

**OREGON
ENVIRONMENTAL QUALITY
COMMISSION Meeting
Minutes
1977-1979**



**State of Oregon
Department of
Environmental
Quality**

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(Tentative Agenda)
Environmental Quality Commission Meeting
November 18, 1977
Deschutes County Commission Hearing Room
Courthouse Annex
1164 N.W. Bond
Bend, Oregon

9:00 a.m. A. Minutes of October 21 and October 26, 1977 EQC meetings

B. Monthly Activity Report for October 1977

C. Tax Credit Applications

PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

D. Central Region - Report of Region Manager on significant on-going activities in the Central Region

9:30 a.m. E. Jeld-Wen: Benton's Engineering & Fabrication, Klamath County - Request for variance from open burning rules, OAR 340-23-025 through 23-050

F. Sewage Disposal, Bend Area - Public sewerage considerations within the Bend Urban Growth Boundary

G. City of Bend Sewerage Project - Financial considerations of City of Bend Phase I sewerage project

H. City of Maupin Sewerage Project - Request for extension of time schedule for construction of City of Maupin sewage collection and treatment facilities

I. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Orders for NPDES permittees not meeting July 1, 1977 compliance date

J. S.W. 45th Drive Area, Portland, Multnomah County - Certification of plans for sewerage system as adequate to alleviate health hazard, ORS 222.898

K. Medford Air Quality Maintenance Area - Authorization for public hearing to consider amendments to Oregon Clean Air Act Implementation Plan involving particulate control strategy rules for the Medford Air Quality Maintenance Area

L. Motor Vehicle Emission Testing Rules - Authorization for public hearing to consider amendments to motor vehicle emission testing rules to include testing publically owned vehicles

M. Sulfur Content of Fuels Policy - Consideration of adoption of proposed policy on use of low sulfur fuels in Portland Metropolitan Area, OAR 340-22-010

Because of the uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except item E. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 a.m.) at the Pine Tavern. Lunch will also be at the Pine Tavern, Foot of Oregon Avenue, Bend.

MINUTES OF THE NINETY-FIRST MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

November 18, 1977

On Friday, November 18, 1977, the ninety-first meeting of the Oregon Environmental Quality Commission convened in the Deschutes County Commission Hearing Room, Courthouse Annex, 1164 N.W. Bond, Bend, Oregon.

Present were Commission members: Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; Mrs. Jacklyn Hallock and Mr. Albert Densmore. Commissioner Ronald Somers was absent. Present on behalf of the Department were its Director and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 1234 S.W. Morrison Street, Portland, Oregon.

AGENDA ITEM A - MINUTES OF OCTOBER 21, 1977 AND OCTOBER 26, 1977 EQC MEETINGS

It was MOVED by Commissioner Phinney and seconded by Commissioner Hallock that the minutes of October 21, 1977 and October 26, 1977 be approved as presented. The motion passed unanimously.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR OCTOBER 1977

Commissioner Densmore asked how the Department would get involved in ship emissions in relation to the significant activity item regarding GATX in Columbia County. Mr. E. J. Weathersbee of the Department's Air Quality staff, replied that the Department was trying to determine if this facility would qualify under the EPA definition of a major source. He said that the terminal company said it had no control over the ships and what they did, so the Department was trying to find out how they could control those ship emissions.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney, and carried unanimously that the Monthly Activity Report for October 1977 be approved.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

In connection with application T-843R, Teledyne Wah Chang Albany, Commissioner Hallock asked if the Commission was setting a precedent by approving a tax credit for a monitoring device. Mr. Michael J. Downs of the Department's Program Management Division, replied that the Commission had approved tax credits for monitoring devices in the past with the idea that they helped to control pollution by allowing the Company to keep track of its emissions.

Chairman Richards asked if the wording of the summations in the tax credit review reports matched that of the statutes. Mr. Downs said that 468.170(4) laid out the findings the Commission must make to issue a tax credit, and that that wording is included in the summations of the tax credit reports.

Some discussion followed regarding return on investment in relation to solid waste tax credits. Chairman Richards suggested that it might be a good idea to request the Legislature to review the solid waste portion of the tax credit law. Mr. Downs replied that the Legislature had made changes to the solid waste statutes in the 1977 Session, so they had looked at it recently.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney, and carried unanimously that tax credit applications T-843R, T-854, T-884R, T-898R, T-917, T-919, T-924, T-925, T-926, T-927, T-928, T-930 and T-931 be approved.

AGENDA ITEM D - CENTRAL REGION--REPORT OF REGION MANAGER ON SIGNIFICANT ON-GOING ACTIVITIES IN THE CENTRAL REGION

Mr. John Borden of the Department's Central Region presented the staff report on this matter.

Mr. Borden said that currently the Redmond sewerage project was about 40% completed. He said that a citizens group had challenged Redmond's local share financing formula and had filed suit.

Mr. Borden said that Willamette Industries had essentially been in compliance with Department air quality regulations since 1976. However, he said, they had recently been receiving some particulate complaints in regard to the plant. Mr. Borden said that the Department was setting up a particulate sampling program to verify particulate sources and determine whether air quality standards are being violated by the plant.

In regard to open burning in Central Oregon, Mr. Borden said that little had been done to control the open burning of wastes except for fire hazard control. He further outlined an implementation strategy for the regulation of open burning in the Central Region in accordance with the Commission's adoption of revised open burning regulations on October 15, 1976.

With connection to the hazardous waste regulations adopted by the Commission in 1976, Mr. Borden said that the Central Region began an inventory of hazardous waste storage cans, disposal and application practices, rinsing practices and public feeling regarding the appropriateness of the regulations. He said that one of the things they learned was that persons interviewed felt that the regulations were hindering the desire to properly dispose of these cans. He further said that the Department was looking at just what those disposal practices were and obtaining suggestions as to what citizens would see as adequate regulations. Mr. Borden said that at this time very few pesticide cans were making it to approved disposal sites, and if they were, they were not being rinsed properly.

Mr. Borden said that they were also gathering data on field burning in Jefferson County to determine whether any Department action was required.

Mr. Borden said that a wood waste management and disposal problem had developed in Crook County because of the phase out of wigwam burners. He said that the Department set up a study group of mill representatives, county officials, fire districts and the news media to develop remedies to this problem. He also said that resource re-use was being encouraged.

Mr. Borden then listed a few significant activities outside of the tri-county area. These included the Martin-Marietta Aluminum Company, The Dalles, request for variance from NPDES water pollution control standards which EPA denied; geothermal exploration in Klamath and Lake Counties; the implementation of a sludge utilization disposal program in Hood River County; and the subsurface sewage disposal program in the Central Region.

No action was required by the Commission on this item.

PUBLIC FORUM

Mr. Ladd Henderson of Hood River appeared before the Commission to request the opportunity to go before the Commission instead of a Hearing Officer regarding a subsurface sewage disposal matter on the mobile home park which Mr. Henderson owns. Mr. Henderson said that he felt that since the Hearing Officer's address was the same as the main DEQ headquarters, it would be extremely difficult for the Hearing Officer not to have a pre-knowledge of the circumstances from the Department's point of view.

Chairman Richards told Mr. Henderson that although the Commission did occasionally conduct public hearings themselves on items of great public interest, it would be nearly impossible to conduct them on every matter that required a hearing. Therefore, Chairman Richards said, the Commission had two hearing officers to conduct hearings for them.

Chairman Richards asked if the issue was the denial of a permit. Mr. Henderson replied that it was. Chairman Richards asked if the DEQ had ever been denied access to the property. Mr. Henderson said he had denied access two days before. Chairman Richards asked if Mr. Henderson had obtained permits for ~~all activities prior to construction and installation.~~ Mr. Henderson replied that in the situation DEQ was citing him for he did not have permits. Chairman Richards asked if Mr. Henderson had attempted to get the permit before or after installation. Mr. Henderson replied that he had attempted to get permits before installation. Mr. Henderson said that this problem did not just involve his situation; that there was a whole area that would need a lift station to feed into the City of Hood River system. He said that this delay was holding up several property sales and/or improvements.

Chairman Richards asked the staff to respond in writing to the points Mr. Henderson raised.

AGENDA ITEM E - JELD-WEN: BENTON'S ENGINEERING & FABRICATION, KLAMATH COUNTY--REQUEST FOR VARIANCE FROM OPEN BURNING RULES, OAR 340-23-025 THROUGH 23-050

Mr. Neil Adams of the Department's Central Region staff presented the staff report on this matter. Mr. Adams said that at its April 22, 1977 meeting the Commission denied Jeld-Wen's request for an open burning variance and required them to more fully examine alternatives to open burning. He said that the Company's response to the Commission Order concluded that none of the alternatives examined were practical to the present method of disposal by open burning. Mr. Adams said that the Company again requested a variance and asked permission to burn their dump on an annual basis.

Mr. Adams showed the Commission photographs taken of the dump on August 12, 1977. These photographs showed tires, paint cans, plastics of all types and cardboard and lunchroom refuse which, Mr. Adams said, the Company had previously told the Department were being separated or taken to the Klamath disposal site. He said that a follow-up inspection was done on September 23, 1977 and that Mr. Wayne Benton of Benton's Engineering & Fabrication requested that his approval be received in advance of the Department's inspection. Mr. Adams said that the Department was not allowed to take photographs at that time on Company request. He further said that at that time it looked as if earth had been moved to cover portions of the dump. Mr. Adams said that they did not observe any tires, plastic or cafeteria-types wastes at that time.

Mr. Adams said that Jeld-Wen had provided little new information in their current variance request over that already submitted to the Commission and the Department. He said that although the Company had been asked to do so, they had not submitted a satisfactory or complete analysis of their waste disposal problem.

Mr. Adams presented the following Director's Recommendation:

1. The Director recommends that the Environmental Quality Commission enter a finding that special circumstances rendering strict compliance unreasonable, burdensome, or impractical were not found.
2. It is the Director's further recommendation that Jeld-Wen's August 1, 1977 request for annual industrial and commercial waste open burning be denied.
3. The Director recommends that Jeld-Wen be instructed to develop and implement an approvable plan for industrial solid waste disposal which does not include open burning. That Jeld-Wen be assessed appropriate civil penalties if any other open burning occurs at the plant site or other sites under their ownership or control at any time.

4. The Director also recommends that if Jeld-Wen continues to use their current industrial solid waste disposal site on or after December 15, 1977 without submitting a complete solid waste disposal site application to DEQ for that site by December 15, 1977, Jeld-Wen be assessed appropriate civil penalties. DEQ would favorably act on the IW-SW permit application only if said site is a part of an approvable plan developed as in 3, above.

Chairman Richards asked Mr. Adams if he was involved in this problem in February, March and April of 1977. Mr. Adams replied he was. Chairman Richards said that prior to the April meeting, some burning was observed that the Klamath County Fire Marshal had issued a building demolition permit for. He further said that he assumed that permit did not automatically include permission from DEQ. Mr. Adams replied that the County Fire Marshal did have authority to issue a burning permit, however, this particular permit was not coordinated with DEQ. Mr. Adams said that it was his understanding that even though a permit to burn was issued by the fire marshal, a permit should have been obtained from the Department in compliance with the open burning rules. Further, Mr. Adams said, the Company did not have a solid waste disposal permit and is therefore not allowed to accumulate solid waste on the site. If they did have a permit, he said, that permit would specify that no open burning would be done on the site.

Mr. Stan Meyers, employee of Jeld-Wen, appeared and read a written response to the DEQ staff report. Mr. Meyers said that Jeld-Wen acknowledged that the materials currently in their dump could be handled by Klamath Disposal, Inc.; however the cost of this disposal rendered it impractical. He further stated that the proposal of an off-site disposal site was also logistically and economically impractical. Mr. Meyers said that he knew of no open pit incinerators in operation which handled the same type of wastes as Jeld-Wen. He also said that the conversations with a DEQ representative indicated that an open pit incinerator was not a solution to their problem. Regular incinerators were also ruled out as being economically impractical, he said.

Mr. Meyers said that since the April EQC meeting, the Company had made ~~substantial progress in eliminating those undesirable wastes described in the staff report, and also reduce the volume of wastes going to the dump.~~ He said that the Company had discussed the type of material to be taken to the dump at their monthly manager meetings and had stressed the importance of the situation. Mr. Meyers said that the Company believes that those items now at the dump site would not cause dense smoke or obnoxious odors if the dump were allowed to be burned. He said that burning of the dump could be carried out at a time when DEQ felt that meteorological conditions were favorable.

Mr. Meyers further reiterated the feeling of the Company that no practical alternatives to open burning the dump site could be identified.

Chairman Richards asked Mr. Meyers if he had seen the pictures taken on August 12, 1977. Chairman Richards then showed the pictures to Mr. Meyers after his reply that he had only seen copies of them. In response to Chairman Richards, Mr. Meyers said that the pictures were an accurate representation of the dump on the date they were taken. Mr. Meyers said that he thought with continued effort the Company could keep the objectionable wastes out of the dump.

Chairman Richards asked why the August pictures showed the types of wastes that the Company was told to keep out of the dump in April. Mr. Meyers replied that it was taking time to educate their employees on the types of waste permitted in the dump and that they were making an effort to keep those things out of the dump.

Commissioner Hallock asked if the Company considered disposal costs in the total cost of doing business. Mr. Meyers replied that he did not know how to answer the question; however the costs of collecting the waste from around the plant area, transporting it to their dump on-site and burning it would probably be considered in the cost of doing business.

Commissioner Phinney said that the Company was apparently aware of the undesirability of certain wastes in the dump, but that they seemed unwilling to reduce the amount of combustibles in the dump. She said that just because cardboard is readily combustible did not mean it was acceptable to be put into the dump if there was another alternative, such as recycling. She further said that it disturbed her that the Company did not seem to see anything wrong with the dump. Mr. Meyers replied that they had minimized the material going into the dump a great deal in the past few months. Mr. Meyers said that there was a possibility that something could be done with the cardboard, but that the plant had no use for the rest of the wastes now going into the dump.

Commissioner Densmore asked if there were other facilities in the State comparable to those at Jeld-Wen. Mr. John Borden of the Department's Central Region Office replied that there were some similarities to other mills in the Klamath Basin. However, he said, Jeld-Wen was the only company in the basin that frequently open burned. Commissioner Densmore then asked how other mills handled cardboard. Mr. Borden replied that some take it to the Klamath disposal site where it is banded and recycled.

Commissioner Densmore asked if arrangements could be made with other plants in the area with similar wastes to jointly work on the problem. Mr. Meyers said that that had not been explored. Mr. Borden said that this alternative had been discussed informally with other mills in the Klamath basin at various times.

Mr. Wayne Benton, of Jeld-Wen, told the Commission some background on the plant and their efforts to reduce the refuse in the waste dump. He showed the Commission pictures of the plant in the 1960's to demonstrate that the waste in the dump had been reduced since that time.

Mr. Benton said that he felt the Company's policy has been misinterpreted. He said he did not allow Department staff to take pictures at their September 23 inspection because everytime he talked to Department representatives the facts had been turned around before they got to the Commission. Mr. Benton said that if he had allowed pictures to be taken, they would have shown that the objectionable refuse was not in the dump. He further said that they periodically use a cat to push the pile together and consolidate it, but that no attempt was being made to cover anything up.

Mr. Benton stated that a large pile of refuse was on the property when Jeld-Wen purchased it in approximately 1970. He said that the Company had worked very hard to eliminate this refuse.

Mr. Benton said that the building demolition burning done early in the year had been done under a permit from the county fire marshal and he did not understand why there was a problem with that. He said that the Company was concerned with what was in the dump and all they were asking was permission to burn the dump once a year. He said that he felt the more they tried to comply, the more trouble they got into. Further, Mr. Benton said that DEQ personnel, off the record, told him that they saw no problem with the Company burning the dump.

Mr. Adams said he could not recall himself or any member of his staff making such a statement. He said that the main problem seemed to be a lack of communication between the Department and the Company. Mr. Adams said that at no time did he feel the Department had not acted in good faith. He said the Department had asked to work with the company to develop a plan so that a solid waste permit could be issued to the plant. Mr. Adams said, however, that the Department did not feel that the Company had acted in good faith, especially by burning the buildings earlier in the year during the same time the Department was negotiating with them not to burn their dump.

In response to Mr. Benton, Mr. Adams said that when he inspected the site the week before the meeting he saw no tires, plastic, paint cans, and very little cardboard.

Commissioner Densmore asked what period of time this variance would cover. He was told it would allow for an annual burn. He said that it had not been demonstrated to his satisfaction that there were no reasonable alternatives to open burning the dump and he would not be able to support the variance request.

Commissioner Hallock MOVED and Commissioner Phinney seconded that the Director's recommendation as stated above be approved.

Chairman Richards asked that if it could be demonstrated to the Department that the particularly obnoxious wastes, such as the tires, paint cans and lunchroom refuse, were separated from the wood wastes on the pile, could a one-time burn be feasible to reduce those wood wastes. Mr. Adams said that they had very little data on what such a burn would do to the air quality.

Commissioner Densmore said it should be made clear that this would not be a procedure that would happen again and that the staff be directed to make every effort to contact affected companies in the area and put together some type of a resource recovery plan, if appropriate and to also get together with the County to explore alternatives.

In response to Mr. Borden, Chairman Richards said that the proposal would be for a one-time burn completely controlled by DEQ and that if any of the obnoxious refuse was burned, civil penalties for open burning violations would be issued. He also said that under no circumstances would he vote to have an additional burn.

Commissioner Hallock amended her motion to say that except for a one-time burn of wood wastes only, at a time and on a date supervised by the Department, the Director's recommendation be approved. The amended motion passed unanimously.

Chairman Richards added for the record the finding of fact that on the exception to the Director's recommendation, it would be unreasonable, burdensome, and impractical to deny the one-time burning of the wood wastes by Jeld-Wen. Chairman Richards also said that the type of material to be burned and the burning time and date were to be strictly under the supervision and control of the Department and not a matter for the Company to decide.

AGENDA ITEM G - CITY OF BEND SEWERAGE PROJECT - FINANCIAL CONSIDERATIONS OF CITY OF BEND PHASE I SEWERAGE PROJECT

Mr. Clarence Hilbrick of the Department's Water Quality Division, presented the staff report on this matter. Chairman Richards asked how the "fair share" concept mentioned in summation 8 of the report was arrived at. Mr. Hilbrick replied that the fair share for Redmond was arrived at as a 50-50 split of the local costs and it appeared from the figures available for Bend that the 50-50 split of costs would be appropriate for them also. Chairman Richards asked how recently the Emergency Board took action on the hardship grant. Mr. Hilbrick said it was approximately a year before.

Mr. Clay Shephard, Mayor of the City of Bend, appeared before the Commission. He said that it was the decision of the Bend City Commission to request additional funding to finance the Bend sewer project because of additional and unexpected costs. In 1969, he continued, DEQ mandated that the City of Bend have a sewer system by 1980. Mayor Shephard said that in December 1976, the City appeared before the Emergency Board and requested a hardship grant because of the geological conditions surrounding the City of Bend and the difficulty encountered when trying to install a sewer system. He said that at that time it was understood the City would be responsible for a bond of \$7.5 million to \$8 million to cover their part of the matching funds with EPA. He said that the Emergency Board acknowledged that anything beyond the \$7.5 million would impose an undue hardship on the City. Mayor Shephard said that the Emergency Board granted the City the \$7.5 million to provide matching funds to EPA.

Mayor Shephard said that now the costs have changed upward, inspite of the best estimates the City could obtain at the time they went to the Emergency Board. He said that the City's growth rate was now double that of the whole State of Oregon. Such a growth rate, he said, imposed such hardships as the necessity of seeking more water sources; the building of at least one more fire substation; increased traffic problems; the building of three more schools for which the funding is provided by bonding; and also the Central Oregon Community College was making a study of its future building needs which might require more bonding. Mayor Shephard said that all of this meant that the City would have to be careful about passing additional bonds. He also said that the additional projected population would have to be planned for in setting up the sewerage system.

Mayor Shephard added that the City embarked upon the venture of providing sewer service at the urging of the Commission, and he asked the Commission's continued support of their efforts to get funding.

Chairman Richards asked who was responsible for making sure the final figures reflected the actual costs, DEQ or the City. Mayor Shephard said he did not know; however their plans had been reviewed by DEQ. Chairman Richards asked why the Emergency Board was not being asked for half of the \$4 million remaining, and if the City felt it had gone to its limit and any excess would be the responsibility of the State. Mayor Shephard replied that it was the opinion of the City and its consultant that they were just about bonded up to the limit and that they would have trouble selling additional bonds which would place the interest rates higher.

