oregon: the Burlington Northern, Milwaukee Road, Southern Pacific and Union Pacific. We are particularly concerned with the possible application of the proposed rules to the transportation of environmentally hazardous wastes by common carrier.

At the outset, it should be noted that as common carriers, having a duty to serve the public, we are obliged to accept all shipments tendered to us which are in compliance with law and applicable tariffs. While other private businesses may be able to decide, on a particular occasion, whether they will, or will not, handle hazardous materials, common carriers have no such option. If the shipment is properly tendered to us, we have no choice but to accept it. Therefore the transportation of hazardous materials exposes us to risks that are,

to some extent, not under our own control.

It should also be noted that the transportation of hazardous materials is already subject to extensive regulation. The Federal Department of Transportation has a Hazardous Materials Regulation Board which has adopted voluminous regulations dealing with transportation of hazardous materials (49 CFR parts 170-179), and the Atomic Energy Commission has comprehensive regulations dealing with the packaging and shipment of radioactive materials. (10 CFR part 71).

On the state level, the 1975 Oregon legislature adopted Chapter 132, which deals with transportation of hazardous materials, and the Public Utility Commissioner is now engaged in formulating rules to implement that law. The PUC is required to consult with the DEQ in formulating and adopting rules for the transportation of environmentally hazardous wastes (ORS 459.450), and it seems unlikely that the legislature intended that there be two different sets of rules applicable to transportation of hazardous materials.

The proposed rules (63-015-[3]) provide that transportation shall be in compliance with rules of the OPUC and other local, state or Federal agencies if applicable; and it may be that the rules were not intended to apply to transportation. There is, however, no specific exemption for common carriers in either proposed rule 63-015 or proposed rule 63-020.

If rules are going to be adopted to create absolute tort liability, and liability for cleanup expenses, then it is submitted that common carriers should not be subjected to liability for accidental escape of hazardous wastes, if the transportation was in compliance with applicable state and federal rules.

This can be accomplished by adding an exemption to subsection (3) of proposed rule 63-015 so that subsection (3) reads as follows:

> "63-015(3) Transportation of environmentally hazardous wastes shall be in compliance with the rules of the Public Utility Commissioner of Oregon and other local, state or federal agencies if applicable and this rule shall not apply to common carriers if such transportation complies with the rules of the Oregon Public Utility Commissioner and other applicable state and federal agencies."

In addition, we urge the commission to delete rule 63-020 or adopt the following amendment:

> "63-020 - Add new subsection (5). This section shall not apply to common carriers having care, custody or control of any such waste or substance in the regular course of transportation, if such transportation complies with applicable rules of the Public Utility Commissioner or of other local, state or federal agencies."

OREGON RAILROAD ASSOCIATION

By
Mark S. Dodson

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Region 6
P. O. Box 3623, Portland, Oregon 97208

5200

February 10, 1976

Mr. Loren Kramer, Director
Dept. of Environmental Quality
1234 SW Morrison Street
Portland, OR 97205

Dear Mr. Kramer:

I intend to make a brief oral statement for the Forest Service, U.S. Department of Agriculture, at the hearing scheduled at the Multnomah County Courthouse on February 20, 1976 to consider adoption of proposed rules pertaining to "Environmentally Hazardous Wastes."

A written copy for the record will also be provided to you at that time. Thank you for the opportunity to comment on this proposal.

Sincerely,

DAVID A. GRAHAM
Regional Pesticide-Use Coordinator

C. I. A. T.
Citizens for Immediate Adoption of Trolleybusses
8311 S. W. 3rd AVENUE
PORTLAND, ORE. 97219

TO EQC 2/6

February 3, 1976

The Environmental Quality Commission
c/o Mr. Peter McSwain, Secretary
1234 S. W. Morrison Street
Portland, Oregon 97205

We believe the enclosed letter should be brought to your attention, individually as well as collectively.

It is dictated by the serious concerns of our group relative to the success of the Portland Transit Mall as a "people" place as well as a "people transit" place. We feel very strongly that since "people" is what any development is all about, every consideration must be given to the development of this project in a way that the "people" aspect will be capable of fullest realization and success.

Thank you for your attention and involvement.

R. J. Polani
Chairman

RJP/fa
encl.

C. I. A. T.
Citizens for Immediate Adoption of Trolleybusses
8311 S. W. 3rd AVENUE
PORTLAND, ORE. 97219
January 29, 1976

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

Subject: 5th-6th Avenue Transit Mall

We believe that the Department of Environmental Quality has the definite responsibility and opportunity to make accurate, scientific measurements of the amount of air pollution and noise that the proposed 5th-6th Avenue Transit Mall in downtown Portland will create if Tri-Met proceeds with its intended diesel bus operation.