Mr. Charles Long of Bartle Wells, Associates, of San Francisco, financial consultants to the City of Bend, testified that they were hired to help the City plan the financing of a sewerage system project. In response to Chairman Richards, Mr. Long said they had been involved in the project since August of 1976. He said that their approach to a public works project was to consider the entire cost of that project on the citizens impacted. He said that their approach was to make everyone aware of how much the whole project would cost. This included, he continued, presenting to the City ~~the specific cost of the house service connections and the cost of the collection system as well as the treatment and disposal system.~~

Mr. Long presented charts demonstrating the City's current and projected debt burden. He said that their advise to the City of a reasonable debt burden was based on the current bond market. He said that as soon as the City went over a 5% debt ratio the City would experience a significant adverse cost impact on financing capital projects. Mr. Long said they advised the City that \$9 million was as much as they could afford on the sewerage project and still pay reasonable interest rates and maintain sufficient debt capacity to finance other capital projects that the City would be required to finance.

Mr. Long said that the City could not proceed with construction until capital sources had been identified for the project. He said that the original proposal to the City was for the project to be tax supported during the construction years and to later allocate costs to users based upon connection charges and service charges. He said that the City could not continue with the project because the financing was based on being able to complete the project within the capital sources they had available.

Also, he said, delay on the project costs the City money.

Chairman Richards asked about the possibility of the figures they had been given falling short of the actual costs. Mr. Long replied that the City had originally figured in a \$1.5 million contingency cost for unanticipated cost increases. However, Mr. Long said, with the \$9 million practical limit on city financing, the city's ability to come up with additional costs would be minimal.

Some discussion then followed between the Chairman and the Director on the background and applicability of hardship grants.

In response to Commissioner Densmore, Chairman Richards said that the City could not continue to pursue the sewerage project until the Commission decided to assist because costs were going up each day and the City needed to know whether to go for an additional bond issue.

It was MOVED by Commissioner Phinney, seconded by Commissioner Densmore and carried unanimously that the following Director's recommendation be approved.

It is recommended that:

1. The Environmental Quality Commission concur in the Department's position that the interim use of a drill hole for the disposal of highly treated sewage effluent is a positive step forward which will reduce potential adverse impacts on the groundwater while permitting construction to begin before inflation drives costs higher without foreclosing any future options. Such concurrence is conditioned upon immediate further study of ultimate disposal options and a groundwater monitoring program to be conducted by the City in conjunction with the interim drill hole.
2. The Environmental Quality Commission concur in the Department's position that the State hardship grant of \$7.5 million still substantially meets the intent of the Department's request to the Emergency Board, and that it would not be appropriate to request additional hardship grant funds at this time.

Chairman Richards asked Mr. Long if it would be possible to come up with some estimates of amounts that would be needed for other services than the sewage project and more hard detail as far as the cost of the project. Mr. Long replied that some of the information asked for would be qualitative in nature and not hard data. For instance, Mr. Long said, future demands on capital projects would be based upon their best speculation documented as well as they could, but it would still be speculation. He said that the City was looking for more than the adoption of the Director's recommendation. He said they were looking for more of a commitment on the part of the Commission to work with the City to find ways out of the capital project bind they are in. Mr. Long said the City would like to see a request from the Commission to receive a full-scale report on the entire solution to the problem which would incorporate a variety of methods of cost reduction, DEQ loans and additional capital sources that could be identified from other places. Chairman Richards assured Mr. Long that the Commission and

the Department had a concerned, continuing interest in the Bend situation.

Commissioner Phinney asked if the Chairman thought a special directive was needed from the Commission to the Department for them to work cooperatively with the City. Chairman Richards replied that he did not think that was necessary.

AGENDA ITEM F - SEWAGE DISPOSAL, BEND AREA - PUBLIC SEWERAGE CONSIDERATIONS
WITHIN THE BEND URBAN GROWTH BOUNDARY

Mr. John Borden of the Department's Central Region Office, said that since the early 1900's sewage disposal wells had been used in Central Oregon to dispose of septic tank effluent. After study by a Federal agency it was concluded that continued discharges of septic tank wastes to disposal wells posed a potential threat to groundwater quality. He said that in 1969 regulations were adopted to phase out existing disposal wells, but new wells were permitted under a certain set of conditions. Overall, Mr. Borden said, Bend's sewerage project had had several delays since 1969, along with the complication of rock excavation and local financing difficulties. He continued by saying that because Bend's annual reports showed progress toward sewerage construction DEQ had renewed their permit authorizing sewage disposal wells each year through the present.

Mr. Borden said that much of the growth was outside the City but inside the Urban Growth Boundary and it had occurred with little or no regard for how sewerage connections would be made except as inadvertently regulated by DEQ by indirect planning strategies. He said that a key factor was the lack of local coordination between the city and county such as a city utility board, a county service district or some form of equivalent control.

Mr. Borden listed the following DEQ alternatives:

1. No action--continue septic tank and drainfield approvals/denials without regard to local planning.
2. Obtain a written program from the Deschutes County Commission which shows how DEQ and the Commission can work together to insure that Phase 2 sewerage construction occurs in accordance with the approved facilities plan and its amendments, which show proposed trunk sewer locations. The program shall diagram an implementation strategy which addresses:
 - a. Who will plan collector sewers;
 - b. When sewerage facilities will be constructed;
 - c. How sewerage facilities will be financed;
 - d. Who will implement planning, design and construction;
 - e. How development will be handled in the interim to insure that it does not impair implementation.

3. Restrict subsurface sewage disposal systems in the Phase 2 area until at least one of the following occurs:
 - a. Deschutes County forms a County Service District to design and construct sewerage facilities in the Phase 2 area to accommodate any county approvals in the UGB; or
 - b. An equivalent public body is formed to regulate these activities in accordance with regional sewerage planning.

Mr. Pat Gisler, Bend citizen, testified that the local newspapers reported the current cost estimate on the Bend sewer system was approximately \$66 million or \$12,000 per house. He said that this made him question the feasibility of an area-wide sewer system for Bend. He said that the testimony he heard previously in the day that estimated perhaps a \$3.50 to \$5.00 per thousand tax increase to pay for the sewer failed to take into consideration an additional estimated \$300 per year increase in property taxes because of increases in assessed valuation. He said that in light of rising costs, the scope of the project should be reduced in scale. He proposed sewerage only existing drill holes in the city area.

Mr. Gisler also recommended that the effluent disposal be limited to spray irrigation of treated effluent. He said that dumping effluent into a specific area was more of a hazard to the subsurface water than the existing drill holes. He said that it appeared to him DEQ was more interested in stopping growth in the Bend area by making housing too expensive for anyone but the very wealthy, than it is interested in environmental quality. Mr. Gisler said that the effluent from the treatment plant would probably be safer in the Deschutes River or the irrigation ditches where biological processes can take place than by injecting it into the subsurface. He said that numerous relic stream channels existed between the lava flows, of which many carry water.

Mr. Gisler said he disagreed with Mr. Borden that septic tank and drainfields were interim facilities. He said that properly installed and maintained the septic tank system had a lifetime which meets or exceeds that of the structure to which it is attached. He said that considering the circumstances in Bend, the septic tanks were a safe and reliable system for single-family dwellings.

Mr. Gisler said he felt the Bend area sewer system needed to be rethought to (1) reduce the scale of the project to drain holes only; (2) limit disposal to spray irrigation; (3) go for local basin systems and not a large regional system; (4) encourage the use of septic tank and drainfields for areas that are for single family dwellings; and (5) direct the Department to restrict its attention to environmental quality and stay out of the area of land use planning.

Chairman Richards asked Mr. Gisler about his statement that the effluent from a treatment plant was more dangerous than the drill holes. Mr. Gisler said he was not defending drill holes; however the amount of effluent going into a drill hole in any given location presented a very small volume. He continued by saying that when a large amount of effluent from the City is deposited into one point, even though it is treated, it would make that point a much greater hazard to the subsurface water than individual drill holes. Chairman Richards said that the septic tank system they had been talking about would still permit the effluent to percolate through some rock formations and enter the subsurface water. Chairman Richards said there were areas where septic tank systems were installed with the idea that the area would be sewered and therefore were not meant to be long-term systems.

Mr. Gisler said that the effect of a \$12,000 per house sewer system would be to stop growth because most people could not afford homes with the increased expense. Chairman Richards said that the role of the Commission and the Department was not in land planning and he did not see it as a mission of the Commission to make buying homes inexpensive if the result of that would be to contaminate aquifers.

No action of the Commission was needed at this time.

AGENDA ITEM H - CITY OF MAUPIN SEWERAGE PROJECT - REQUEST FOR EXTENSION OF TIME SCHEDULE FOR CONSTRUCTION OF CITY OF MAUPIN SEWAGE COLLECTION AND TREATMENT FACILITIES

Mr. Robert E. Shimek of the Department's Central Region staff presented the staff report on this matter. He said that under the terms of an Order issued by the Commission on October 15, 1976, construction to upgrade the sewage collection and treatment facilities of the City of Maupin should have commenced by November 15, 1977. He said that construction had not started due to the unavailability of federal grant funds up to this point.

Commissioner Hallock MOVED, Commissioner Phinney seconded, and it was carried unanimously that the following Director's Recommendation be adopted:

The Director recommends that the Order signed at the September 15, 1976 EQC meeting be revised as follows:

1. Begin construction within three (3) months of Step III grant offer.
2. Complete construction within twelve (12) months of Step III grant offer.
3. Attain operational level within thirty (30) days of completing construction.

AGENDA ITEM I - NPDES JULY 1, 1977 COMPLIANCE DATE - REQUEST FOR APPROVAL OF STIPULATED CONSENT ORDERS FOR NPDES PERMITTEES NOT MEETING JULY 1, 1977 COMPLIANCE DATE

Mr. Fred Bolton of the Department's Regional Operations staff, presented the staff report on this matter. He requested the Commission to sign stipulated orders for Cities of Cottage Grove and Boardman because they were unable to consistently treat sewage to the required level of secondary treatment.

Commissioner Phinney asked if these stipulated orders would affect the priority list in any way. Mr. Bolton said that both cities were on the priority list and were in the planning and design stages.

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

It is the Director's recommendation that the Commission approve the following Consent Orders:

1. Department of Environmental Quality v. City of Cottage Grove, Stipulation and Final Order No. WQ-MWR-77-250.
2. Department of Environmental Quality v. City of Boardman, Stipulation and Final Order No. WQ-ER-77-158.

AGENDA ITEM J - S.W. 45th DRIVE AREA, PORTLAND, MULTNOMAH COUNTY - CERTIFICATION OF PLANS FOR SEWERAGE SYSTEM AS ADEQUATE TO ALLEVIATE HEALTH HAZARD, ORS 222.898

Mr. Clarence Hilbrick of the Department's Water Quality Division staff, presented the summation and Director's recommendation from the staff report. He said that upon the issuance of an annexation order to the City of Portland by the State Health Division on July 5, 1977, the City submitted preliminary plans and specifications to DEQ for review. Pursuant to ORS 222.898, he said, the Commission was required to review the preliminary plans and other submitted documents and certify to the City its approval if it considers the proposed facilities and time schedule adequate to remove or alleviate the dangerous conditions.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the Director's recommendation to approve the proposal of the City of Portland and certify said approval to the City, be adopted.

AGENDA ITEM K - MEDFORD AIR QUALITY MAINTENANCE AREA - AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER AMENDMENTS TO OREGON CLEAN AIR ACT IMPLEMENTATION PLAN INVOLVING PARTICULATE CONTROL STRATEGY RULES FOR THE MEDFORD AIR QUALITY MAINTENANCE AREA

Mr. David Baker of the Department's Air Quality Division staff, presented the Director's recommendation from the staff report.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and unimously carried that the Director's recommendation to authorize a public hearing to take testimony on the question of adopting new administrative rules regarding particulate emissions within the Medford-Ashland Air Quality Maintenance Area, be approved.

AGENDA ITEM L - AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER AMENDING VEHICLE EMISSION TESTING RULES TO COVER THE TESTING OF PUBLICLY OWNED VEHICLES

Mr. Ron Householder of the Department's Vehicle Inspection Section, presented the Director's recommendation on this matter. He requested the Commission to authorize a public hearing to consider the amending of the vehicle emission testing rules to include the testing of publicly owned vehicles.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the Director's recommendation to authorize the public hearing be approved.

AGENDA ITEM M - SULFUR CONTENT OF FUELS - ADOPTION OF POLICY

Mr. E. J. Weathersbee of the Department's Air Quality Division, said that this was the fifth time this Policy had been before the Commission, and if it was not adopted at this time the idea should probably be abandoned.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney, and carried unanimously that the Director's recommendation be approved with the amendment in section (1)(a) which reads as follows:

- (a) Present evidence which indicates that residual oil combustion has [an] a significant adverse air quality impact in the Portland AQMA.

TEMPORARY NOISE REGULATIONS

Mr. John Hector of the Department's Noise Section, appeared before the Commission to request that serious prejudice to the public would result if the Commission did not adopt the temporary noise rules as presented to the Commission at the Breakfast Meeting. He also requested that the Commission authorize a public hearing to adopt permanent rules.

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the temporary noise rules be adopted and a public hearing be authorized to adopt permanent rules.

THOR MORK

Chairman Richards said that Mr. Mork asked the Commission to reconsider their action adopting the priority list for water quality projects. He said that Mr. Mork felt that there were various unconstitutional actions taken by the Commission at the time the list was adopted and he was advised to ask the Commission for reconsideration of the matter before he sued them. Chairman Richards then called for a motion to either reconsider the priority list, or not reconsider it.

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the Commission's action not be reconsidered.

Chairman Richards asked that Mr. Mork be informed of the Commission's action on this matter.

There being no further business, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carol A. Spletstaszer". The signature is written in dark ink and is positioned above the printed name.

Carol A. Spletstaszer
Recording Secretary

Environmental Quality Commission Meeting

December 16, 1977
Medford City Council Chambers
411 West Eighth Street
Medford, Oregon

- 9:00 a.m. A. Minutes of November 18, 1977 EQC meeting
- B. Monthly Activity Report for November 1977
- C. Tax Credit Applications
- PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.
- 9:15 a.m. D. Subsurface Experimental Program - Review of experimental subsurface sewage disposal system installed by Mr. & Mrs. Steven Gunn, Lane County
- E. Southwest Region - Report of Region Manager on significant on-going activities in the Southwest Region
- 9:30 a.m. F. Medford Air Quality Maintenance Area - Public hearing to consider amendments to Oregon Clean Air Act Implementation Plan involving particulate control strategy rules for the Medford Air Quality Maintenance Area
- G. Medford Corporation, Jackson County - Status report and consideration of citizens petition on Medford Corporation's medium density fiber-board plant
- H. City of Cannon Beach Sewerage Project - Request for extension of time schedule for submission of Facility Plan Report
- I. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Orders for NPDES permittees not meeting July 1, 1977 compliance date
- J. Sewage Disposal, Bend Area - Status report on discussions with Deschutes County Commission regarding sewage disposal problems within the Bend Urban Growth Boundary
-
- K. Water Quality Management Plan - Status report on review of Statewide Water Quality Management Plan with local governments and interested citizens
- L. City of Bend Sewerage Project - Update on financial considerations of City of Bend Phase I sewerage project
- M. Oregon Cup Awards - Request for approval of Oregon Cup Awards Screening Committee recommendations

Because of the uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items D and F. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 a.m.) at VIPS, 2229 Biddle, Medford. Lunch will be catered in Conference Room A, Jackson County Courthouse.

MINUTES OF THE NINETY-SECOND MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

December 16, 1977

On Friday, December 16, 1977, the ninety-second meeting of the Oregon Environmental Quality Commission convened in the Medford City Council Chambers, 411 West Eighth Street, Medford, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace Phinney, Vice-Chairman; and Mr. Albert Densmore. Commissioners Ronald Somers and Jacklyn Hallock were absent. Present on behalf of the Department were its Director and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S.W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF NOVEMBER 18, 1977 EQC MEETING

It was MOVED by Commissioner Phinney, seconded by Commissioner Densmore, and carried unanimously that the minutes of November 18, 1977 be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR NOVEMBER 1977

Commissioner Phinney asked about the entry for a temporary parking lot for Washington Square, under Indirect Sources. Director Young told her that this was just for the Christmas season.

In the Air Quality report on Significant Activities, Chairman Richards asked about the statement under "Non-Attainment Areas-Designations", that "the remainder of the State was proposed to be designated 'attainment' for the purposes of applying Prevention of Significant Deterioration (PSD) requirements." He recalled that several times in the past the Commission had on its agenda the question of adopting special PSD areas, and that action was deferred because of upcoming action in the U.S. Congress. Chairman Richards asked what issue the Commission would be facing when Congress promulgated regulations on PSD. Mr. E. J. Weathersbee of the Department's Air Quality Division, replied that the PSD rules were being applied by EPA at the present time. He said that amendments to the Clean Air Act incorporated those rules into the Act. He said that 11 areas in the State were designated Class I and that certain levels of pollution were allowed in those areas. Mr. Weathersbee continued that the rest of the State was designated Class II and that the rules were supposed to be implemented by the State. However, Mr. Weathersbee said, there were several things that had to be done for the State to implement these rules, among them would be to adopt the federal rules as State rules or adopt rules which were more stringent than the federal rules. In response to Chairman Richards, Mr. Weathersbee said that EPA had procedures for reclassifying areas.

Commissioner Densmore MOVED, Commissioner Phinney seconded, and it was carried unanimously that the Monthly Activity Report for November 1977 be approved.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

Commissioner Densmore MOVED, Commissioner Phinney seconded, and it was carried unanimously that Tax Credit Applications T-839R, T-922, T-932, T-933, T-936, T-937, T-939, T-940, T-941, T-942, T-945, T-946, T-947, T-948 and T-950 be approved; that Tax Credit Certificate No. 612 be reissued; and that Tax Credit Certificates No. 740 and No. 695 be revoked.

PUBLIC FORUM

Mr. Tam Moore, Jackson County Commissioner, spoke in regard to the revised subsurface sewage rules which were before the Commission's Hearing Officer. Mr. Moore said that the information the Hearing Officer was working from indicated that the consideration of composting toilets and split systems was not significant. He said that the rules as proposed would require that grey water be placed in a standard subsurface disposal system. Therefore, he said, there would be no point in getting a composting toilet if one had to deal with a standard subsurface disposal system for grey water. Mr. Moore said he could furnish the Commission with some ordinances adopted in California during the drought on alternative disposal methods for grey water.

Additionally, Mr. Moore said, there was a proposal before the Hearings Officer to eliminate rural area treatment. He urged that rural area treatment not be eliminated and that rural area variances be maintained.

Chairman Richards said he would accept Mr. Moore's offer of additional information if it had not previously been presented to Department staff.

Mr. Moore added that he was happy the Commission was in Medford, and he hoped they would listen thoughtfully to the area's air quality problems which would be presented later in the meeting.

No one else wished to speak on any subject.

AGENDA ITEM D - SUBSURFACE EXPERIMENTAL PROGRAM--REVIEW OF EXPERIMENTAL SUBSURFACE SEWAGE DISPOSAL SYSTEM INSTALLED BY MR. AND MRS STEVEN GUNN, LANE COUNTY

Mr. T. Jack Osborne of the Department's Subsurface Sewage Section, said that this agenda item dealt with review of the subsurface sewage disposal system installed by Mr. and Mrs. Steven Gunn of Lane County. Mr. Osborne presented the following report summation and Director's proposed action:

Summation

1. The Gunn system was not installed in accordance with permit conditions and is therefore in violation.
2. The system, as installed, will not provide useful information to the experimental systems program.

Director's Recommendation

Absent change of direction to the contrary by the Commission, the Department will proceed with enforcement.

Commissioner Phinney asked if the pit privy in use on the Gunn's property would be involved in any enforcement action. In response to Commissioner Phinney, Mr. Osborne said he did not know if the privy was in conformance with rules for installation of pit privies and that the Gunns did not now have a permit for a pit privy.

Mr. Steven Gunn appeared before the Commission and presented a statement. A written copy of this statement is filed in the Commission records. Mr. Gunn cited a publication from the State of California and experiments being done in the State of Maine involving grey water systems similar to the plans he submitted to the Department. He said that the plans he submitted were for his specific site, and he was pleased to offer his research to a comprehensive testing program. Mr. Gunn said that after several attempts they thought an agreement on a final plan had been reached with DEQ. He also cited difficulties with local officials in Lane County on the designation of their one bedroom house as a two bedroom house. He also disputed certain items in the DEQ sequence of events (attached to the staff report).

Mr. Gunn said he submitted a testing program and some improvements on their system, and he thought it would be unfortunate to leave any alternative unexplored in the search for adequate alternative sewage disposal methods. He also said that on file was a signed and notarized document relinquishing any responsibility of the state or local governments for the failure of their system. Mr. Gunn then submitted a preliminary set of plans. Chairman Richards asked if those plans had previously been submitted to staff. Mr. Gunn replied that they were similar to plans he originally thought were approved, however some small difficulties had been remedied. Chairman Richards asked if staff had had the opportunity to evaluate these plans. Mr. Gunn replied that they had not.

Chairman Richards asked Mr. Gunn if the sequence of events in the staff report were correct as to the description of the system being used. Mr. Gunn said they were not entirely correct. He cited several places where personnel from different agencies had measured their pit and come up with different sizes for it.

Chairman Richards said he understood the charge of the Legislature was to urge the development of alternatives to standard subsurface systems, and that DEQ had been given the mission of monitoring those alternative systems and determining if they were adequate and useful. He said that some consumer protection was involved in this process; that houses and property may be sold and a system which fits the present owner may not fit the new owner. Chairman Richards said he was hesitant to approve a system which the staff, in its expert opinion, felt would not comply and could not be made to comply with reasonable modifications, even though Mr. Gunn expressed the belief that it would work.

Mr. Gunn said that there were two states doing experiments with systems similar to his, and that they had found them to be successful so far. He said that any changes in sewage disposal habits would necessarily mean a change in living habits. Mr. Gunn said he was not allowed to plumb his house for a grey water system; he had to plumb it for a standard system which would handle such things as a garbage disposal, which a grey water system was not meant to handle, and which he had no intention of installing.

Chairman Richards asked Mr. Gunn if he agreed that the system was not installed in accordance with permit conditions. Mr. Gunn replied that the system was installed in accordance with plans he thought were approved. Mr. Gunn said that DEQ could not produce a set of plans stamped prior to July 8, 1977 which was almost 10 months after his permit was issued.

Commissioner Densmore asked for a staff response to Mr. Gunn's last remark. Mr. Mark Ronayne of the Department's Subsurface Sewage Disposal Section replied that it was true that the original plans on file were missing. However, he said that the Department's Midwest Region had received the plan in advance of the permit being issued at approximately the same time as the Department wrote a letter to the Gunns requesting them to review the plan. Mr. Ronayne said that the plan was based on the Department's field observations and discussions with Mrs. Gunn in July; roughly a month prior to permit issuance. He said that they asked Mr. Jun Lamapas, a former DEQ employee and the one who actually drafted the plan, if he might have taken the plan by mistake when leaving the Department. He said that Mr. Lamapas felt he had taken the plan, but was unable to find it.

Chairman Richards asked if the staff had had opportunity to review the plans which Mr. Gunn was submitting and if those modifications to the system might cause them to believe a delay in action would be warranted. Mr. Osborne replied that if the Gunns were to submit a set of plans that the Department felt would be useful in producing experimental system information then the Department would be receptive to it. He said that the system, as currently installed, was not in conformance with the plans as originally submitted, nor was it in conformance with the plans permitted by the Department. He said the Department would want to insure that if the Gunns wished to pursue another set of plans with a variation on that particular system, that those plans would be followed in accordance with permit conditions.

Chairman Richards said that if based on conditions that the Department felt that modifications to the system were useful in the experimental system program, and the Department could assure itself that the Gunns were still capable of proceeding with an approved system, then action on this matter could be deferred for 30 days for Department review. Mr. Osborne said he would not object to a 30 day delay and that it would be appropriate.

Commissioner Densmore said that he believed that agreement needed to be reached between the Department and Mr. and Mrs. Gunn as to what the approved plans were and that those plans would meet the goals of the experimental system program. He said that unless there was some accommodation on the part of the applicant with the Department, then he would vote for enforcement in 30 days.

Mr. Osborne proposed that the Commission delay for 30 days and give the Department a chance to review the revised plans submitted by the Gunns. However, he doubted that during a 30 day period the Gunns would be able to make the necessary modifications. He said that the Department would be able to come back to the Commission at their next meeting with a report on the acceptability of the plans.

Commissioner Densmore MOVED, Commissioner Phinney seconded, and it was carried unanimously, that action on this matter be deferred for 30 days.

Chairman Richards explained that the disposition of the Commission was to support the staff unless the Department made the evaluation that those changes were critical, and in fact was assured that permit terms would be complied with as they now stand or are modified, then enforcement action would be taken.

AGENDA ITEM F - PUBLIC HEARING TO CONSIDER AMENDMENTS TO OREGON CLEAN AIR ACT IMPLEMENTATION PLAN INVOLVING PARTICULATE CONTROL STRATEGY RULES FOR THE MEDFORD-ASHLAND AQMA

Mr. David Baker of the Department's Air Quality Division staff, presented some overhead slides showing the area of the Medford AQMA; the magnitude of the particulate problem throughout the AQMA; an example of the type of information given to the Advisory Committee; a figure outlining the major points of the proposed rules; and the predicted effect of the rules on the County Courthouse HOV sampler site.

Mr. Baker also outlined some background on the Medford-Ashland Air Quality Advisory Committee, stating that one of its responsibilities was to advise the Department on which control strategies to implement to attain standards in this area. He said that using the information provided the Committee made specific recommendations which were incorporated into the proposed rules.

Mr. Baker said it was the Department's position that the new Clean Air Act Amendments require all sources to attain compliance within three years of amending the state implementation plan. He said this would be achieved for all sources in this area except for the charcoal producing plant, which would require new technology.

Mr. Baker said the proposed regulations represented the highest and best practicable control. He said some industry comments were incorporated into the proposed rules. Mr. Baker said the Department believed these regulations were practical and would be effective in attaining ambient air standards for suspended particulate.

Mr. Baker said the Medford-Ashland AQMA was violating the state daily and annual ambient air standards and the federal secondary daily and annual ambient air standards for total suspended particulate. EPA, he said, had called for a revision to Oregon's state implementation plan to attain and maintain ambient total suspended particulate standards in the AQMA. He said the Medford AQMA Advisory Committee had recommended several control strategies for the reduction of total suspended particulate which the Department concurred with and incorporated into the proposed regulations. The requirements in these proposed regulations, he said, are predicted to bring the AQMA into compliance with TSP standards and maintain that compliance through 1985. He said further study would be done by the Department to identify additional control strategies which would allow maintenance of standards beyond 1985.

Mr. Baker said the Director's recommendation would be to keep the hearing record open until December 28, 1977 and for the Department to evaluate the testimony received, consider such changes as were warranted, and prepare a report with recommended action relative to the proposed rules and the amendment of the Oregon Clean Air Act Implementation Plan for consideration of the Commission at the January 27, 1978 meeting.

Commissioner Phinney said there were several places in the rules where the metric equivalents were not stated and asked if they could be included.

Commissioner Phinney asked about the wording in the last sentence of proposed rule 340-30-005: "In cases of apparent duplication, the most stringent rule shall apply." She asked if "duplication" shouldn't be changed to "conflict", since duplication would mean that identical rules shall apply. Mr. Baker asked for a clarification from Mr. Ray Underwood, Department legal counsel. Mr. Underwood replied that "in cases of conflict" would be more appropriate wording. Commissioner Phinney also stated that there were some words in the proposed rules which were not defined or referred to where they were defined in other rules. She asked that that be rectified.

Commissioner Phinney suggested that a more specific wording should be used in 340-30-065 requiring new sources to comply with the rules, since the rules set out specific compliance dates which new sources might not be able to meet. Mr. Baker said that would be taken care of also.

Mr. Baker submitted for the Commission record additional tables which the Medford Advisory Committee used in making their recommendations.

Ms. Ester Jensen, Chairman of the Medford-Ashland Air Quality Advisory Committee, presented a statement to the Commission she stated three exceptions to the proposed rules which they felt reflected the intent of the committee.

1. In the attachments, Table 1, 2, 3, the voting results in Table 3 were based on data from three receptors, the two included in the report and data from the North Medford receptor. Since the North Medford site showed need for a greater reduction in emissions than White City or Medford Courthouse, the Committee has asked that copies of the North Medford Table be made available to members of the Commission.
2. I refer you to page 5, paragraph 5 concerning Wigwam Waste Burners. The Committee did not consider alternative methods of disposing of wastes presently burned in the two remaining wigwams. It was not the intent of the Committee to stifle through time restrictions or restrictive wording, a better method which industry and the DEQ could provide. They have obviously had extensive experience in resolving this program over the years, for there were eleven burners in 1970.
3. The Committee has serious doubts about the adequacy of the source testing timetable outlined in page 7 (2nd part). We do not feel that it reflects our intent to document emission reductions and to provide continuing data for subsequent analysis and study."

Ms. Jensen said the Committee would suggest that the timetable for source testing be reviewed to determine whether or not the frequency was adequate. They also expressed the belief that it was essential to learn more about veneer dryers and wood particle dryers at hardboard and particleboard plants, and perhaps annual source testing until such time that the control were established and operating routinely would be appropriate.

Chairman Richards said that the pamphlet on "Rogue Valley Air Pollution: Everybody's Problem" outlined specific sources of particulate problems and that most of the Committee's recommendations were aimed at the wood products industry. He asked if the Committee was comfortable with the amount of information obtained from the industry. Ms. Jensen replied that the Committee felt more data was needed on all sources. Ms. Jensen said they did consider other sources and would recommend a pamphlet on the use of home space heating, however there were no controls that could be applied to homeowners. In response to Chairman Richards, Ms. Jensen said that the Committee had discussed in some detail the open burning problems in the Valley and felt that more monitoring was needed to determine the source and extent of this burning.

Commissioner Densmore expressed the Commission's and Department's appreciation to the Committee for their help in drafting the proposed rules for the Medford-Ashland AQMA and hoped that this committee process would work as well in the other AQMA's in the State.

Mr. Clyde Kalahan, American Plywood Association, testified that at the time of the adoption of regulations to cover veneer dryers located outside air quality maintenance areas, dryers inside AQMA's were excluded from the regulation because it was determined that not enough was known about either the scope of the total ambient air quality problems in those special areas, or the contribution of veneer dryers to those problems. Mr. Kalahan said they were still not sure at this time that they had a sound basis to proceed. He recognized the cooperation of the DEQ staff with industry in accumulating data on veneer dryer emissions and said they had no serious disagreement with the major thrust of the proposed rules. He said the plywood industry was committed to clean air and other environmental quality standards, and were willing to expend money for environmental controls which made sense.

Mr. Kalahan said that the American Plywood Association appropriated funds for a study to determine the contribution of their plants to the air problems in the AQMA's. Thus far, he said, they had not reached agreement with DEQ staff as to the exact nature of the research needed. Mr. Kalahan said they chose Washington State University to do the study, and asked them to do a review of the state of knowledge of control in the Medford AQMA.

Mr. Kalahan reiterated the industry's concern for accurate information so that money spent would produce improvement in air quality. He assured the Commission that to what extent their plants were responsible for the air in the Medford area failing to meet acceptable standards, they would be a part of the solution as far as technology would permit.

Dr. Malcolm Cambell, Washington State University, testified that the air quality problems in the Medford area were extremely complicated, and the main reason for this complication was that when things are added to the air they don't stay in the same place forever; they change and become something different. Dr. Cambell said that it was his belief that most of the particles seen in the air in Medford must be photochemical smog particles because they were of the same nature as those found in Los Angeles. He said these particles were not emitted from any place as particles; they originated instead from nitrogen oxides and hydrocarbons. In response to Chairman Richards, Dr. Cambell said that the measurements that were made to identify the nature of the particles in the Medford air were not adequate.

Dr. Cambell said the Commission was confronted with some problems that had not been dealt with effectively elsewhere before and the solutions found for the Medford problems will impact other areas.

Commissioner Densmore asked what sort of measurements Dr. Cambell felt needed to be made. Dr. Cambell said that an identification of the nature of the particles needed to be made.

Commissioner Phinney asked if Dr. Cambell agreed that if the regulations were to be implemented, then the quantity of pollutants in the ambient air would be lowered. Dr. Cambell replied that he suspected that they would not be getting to the primary pollutants in the Medford air. He said he felt the conclusion that control measures would generally reduce the pollution was correct, but he thought the Department's estimates of the amount of reduction were wrong and he didn't think the information available was adequate to estimate the reduction accurately at this point.

Mr. Matthew Gould, Corporate Director of Energy and Environment for Georgia-Pacific Corporation appeared testifying on behalf of the Veneer Dryer Technical Committee of the American Plywood Association. Mr. Gould stated that one of the findings of the Washington University study was that the emission inventory was based on inadequate data. He said that they felt strongly that better information was needed before new regulations were adopted. They also felt, he said, that more conclusive evidence was necessary to exactly define how much their industry contributed to the air quality problems in the Medford AQMA. Mr. Gould said that the strategy they proposed to the Advisory Committee was to first vigorously enforce the existing statewide standards for veneer dryers and hog fuel boilers and while bringing these and other sources into compliance, both DEQ and industry should search for the best information available on the true scope and nature of the problem. He said that bringing veneer dryers into compliance with present standards would make a sizable contribution toward reducing the amounts of suspended particulate associated with veneer dryers in the AQMA.

Mr. Gould objected to the 85 percent efficiency standard for veneer dryers. He said that this requirement was based on the performance of a single unit which was demonstrated at one facility following a pre-scrubber which was specifically designed to operate with it. He then cited some difficulties with this unit and said that until scrubber manufacturers were willing to supply and warrant this equipment to meet DEQ proposed standards, it would be premature to set a numerical performance requirement of 85 percent particulate removal. He suggested that the words "to approximately 85 percent over uncontrolled emissions" in the proposed rule be deleted and replaced with:

"In addition, air pollution control equipment installed to meet the opacity requirements of Section 340-25-315(1) shall be designed such that the particulate collection efficiency can be practically upgraded."

Mr. Gould said they also felt the present standards for hog fuel boilers should be vigorously enforced, bringing all boilers into compliance, which would make a substantial contribution to particulate removal in the area. Mr. Gould suggested that the design requirements be removed and the words "within 90 days after startup, compliance with the average emission limit shall be demonstrated by one or more tests", be added.

Mr. Gould suggested that in the Commission's action on this matter they accompany their decision with a statement recognizing the need for better data and direct the staff and industry to jointly pursue a course of action to develop that information, and that semi-annual reports of progress be jointly made to the Commission. He said that industry was ready to staff a liaison committee and to spend money to fund any reasonable and meaningful research effort.

Mr. Lynn Newbry, Medford Corporation Director of Governmental Affairs, presented a statement on behalf of his company. Mr. Newbry said they agreed with Mr. Gould's testimony regarding veneer dryers and hog fuel boilers.

Mr. Newbry said that the proposed regulation on wood particle dryers was totally unacceptable and could not be achieved within any acceptable time frame. He said they did not understand the method of developing the proposed control strategy. It was unreasonable, he said, to require the relatively small companies, such as are involved in the Medford AQMA, to develop and experiment with new air control equipment. Mr. Newbry said that a wood particle dryer regulation should not be promulgated until EPA's study of these dryers in the Medford area was completed.

Mr. David Junge, Professional Engineering Consultant, testified on the technical nature of the proposed regulations. He said his first concern dealt with the regulation on wood fired boilers. He said that measuring heat input rate for wood fired boilers was extremely difficult and suggested that rather than try to measure the heat input rate, as an alternative, consider the steam generation rate of the boiler which was more easily measured and would ease the implementation of the proposed regulation.

Mr. Junge also suggested that the limit of .050 grains per standard cubic foot of gas be altered to be per standard dry cubic foot of gas, principally because that is the way the tests were carried out. He also said it would be preferable to specify the standard under normal boiler operation wherein normal boiler operation should be construed to mean those periods of operation excluding a two hour period for startup, periods of routine soot blowing and periods of routine grate cleaning. He said it has not been demonstrated that the standard could be maintained under those periods of above normal emissions.

Mr. Junge said that in 340-30-015 of the proposed regulation, some confusion existed in the statement "...0.10 grains per standard cubic foot of exhaust gas corrected to 12 percent carbon dioxide as a two hour average test." He said that to avoid confusion as to which level applied and under what conditions, the second level should either be fully and carefully explained or be dropped entirely.

Mr. Junge said the requirement of equipment demonstrating a capability to meet its design level during the startup phase of operation was not a reasonable period to carry out an emission test. It would be preferable, he said, to specify that emission tests be carried out to determine the effectiveness of control systems within a reasonable time following the startup of the control system, and within a period not to exceed 90 to 120 days, or whatever period seemed most reasonable to DEQ and the companies involved.

Mr. Junge said that regulation 340-30-025 regarding air conveying systems was poorly defined in the sense that it was based on the ability to control air conveying devices with an efficiency equivalent to that of a bag filter. However, he said, the efficiency of a bag filter was not defined. He suggested that air conveying systems be referred to as numatic transport systems and a specific and measurable limit be placed on the emission concentration from each source which involves numatic transport devices.

Mr. Junge said the proposed regulation for wood particle dryers at hardboard and particleboard plants (340-30-030) was also poorly defined. He said it did not clearly state whether the application was to single dryers or to the combined output of all dryers connected to a plant. He said that the technology to meet this proposed regulation had not been demonstrated at this time for all production conditions.

In regard to the continuous monitoring section of the proposed rule (340-30-050), Mr. Junge said he felt it was reasonable for the Department to seek cooperative assistance from industrial sources in monitoring pollutant sources, however he felt the proposed rule on this matter was too general in nature. He said that the specific monitoring needs of the Department should be expressed in the rule.

The proposed regulation on source testing (340-30-055), Mr. Junge said, makes the responsible person carry the burden of determining, among other things, the quality of emissions. He said that the term "quality of emissions" was not defined and had little meaning and he proposed that it be dropped.

Mr. Junge urged careful review of the proposed regulations in light of his comments and those of other witnesses.

Ms. Carol Doty, Jackson County Board of Commissioners, testified on behalf of the Board that they supported the recommendations proposed by the Advisory Committee. Ms. Doty expressed the need for citizen education on some of the things they can do to improve the quality of air in the airshed. She also said the Board wanted to thank the EQC for increasing the local DEQ staff. A written copy of Ms. Doty's statement is included in the hearing record on this matter.

Mr. Martin Craine, secretary-manager of the Southern Oregon Timber Industries Association, said that they felt it was important to understand that industry had and continued to do some things to reduce particulate emissions. He said that industry had a lack of confidence in much of the information the staff was presenting, and particularly that information submitted to the Advisory Committee. Mr. Craine said they felt they needed to challenge the advisability of portions of the proposed particulate control strategy. He said that the matter of energy was not adequately addressed and that the DEQ staff report underestimated power requirements. More pollution controls, he said, would make substantially increased power demands.

Mr. Craine said they recognized some problems did exist and agreed that the industry can do better. They contend, he said, that proposed controls should be feasible and the costs should not be so excessive as to raise the question in the minds of some operations of whether or not the investment in control measures exceeds the worth of the installation, thus causing the close of some operations when compliance dates could not be met.

Specifically, Mr. Craine offered the following recommendations:

1. Section 340-30-015, wood waste boilers - adopt the same rule as utilized in Portland AQMA where results have been satisfactory.
2. Section 340-20-030, veneer dryers - supported the testimony and recommendations of the American Plywood Association.
3. 340-30-030, wood particle dryers - supported the testimony and suggestions of the particle board producers.
4. Section 340-30-035, wigwam waste burners - suggested the word "emergency" be deleted so the Department may consider other environmental and operational factors which may make it more desirable to permit burner operation for a limited time specified by the Department.
5. Section 340-30-045, compliance schedules - suggested deadline of January 1, 1980 for wigwam burners instead of January 1, 1979.

Mr. Craine also requested that the official hearing record be held open for 15 days.

Commissioner Densmore asked why the January 1, 1979 date for wigwam burners could not be met. Mr. Craine replied that the ordering and installation of equipment and potential plant modifications probably could not be accomplished in one year.

Mr. Wallace Cory, Environmental Manager for Boise Cascade Corporation's Timber and Wood Products Group, said they concurred with the testimony of the American Plywood Association and Southern Oregon Timber Industries Association. He said that it was their conviction, based upon the work done by Washington State University, that significant improvements in air quality would not result from the new proposed rules. Mr. Cory said they felt that most sources inside the AQMA should be required only to meet statewide regulations and that the proposed special AQMA rules go far beyond the statewide rules and would be extremely difficult, if not impossible to comply with. Mr. Cory then cited specific concerns with the rules similar to those contained in earlier testimony. His written testimony containing those specific concerns is made a part of the hearing record on this matter.

Mr. Gary Grimes, testified on behalf of SWF Plywood Company. For the record, Mr. Grimes said that SWF Plywood Company was also in agreement with and supported testimony of the American Plywood Association and the Southern Oregon Timber Industries Association. Mr. Grimes also cited the impossibility of meeting the January 1, 1979 proposed deadline for wigwam burners and added prohibitive cost to those reasons expressed by Mr. Cory. Mr. Grimes said that they, too, were uneasy about the proposed veneer dryer regulations, for similar reasons expressed in earlier testimony.