We realize that most of the problems indicated have been already addressed in the Draft Environmental Impact Statement issued for the project as required by Federal law under date of June, 1975. However, the data used in the EIS are not data obtained by actual, recent, accurate, on-the-spot measurement made in the specific conditions.

The projected concentration of 43 bus lines on 6th Avenue, beginning with February, in order to permit construction start on 5th Avenue, will provide an excellent opportunity for your department to discharge its responsibility to the citizens of Portland under reliable, very similar, unbiased conditions.

We therefore request that your department be prepared to execute accurate sample readings at peak hour, at various locations on 6th Avenue where the greatest concentration of waiting passengers or discharging passengers will occur. The measurements should address themselves to the various pollutants, such as carbon monoxide, hydrocarbons and particulates, but, even more important, since we are dealing with diesel buses, to the amount of pollution contributed by these vehicles in the form of oxides of nitrogen. The oxides of nitrogen readings should be obtained with the most accurate equipment available because their toxicity is approximately ten times that of carbon monoxide and damage is of cumulative effect over time.

Of equal importance will be to obtain accurate noise readings, again taken near the waiting public, at a distance of ten feet, because most of the people will be closer than 50 feet to the starting or passing buses. Finally, it would also be appropriate to obtain odor readings, though we are not sure whether accurate measuring devices are available.

All these readings should be taken at peak hour, in the morning and evening, when the greatest number of people will be subjected to the noise and air pollution concentration in the canyon effect of the higher buildings of 6th Avenue.

Measurements should probably be taken on different days, with different atmospheric conditions and, finally, similar readings should be taken at the same time on

C. I. A. T.
Citizens for Immediate Adoption of Trolleybusses
8311 S. W. 3rd AVENUE
PORTLAND, ORE. 97219

January 29, 1976

and Oregonian !!
and Willamette Week !!
and Community Press ?

The Editor
The Oregon Journal
1320 S. W. Broadway
Portland, Oregon 97201

Dear Editor:

Your January 27 issue ran a 3½ column, 3/4 page ad by Tri-Met entitled, "You can breathe easier because Tri-Met is going places."

The body of the advertisement contains a table with statistical information purporting to show the beneficial impact of Tri-Met buses on air pollution of our environment. Reference is made to the fact that one bus carrying 35 passengers on an average trip substitutes for 35 cars; then the number of pounds of pollutants on a yearly emission by vehicles is contrasted and the statistics are attributed to the Department of Environmental Quality.

We find the statistics shown quite interesting, but very seriously misleading regarding the comparison of oxides of nitrogen emissions.

DEQ figures, as quoted by Tri-Met, purport to show that one bus will emit 345.94 pounds of oxides of nitrogen as compared to 2376.15 pounds for 35 cars. In other words, 35 cars would emit almost seven times the amount of oxides of nitrogen of one diesel bus.

We have information from the Puget Sound Air Pollution Control Agency of Seattle, as quoted by Tudor Engineering Company, concerning the University Area Transportation Study of July, 1971 in that city, that shows oxides of nitrogen emissions for one GM-871 bus (the standard motor in both GM and Flxible buses of Tri-Met) to be about double the amount of emissions for 40 cars. On the other hand, the carbon monoxide and hydrocarbon figures that we have also, clearly confirm the DEQ/ Tri-Met figures.

This serious discrepancy is the more disturbing because we are informed that oxides of nitrogen are considered to be ten times as toxic as carbon monoxide and furthermore, their effect on human lungs is cumulative.

In light of this information, the claim that one diesel bus is good because it takes 35 or 40 cars off the road is, to say the least, a serious bending of the truth unless Tri-Met and DEQ have not done their homework as they certainly are expected to do.

R. J. Polani
Chairman

RJP/fa

LD Ranch
RONALD DAVIS
OLEX, OREGON
Feb. 12, 1976

TO: EQC 2/17/76

To: Department of Environmental Quality

From: Ronald W. Davis

Subject: Proposed hazardous waste disposal site license for Chem-Nuclear Systems near Arlington, Ore.

The majority of residents in this area are still very much opposed to the issuance of a license for waste disposal at this proposed site. This region is basically agriculture and has been zoned as such. We contend that the land's best use is for agriculture production, and all efforts should be in this direction.