Specifically, Mr. Grimes said, they would ask consideration of removing the word "emergency" in 340-30-045(e), and removal of the specific 85% reference to increased efficiency in 340-30-020. A written copy of Mr. Grimes' testimony is made a part of the hearing record on this matter.

Mr. Frank Ball, Louisiana Pacific Corporation, also expressed concern about the proposed wigwam burner regulations and their difficulty in justifying the expense involved in eliminating them. Mr. Ball requested that the deadline on the wigwam burners be extended for at least one year beyond the January 1, 1979 deadline.

Mr. William Coffindaffer, plant engineer for Timber Products Company, expressed his feeling that the proposed guidelines set forth by the Advisory Committee had been fully adopted by the Department, without any deviations. He commended the Advisory Committee on their hard work on this project, however, he said that from his observations the discussions of that Committee were directly aimed at the timber industry and no emphasis was placed on other pollution sources. Mr. Coffindaffer also testified about the several unknowns in tracking the particulate emissions. He said it was his feeling that until the Commission could come up with strategies dealing with all pollution sources in the Valley and not just timber industries, he felt that it might well bring about a discrimination suit. Mr. Coffindaffer's written testimony is made a part of the hearing record on this matter.

Mr. Clarence Casebeer, White City Dry Kiln, said he only wanted to add to earlier testimony that the impact of the proposed rules would possibly cause his plant to close. He said the timber industry was the sole source of supply for his waste fuel boilers.

In response to Commissioner Densmore, Mr. Casebeer said that even with tax credits for the installation of pollution control equipment, he could not afford the modifications needed to bring his plant into compliance with the proposed rules.

Mr. Michael E. Burrill, Vice-President and General Manager of Eugene F. Burrill Lumber Company, testified that he was disturbed with the comments of the audience at the hearing that industry did not have the right to defend themselves. Mr. Burrill expressed concerns about the proposed wigwam waste burner regulations, similar to those expressed in other testimony.

Commissioner Densmore commented that he thought he was doing the best job he could in sorting through all the testimony, but took exception to a comment in Mr. Burrill's written testimony that "...the members of the AQUA (sic) Advisory Committee should be the people who understand business and not environmentalists, retired people, educators and the like, who have nothing to lose from a stop-industry regulation." He said he didn't think that type of comment helped when everyone had the same goal of a balanced environment and economic base.

Mr. Burrill replied that his comment was not directed to any one person, however, he felt that some persons serving on the Committee did not have the time to properly provide technical input.

In response to Mr. Burrill, Chairman Richards said that it may be that industry miscalculated the importance of the recommendations that would be made by the Advisory Committee and did not monitor the Committee or make technical assistance available. He said he was bringing this up for the benefit of those industries in the Eugene-Springfield area and the Portland area as a recommendation to them to have more input to the Advisory Committee. Chairman Richards said he appreciated Mr. Burrill pointing out a problem and he thought the industry could address that at least in the other AQMA's.

Mr. Burrill agreed with Chairman Richards and said they really had no idea of the importance of what was going on, and if they had to go through it again, they would handle it differently. A copy of Mr. Burrill's written statement is made a part of the hearing record on this matter.

Mr. J. J. McGrew, McGrew Brothers Sawmill, said that the air pollution problem in the Medford area was long-standing, and in his opinion a lot of the pollution came from sources other than the timber industry, such as slash burning and other forms of open burning. Mr. McGrew said they also could not afford to upgrade their boilers to meet the proposed regulations.

Mr. McGrew said that the alternatives if he couldn't sell the waste, would be to either shut down, or wait until DEQ shut him down. He said he employed 165 persons.

Mr. Robert Fasel, Double Dee Lumber Company, said that all of the burden of raising the air quality standards had been put upon the lumber industry. He asked what would happen if they did meet the standards, and new industry and new population brought more pollution into the area. He wanted to know if the timber industry would still be the industry looked at as the primary source, therefore causing them to be shut down then they were out of compliance.

Mr. Matt Gould, Georgia-Pacific Corporation, summarized the industry comments. He said the Commission was faced with a difficult task and asked that testimony given at this hearing be taken into consideration and for the Commission to bear in mind that weighing all of the concerns expressed to come out with the best public interest would involve compromise and they looked to the Commission to do the best job it could.

Mr. Gene Hopkins, Greater Medford Chamber of Commerce, said that it was unfortunate that they weren't asked to represent the business sector of the Valley's economy in the Advisory Committee. He said it appeared to them that the overall control strategy was a short-range one. He said they were concerned over the image that the state possessed of business not being welcome and that local governments were difficult to deal with. Mr. Hopkins said that the problem with regulations like those proposed were not in what they did to an industry, but what they did to individual competitors in the industry. He said that higher costs for some would mean competitive advantages for others.

Mr. Hopkins also raised questions on the data bases used in the Seton, Johnson and Odell report. He said that the 5% population increase projected for Jackson County in 1977 over 1976 did not truly represent what was happening in the area of the study. He said he had information that the popularity of wood fuel for heating and in fireplaces rivaled the annual consumption of almost three wigwam burners. He said that they could foresee the time when the gain from eliminating wigwams would have been lost to the increase in wood fuel for home heating.

Mr. Hopkins said that the Chamber was convinced that research and planning for the proposed regulations did not reflect the professional quality and objectivity they had come to expect from DEQ. He urged that before adoption of any regulations, a comprehensive study of the total problem be instituted. A written copy of Mr. Hopkins' statement is made a part of the hearing record on this matter.

Chairman Richards then concluded the hearing on the Medford-Ashland AQMA regulations, and complimented the witnesses who appeared as to their clarity of suggestions and recommendations.

Commissioner Densmore MOVED, Commissioner Phinney seconded, and it was carried unanimously that the Director's recommendation be approved with the exception that the hearing record be kept open until December 31, 1977, instead of the proposed December 28, 1977.

AGENDA ITEM G - CONSIDERATION OF PETITION ON THE ADEQUACY OF MEDFORD CORPORATION AIR CONTAMINANT DISCHARGE PERMIT 15-0048, AND AIR CONTAMINANT ABATEMENT MEASURES IN EFFECT TO PREVENT NUISANCE CONDITIONS FROM THE MEDIUM DENSITY FIBERBOARD PLANT

Mr. and Mrs. James Madison of Medford, appeared to testify on behalf of petitioners. Mrs. Madison read a letter into the record expressing concern about the fallout from the Medco plant in Medford. She cited instances of particulate fallout accumulation on cars, roofs of houses, etc. Mrs. Madison stated her feeling Medco was morally and legally obligated to do whatever was necessary to stop "this assault on their neighbor's health and property."

Chairman Richards said that Mr. George Archer had submitted a letter for the record on this matter.

Mr. Dennis Belsky of the Department's Medford Branch Office, presented the staff report on this matter. Mr. Belsky said that the Department received a petition signed by 400 persons which stated:

"We, the undersigned, are concerned that the pollution control facilities and the permit conditions for the MEDCO MDF plant are not adequate to prevent nuisance to local residents. We request a Department of Environmental Quality hearing on this matter."

Mr. Belsky said that a source test conducted in early January 1977 found that the emissions from the plant were within limits for compliance. He said that during this time the Department received complaints and held several "town hall" meetings on the matter.

Mr. Belsky said that the particulate fallout the petitioners were concerned about had been identified as primarily coming from the Medco plant. He said that the Department was working with Medco to determine practical controls for upset discharges.

Mr. Belsky said that letters received subsequent to the petition indicated a black soot problem in addition to the particulate fallout. He said that normally the black soot would not be associated with MDF plant emissions, and would be typical of a combustion-type source such as a hog fuel boiler.

Mr. Belsky presented the following Director's Recommendation:

The Director recommends, with due consideration being given to the information received at this meeting, that:

1. The regional staff continue close surveillance of the plant site emissions.
2. Upon receipt and evaluation of the December 31, 1977 report from Medford Corporation that the Department develop a compliance schedule with increments of progress for incorporation with the Air Contamination Discharge Permit, a program for control of upset discharges and fugitive emissions.

3. Upon adoption of the special rules for particulate emissions, sources contributing to the nuisance problem be given highest priority in review and acceptance of control proposals so that these sources are controlled at the earliest practicable date.

Commissioner Phinney asked if it was correct that the proposed controls for these sources would not be in effect before 1981. Mr. Belsky replied that the earliest practicable date would take into account the high priority given those particular discharges which come under the proposed special AQMA rules. Commissioner Phinney asked if it would be practicable to think of a control on total emissions. Mr. Belsky said that was provided for in the permit under present regulations. He said that there was presently a reduction of approximately 1/3 in the mass emissions per week.

Commissioner Densmore asked Mr. Belsky to outline which parts of the proposed AQMA rules would apply to Medco. Mr. Belsky said those parts referring to air conveying systems and wood particle dryers at hardboard and particleboard plants, would apply.

Mr. Lynn Newbry of Medco Corporation, appeared before the Commission. He said they wanted to make it clear that the Department had been extremely helpful to Medco in identifying the problem and lending their help to find solutions to the problem. He said they felt the staff report represented an accurate description of the situation, however, he said they would not agree that their plant was the sole source of the problem the residents of the area were encountering.

Mr. Newbry said that the Department has cooperated in placing a Hi Vol sampler in the area to try to determine if the additional controls were doing any good. He said that they were disappointed to learn that they could not determine from the sampler when the additional controls were started up. He said that the report indicated what they have done to control these emissions.

Mr. Newbry said they try not to have upset conditions, but occasionally, with the type of material they are using, they have plug ups in cyclones. He said they try to catch those upsets as quickly as possible and are experimenting with types of sensing devices to determine when they have a problem with the cyclones.

Mr. Newbry also said they have taken most of the housekeeping measures suggested by the Department and are working on the others. He said that they currently had five cyclones that were not controlled through a baghouse or through entrainment. Those cyclones had a total contribution of 5 1/2 lbs/hour, he said, and two were out of compliance on a grain level standard. However, he said the emission rate from those were so low they were insignificant. He said they have every intention of controlling those cyclone emissions. He also said they intended to put controls on the currently uncontrolled dryer as soon as possible, however, some complications come with the proposed regulations. He said that the scrubber they had on their other dryer would not meet the proposed regulations. Mr. Newbry said that the Company was prepared to go ahead with a strategy to control those two remaining uncontrolled sources, if they could have a rule that would at least allow them time to amortize their investment.

Mr. Newbry urged the Commission to give consideration to a regulation for control of wood fiber dryers that was consistent with control devices that were currently available and could be bought "off the shelf", in order to solve the particulate problem. He said they felt it would not do harm to the air quality in the area.

Commissioner Densmore asked if the proposed rules for air conveying systems would have an impact to improve the situation. Mr. Newbry replied that that rule would apply, but they don't have any cyclones that would be out of compliance with that rule at this time.

In response to Commissioner Densmore, Mr. Newbry said that they had ascertained that there was certain material in the fallout that did not come from their plant. Commissioner Densmore asked if Mr. Newbry could recommend a way of finding out where the rest of that material was coming from. Mr. Newbry replied it would be extremely difficult to do, and he was not saying it could not come from their plant site, but he was saying it couldn't have come from their medium density fiberboard plant.

It was MOVED by Commissioner Phinney, seconded by Commissioner Densmore, and carried unanimously that the Director's recommendation in this matter be approved.

AGENDA ITEM L - CITY OF BEND SEWERAGE PROJECT - UPDATE ON FINANCIAL CONSIDERATION OF CITY OF BEND PHASE I SEWERAGE PROJECT

Mayor Clay Shepard, City of Bend, appeared before the Commission and reiterated some of the information presented to the EQC November 18, 1977 in Bend. He said that they have been pleased with the cooperation received from Department staff and looked forward to continuing to work with them in finding a solution to their problem. Mr. Shepard again expressed their belief that they were eligible for a hardship grant.

Commissioner Densmore asked if any of the alternatives listed in the staff report could be eliminated, if they have not already done so. Mr. Shepard said that at this time they would not consider alternative 1, vote to authorize sale of more bonds; alternative 3, establishing a sewer connection for all homes presently in existence; or alternative 4, forming a local improvement district to assess benefitted properties. He said they had not considered alternative 6 (assuming that only one-half of citizens agree to utilize city financing plan for house sewer construction), but they were looking into the possibility of DEQ purchasing their bonds. Mr. Shepard said that if they could proceed on that basis, they wanted consideration given to assistance with the \$4.7 million deficit.

Mr. Clarence Hilbrick of the Department's Water Quality Division, said the staff report detailed what had happened since the EQC meeting in November in Bend. He said they were evaluating the seven remaining alternatives and intended to have a report on them ready for the Commission's January meeting.

In response to Chairman Richards, Mr. Hilbrick said that there were enough questions about each alternative that the Department could not make a firm recommendation to the Commission at this time.

Chairman Richards said he saw this as a renewal of the City of Bend's request that the Department proceed to request the Emergency Board for a hardship grant for the City.

Commissioner Densmore MOVED, Commissioner Phinney seconded, and it was carried unanimously that the Commission accept the staff report and await the Director's recommendation at their January meeting.

AGENDA ITEM E - REPORT OF SOUTHWEST REGIONAL MANAGER ON SIGNIFICANT ON-GOING ACTIVITIES IN THE SOUTHWEST REGION (JACKSON-JOSEPHINE COUNTIES)

Chairman Richards noted that this report was meant as a chance to communicate with persons in the community that had been present earlier in the meeting, but who had now left. Mr. Richard P. Reiter, Southwest Region Manager, said he would forego comment on all but one issue.

Mr. Reiter said that the vehicle emission test demonstration had been conducted in Medford with approximately 600 vehicles tested. He said the information from those tests was still being evaluated. He said that although they could have tested approximately 2000 vehicles in the same time period, they felt the demonstration had been a moderate success.

Chairman Richards asked if Mr. Reiter had any comments on the statements made by County Commissioner Moore during the public forum section of the meeting. Mr. Reiter replied that Mr. Moore's concerns were partly due to a communication problem with the public in general. He said that people had read newspaper articles which said that composting toilets and grey water systems were the answer, but the Department was still evaluating those systems and as yet had not come to the same conclusion. He said that the Department felt that the grey water system had the potential for transmission of disease. In regard to the rural area variances, Mr. Reiter said that from a practical point of view the practice had been successful however from a legal point of view they had no choice but to eliminate it.

Commissioner Phinney asked if the reclamation projects in the landfills, referred to in Mr. Reiter's report, were being carried out by the landfill operators or volunteer groups. Mr. Reiter said that most were being done by operators.

AGENDA ITEM H - CITY OF CANNON BEACH EXTENSION OF TIME SCHEDULE TO ADOPT FACILITY PLAN REPORT

Mr. Murray Tilson, of the Department's North Coast Branch Office, said a typographical error had been made in the Order. He said that in line 18 "...on March 31, 1977" should read "...on March 31, 1978".

Commissioner Densmore MOVED, Commissioner Phinney seconded, and it was carried unanimously that the Director's recommendation as amended be accepted.

AGENDA ITEM I - NPDES JULY 1, 1977 COMPLIANCE DATE - REQUEST FOR APPROVAL OF STIPULATED CONSENT ORDERS FOR PERMITTEES NOT MEETING JULY 1, 1977 COMPLIANCE DEADLINE

Commissioner Densmore asked what impact this had on the City of Gold Hill having to boil their water. Mr. Merlyn Hough of the Medford Branch Office, said that the City of Gold Hill did not have a water treatment plant and occasionally had to boil their water because of the lack of capacity in their chlorination system. He said that this problem mostly occurred during periods of high storm water runoff. In response to Commissioner Densmore, Mr. Hough said that these permits would not have an impact on the Gold Hill water purification problem.

Commissioner Phinney MOVED, Commissioner Densmore seconded, and it was carried unanimously that the Consent Orders for the following be issued:

1. City of Corvallis, Stipulation and Final Order No. WQ-MWR-77-249.
2. City of Donald, Stipulation and Final Order No. WQ-SNCR-77-178.
3. City of Gold Hill, Stipulation and Final Order No. WQ-SWR-77-253.
4. City of St. Paul, Stipulation and Final Order No. WQ-SNCR-77-256.
5. City of Winston, Stipulation and Final Order No. WQ-SWR-77-252.
6. City of Amity, Stipulation and Final Order No. WQ-SNCR-77-266.
7. City of Jefferson, Stipulation and Final Order No. WQ-SNCR-77-267.
8. City of Wheeler, Stipulation and Final Order No. WQ-SNCR-77-244.

AGENDA ITEM J - PUBLIC SEWERAGE CONSIDERATIONS WITHIN BEND URBAN GROWTH BOUNDARY - PROGRESS REPORT NO. 1

Commissioner Densmore MOVED, Commissioner Phinney seconded, and it was carried unanimously that the following Director's recommendation be approved:

1. The Director recommends that the Commission direct the staff to continue to work with Deschutes County officials and the City of Bend to obtain a written agreement outlining how DEQ, Deschutes County and City of Bend can work together to solve the problems discussed in the November 18, 1977 report.
2. The Director recommends no Commission action at this time and that the Commission consider a staff progress report at the January meeting.

AGENDA ITEM K - WATER QUALITY MANAGEMENT PLAN - STATUS REPORT ON REVIEW OF STATEWIDE WATER QUALITY MANAGEMENT PLAN WITH LOCAL GOVERNMENTS AND INTERESTED CITIZENS

In response to Commissioner Densmore, Mr. Harold Sawyer of the Department's Water Quality Division, said that the fact that only one reply was received out of 700 copies distributed, did not necessarily mean that everyone was happy with the product. He said that they stressed that this would not be the only opportunity to make comments.

Commissioner Phinney asked if any notification was made to citizen groups. Mr. Sawyer said that the local governments were the ones who felt the most left out before, and therefore this was directed primarily to them. He said that the public meeting process which was coming up would be a better opportunity for input from citizen organizations.

Commissioner Phinney MOVED, Commissioner Densmore seconded, and it was carried unanimously that the Director's recommendation to receive additional testimony from the public be approved.


AGENDA ITEM M - OREGON CUP AWARDS

Mr. David Gemma of the Department's Public Affairs Office, presented the summation and Director's recommendation from the staff report.

It was MOVED by Commissioner Densmore, seconded by Commissioner Phinney and carried unanimously that Oregon Cup Awards be made to American Can Company, Halsey; Fowler Manufacturing; Mr. Zenon F. Rozycki; and Tektronix, Inc.; and that Letters of Commendation be sent to Esco Corporation and Columbia Steel Casting Company.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Splettstaszer
Recording Secretary

Environmental Quality Commission Meeting
January 27, 1978
Room 602, Multnomah County Courthouse
1021 S. W. Fourth Avenue
Portland, Oregon

- 9:00 am A. Minutes of December 16, 1977 EQC Meeting
B. Monthly Activity Report for December 1977
C. Tax Credit Applications
PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.
- D. Portland Region - Report of Region Manager on significant on-going activities in the Portland Region
- 9:30 am E. Subsurface Experimental System - Review of proposal for experimental subsurface sewage disposal system submitted by Mr. & Mrs. Steven Gunn, Lane County
F. City of Happy Valley - Request for amendment to Consent and Order for extension of time to submit facility plan for City of Happy Valley sewage disposal system
G. City of Troutdale - Request by City of Troutdale to expand Troutdale Sewage Treatment Plant
H. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Orders for NPDES permittees not meeting July 1, 1977 compliance date
- 10:00 am I. DEQ v. Kenneth Brookshire - Request to set aside Default Order involving field burning civil penalty, contested case review AQ-SNCR-76-178
J. Contested Case Hearings - Motions for Commission action in contested case hearings (deleted)
K. Crude Oil Tanker Regulations - Authorization for public hearing to consider new rules to control power plant and fuel storage tank emissions from crude oil tankers
L. Field Burning Regulations - Authorization for public hearing to consider amendments to field burning rules, OAR 340-26-005 to 26-025
M. ~~City of Bend Sewerage Project - Update on financial considerations of City of Bend Phase I Sewerage Project~~
N. Subsurface Sewage Disposal, Bend Area - Status report on discussions with Deschutes County Commission regarding sewage disposal problems within the Bend Urban Growth Boundary
O. Rifle Range Road Area, Roseburg, Douglas County - Certification of plans for sewerage system as adequate to alleviate health hazard, ORS 222.898
P. DEQ Coordination Program - Report on proposed program for coordinating DEQ programs and actions affecting land use with local comprehensive planning processes and other governmental agencies, as required by ORS 197.180
Q. Clean Air Act Amendments of 1977 - An informational and resource impact report

Because of the uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items E and I. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) in Conference Room A of the Standard Plaza Building, 100 S. W. 6th, Portland. Lunch will be catered in Conference Room 3A, on the third floor of the DEQ offices, 522 S. W. 5th, Portland.

MINUTES OF THE NINETY-THIRD MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

January 27, 1978

On Friday, January 27, 1978, the ninety-third meeting of the Oregon Environmental Quality Commission convened in Room 602 of the Multnomah County Courthouse, 1021 S.W. Fourth Avenue, Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace Phinney, Vice-Chairman; Mrs. Jacklyn Hallock and Mr. Ronald Somers. Commissioner Albert Densmore was absent. Present on behalf of the Department were its Director and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S.W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF DECEMBER 16, 1977, EQC MEETING

AGENDA ITEM K - CRUDE OIL TANKER REGULATIONS - AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER NEW RULES TO CONTROL POWER PLANT AND FUEL STORAGE TANK EMISSIONS FROM CRUDE OIL TANKERS

AGENDA ITEM L - FIELD BURNING REGULATIONS - AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER AMENDMENTS TO FIELD BURNING RULES, OAR 340-26-005 to 26-025

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the minutes of December 16, 1977 be approved; that a public hearing be authorized to consider new rules to control power plant and fuel storage tank emissions from crude oil tankers; and that a public hearing be authorized to consider amendments to field burning rules, OAR 340-26-005 to 26-025.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR DECEMBER 1977

Commissioner Hallock asked what Project 1011 was, in reference to the permit actions completed for air quality indirect sources. Mr. John Kowalczyk of the Department's Air Quality Division staff, replied that Project 1011 was the facility's name and that he believed it was an office building.

Commissioner Hallock asked about the January 13 reference in permit actions completed for hazardous waste facilities that disposal authorization was amended. She asked what substance that was. Mr. Ernest Schmidt of the Department's Solid Waste Division, said he could not reply to that. Commissioner Hallock asked that the Commission be notified at the next meeting of what substance that referred to.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Monthly Activity Report for December 1977 be approved, and that the Commission be notified at its next meeting as to the hazardous waste substance referred to in the 1/13/77 entry under permit actions completed, hazardous waste facilities.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

Mr. Jack A. Payne of Champion International Corporation, appeared in regard to the Director's recommendation to deny preliminary certification for tax credit for an oil house at their Roseburg facility. Mr. Payne objected to the Director's recommendation and said that his company believed that the facility, as submitted, complied with the applicable portions of ORS Chapter 468, and that the substantial purpose of the project was primarily for pollution control.

Mr. Payne said that this facility was part of their oil containment system required by the facility's NPDES permit. He said they disagreed with the Department's determination that the roof of the facility was not primarily for pollution control. He said that this facility would protect the oil drums and their contents from the elements and prevent the spillage which occurs from normal use from escaping the concrete enclosure.

Mr. Payne said that his company had received preliminary certification for tax credit for a similar spill containment catch basin and enclosure of chemical storage tanks at their Willamina operation. He requested that the Commission consider approving the preliminary certification.

Mr. Michael J. Downs of the Department's Management Services Division, appeared on behalf of the Southwest Region which did the review of this project. Mr. Downs said that it was true that preliminary certification had been given for a similar facility at Willamina. He said that if the Department were to give preliminary certification on the whole facility, it would indicate that the Department believed the whole facility was eligible for tax credit. He said that the purpose of the preliminary certification requirement of the law was to give the Department and the company an opportunity to look at the project before it was constructed and sort out those portions which the Department did not believe were eligible. Mr. Downs said that while the proposed denial was inconsistent with what other regions had done, the procedure was correct and the Department needed to correct the process in the rest of the regions so that the preliminary certification requests would be handled consistently.

Chairman Richards asked if a bad precedent was created by the approval of the similar request for the Willamina facility. Mr. Downs said he did not think that was a correct use of the preliminary certification, unless the staff felt that the entire facility would be eligible for tax credit.

Commissioner Somers said that insofar as the Company was required to construct a spill containment facility, it would be only reasonable for them to put a roof over it, considering the amount of rainfall in the area.

Chairman Richards asked that a report be made at the next meeting on a procedure for the regional staff to follow in these preliminary certification matters.

Commissioner Somers said that he did not consider the facilities claimed in application T-920 (Sunny 70 Farms, Inc.) to be certifiable for pollution control tax credit.

Commissioner Somers MOVED, Commissioner Phinney seconded, and it was carried unanimously that action on application T-920 be deferred until the next meeting; and that application T-944 and Champion International's request for preliminary certification for the construction of an oil house at their Roseburg plant, be approved.

PUBLIC FORUM

No one wished to speak on any subject.

AGENDA ITEM D - REPORT OF THE REGION MANAGER ON SIGNIFICANT ON-GOING ACTIVITIES IN THE PORTLAND REGION

Mr. Robert Gilbert, Portland Region Manager, advised the Commission that Empire Lite Rock Company shut down during the past year, primarily because its product was no longer economical to produce.

Mr. Gilbert said that they received a formal request from PGE to modify their Trojan NPDES permit. He said that this request, among other things, would change their thermal limits, and he wanted to advise the Commission of that. Commissioner Hallock asked if that decision would come before the Commission. Mr. Gilbert said it would come before the Commission for informational purposes. Mr. William Young, Director, said that the permit revision would come before the Commission for review, because of the nature of the facility. In response to Commissioner Somers, Mr. Gilbert said that the Department had a difference of opinion with PGE on what the thermal limits should be.

Commissioner Somers asked why Central Multnomah County was still allowed to have cesspools. Mr. Gilbert said that they would bring to the Commission some time this year changes to subsurface regulations and a program for Multnomah County. Chairman Richards asked if Commissioner Somers was asking for a moratorium until regulations were implemented. Commissioner Somers replied that he would not consider anything as drastic as a moratorium, but asked why this area couldn't build septic tanks like elsewhere in the State. Mr. Gilbert said that because of the average lot size in the area, septic tank and drainfield systems could not be built.

Chairman Richards asked for a staff analysis by the next meeting as to whether cesspool permits should be curtailed in the area.

Chairman Richards asked why a citizen advisory committee would not be set up until June for the Portland Air Quality Maintenance Area. Mr. Gilbert replied that adequate data to supply to the committee would not be available until then.

Mr. Gilbert said that Reynolds Aluminum had completed their dry scrubber system on schedule, however one of the disadvantages of that system was SO₂ emissions. Mr. Gilbert said that sampling would be done to determine the effects of those SO₂ emissions.

Mr. Gilbert said that the Unified Sewerage Agency of Washington County had made significant strides during the last few years in cleaning up emissions into area creeks.

AGENDA ITEM E - SUBSURFACE EXPERIMENTAL SYSTEM - REVIEW OF PROPOSAL FOR
EXPERIMENTAL SUBSURFACE SEWAGE DISPOSAL SYSTEM SUBMITTED BY MR. AND MRS.
STEVEN GUNN, LANE COUNTY

Mr. T. Jack Osborne of the Department's Subsurface Section, said that Mr. and Mrs. Gunn had indicated they would not be able to attend this meeting, but they did wish to participate in the experimental program and were willing to install an experimental system and monitor it with the assistance of the Department. He said that the Gunns wanted the option of going with either of the systems proposed in the staff report. The alternatives are as follows:

- "B. Install an experimental gray waste water system made up of a reduced volume septic tank minimum and reduced sized disposal field (sized at 75 linear feet per bedroom) and hardware necessary to monitor this system.
- C. Install an experimental gray waste water system made up of a gravel filled trickle filter sized at 185 gallons [gravel-gravel void space volume] per bedroom and reduced sized disposal field (sized at 75 linear feet per bedroom) and hardware necessary to monitor this system."

Mr. Osborne said he recommended that the Commission allow the Gunns to proceed with either of the above alternatives.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that Mr. and Mrs. Steven Gunn be allowed to proceed with either of the alternatives mentioned above.

AGENDA ITEM F - AMENDMENTS TO THE CITY OF HAPPY VALLEY CONSENT AND ORDER ON
SEWAGE DISPOSAL SYSTEMS

Mr. Robert E. Gilbert, Portland Regional Manager, presented the following Director's Recommendation.

"It is the Director's recommendation that the EQC authorize the Director to amend the "Consent and Order in the Matter of Sewage Disposal for the City of Happy Valley" to require the submission to the Department by the City of Happy Valley of a final Facilities Plan and a completed Step II grant Application by no later than June 1, 1978. If the final Facilities Plan is not submitted by June 1, 1978 the City of Happy Valley would be brought before the EQC at its June meeting to show cause why the EQC should not proceed under ORS 224.232. Pursuant to that statute, if a municipality has not taken the necessary action to provide adequate sewage disposal facilities, the EQC may apply to the circuit court of Clackamas or Marion County for an order directing that self-liquidating bonds of the municipality be issued and sold without voter approval and directing that the proceeds be applied to the acquisition and construction of facilities to correct the sewage disposal problem."

Chairman Richards asked if the Department had placed an unusually short time on the City to solve its density problem. Mr. Gilbert said that the time schedule had both the land use and facilities plan being done simultaneously, and there was a delay on the land use density decision,

Mr. Jim Carskadon, City of Happy Valley City Attorney, said, in response to Commissioner Phinney, that they were not attempting to have unnecessary delays in coming up with their facilities plan. He said that there was a proposed rule before the Land Conservation and Development Commission (LCDC) to designate all incorporated areas as urban. Mr. Carskadon said that Happy Valley presently had a designation from Columbia Region Association of Governments (CRAG) as rural. He said they were trying to develop a plan that would be acceptable to EPA. He said that the matter of the possible redesignation of the City from rural to urban was still up in the air, and they would be happy to keep in touch with the Director or his staff as to what they were doing.

Mr. Carskadon said that they would take exception if the Consent and Order declared all of the City of Happy Valley to be a health hazard. He said that it was not the City's understanding that the whole area was a health hazard, and if certain areas needed sewerage they would cooperate with the Department in seeing what could be done.

Chairman Richards asked if there was a six month lag between the adoption of the land use plans and the completion of the facilities plan. Mr. Carskadon said that was his understanding. Chairman Richards asked if the necessary land use plans had been adopted. Mr. Carskadon said that there were some plans that were not adopted, and they had to wait and see about LCDC's designation of cities. Mr. Carskadon said they were caught between trying to comply with DEQ, EPA, CRAG and a very limited budget.

Chairman Richards amended the Director's recommendation to read;

...a completed Step II grant application by June 1, 1978, or six months following the adoption of those land use plans which in the sole discretion of the Director are necessary for the implementation of the Facilities Plan.

Commissioner Hallock said that if the Commission didn't give the Director the latitude the Chairman was talking about, they would be forcing a sewerage plan on a small community which wanted to remain rural but which may be forced into urban density. She said they would not be helping the health problem by bothering with a bureaucratic problem. Unless the land use plan was put off indefinitely, she said, then she would like to see the Department's plan mesh with the land use plan that would be mandated for that area.

Commissioner Phinney said they had to follow the federal deadline which came at a time when the state was in the throws of developing land use plans and this sort of problem was impossible to handle at this time. She said for this reason she would support Chairman Richard's amendment to the Director's recommendation.

Director Young clarified that the purpose of the amendment was not to oblige him to bring this matter before the Commission, but to exercise some judgment as to whether or not the land use planning process had proceeded far enough; or whether or not the health hazard was severe enough in some areas that the matter should be brought before the Commission. Chairman Richards said it would be the Director's sole discretion to determine if the necessary land use plans had or had not been adopted, and not necessarily to accept the view of the city, its engineer, or any other body.

Mr. Ray Underwood, Department of Justice, suggested that the date June 1, 1978 be deleted and an addition be made in the following sentence of the Director's Recommendation:

If the final facilities plan is not submitted by [~~June 1, 1978~~]
that date.

Mr. Gilbert entered into the Record a letter from Mr. Terry Morgan suggesting that the Commission carefully consider the alternatives arrived at by the City to see if they were in compliance with the statewide rule as proposed by LCDC.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation as amended be adopted,

AGENDA ITEM 1 - DEQ v. KENNETH BROOKSHIRE - REQUEST TO SET ASIDE DEFAULT ORDER INVOLVING FIELD BURNING CIVIL PENALTY, CONTESTED CASE REVIEW AQ-SNCR-76-178

Mr. Kenneth Brookshire appeared before the Commission, and said that three people had burned his farm and DEQ fined him for an illegal burn. In response to Chairman Richards, Mr. Brookshire said that his farm had been burned without his consent. Chairman Richards told Mr. Brookshire that this was not a hearing on the merits of his case.

Commissioner Somers said he appreciated Mr. Brookshire's resentment toward state agencies interfering with his business interests. However, he said, the only question before the Commission was to set aside the default order so that Mr. Brookshire's side could be heard. Commissioner Somers said that the findings of fact before the Commission only dealt with notice, the response to the notice, and scheduling of the hearing. He said it was improper for the Commission to make any ruling on the merits of the case at this point. Mr. Brookshire said he realized that. Commissioner Somers cautioned Mr. Brookshire that he could do damage to his case by attempting to plead facts at this time.

Mr. Brookshire said that a hearing was scheduled for November 23, 1976 and he did not receive the notice until late in the day November 22, 1976 that it would be canceled. He said he was ready to appear at that time. Mr. Brookshire felt this was default on the Department's part. Mr. Brookshire said he stated he could not, nor would not, appear at any hearings during harvest or time when he was putting in his crops.

Chairman Richards said that when Mr. Brookshire asked for a continuance in August it was granted and the hearing was set over until October 25, 1977, for which Mr. Brookshire was given notice and did not appear. In response to Chairman Richards, Mr. Brookshire said he received notice for the hearing but thought the hearing was the following week.

Commissioner Somers said that the notice of August 11, 1977 gave Mr. Brookshire the opportunity to set the hearing over to another time, but no response was received by the Department.

Mr. Brookshire said he refused to pay a fine for someone vandalizing his farm and if he needed to he would go to a jury trial.

In response to Chairman Richards, Mr. Brookshire confirmed that he did receive notice of the hearing, but it was an oversight on his part that he did not appear. Mr. Brookshire said he would have notified the Department if he intentionally intended not to appear. Chairman Richards said that normally when a person appeared before a court to set aside a default order, the person must not only show mistake or surprise, but must show that they had some meritorious defense.

Mr. Robert Haskins, Department of Justice, said that the issue was whether or not the default on the part of Mr. Brookshire was excusable. Mr. Haskins said that at the time Mr. Brookshire requested the hearing be set over in August, he did not indicate when he would be available for hearing. Mr. Haskins said a hearing was set for October and Mr. Brookshire did not respond that he would not be available at that time. Mr. Haskins said that when Mr. Brookshire failed to appear at the set hearing, they moved for a default order and judgment, and it was not until after Mr. Brookshire received the Hearing Officer's proposed ruling that he objected to the October date. Mr. Haskins said that he felt the Hearing Officer's ruling should be adopted and affirmed by the Commission.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried with Chairman Richards desenting, that the default order in the matter of DEQ v. Kenneth Brookshire be set aside.

Chairman Richards explained his vote by saying that he disagreed that it was excusable neglect and that when a person received notice of a specific date for a hearing and forgets the date, it is not grounds for setting aside a default order.

AGENDA ITEM G - CITY OF TROUTDALE - REQUEST BY CITY OF TROUTDALE TO EXPAND TROUTDALE SEWAGE TREATMENT PLANT

Mr. Larry D. Patterson of the Department's Portland Region Office, said that Troutdale's present sewage treatment plant had a 500,000 gallon per day capacity, was currently treating approximately 400,000 gallons per day, and at current growth rates it was anticipated that the plant would be at capacity by late 1978. Mr. Patterson presented the following Director's recommendation.

"It is the Director's Recommendation that the EQC instruct the staff to modify the City of Troutdale's National Pollutant Discharge Elimination System (NPDES) permit to allow interim expansion of the City's STP to 1.3 MGD with an effluent quality of 20 mg/l of BOD and SS. This approval is conditioned upon the City either upgrading its treatment facility or implementing a regional sewage treatment plant alternative by December 31, 1982."

Commissioner Phinney asked how an "interim expansion" was implemented. Mr. Patterson replied that the proposal was to upgrade the Troutdale plant to handle larger amounts of flow. He said the effluent would be restricted to the same as the current plant. He said the Sandy River Basin Plan called for upgrading treatment upon expansion. What the report was saying, he said, was that the Department would allow an interim plant until 1982 to operate with a slightly higher effluent quality; but in 1982 the Department would require a plant that would meet the Sandy River Basin Plan.

In response to Commissioner Phinney, Mr. Patterson said that 20/20 effluent discharge would be allowed during the summer low flow (first of June to end of October) and the Sandy River Basin Plan currently called for 10/10 effluent during that period. During the winter months, he said, the Plan called for secondary treatment which the Department would classify as 20/20 effluent and in the interim plant 30/30 would be allowed.

Commissioner Hallock MOVED, Commissioner Somers seconded and it was carried unanimously that the Director's Recommendation be approved.

AGENDA ITEM M - CITY OF BEND SEWERAGE PROJECT - UPDATE ON FINANCIAL CONSIDERATIONS OF CITY OF BEND PHASE I SEWERAGE PROJECT

AGENDA ITEM N - SUBSURFACE SEWAGE DISPOSAL, BEND AREA - STATUS REPORT ON DISCUSSIONS WITH THE DESCHUTES COUNTY COMMISSION REGARDING SEWAGE DISPOSAL PROBLEMS WITHIN THE BEND URBAN GROWTH BOUNDARY

Director Young said that neither of these items required Commission action. He said both items had been before the Commission previously and the Commission had directed the staff to continue to work with the City of Bend to resolve currently unresolved financing questions on their proposed sewerage project, and that was being done.

The sewage proposal for the City of Bend, he said, was contemplated to be a regional facility to ultimately deal with accommodating the growth occurring in the urban area surrounding the City of Bend. Mr. Young said that he met with Deschutes County Commissioners and discussed the county and City of Bend getting together and making some judgments about how much of the urban growth area needed to be sewered. He said that the discussion process was continuing and it was still too early to judge outcome or progress in these matters.

Commissioner Somers asked if a diagram similar to the one furnished the Commission, showing the drill holes leaching into the wells, had ever been published in the Bend newspapers. Mr. Young said he could not answer that, however the matter had been discussed broadly in the Bend area.

No action by the Commission was required on Agenda Item M.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the following Director's Recommendation on Item N be approved.

- "1. The Director recommends that the Commission direct the staff to continue to work with Deschutes County officials and the City of Bend to obtain a written agreement outlining how DEQ, Deschutes County and City of Bend can work together to solve the problems discussed in the November 18, 1977 report.
2. The Director recommends no Commission action at this time and that the Commission consider a staff progress report at the March meeting."

AGENDA ITEM O - RIFLE RANGE ROAD AREA, ROSEBURG, DOUGLAS COUNTY - CERTIFICATION OF PLANS FOR SEWERAGE SYSTEM AS ADEQUATE TO ALLEVIATE HEALTH HAZARD, ORS 222.898

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's recommendation to approve the proposal of the City of Roseburg and certify said approval to the City be adopted.

AGENDA ITEM P - DEQ COORDINATION PROGRAM - REPORT ON PROPOSED PROGRAM FOR COORDINATING DEQ PROGRAMS AND ACTIONS AFFECTING LAND USE WITH LOCAL COMPREHENSIVE PLANNING PROCESSES AND OTHER GOVERNMENTAL AGENCIES, AS REQUIRED BY ORS 197.180

Director Young said LCDC had a process underway that proposed that all local jurisdictions with general planning responsibility review their plans, measure them against the statewide goals that apply to their plan, make amendments as appropriate, and have that amended plan acknowledged by LCDC that it complied with the Statewide Goals.

Mr. Bob Jackman, Intergovernmental Coordinator for the Department, presented a chart showing the major issues between the Department and DLCD. He said the main issue was who should determine compatibility with local plans and conformance with statewide goals of specific program actions.

Mr. Jackman said the DLCD (Dept. of Land Conservation and Development) approach to who should determine compatibility was for the lead state agency (in this case DEQ) and local government to determine overall goal conformance and compatibility. He said that the alternative the Department favored was for local government and DLCD to make those determinations. He said that under the DLCD approach the Department felt it would be pushed beyond its authority and its budget and the Department and EQC would be burdened with land use appeals and their costs which might involve further appeals to the Courts. He said that the preferred DLCD approach would be inconsistent with current practices and cause delays.

Under the DEQ proposal, Mr. Jackman said, DLCD and local government would have broad authority and knowledge to make determinations and would be best suited to deal with appeals. Then, he said, DEQ would deal within its authority and expertise, contribute whatever comments it was asked for early on to help local governments on those goals which directly apply to DEQ (primarily Goals 6 and 11), but would stay within its expertise and authority. He said that this procedure as proposed was consistent with current practices which are accepted by DLCD.

Commissioner Hallock asked if the Department did not determine consistency with goals, would no one do it until the plan was adopted. Mr. Jackman replied that that would often be the case. He said that local government may not normally make a goal determination. He said that DEQ would see that a plan was compatible with those goals it worked with (6 and 11). He said that it was possible another agency or group would raise an issue about something that conflicted with goals.