To place a waste dump right in the middle of this area and in close proximity to a community that is predicted to grow by several thousands in the near future, borders on gross mis-use of authority. All the reasons for not having a waste dump in this community still exist, plus the threat of serious contamination such as we have learned from Hopewell, Virginia where the toxic substance Kepone was allowed to endanger many lives and resulted in a law suit in the amount of 28.9 million dollars.

We strongly recommend disapproval of the proposed license by your department.

Sincerely,

Ronald W. Davis

WEATHERFORD, THOMPSON, HORTON & JORDAN P.C.

J. K. WEATHERFORD
ORVAL N. THOMPSON
HARRISON M. WEATHERFORD
JOHN S. HORTON
JAMES H. JORDAN
WILLIAM E. BRICKEY
PETER L. POWERS
RICHARD S. HAGEDORN

(FOUNDED BY J. K. WEATHERFORD - 1875)
ATTORNEYS AT LAW
130 W. FIRST AVENUE
ALBANY, OREGON 97321

POST OFFICE BOX 667
PHONE (503) 926-2255

J. K. WEATHERFORD, (1848-1935)
MARK V. WEATHERFORD, (1886-1962)

February 13, 1976

To: EQC 2/17/76

Environmental Quality Commission
1234 SW Morrison Street
Portland, Oregon 97205

MEMORANDUM

To: Environmental Quality Commission

From: Harrison M. Weatherford, Wheat and Cattle Rancher
Gilliam County, Oregon

Subject: Agenda Item No. D, February 20, 1976,
Chem-Nuclear Chemical Waste Disposal Site near
Arlington, Oregon.

Gentlemen:

I operate approximately 2,000 acres of dryland wheat, farming land and graze cattle upon the same land at various times throughout the year, on a location approximately two to three miles from the proposed disposal site. From the information that I have read, it appears that the Department is being requested to permit the discharge of chemicals by three evaporation pools plus burning of material to be destroyed. Both of these systems will discharge chemicals into the air. I object to the permit granting the use of evaporating pits or burning as a means of disposal of chemical waste. Many of these wastes are defoliants, soil sterilants and other agricultural chemicals, commercial or industrial chemicals which have been prohibited from use on crop land. The evaporation and burning method proposed if used upon these chemicals would diffusethe chemicals into the air and they would be then born by the wind to any downwind agricultural land. My land is so close I feel it would be adversely affected by the discharge of such chemicals as would any of my cattle which might eat the foliage upon which some of these chemicals may have become deposited.

The proposed location of this site is a windy site. The prevailing winds are westerly, but blow from all directions and the materials evaporated or discharged into the smoke would be born by the wind for many miles. I have personally observed a wind gage on the Marion Weatherford farm registering 70 miles an hour winds.

As recently as last year, the State of Oregon Department of Agriculture held hearings throughout the Columbia Basin in particular at Ione and Condon to determine whether or not the farmers could use approved herbicides and pesticides at all during certain seasons

of the year. The application of herbicides is vital to present day farming and the threat of having this privilege revoked produced a very hostile reaction from the farming community against the proposed regulation. The reason for the hearings was the contention by the grape growers in Washington around the Pasco area and North and East of that area that herbicides applied to the crop land in Gilliam County was blowing to the Washington grape producing areas and injuring their crops. I have read within the past week that a study conducted by the Agriculture Department proved that such was not the case. While it has been proved by these tests that the volatile herbicide did not carry the two to three hundred miles as claimed by the Washington grape growers and one only needs to look to the reported cases to find much litigation over what effect the release of herbicides and pesticides upon one farmer's land has upon his neighbor. The area immediately east of this proposed site is now developing and has been developed as the best irrigated agricultural land in the State of Oregon. It would be my estimate that this land, irrigated land commences approximately ten to twelve miles east of the proposed site in a direct line of the prevailing westerly winds so whatever was discharged from the evaporative ponds or stacks would be carried to the irrigated lands to the east as well as the dryland farms surrounding this particular area. The area is surrounded by dryland grain and cattle raising farms.

What I am trying to point is that the agricultural industry is a user and dependent upon the chemicals that are both fertilizer, pest control and weed control for the production of the food which the world is becoming more and more dependent upon. In using the chemicals that are approved and allowed the agriculture industry is having problems already in connection with their use. It would be an unfair burden for the local agricultural industry adjacent to this site to be burdened with the blame from surrounding agriculture areas of the discharge of this particular disposal site. Secondly, it would be an unfair burden upon the local agriculture to have the discharge of discarded chemicals settle upon their crops and forage for their animals and thirdly it would produce an effect which is unknown to me upon the irrigated property to the east of the proposed site which has just become so effective in the production of irrigated foods and food processing installations.