Chairman Richards asked what would happen if there continued to be a stand-off between the Department and DLCD. Director Young replied that SB 570 required the Department to submit a proposal for coordination to DLCD by a time certain. He said the Department did that and DLCD had a period of time to review the Department's submittal. Director Young said that DLCD would be forwarding to their Commission at their March meeting the staff preception of the Department's submittal and whether or not it was satisfactory. Ultimately, he said, if there was not agreement it would go to LCDC and they would make a judgment as to the propriety of the proposed coordination program. Mr. Jackman said that if the Department's proposal was denied, then the Department could either appeal the denial back to LCDC or negotiate a revision to their submittal.

Director Young said the potential was for the Commissions of state agencies which have some land use impact to become more involved in the land use planning process than their authority dictated.

Mr. Jackman invited the Commission to discuss any other aspects of this matter during lunch.

AGENDA ITEM Q - CLEAN AIR ACT AMENDMENTS OF 1977 - AN INFORMATIONAL AND RESOURCE IMPACT REPORT

Mr. John Kowalczyk of the Department's Air Quality Division, said that the 1977 Clean Air Act Amendments were extensive and would have a definite impact on Oregon's air quality program. He said that the Act initiated tradeoffs, prevention of significant deterioration (PSD) programs, transportation programs, and inspection maintenance programs to other areas of the Country. He said Oregon's program had had those types of things over the past few years and in some cases had been critized for them as a mechanism for steering growth to other parts of the Country. He said that with the federal requirements applying nationwide that Oregon should not be critized for its aggressive program.

Mr. Kowalczyk said that these new amendments would impose monumental workloads upon the Department and all the resources to carry them out had not been identified.

Chairman Richards asked if the November and December 1977 dates for identifying sources potentially contributing to air quality problems in adjacent states and areas of attainment/nonattainment of air quality standards, as stated in the report, had been met. Mr. Kowalczyk said that those dates had been made and they were well on the way to meeting the February 1978 date to designate lead agency for transportation and strategy development.

In response to Chairman Richards, Mr. Kowalczyk said that the first thing Oregon was going to have to do was to adopt a PSD rule that allowed the Department to carry on a new source review program. He said that EPA was carrying on that program at this time.

Chairman Richards asked if they might be looking at a moratorium on new industry under the emission tradeoff policy. Mr. Kowalczyk said that was a distinct possibility that was spelled out clearly in the Clean Air Act.

Chairman Richards asked how it would be determined if California's stricter automotive emission standards would be needed. Mr. Kowalczyk said that this would be done by identifying how much reduction in air quality was needed to meet standards, identifying what strategies were available, and going through the advisory committee process of selecting the acceptable strategies.

In response to Commissioner Somers, Mr. Kowalczyk said that the state would not be allowed to issue permits for new major air pollution facilities in nonattainment areas if the state failed to implement an adequately revised SIP in 1979.

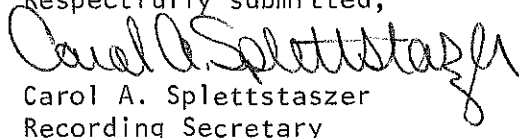
Commissioner Phinney asked, if in addition to the procedures the Department would follow to designate a nonattainment area, could EPA also designate one. Mr. Kowalczyk said that nonattainment areas were designated by what the air quality measurements showed. If the measurements showed that an area was over standards, he said, then it would be designated as nonattainment.

Commissioner Phinney asked if Congress or EPA set the size of an area that would be designated Class I, II or III. Mr. Kowalczyk said that he did not think there were any guidelines in size of those areas, but there was some discussion on what should constitute a nonattainment area.

No Commission action was required on this matter.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Splettstaszer
Recording Secretary

Environmental Quality Commission Meeting
February 24, 1978
Salem City Council Chambers
City Hall, 555 Liberty St., S.E.
Salem, Oregon

- 9:00 am A. Minutes of January 27, 1978 EQC Meeting
- B. Monthly Activity Report for January 1978
- C. Tax Credit Applications

PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

- 9:10 am D. Martin Marietta, The Dalles - Request for revised compliance schedule to meet (Nichols) federal effluent standards for Best Practicable Control Technology Currently Available
- 9:15 am E. Contested Case Hearings - Motions for Commission action (McSwain)
- 9:30 am F. Noise Control Rules - Public hearing to consider adoption of permanent rule (Hector) revisions to OAR 340-35-030, pertaining to equivalency between Commission-adopted motor vehicle noise standards and standards referenced in 1977 Oregon Laws Chapter 273
- 9:40 am G. Portland General Electric, Bethel - Proposed issuance of renewed Air Contaminant Discharge Permit for PGE's Bethel turbine generating plant (St. Louis)
- 9:45 am H. Coos County Solid Waste - Request for variance extension from Solid Waste (Reiter) regulations for City of Powers and City of Myrtle Point solid waste disposal facilities
- 9:50 am I. Teledyne Wah Chang, Albany - Proposed issuance of NPDES permit modification for (Ashbaker) Teledyne Wah Chang Company
- 10:00 am J. Field Burning Rules - Public hearing to consider adoption of permanent rule (Freeburn) revisions to OAR 340-26-005 through 26-025 pertaining to agricultural burning
- 11:00 am K. GATX Oil Storage Terminal, Columbia County - Public hearing to consider (Bosserman) adoption of proposed regulations pertaining to control of emissions from crude & oil tankers calling on Oregon ports and proposed issuance of air and water (Nichols) permits to GATX Tank Storage Terminals Corp. proposed crude oil terminal at Port Westward, Columbia County.

- L. Medford Air Quality Maintenance Area - Proposed adoption of amendments to (Baker) Oregon Clean Air Act Implementation Plan involving particulate control strategy rules for the Medford Air Quality Maintenance Area
- M. Subsurface Sewage Rules - Proposed adoption of amendments to OAR 340, Sections (Osborne) 71, 72, 74 & 75 pertaining to subsurface and alternative sewage disposal
- N. Vehicle Emission Testing Rules - Proposed adoption of amendments to OAR (Jasper) 340-24-005 through 24-350 pertaining to Motor Vehicle Emission Inspection
- O. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent (Bolton) Orders for NPDES permittees not meeting July 1, 1977 compliance date
- P. Groundwater, Hermiston/Boardman - Report on findings on groundwater quality (Bolton) in Hermiston/Boardman area
- Q. Groundwater, Multnomah County - Report on status of groundwater aquifers in (Gilbert) Central Multnomah County area

Because of the uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items D thru K. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 a.m.) at Johnston's Pancake House, 3135 Commercial S.E. Lunch will be at Sambo's Restaurant, 480 Liberty, S.E.

MINUTES OF THE NINETY-FOURTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

February 24, 1978

On Friday, February 24, 1978, the ninety-fourth meeting of the Oregon Environmental Quality Commission convened in the Salem City Council Chambers, City Hall, 555 Liberty Street, S.E., Salem, Oregon.

Present were all Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; Mrs. Jacklyn Hallock; Mr. Ronald Somers; and Mr. Albert Densmore. Present on behalf of the Department were its Director and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S.W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF JANUARY 27, 1978 EQC MEETING

Commissioner Phinney MOVED, Commissioner Hallock seconded, and it was carried unanimously that the minutes of the January 27, 1978 EQC meeting be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR JANUARY 1978

Mr. Fred Bromfeld of the Department's Hazardous Waste Section, said that one of their functions was to oversee the management of the Chem Nuclear Hazardous Waste Disposal site in Arlington, Oregon. He said that Chem Nuclear wished to import certain wastes into Oregon for disposal. A list of these wastes was distributed to the Commission, and is made a part of the Commission record on this matter. Mr. Bromfeld said that wastes of this type had been handled in the past, and the Department believed Chem Nuclear could adequately dispose of them. Mr. Bromfeld recommended that Chem Nuclear be allowed to import those wastes.

Mr. William Cox, a Portland attorney, appeared on behalf of himself and the Oregon Environmental Council. He said their main concern was the importation of hazardous wastes from foreign countries. They do not believe, he said, that the regional view the Department had taken in regard to disposal of hazardous wastes was the intent of the original mandate of the Department. Mr. Cox said that a dangerous precedent was being set which might allow Oregon to become a dumping ground for hazardous materials from many foreign countries. He said that if the Commission

wished to adopt a regional view, then very stringent requirements to monitor what is coming in, especially from foreign countries, go along with it. Mr. Cox said that a strong statement should be made by the EQC that the people who wish to send hazardous materials into Oregon should show plans, and development of plans, for caring for such materials within their own boundaries. Mr. Cox said he thought the importation of hazardous wastes from Canada should be halted until more stringent rules were adopted.

Mr. Pat Wicks, Chem Nuclear Systems, Inc., said when the license for the disposal site was issued there was no indication that there would be a restriction on waste coming to the site from out of state. He said Mr. Cox did not address the subject that a number of the wastes generated in Oregon are sent out of state. Oregon does not take care of its own wastes, he said, and probably never will because adequate facilities are not always going to be available in the State. Mr. Wicks said they do not accept all the wastes generated in Oregon because they are not permitted to, and do not have the proper facilities.

In regard to accepting wastes from foreign countries, Mr. Wicks said they did not intend to go beyond the boundaries of the Northwest Region in the disposal and proper management of these wastes. He said there should not be a concern that wastes would be accepted from countries other than Canada.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Monthly Activity Report for January 1978 be approved and that Chem Nuclear Systems, Inc. be allowed to import the hazardous wastes listed on the handout to the Commission.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

Under T-943, Commissioner Phinney asked if this was the first time the value of land had been included in a request for tax credit. Commissioner Somers said that on two additional occasions he recalled that land had been included in a tax credit, if it was required to be acquired to produce the facility.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that tax credit applications T-920, T-943, T-953 and T-962 be approved and that the request for Preliminary Certification for Tax Credit Relief of Stimson Lumber Company, Forest Grove, be denied.

PUBLIC FORUM

Mr. Roy L. Burns, representing Lane County, said that the Board of County Commissioners for Lane County had adopted a resolution requesting that the Department establish a moratorium on subsurface sewage disposal permit issuance in the area defined as River Road/Santa Clara, Lane

County, Oregon. Mr. Burns said that the Board of County Commissioners felt that the River Road/Santa Clara area presented a serious potential groundwater contamination problem resulting primarily from subsurface sewage disposal systems.

Mr. Burns said that a groundwater study had recently been completed in the area which found that there was evidence of nitrate/nitrogen contamination in the groundwater. He said that studies had determined that nitrate/nitrogen levels in the area had exceeded the EPA drinking water standard. Mr. Burns listed the following five findings in requesting the Commission to adopt a temporary rule imposing a moratorium.

1. Substantial presumptive evidence indicates that contamination of groundwater is resulting from the widespread and intensive use of subsurface sewage disposal systems in the River Road/Santa Clara area at the present time.
2. The major source of nitrogen, a significant groundwater contaminant, in the River Road area is disposal of sewage wastes from septic tank drainfield systems.
3. As the production of nitrogen and other pollutants is directly related to the contributing population, groundwater contamination of the River Road/Santa Clara area may be expected to worsen as the population utilizing septic tank drainfield systems for disposal of sewage wastes increases over time.
4. Any time delay associated with establishment of a moratorium will most likely result in submittal of a very large number of speculative subsurface sewage disposal system permit site inspection applications from the River Road/Santa Clara area, and a subsequent aggravation of the groundwater contamination problem.
5. Establishment of a moratorium at this time will provide a respite during which the full moratorium issue can be considered following adequate public notice and hearing.

Chairman Richards asked Mr. Ray Underwood, Department's legal counsel, if it was within the power of the Commission to adopt the proposed temporary rule at this meeting. Mr. Underwood said that ORS 454.685 provides a specific procedure for the establishment by the Commission of moratoriums of subsurface sewage disposal permits. He said that this statute provided specifically that the order of the Commission should be issued only after public hearing for which more than 30 days notice had been given. Therefore, he said, the temporary rule should not be adopted at this meeting. However, he said, the Commission could give notice at this meeting of its intention to set a moratorium.

Chairman Richards asked, if the Commission were to give notice at this meeting of its intention to establish a moratorium, what would be the power of Lane County to defer action on issuing permits because of its

advice that the moratorium was being considered. Mr. Underwood said he was not sure that Lane County would have the power to withhold issuing such permits.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that notice be given of the Commission's intent to set a moratorium on subsurface sewage disposal permits in the area defined as River Road/Santa Clara, Lane County, Oregon at its next meeting which would be March 31, 1978.

Mr. Jim Hale, a resident of the Santa Clara area, said that the Board of County Commissioners, in requesting the Commission to invoke a moratorium at this meeting, was requesting more than their staff had the information to support. Mr. Hale said he would look forward to a hearing on a permanent moratorium. He said that a task force made up of area residents to study the problem felt that further information would be needed before they could recommend a moratorium.

Commissioner Somers assured Mr. Hale that no moratorium would be issued unless it was established before the Commission by adequate evidence and that all the criteria listed in the statutes was met. He also told Mr. Hale that the only action taken by the Commission at this meeting was to set the matter for hearing.

AGENDA ITEM D - MARTIN MARIETTA, THE DALLES - REQUEST FOR REVISED COMPLIANCE SCHEDULE TO MEET FEDERAL EFFLUENT STANDARDS FOR BEST PRACTICABLE CONTROL TECHNOLOGY CURRENTLY AVAILABLE

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and passed unanimously that the Director's recommendation to approve the proposed Stipulation and Final Order requiring Martin Marietta to meet federal effluent standards for Best Practicable Control Technology Currently Available by January 1, 1980 be approved.

AGENDA ITEM E - CONTESTED CASE HEARINGS: MOTIONS FOR COMMISSION ACTION

Mr. Robert Haskins Department's legal counsel in these matters, argued that the failure to file the notice of appeal within the stated time set forth in the letter was a jurisdictional matter, and if a respondent did not file objections and suggested findings of fact within 30 days, that would be treated as a jurisdictional matter also, and the application forfeits the right to file. Chairman Richards said he felt that was more like the rules of the Court of Appeals and the Supreme Court that a litigant can be excused from a tardy filing for any reason. Mr. Haskins replied that their position was that the request for review was jurisdictional and there were no express exceptions to that. Once a timely request for review was filed, he said, and the EQC gains jurisdiction of the matter, the rule states that a respondent has 30 days from the initial service of the notice to file exceptions and arguments, but that that time

period can be extended. Mr. Haskins said it was not his argument that that was jurisdictional, but rather that it expressly was subject to extension for good reason.

Chairman Richards said that the letters stated a clear warning that if a request for review were not received within fourteen days of the date of the letter, the Proposed Order would become a final order by operation of law.

Mr. Haskins said he felt that as a general matter it would be wise to require people to submit their requests in a timely manner. He said in some of the cases before the Commission at this meeting, no request had been made for periods of months.

Commissioner Somers asked what Oregon statutes had time of less than 30 days to file a notice of appeal. Mr. Haskins said he cited a case in his report to the Commission which had a statutory provision of 5 days. Mr. Haskins said that the request for a review was a very simple matter and that strict compliance with the requirements should be asked for.

DEQ v. R. RANDALL TAYLOR

Mr. Taylor said that the certificate of service of the notice was signed December 13, 1977 and was unexecuted by Peter McSwain at the time he issued the Order. He said 14 days from the date of mailing the notice was December 27, and his request was not mailed until December 28. Mr. Taylor said that the Department maintained that the late filing was procedural and sufficient to give the Commission no authority to review the appeal, regardless of the merits. Mr. Taylor said he replied that the acceptance of service was not properly executed by Mr. McSwain and the burden was upon the Department to establish the dates service was made. He said that was defective and therefore the Department could not establish that the time began to run on December 13. Mr. Taylor said he was urging that Christmas was a legal holiday and December 26 was an added day, so he should be able to add a day to the 14 days, making it 15 days, meaning his mailing on December 28 was proper.

Mr. Taylor also urged that the Commission not adopt the policy being urged by Mr. Haskins that the defect in timely filing would be jurisdictional.

Commissioner Somers asked how much money was involved in the civil penalty. Mr. Haskins replied that the penalty was \$500. Commissioner Somers suggested that the matter might be resolved if the Commission decided to remit the civil penalty. Chairman Richards said he assumed that would be the motion if the appeal was dismissed. Commissioner Somers expressed the concern that the amount in legal fees would exceed the civil penalty if the matter was not cleared up soon.

Commissioner Somers MOVED to sustain the Attorney General's motion to dismiss on condition that the penalty be remitted to \$0. The motion was seconded by Commissioner Hallock and failed with Commissioners Densmore and Phinney and Chairman Richards dissenting.

Commissioner Somers MOVED, Commissioner Phinney seconded, and it was carried with Chairman Richards dissenting, that the Attorney General's motion to dismiss be disallowed.

Chairman Richards explained his vote by saying that he thought the 14 days was jurisdictional and that adequate notice was made in the letters to the respondents.

DEQ v. DENNIS E. GRANDE

Commissioner Somers MOVED, Commissioner Phinney seconded, and it was carried unanimously that the Attorney General's motion be approved.

DEQ v. ARLINE LAHARTY

Mr. Tom Laharty appeared on behalf of his wife, Arline Laharty. Chairman Richards said that a notice of appeal by John Briggs, an attorney, asked that the Commission delay action until the Laharty's had a chance to pursue appropriate relief through a variance application. Chairman Richards indicated that Robert Haskins of the Department of Justice joined with the respondent in this request.

Mr. Haskins said that the case in question had been brought against Mrs. Laharty individually and the notice of appeal which he provided to the Commission was filed with the Commission late, after the deadline as provided for in the rule. He said the Hearing Officer's proposed order provided that the system would be ordered to be abandoned unless Mrs. Laharty was able to obtain a variance. Mr. Haskins said that in light of that he entered into some discussions with Mrs. Laharty's attorney and determined ~~it would be in the best interests of everyone to not go into any briefing or raise any issues on the appeal itself in order to provide time for Mrs. Laharty to make her application for a variance, and if it were issued to drop the appeal entirely.~~ He said that Mrs. Laharty did apply for a variance and it was denied.

Chairman Richards informed Mr. Laharty that the only matter the Commission could hear was the technical matter of whether or not the appeal was timely. Mr. Laharty said that as far as he knew the appeal was filed by John Briggs, their attorney. He said Mr. Briggs had had most of the conversations with the persons involved and he assumed that Mr. Briggs had filed the appeal on time.

It was MOVED by Commissioner Somers that the Attorney General's motion to dismiss be allowed. The motion died for lack of a second.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried with Chairman Richards dissenting, that the Attorney General's motion to dismiss be disallowed.

Mr. Haskins called for a clarification on the rulings regarding DEQ v. Taylor and DEQ v. Laharty, because there were two motions: (1) to dismiss both cases on the grounds of failure to file a timely request for review, and (2) since untimely requests for review were filed and there had been no effort by either party to file any indication of what they think is wrong with the Hearing Officer's ruling and how it could be corrected as required by rule. Therefore, Mr. Haskins said, the Department of Justice filed supplemental motions raising that issue. It was his understanding, he said, that the Commission had ruled on the first motion but it was not clear whether any ruling had been made on the supplemental motions regarding their briefing. Mr. Haskins asked that if there had been a ruling, that some clarification be made as to whether or not they will in the future, at some point in time, be required to file any arguments and exceptions as to what is wrong with the Hearing Officer's request.

Chairman Richards replied that he assumed it was treated as one motion with two reasons and that the actions by the Commission dealt with both motions. He said that his recommendation when they finished all cases was to send a letter to those who would be entitled to appear, and allow them a certain length of time in which to file objections and propose findings, and in the event they failed to do so, the appeal would be dismissed with a final order. Commissioner Somers said that was implicit in his motion.

Mr. Taylor asked if it was possible that a motion could be made for the remittance of any penalty. Commissioner Somers said that was possible within the rules. He said that Mr. Taylor would need to apply to the Director for remission of the penalty.

DEQ v. DAVID HENGSTELLER

Chairman Richards stated for the record that Mr. Hengsteller was not present and had not requested to be heard.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried with Chairman Richards dissenting, that the Attorney General's motion to dismiss be approved.

Chairman Richards recommended that hereafter the Hearing Officer's letter state that if a respondent did not reply within 30 days it would be a reason for dismissing the appeal.

DEQ v. MR. AND MRS. WILLIAM MELQUIST

Mr. and Mrs. William Melquist were not present.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore, and carried with Chairman Richards dissenting, that the Attorney General's motion to dismiss be allowed.