As a further personal objection to the use of evaporative ponds and of burning industrial waste that would discharge the residue into the air I would base my objection upon the existing clean air of this community and the right of the inhabitants of the community to have the air remain in as clean of state it is now in. It is my understanding that that is the purpose of the Federal Clean Air Legislation.

Thank you for the opportunity to present objections to the permit.

Very truly yours,

Harrison M. Weatherford

HMW:jb

February 11, 1976

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

TO: EQC 2/17/76

Gentlemen:

The attached letter is submitted to become a part of record on the Environmental Quality Commission's consideration of issuance of a license to Chem-Nuclear Systems for a chemical waste disposal site.
I request that you make it a part of the testimony heard on that matter.

Thank you

N. J. Welp

February 11, 1976

Department of Environmental Quality
1234 S. W. Morrison St.
Portland, Or. 97205

In previous communications to the DEQ and EQC, I have stated objections to various applications made by Chem-Nuclear Systems for hazardous waste disposal at a site near Arlington.

The DEQ staff report and proposed license are still unacceptable for the following reasons:

1. The bonding requirement should be raised to former levels. By Chem-Nuclear's own analysis, the market for a chemicals-only disposal site is marginal, having been unattractive in 1972 and 1974, and attractive now only if the bonding requirement is reduced to virtually nothing. But the intent of the bond was first to protect the State and surrounding residents in the event of failure by the licensee to comply with the license. Surely no one could believe that the current size of the bond would protect anyone in event of failure of Chem-Nuclear to comply with the license.
2. Earlier I objected to the location of the site within a cropland area. This objection has been strengthendd by addition of a large irrigation well within 3 miles of the site, indicating the presence of considerable ground water near the site.
3. My earlier objections were to both radioactive and chemical waste storage. Nowhere in the proposed license is there an indication that the proposed facilities will be suited only for chemical wastes. This leads me to believe Chem-Nuclear is only waiting for the ban on radioactive waste disposal to expire in less than two years, at which time they will be well established and ready to enter that market also, since radioactive waste is where they have always proposed to make a profit.
4. Although the State has been urgently in need of a chemical waste disposal site for at least three years, and has somehow managed anyway, perhaps a little more review and public comment would be in order before becoming committed to a marginal economic operation.

Thank you.

N. J. Welp

N. J. Welp
Olex, Oregon
97812

DECLARATION OF RESTRICTION

KNOW ALL MEN BY THESE PRESENTS, that whereas Glenn Dehlinger is the owner of that certain real property situated in the County of Klamath, State of Oregon, more particularly described as follows:

SE¼SW¼, Section 32, Township 39, Range 10, East of the Willamette Meridian.

Portion of Lot 3 and fraction of S½NW¼, lying North of the County Road; and Lot 4, all in Section 5, Township 48, Range 10, East of the Willamette Meridian.

AND WHEREAS said Glenn Dehlinger, owner, plans to sell said real property and desires in that behalf for the benefit of himself and for the benefit of several purchasers, both immediate and subsequent, of parcels of said real property:

SAID OWNER does hereby declare that all conveyances of parcels situate in the above described property shall be made and accepted upon the express acknowledgement and condition that there is presently in operation and shall continue to be in operation a quarry located adjacent to the above described property; and all conveyances shall also be made and accepted upon the express acknowledgement and condition that no purchaser of the above described property shall object to said operation, attempt to halt said operation, or bring suit or action in an attempt to halt or alter the use and operation of said quarry; and also upon the express acknowledgement and condition that no purchaser of the above described property shall object to any similar operations of any other quarries located adjacent to the above described property, or attempt to halt said operation, or bring suit or action in an attempt to halt any such operations.

Glenn Dehlinger

BEDDOE & HAMILTON
ATTORNEYS AT LAW
295 MAIN STREET
KLAMATH FALLS, OREGON 97601

Recorded - File of the County Clerk
O.V. M73 - Pg 10630 8-10-73.

BOARD OF COUNTY COMMISSIONERS

In and For the County of Klamath, State of Oregon

IN THE MATTER OF THE APPLICATION FOR CHANGE OF ZONE NUMBER 73-51 BY GLENN DEHLINGER	ORDER

This matter having come on for hearing upon the application of Glenn Dehlinger for a change of zone, said change application being numbered Zone Change 73-51 and said application having been heretofore recommended from AF (Agricultural Forestry) zone to RA (Residential Agriculture) zone by the Klamath County Planning Commission, a description of the real property referred to in said application being SW¼SW¼ Section 32, Township 39 S., Range 10 East of the Willamette Meridian and that portion of the NW¼ of Section 5, Township 40 S., Range 10 East of the Willamette Meridian lying northeasterly of Hill Road, Klamath County, Oregon, consisting of 117 acres more or less, and a public hearing on said application having been regularly held on June 27, 1973 before said Board of Commissioners, and it appearing to the Board of Commissioners from the testimony, reports, and information produced at said hearing by the applicant, interested parties, the Planning Commission and Planning Department, that the application should be granted, the Board of Commissioners makes the following findings:

1. That the applicant has provided factual information demonstrating that there is a public need for this Zone Change and that the applicant's property is best suited to meet that public need; and

2. That the Klamath County Planning Commission has held a public hearing on Zone Change 73-51 and made findings as required by Ordinance Number 17, the same being the Klamath County Zoning Ordinance; and

3. That the property affected by the change of zone is adequate in size and shape to facilitate those uses normally allowed in conjunction with such zoning; and

4. The property affected by the proposed change of zone is properly related to streets and highways to adequately serve the type of traffic generated by such uses that may be permitted therein;

5. That the proposed change of zone will have no adverse effect on any property or the permitted uses thereof within a seven hundred (700) foot radius excluding highways and rights-of-way; and

6. That the proposed change of zone is in keeping with any land use plans duly adopted and does, in effect, represent the highest, best and most appropriate use of the land affected; and

7. That the Board of Commissioners concurs with the Planning Commission's findings providing the three following conditions are met:

a. That no lot size shall be reduced in area below five (5) acres on two lots and ten (10) acres on remaining lots; and

b. That the applicant and all subsequent owners, purchasers and occupants of said real property and any portion thereof, their personal representatives, heirs, successors and assigns covenant and agree to hold harmless the owners and occupants of adjacent sand, gravel, quarrying and processing operations from all damage and inconvenience resulting from the customary use of said property for sand, gravel, quarrying and processing operations. The foregoing conditions and restrictions shall bind and enure to the benefit of and be enforceable by suit for injunction or for damages by the owners or occupants of adjacent sand, gravel, quarrying and processing operations; and

8. That the application is consistent with the Klamath County adopted Comprehensive Land Use Plan maps and text;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT the application of Glenn Dehlinger for a change of zone from AF (Agricultural Forestry) zone to RA (Residential Agriculture) zone, a particular description of the real property referred to in said application being the SW¼SW¼ Section 32, Township 39 S., Range 10 East of the Willamette Meridian and that portion

of the NW¼ of Section 5, Township 40 S., Range 10 East of the Willamette Meridian lying northeasterly of Hill Road, Klamath County, Oregon, consisting of 117 acres more or less, said change application being numbered Zone Change 73-51 is hereby approved on the conditions:

1. That no lot size shall be reduced in area below five (5) acres on two lots and ten (10) acres on remaining lots; and

2. That the applicant and all subsequent owners, purchasers and occupants of said real property and any portion thereof, their personal representatives, heirs, successors and assigns covenant and agree to hold harmless the owners and occupants of adjacent sand, gravel, quarrying and processing operations from all damage and inconvenience resulting from the customary use of said property for sand, gravel, quarrying and processing operations. The foregoing conditions and restrictions shall bind and enure to the benefit of and be enforceable by suit for injunction or for damages by the owners or occupants of adjacent sand, gravel, quarrying and processing operations.

Done and dated this 10th day of August 1973.

Chairman of the Board

County Commissioner

Approved as to form

County Commissioner

Harry D. Boivin, Legal Counsel

I agree and consent to the terms and conditions of the foregoing order.

Applicant

10/9/73
Date

Copies of orders picked up by Mr. Dehlinger and Bob Hamilton 10/9/73 mw

January 26, 1976

Ms. Nancy Gilliam
Clerk of Multnomah County
Board of Commissioners
Multnomah County Courthouse
Room 605
1021 S.W. 4th Avenue
Portland, Oregon 97204

Dear Ms. Gilliam:

This will confirm our reservations of Room 602, Multnomah County Courthouse all day February 20, 1976 for an Environmental Quality Commission meeting.

Sincerely,

LOREN KRAMER
Director

Peter W. McSwain
Hearing Officer

PWM:vt