AGENDA ITEM F - NOISE CONTROL RULES - PUBLIC HEARING TO CONSIDER ADOPTION OF PERMANENT RULE REVISIONS TO OAR 340-35-030, PERTAINING TO EQUIVALENCY BETWEEN COMMISSION-ADOPTED MOTOR VEHICLE NOISE STANDARDS AND STANDARDS REFERENCED IN 1977 OREGON LAWS CHAPTER 273

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried unanimously that the Director's recommendation to adopt the proposed amendment to OAR 340-30-030 in its entirety to be consistent with the intent of the Legislature and to ensure that reduction of motor vehicle noise pollution will continue, be approved.

AGENDA ITEM G - PORTLAND GENERAL ELECTRIC, BETHEL - PROPOSED ISSUANCE OF RENEWED AIR CONTAMINANT DISCHARGE PERMIT FOR PGE'S BETHEL TURBINE GENERATING PLANT

Mr. David St. Louis of the Department's Willamette Valley Region Office, said that based on the minimal testimony presented at the hearing, the staff was presenting a renewal Air Contaminant Discharge Permit for the PGE Bethel Turbine Generating Plant. He said this permit contained only two significant changes over the existing permit. Condition 9 requiring a public hearing prior to renewal or modification had been deleted, Mr. St. Louis said, and the expiration date had been extended to December 31, 1979 or 750 hours.

Commissioner Phinney asked about the statement in the staff report that the Department felt that NO_x controls should be required if the plant operated more than 200 hours per year, but the Department felt those controls were not available. She asked what the Department would do if operation ran over 200 hours. Mr. St. Louis said those controls would be required if operation was over 200 hours per year, and within the opinion of the Department such controls were available. If the plant operated over 200 hours, he said, and the controls were still not available, the Department would not likely require them.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's recommendation to issue the proposed renewal Air Contaminant Discharge Permit for the PGE Bethel Turbine Generating Plant be approved.

AGENDA ITEM H - COOS COUNTY SOLID WASTE - REQUEST FOR VARIANCE EXTENSION
FROM SOLID WASTE REGULATIONS FOR CITY OF POWERS AND CITY OF MYRTLE POINT
SOLID WASTE DISPOSAL FACILITIES

Mr. Richard Reiter of the Department's Southwest Region, said this item was a request by the Cities of Powers and Myrtle Point to continue to operate their open burning landfills for a period of 18 months, through July of 1979. Mr. Reiter presented the Summation and the following Director's Recommendation from the staff report.

Director's Recommendation

- "1. Grant a variance through June 30, 1979 to the Cities of Myrtle Point and Powers during which time they are to develop the necessary programs to effect direct hauling of their wastes to a regional landfill at Bandon or to an energy recovery program in the Coos Bay-North Bend area. Open burning of putrescible material should cease no later than June 30, 1979.
2. Progress reports on achieving this variance schedule shall be forwarded to the Department on June 30 and December 31, 1979.
3. The EQC finds that the variance requests meet the intent of ORS 459.225 (3 c) in that strict compliance would result in closing of the disposal sites and no alternative facility or alternative method of solid waste management is available."

Commissioner Phinney said that the City of Powers seemed to be planning steps to alleviate the situation, but the City of Myrtle Point did not seem to indicate that they were planning anything on their own, but instead indicated that they were waiting for the County to work out some program for solid waste disposal which would be available to municipalities, Commissioner Phinney asked if it was clear to Myrtle Point and they were expected to participate in activities which would relieve the present dump sites. Mr. Reiter replied that prior to the February 7, 1978 letter from Myrtle Point, he met personally with the Mayor and some of the Council, and while they felt that their present program was environmentally acceptable, they recognized that it had to come to an end and the only alternative at this time was to work toward hauling to Bandon, Mr. Reiter said that Myrtle Point's collector was prepared to upgrade his equipment to make the long haul.

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

AGENDA ITEM I - TELEDYNE WAH CHANG ALBANY'S REQUEST FOR PERMIT MODIFICATION

Director Bill Young recommended that this matter be delayed for 30 days as a result of conversations he had with EPA and on the request of the Company. In response to Commissioner Somers, Director Young affirmed that the Company's present permit was still in effect and had not expired.

Mr. Tom Nelson, acting Director of Environmental Control for Teledyne Wah Chang, at the request of Chairman Richards, said that the Company would send a letter to the Commission affirming their request.

It was MOVED by Commissioner Somers that the matter be set over, at the request of Teledyne Wah Chang, until the March EQC meeting. The motion was seconded by Commissioner Hallock and carried unanimously.

AGENDA ITEM J - FIELD BURNING RULES - PUBLIC HEARING TO CONSIDER ADOPTION OF PERMANENT RULE REVISIONS TO OAR 340-26-005 through 26-025 PERTAINING TO AGRICULTURAL BURNING

Chairman Richards said this issue had been discussed at the Commission's breakfast meeting, and the position of the Commission was based upon the advice of the Attorney General. In the opinion of the Attorney General, he said, as the law now stands it would require the burning of 180,000 acres unless there were evidence that there were economically feasible alternatives to the practice of annual open field burning. Chairman Richards said that evidence must be submitted to the Environmental Protection Agency along with any other recommendations of the Department and the EQC for reducing particulate from other sources. He said the hearing record would be held open 10 days from the date of this meeting and no final action would be taken at this meeting. He said that the earliest opportunity the Commission would have to take action would be at their March 31 meeting. If at that time, he said, the Commission would adopt the 180,000 acre requirement in the regulations, that would then be submitted to EPA along with any other recommendations of staff for reductions of particulate from other sources. Then if that plan were accepted, Chairman Richards said, there would be no opinion from the Attorney General. However, he said, if that regulation was rejected by EPA as not being in compliance with the State Implementation Plan (SIP), the Attorney General would issue an opinion as to what, if any, reduction would be made, grounds for reduction, interpret the question of whether federal law and regulations have a supremacy over state law and regulations, and at that time determine whether or not (3) of 468.475 would then be considered by the Commission.

Chairman Richards said the role of the EQC was to carry out legislative intent and not to substitute personal opinion for that of the Legislature. He said that the issues the Commission would hear at this meeting would be: (1) what are the burning practices, and (2) testimony on economically feasible alternatives to open field burning. Chairman Richards said it would not be appropriate to hear testimony on impact on public health or the economical threat to the industry by the reduction of the amount of acreage allowed to be burned.

Mr. Scott Freeburn of the Department's Air Quality Division, said that the 1977 Field Burning Law required that the Commission, prior to June 1 of each year, consider the following points prior to each burning season.

1. Establish an acreage limitation, based upon the staff recommendation and recommendations received from Oregon State University.
2. Establish an allocation procedure should acreage registration exceed the annual acreage limitation that was established.
3. Adopt rules regarding the management of smoke and the procedures by which the fields would be burned.

Mr. Freeburn said that the purpose of this public hearing was to receive testimony pertinent to the adoption of those rules. Mr. Freeburn then presented the following Summation from the staff report.

Summation

The Department proposes the attached rule changes to meet the following needs:

1. To adopt permanent rules for operation of field burning and other agricultural burning programs as required by 1977 Oregon Laws, Chapter 650 (HB 2196).
2. To establish acreage allocation procedures, the acreage for which permits may be issued and the maximum acreage that may be open-burned in 1978.
3. To provide rules to facilitate improvements in smoke management and air quality in time for the 1978 field burning season.

Mr. Freeburn said that a letter had been received from Oregon State University and they concurred with the staff's opinion regarding the availability of alternatives at this time. In response to Chairman Richards, Mr. Freeburn said that in the staff opinion, there were no economically feasible alternatives to the practice of open field burning.

Mr. Freeburn said that the rules proposed for adoption may form the basis for the rules which would go along with a State Implementation Plan revision some time in the future. He said that that revision had to be made in early 1979.

Mr. Freeburn said they believed it important to adopt the rule regarding the requirement for radios at this time to provide sufficient lead time for growers to order and purchase the radios prior to the burning season. Another reason for this timing, he said, was certain rule revisions needed to be made to respond to the return of the SIP submittal of last September by EPA.

Mr. Freeburn presented the following Director's Recommendation from the staff report.

Director's Recommendation

It is the Director's recommendation that the Commission take the following actions:

1. Acknowledge as of record the consultation with and recommendations of Oregon State University and the Department pursuant to ORS 468.460(3) as revised by HB 2196.
2. Find that reasonable and economically feasible alternatives to the practice of annual open field burning have not been developed.
3. Find that practices developed from experimental burning conducted under Department supervision:
 - a. Can, in theory, reduce the adverse effects on air quality or public health from open field burning; and
 - b. Is necessary in order to obtain information on air quality, public health or the agronomic effects of an experimental form of open field burning.
4. Subject to any changes found appropriate as a result of recommendations made to the Commission or findings reached after this February 24, 1978, hearing, adopt the proposed amendments to OAR, Chapter 340, Sections 26-005 through 26-030 (Attachment 1).

Mr. Freeburn said that recommendation #4 would be in light of whatever time the Commission wished to keep the hearing record open.

Chairman Richards asked if the regulations addressed a change in "north wind days" where wind conditions are from the north and would carry the smoke south. Mr. Freeburn replied that when the regulations speak of south priority acreages there is a regulation change. South priority acres, he said, are generally burned under north wind conditions, and a change in the minimum allowable mixing height on burning during south priority days had been made. Mr. Freeburn said that this was for south priority acreages which are burned under north wind conditions.

Mr. Bob Davis, representing the Oregon Seed Trade Association and the growers of the Willamette Valley, submitted for the record a document entitled "Field Burning--the Only Real Choice" and another document on the background on field burning legislation and its impact. Mr. Davis said they agreed with the Attorney General's ruling that it was the responsibility and duty of the EQC and the Department to submit to EPA a

plan by which it proposed to burn 180,000 acres for 1978 and a plan which will show that by burning this it would be possible to attain the clean air standards as set by the Clean Air Act. He said that EPA must take into consideration that the Oregon Legislature set the acreage to be burned at 180,000 acres.

Mr. Davis said they felt that the Legislature, the City of Eugene, DEQ, and the State of Oregon had devoted 100% of their attention to 5% of the problem. He said they felt that even if field burning were eliminated entirely Eugene would still have air quality problems.

Commissioner Hallock asked if Mr. Davis, by saying that the Commission had the responsibility to submit a plan to EPA for the burning of 180,000 acres, was saying that perhaps regulations on other sources of contaminants should be made. Mr. Davis said it was their view that a number of strategies could be followed to attain the standards and still burn 180,000 acres. Mr. Davis said that a properly submitted plan would be approved by EPA to allow burning of 180,000 acres and they felt it was the EQC and DEQ's responsibility to submit that plan.

Commissioner Somers asked if Mr. Davis had a plan the Department could submit. Mr. Davis said they did not, but they would like to work with the staff in the development of a plan.

In response to Chairman Richards, Mr. Davis said it was his belief, and the position of the growers, that the EQC was required by legislation to continue to submit a plan to EPA which included 180,000 acres and the strategies to control particulates within the primary and secondary standards. He said they didn't think one submittal was sufficient.

Mr. Dave Nelson, representing the Oregon Seed Council, requested that a determination on these rules be made not later than two weeks prior to the first of April for the purpose of allowing registration of fields by April 1.

Mr. Nelson said they concurred with the staff report that there were not ~~currently reasonable or economically feasible alternatives to open field burning.~~

Under proposed rule 340-26-010(2)(j), which reads as follows:

"(j) Use of approved field sanitizers shall require a fire permit and permit agencies or agents shall keep up-to-date records of all acreages burned by such sanitizers."

Mr. Nelson asked if it was appropriate for one administrative agency to interject itself into the area of another administrative agency, in this case the fire districts.

In regard to 26-012(1), Mr. Nelson said they had concern the language on the forms for registration might include unreasonable requirements, such as requiring complete renumbering or reidentification of fields,

Mr. Nelson expressed support for the added language in 26-013(5). He said it was important to recognize that under any system of acreage limitation and permit issuance to achieve that acreage limitation, it is biologically and physically impossible to ever burn enough acreage to reach that physical limit required under that limitation. He said he thought the Commission had recognized that limitation in the past.

Mr. Nelson said they also supported 26-013(5)(b) regarding the allocation on a pro rata share basis of the acreage registered. He said the grass seed growers themselves preferred to share equally in the hardship brought on them by the restrictions on their ability to sanitize their fields.

Mr. Nelson submitted for the record a page from the legislative history of HB 2196 concerning experimental burning. He said it was their opinion that the intent of the Legislature was that there should not be any arbitrary limitation in terms of acreage restriction or other to limit experimental burning. He said it was their position that the responsibility of the Commission was to adopt rules or parameters that would identify or define an experimental burn, and then to give the Department the responsibility of measuring a proposed experimental burn against those guidelines adopted by the Commission. Mr. Nelson said it was their recommendation that an experimental burning fee be set at \$3.50 total, and if the \$200,000 for smoke management had not been exceeded, \$1.00 be put into the smoke management program and 20¢ to the fire districts for registering their fields, and the remainder be set up in an experimental burning fund to offset any increased costs for an experimental burn.

Mr. Nelson said it was their opinion that the hardship application process was initially created by the 1975 Legislature to provide relief to a seed grower(s). He said that relief was provided in terms of a hardship grant allowing a grower to apply showing extreme hardship because of disease problems, insect problems or irreparable damage to the land. He said they did not agree with the way the Commission was administering the hardship application process. Chairman Richards asked Mr. Nelson what his opinion was of the Commission action on hardship applications during the last burning season. Mr. Nelson replied that the form and format for hardship applications went beyond what could be effectively handled. He said that there were a number of specific items that should be dealt with to make the application more applicable to the specific request. Chairman Richards asked if the order on hardship applications were inappropriate last burning season. Mr. Nelson said in several instances there were several legitimate hardship requests, but they did not go beyond what would normally be expected by being unable to burn the fields. Mr. Nelson said they would request that the staff prepare an example of how the growers should submit a hardship request that would be acceptable to the Commission.

Mr. Nelson said they supported the requirement that each grower have radios in their fields when they were burning. However, he said, they recommended if a grower had his own on-farm radio communications system

he not be required to have a radio at each burning site. He said he thought the proposed rules provided this flexibility.

Mr. Nelson said they supported the proposed increase in the forecast mixing height on south priority burn days and urged the staff to work with the growers and fire districts in the priority acreages so that the burning could be accomplished in a minimum amount of time.

Although they supported the addition of backfiring conditions, Mr. Nelson said, they had concerns over the use of backfiring techniques and the lack of plume predictability and how that will affect the air quality of the Willamette Valley. He said that they had concern that backfiring might be required carte blanche on perennial grass seed fields where the greater heat at the soil surface would damage or burn out a stand of perennial grass.

Mr. Nelson said they thought it was time the Department reevaluated the quotas that were being permitted in the North and South Valley. He said the quotas had the effect of stretching out the burning season rather than accomplishing it in a short period of time.

This concluded Mr. Nelson's testimony.

Citing the letter from OSU, Commissioner Hallock asked why the field tests on the close clip sweep techniques of non-thermal treatment had not been funded. She also asked if non-thermal experimentation was considered experimental burning. Mr. Nelson said he did not know why that hadn't been funded, however the Advisory Committee controlled the money. Commissioner Hallock asked if Mr. Nelson's association proposed to conduct this type of research on acreage that could not be burned because of the allocation. Mr. Nelson said they were contributing to a research and development fund administered by the Advisory Committee and recommended that be carried out during the summer burning season and for the next several years. He said that he did not think this should be considered experimental burning.

Commissioner Somers said he was in favor of taking action on this matter during this meeting, because the next meeting of the Commission in March would not allow enough time for acreage registrations, which need to begin April 1.

Mr. Bob Davis said he believed it would be appropriate for the Commission to take action on the rules during this meeting. They felt it was important he said, from the standpoint of the farmer, that the program for 1978 be firmed up as soon as possible.

Mr. Stanton Long, attorney for the City of Eugene, said it was his impression that the record was required to be kept open. He also said there was a problem if the Commission intended this meeting to satisfy requirements for an implementation plan revision.

Mr. Ray Underwood, Department of Justice, said it was unclear if this hearing was for a revision of the implementation plan. He said he

thought EPA would make that designation and it should not be regarded at this point as an implementation plan revision.

Mr. Long said if the State of Oregon was proposing to adopt rules for submission to EPA for approval by which allowable pollution from other industries was to be restricted, then the State had an extreme notice problem. He said he did not think those industries were aware that that was the purpose of this meeting.

Mr. Long said it was untenable to put the public in the position of not knowing whether or not this was an implementation plan revision hearing.

Chairman Richards said on the advice of Mr. Underwood that this was not an implementation plan revision hearing.

Mr. Long asked if it was the Department's position, as part of the submittal to EPA, that the Department would be able to offset the amount of increased pollution from burning 180,000 acres as opposed to 50,000 acres. Chairman Richards said it was being studied by the Department as to how much had already been offset by other gains made.

Commissioner Somers said it was his feeling that the Commission had a statutory obligation to perform a function at this meeting, and time would be provided for public input prior to making a change in the implementation plan.

Chairman Richards said in view of the fact it was announced at the beginning of the meeting that the hearing would be kept open, and without the consent of opponents and proponents, he did not want to change that. He also said he was not sure what would be gained by acting on the matter at this meeting.

Some discussion then followed among Commission members on the merits of taking action at this meeting.

Mr. Long said that ORS 183.355(4) provided "upon the request of an interested person received within 15 days after agency notice...the agency shall postpone the date of its intended action no less than 19 nor more than 90 days." Based on this statute, he said, they requested the time to submit additional data.

Chairman Richards suggested that further discussion on this matter be delayed until all testimony had been heard.

Mr. Bill Rose, representing Save Our Soil Committee, said his committee was organized to do research into the field burning problem and assist in providing the data and technology which was currently lacking. Mr. Rose said all the information he could find showed that field burning did not impact the Eugene air standards. He said it was imperative that some unquestionable scientific data be developed to prove it.

Mr. Rose said he did some research on alternative crops in the Woodburn area. Although cannery crops were an alternative, he said, he contacted

General Foods Agripac and Staton Cannery and was told that the market was already saturated.

Mr. Rose said that the economic value of the Willamette Valley seed growers would be lost to the State if further reductions in field burning were made.

Mr. Rose said he was in favor of the DEQ staff recommendations. He said the quotas in the North Valley needed to be reevaluated. He said during the last burning season he was unable to accomplish even half of his burning. Mr. Rose said that the Department needed to take full advantage of the good burning days to achieve the burning or the program could not work. He also spoke in favor of the 10% plus factor in burning.

During last summer, Mr. Rose said, the State Fire Marshall eliminated burning on a number of good burn days. He felt this could be worked out so that the responsibility of fire danger to citizens could be relayed to the local fire districts.

Mr. Rose said the only thing he would add in his support of the proposed rules was that they needed to be managed capably and that good weather conditions be taken advantage of. He said further acreage reductions could disturb the balance of agricultural marketing. He said past acreage reductions were based on field burning machines being available and that availability had not appeared. He said that it had never been established that a correlation existed between acres burned and the particulate problem in Eugene.

Mr. Bob Doerfler representing the Cascade Foothills Grass Seed Growers Association, presented information on the environmental impact of converting grass seed producing acreage to alternative crops as a result of reduced field burning. Mr. Doerfler said the Cascade Foothills area had originally been cleared for grain farms and due to severe erosion had been converted to perennial grass seed production. He said that fields in this area which had been placed into alternative crops in the last few years had begun to severely erode again. Mr. Doerfler presented for the record pictures of the erosion problem in the Cascade Foothills area.

Commissioner Hallock asked if some of the fields in this area which had been unable to burn for three or four years should have a special designation so that the fields would be sure to be burned. Mr. Doerfler replied that he felt the hill ground should get an extra acreage allocation above the 180,000 acres. He said irreparable damage to the land was occurring because of the use of alternate crops.

Mr. John Duerst, Marion Soil & Water Conservation District, submitted a letter for the record in favor of burning 180,000 acres. Mr. Duerst referred to the proposed rule 340-26-013(8)(a)(D) pertaining to emergency burning procedures, and said that there was no question that irreparable damage to the land was occurring. He said it was the responsibility of his organization to raise the types of crops which would hold the soil

and not erode it. Mr. Duerst asked if the Soil & Water Conservation District would be accepted as an "other public agricultural expert authority" referred to in the proposed rule.

He said he felt the only alternative was to request emergency burning on those fields which were in danger due to the raising of alternative crops.

Mr. Duerst suggested that once a field had been considered a potential erosion hazard and was planted in perennial grass seed, the grower would not have to apply annually for emergency burning.

Mr. Stanton Long, attorney for the City of Eugene, said there was some problem with the notice of public hearing. He said that one notice stated it was a State Implementation Plan (SIP) hearing and it appeared at this time it was unclear if it was or not. He said he did not believe there had been prominent advertisement in the area affected, as required by law, that the intent of this particular hearing was for a SIP revision.

Mr. Long said he did not believe it was legislative intent that a SIP revision be submitted prior to the last burning season in time to prevent a violation. He said information he had suggested that field burning emitted about 4000 tons of particulate a year. In fact, he said, it could be 8000 tons or more.

Mr. Long said the State of Oregon was required to obey federal law, federal was supreme, and at present in this matter federal law conflicted with state law.

The Clean Air Act, Mr. Long said, provided that states present plans for regional federal attainment with primary and secondary standards. He said the State submitted a plan which required for 1978 50,000 acres of burning, only. That plan was approved, he said, and became a federal regulation.

~~He said that if an amendment is proposed to the Clean Air Plan, the burden of proving that the increase in pollution from the amendment would not affect overall attainment was on the person presenting the amendment. He said Oregon had already made a submission which EPA rejected.~~

Mr. Long said that the City of Eugene's position was that offsets could not be made in decreases in particulate emissions from sources that were not regulated by the State Implementation Plan.

Mr. Long said they trusted that adequate monitoring would be made of substances identified to be in smoke which are highly suspected of being able to cause cancer in humans.

Mr. Long said EPA would be issuing a notice of violation to the State of Oregon in regard to last year's burning season. He said one of the

options EPA had was to not take action on the violation providing a satisfactory agreement could be reached. He said EPA felt there could be some compromise if there were not time to submit a SIP revision. Mr. Long said they were ready to discuss with appropriate people what the 1978 interim control strategy agreement consisted of, if the other interested parties were willing to discuss the matter. If the state was headed toward an interim control strategy agreement, he said, it would be helpful to inform everyone that that was the course, so that discussions could occur.

Commissioner Somers said the Commission had an obligation to take action before April 1 in order to put the public on notice as to what was going to happen. He said he was not trying to minimize the impact on Eugene of field burning, but asked Mr. Long to concede that if the Commission carried out its statutory function and made a determination at this meeting on the proposed rule, it should be determined before April 1. Mr. Long said he agreed that the ground rules should be settled as soon as they could be, but he could not agree to the Commission's presently unclear course of action. Commissioner Somers said he saw the present course of action as adopting the rule at this meeting. Mr. Long said the Commission needed to decide if it was going to submit an amended SIP or enter into a one year interim control strategy agreement.

Mr. Terry Smith of the City of Eugene, handed out to the Commission a preliminary report on some technical information he developed on open field burning and alternative practices to alleviate some of the problems it causes. Mr. Smith said they felt some additional steps needed to be taken to reduce the particulate matter, hydrocarbons and carbon monoxide from open field burning.

Mr. Smith said some statistical work done by EPA showed that there was a definite contribution from field burning to Eugene's particulate matter during the burning season. However, he said, this contribution was small. Mr. Smith said he had some problems accepting the results of this study just from his own experience of living in Eugene.

~~Mr. Smith said the sampler used to monitor air quality was unable to detect particulates in field smoke. He said the particles either passed through the filter without being stopped, or landed on the filter and possibly evaporated before they were weighed. This is one reason why, he said, the emission factors were probably too low. In addition, Mr. Smith said, the method used in sampling merely analyzed or detected the particulate that was emitted at the fire front of a burning field. Mr. Smith said there was a fair amount of data which showed that the smoldering part of the field behind the fire front emitted a substantial portion of particulate. He said that those emissions were not accounted for in the emissions factors.~~

Mr. Smith said these factors lead to a serious underestimation of the actual emissions from open field burning. This would have serious consequences, he said, in any attempt to roll back emissions from other sources to meet ambient standards.

Mr. Smith said there had been some limited research into alternate year burning as opposed to annual burning. He said that on some varieties of grass the effects of burning every other year are not as severe as burning late in the year.

Mr. Smith said that research done in California found that the moisture content of straw was probably the largest single factor governing the emissions of particulate, total hydrocarbons and carbon monoxide. He said that some reduction in these pollutants could be achieved by attempting to burn when the moisture content in the straw was as low as practicable. However, he said, this research was done on rice straw and what effect it would have on Oregon grass straw was yet to be determined.

Mr. Smith said it seemed that restrictions on open burning due to fire regulations were much more stringent west of the Cascades than east of the Cascades. He said he was not aware why that should be the case, but it did not seem to make sense. He said it might be worth investigating to see if more good burning days could be gotten from the Fire Marshall by having no more restrictive burning conditions on the west side of the Cascades than on the east side.

Single line backfiring, Mr. Smith said, was found to substantially reduce particulate emissions for moisture content of the fuel between 10% and 20%. Again, he said, this was from data on rice, wheat and barley fields, and was yet to be solidly confirmed on grass seed fields. He said there were problems such as plume rise and the specific meteorological conditions under which it can be used. He said that into-the-wind strip lighting could be used where the length of the fire line increased the heat release rate and thereby increased the buoyancy of the plume. Mr. Smith said the California Air Resources Board, in studies in the Sacramento Valley, found that the reduced emissions achieved by this method far outweighed the disadvantages that may occur to any less buoyant plume rise. He said it had also been determined that the expense of this method was not great.

Mr. Smith presented slides to illustrate some of the points he made earlier.

In response to Chairman Richards, Mr. Smith said what he was doing was supporting that part of the Director's recommendation concerning strip lighting.

Mr. Howard E. Shirley, Eugene, said he was a co-inventor and builder of the turbocycle machine and was still confident a properly designed machine was the best solution to field burning. He said he was the president of a new corporation involved in the design of a new burning machine. He said they made several major breakthroughs which would enable the machines to burn more efficiently and reduce emissions by the use of computerized controls. Mr. Shirley said by the use of machines, they hoped to eliminate the profit loss to the growers by gaining a better yield the following year. He said that by allowing 180,000 acres to be burned, it would put the growers in jeopardy of a citizens lawsuit which might limit burning to 50,000 acres in 1978.

Commissioner Somers asked Mr. Shirley if he conceded that at the present time there was not a machine which could take care of the problem. Mr. Shirley replied that there was not a machine that would give a better yield and burn with lower emissions than open field burning. He said the machines tested over the past years could lessen the emissions into the air. In response to Commissioner Somers, Mr. Shirley said that machines were not readily available to burn the required 180,000 acres.

Ms. Janet Calvert, representing the League of Women Voters of Oregon and Central Lane County, said the League hoped that the Commission would consider the effect of field burning on the entire airshed and the economic viability of other industries in the Willamette Valley. She said they questioned the fairness of allowing one industry to pollute at the expense of others. She said the loss of production in other industries in the Valley may very likely be the result of such inequality when federal clean air standards are taken into consideration.

Ms. Janet A. Gillaspie, Oregon Environmental Council, said they asked the Commission to aid the citizens of Eugene in their fight for air quality by regulating those pollutants infringing from outside the Eugene-Springfield jurisdiction. She said the OEC believed the federal government had preemptive power over state statutes through the Oregon Clean Air Implementation Plan. She said the OEC supported the EPA's recommendation of 50,000 acres which would put Oregon in compliance with the Clean Air Act. Ms. Gillaspie said that unlike other industries in Oregon, the field burners had made no effort to "clean up their act."

Ms. Gillaspie said that the Department must go to the 1979 Legislature and point out that federal standards under the 1977 law were not met. She said that an emergency curb on all industry in the affected area might be necessary to offset the effects of field burning.

The OEC recommended, Ms. Gillaspie said, (1) adoption of the EPA recommended 50,000 acres, (2) making a provision for mitigating offsets by curbing emissions from other sources during the 1978 field burning season, and (3) continuing research toward better solutions to the problem than are now available.

Mr. Skip Palenik, McCrone Laboratory, Chicago, said he had been asked to appear by the Oregon Seed Council. He said he had some discussions with Terry Smith while Mr. Smith was preparing his report. In regard to sample handling, he said, the report stated that the methods used to detect particulate from field burning smoke were inappropriate. Mr. Palenik said Mr. Smith failed to mention that they had used two methods to attempt to identify the particles and did not see particles from field burning smoke present. Mr. Palenik said that the particles from field burning smoke were extremely small and difficult to detect on the sampler filters.

Mr. Terry Smith responded that the points made by Mr. Palenik had been addressed in the report. He said that in phone conversations with Mr. Palenik it was indicated that the scanning process performed on the

high volume filter sampler to see if there were any submicron particles that weren't being detected, were not performed on the field burning smoke samples, but were performed on typical urban samples. Mr. Palenik said the tests were performed on the samples provided to him by the Department and he did not know which ones were field burning samples. Mr. Smith said this does not alter the conclusions of his report.

This concluded the testimony in this hearing.

Commissioner Phinney said that if Commissioner Somers had raised his point about coming to a decision at this meeting before Chairman Richards announced that the record would be held open, she would have agreed with it. However, Commissioner Phinney said, she was uncomfortable about making a decision at this time due to the announcement that the record would be kept open. She said she did not like to see the Commission change their minds halfway through a hearing.

Commissioner Somers said the federal statute said that the state could change its Clean Air Plan at any time. He said the 1977 Legislature gave the Commission a narrow set of guidelines to come down from the 180,000 acre limitation this year. Commissioner Somers said that if the Commission acted on this matter at this meeting, the Department could submit whatever modifications EPA wanted to the Clean Air Act prior to April 1. He said then if conflicts developed prior to April 1, a change could be made by temporary rule.

Commissioner Hallock said she agreed with Commissioner Somers, but did not see how it was relevant to keeping the record open for 10 days. She felt that if the Commission answered the questions of Mr. Long, it might affect what people wanted to put into the record in the next 10 days.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that a one-year control strategy be entered into.

Commissioner Somers MOVED that the Director's recommendation to adopt the proposed amendments to OAR 340-26-005 through 26-030 be approved. The motion died for lack of a second.

Director Young said that whatever action the Commission took, the staff would like the opportunity to review testimony. Therefore, he asked that the record be held open to give the staff this review opportunity, and then the Commission could take action at a special meeting prior to the end of March.

Commissioner Densmore MOVED that the record be kept open for 10 days and that a special meeting of the Commission be called at the earliest practicable date to consider any changes that the staff might recommend. The motion was seconded by Commissioner Phinney and carried unanimously.

AGENDA ITEM K - GATX OIL STORAGE TERMINAL, COLUMBIA COUNTY - PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED REGULATIONS PERTAINING TO CONTROL OF EMISSIONS FROM CRUDE OIL TANKERS CALLING ON OREGON PORTS AND PROPOSED ISSUANCE OF AIR AND WATER PERMITS TO GATX TANK STORAGE TERMINALS CORP. PROPOSED CRUDE OIL TERMINAL AT PORT WESTWARD, COLUMBIA COUNTY

Representative Dick Magruder said he was present to offer general support of Columbia County to this project. He said he felt this project was well thought out and well considered and he thought the majority of citizens in Columbia County were in support.

Representative Magruder said he would like to compliment the Director and staff on the public information meeting they conducted in Clatskanie. He said he felt DEQ had one of the best relationships with Legislators as far as informing them what was going on, and wanted to compliment Director Young for that.

Mr. Richard Nichols of the Department's Water Quality Division, said that two items were involved in this issue. One, he said, was the public hearing concerning the proposed air and water permits, and the other was a public hearing on proposed air regulations for crude oil tankers. He said they would hold the hearing on each one separately, the permits first and then the air rules.

Mr. Nichols presented the following Summation and Director's Recommendation from the staff report.

Summation

1. The Water Pollution Control Facilities (WPCF) should be adequate to control the oil spill potential at the unloading dock, the tank farm and rail loading area.
2. The WPCF permit does not restrict or control tanker traffic on the Columbia River or rail tank traffic once the unit train leaves the terminal.
3. The air permit, together with the proposed Tanker Rule, will limit air contaminant emissions from this project to an insignificant level.
4. Ambient air standards will not be violated, nor will air quality be significantly degraded.
5. The GATX Terminal is employing highest and best practicable air pollution control equipment.

Director's Recommendation

It is recommended that the Commission approve the proposed Water Pollution Control Facilities permit, and the Air Contaminant Discharge Permit, amending Condition 10 from 99% to 98%, for the proposed GATX oil terminal.

Commissioner Phinney said it seemed that oil spills from the increased tanker traffic, and the ability of the area to cope with them was a problem in building the terminal, and should be taken into consideration. Mr. Nichols said in the staff's initial environmental assessment report, some review was done on possible spills from tankers. He said they were not sure if the Department has a mechanism for controlling oil spills from tankers considering interstate waters. Commissioner Phinney said it was her impression that when tankers were operating there were spills. Mr. Nichols said that the records of the Board of Pilot Commissioners showed that there had never been a significant oil spill due to a tanker on the Columbia River. He said the tanker traffic should increase about 10%, and it would be difficult to determine what the hazard would be as no oil spills from tankers on the Columbia River had occurred. Mr. Nichols said that there was an oil spill risk whether GATX constructed or not. In response to Commissioner Phinney, Mr. Nichols said it was true that the Department was not very prepared at this time to handle the type of oil spills that might occur.

Commissioner Hallock asked if the requirement that an oil spill clear-up contracting agency must be located within one hour of GATX was a normal response time. Mr. Nichols said that the response time would depend on the conditions, and the staff felt that an hour was an appropriate amount of time. He said that PGE at Beaver also had oil spill facilities and could respond in 15 minutes or less.

Captain Martin West, a Columbia River Bar Pilot, said that in addition to the approximately 600 tanker trips on the river last year, there were approximately 4000 trips of ships with oil as bunker. He said that risk of spills had somewhat decreased since the pipeline now brings some petroleum products to Oregon from Washington. Previously, he said, all those products were brought into the State by tanker. Captain West said that even with the increased traffic, there was now more concern on the part of the Coast Guard paid to the regulation of ships and personnel, and better technology available to prevent accidents. Therefore, he said, the risk was actually lower now than in the past.

~~Captain West suggested that the permit agreement with GATX involve an agreement to employ state licensed pilots. He said that state licensed pilots were not required by law, but a specialist who does the job every day had to do it better.~~

Captain West said that the concern about an oil spill working its way into Youngs Bay was not valid. Youngs Bay was 10 miles from the Bar, and in 11 years, he said, he had not observed sea water more than halfway from the Bar toward Youngs Bay. He said he considered it virtually impossible for an oil spill on the Bar to enter Youngs Bay. Also, Captain West said, Baker Bay, which is very near the Bar, was geographically easy to protect from an oil spill because of the island barrier.

Captain West asked how decisions against the transport of petroleum products could be made without the decision not to use them.

Ms. Janet A. Gillaspie, a Eugene resident, appeared on behalf of herself. She asked the Commission to delay a decision and ask for a full Environmental Impact Statement from the Corps of Engineers. She said that more concrete information was needed on the effects on the environment of the construction of the oil storage facility. Ms. Gillaspie said she was concerned about oil spills at the bar crossing or as the oil was transported by rail up the Columbia River. She said she was also concerned about consistency with the federal Coastal Zone Management Program. Ms. Gillaspie said it was fortunate that spills have not occurred on the Bar in the past, but it did not mean spills would not occur in the future. Ms. Gillaspie said that a derailment of a train carrying oil from the proposed facility up the Columbia River could mean a spill into the river, as the railroad runs close to the river in many places. More research was needed in this area, she said.

Ms. Gillaspie said that because this was an energy question, the forms of energy available to the region needed to be identified. She said that the region could be energy independent on renewable resources and not dependent on importing foreign oil.

Captain M. Correia, Columbia River Pilot, said he had been asked by GATX what the result would be to the river traffic if they went into Port Westward. He also said that tanker trips on the river had decreased since the pipeline and that no major spill on the river had occurred as far as the tankers were concerned. Captain Correia said that GATX had complied with all the safety requirements of the river pilots association requested.

Captain Correia said that the oil spill containment capability of Willamette Western was now available, and they could respond on a moments notice 24 hours a day. He said that this capability had not been available in the past.

Mr. John Dudrey, representing the Oregon Environmental Council, said the Corps of Engineers had determined it was not going to do an environmental impact statement and it was now up to the EQC to make a decision. He said the staff report admitted they did not know all the impacts from increased tanker and rail traffic, and the OEC believed that was a reason to have more study before any permits were issued.

Mr. Dudrey said that the estimates of pollution to the air from the tankers letting off hydrocarbons could be seriously off-base,

Mr. Dudrey also expressed the concern that the Columbia Bar was a dangerous crossing with the potential there for oil spills. He said he was also concerned about the potential of spills from the railroad traffic up the river.

Mr. Dudrey said the possibility existed that once a terminal was permitted in the area there might be pressure to permit a refinery in the same area.

Mr. Dudley urged on behalf of the OEC that no permit be issued even on the condition that an Environmental Impact Statement come out, until the U.S. Supreme Court had ruled on the constitutionality of the State of Washington's tanker legislation. He said that it could be that some of the critical control features recommended by the staff would not be valid, and the terminal may not be wanted. Also, he said, if the law was determined to be valid the Commission may want to reconsider how to go about handling oil spills on the Columbia River. Mr. Dudley said he was not sure that the Department could require state licensed pilots as suggested by Captain West. He said that American vessels carrying cargo between American ports were required to be piloted by federally licensed pilots and it was questionable how much state control could be had over American vessels restricted to interstate commerce.

Mr. Robert K. Wrede, representing the Western Oil and Gas Association, said his comments primarily related to the proposed tanker regulations, however he said it was difficult to separate the permit from the regulations. He said the Western Oil and Gas Association was composed of the bulk of producers, refiners and marketers of petroleum products in the Western United States. He said that his Association supported responsible environmental regulations.

Mr. Wrede said they opposed the proposed regulations because they did not believe adequate evidence was currently before the Commission regarding the environmental benefits which might be gained by their adoption. He said they had seen no information which would indicate that even the worst case emissions would cause a violation of the currently within standard ambient air quality. Mr. Wrede said that no consideration had been given to the socio-economic impact of the proposed regulations either in the terms of the impact on interstate and international trade, or in terms of the cost of modifying vessels and operations to be in compliance.

Mr. Wrede said he believed there were certain operational problems inherent in the regulations and great problems with the supremacy clause. Mr. Wrede provided copies of a legal analysis of the supremacy clause to the Commission.

Mr. Wrede said they did not see the staff report until the morning of this meeting, but they did see the memorandum which proposed the regulations. He said that memorandum contained nothing to show that the proposed regulations were necessary for the attainment and maintenance of applicable ambient air quality standards or to prevent significant deterioration of air quality. He said that some of the assertions made in the memorandum were not true. Such as, he said, indicating that ports in California were limiting the percent sulfur in fuel oil burned by vessels. Mr. Wrede said there was no regulation anywhere in California limiting the percentage of sulfur in fuel oil which may be burned by vessels visiting ports in that state.

Mr. Wrede said the memorandum did not indicate the current ambient levels of sulfur oxides in the Port Westward area or the probable air

quality impacts of tankers visiting the proposed GATX terminal. He said that no consideration had been given to the cost of modifying tankers to comply with the proposed regulations. This raised the question, he said, regarding the authority of any state to regulate instruments of interstate commerce and international trade, or to interfere with Coast Guard regulations of navigation.

Mr. Wrede said the federal government had given the Coast Guard the responsibility of controlling the design, construction, maintenance and operation of vessels carrying crude oil. He said that international, national and state interests could best be served by uniform regulation and that state action could not cope with the magnitude of the problem.

Mr. Wrede said there was neither environmental nor legal justification for the proposed regulations and they should not be adopted at this time.

Chairman Richards asked Mr. Wrede if all four separate sections of the proposed rules were invalid because of conflict with federal regulations. Mr. Wrede said that was their belief. The two major points, he said, had to do with possible structural modifications of the vessel and the operation of the vessel. Mr. Wrede said the Coast Guard regulated both design and operation. Mr. Wrede said they did not feel the state had the authority to adopt regulations of this nature. He said they would be happy to pursue the problem with DEQ staff.

Mr. Jon Christenson, with the Department of Land Conservation and Development, said LCDC did not have an official position on the issuance of these proposed permits. He said this proposed facility was not in the Coastal Zone but adjacent to it. However, he said, it would probably be within the review of the federal consistency regulations.

Mr. Christenson said one of his functions at LCDC was to be the staff person to the Governor's task force on oil and gas development. He said this task force had recently seen a presentation from Western Environmental Services which indicated that the oil spill technology and response program within the state was close to excellent on the rivers and streams; however, it left a lot to be desired on the coastline. Therefore, he said, the technology was available for the Columbia River but not for the Coast.

Mr. Christenson stressed the point that any regulations adopted be high quality. He said that the Western Oil and Gas Association had the State of California in court over their Coastal Zone Management Program.

Mr. Christenson said that at the end of the year the Department of Land Conservation and Development would be required to submit to the Department of Commerce an Energy Facility Planning Process in response to the 1976 Amendments to the Coastal Zone Management Act. He said that DEQ and its regulations were part of the state's Coastal Zone Management Program and it was probable that the Western Oil and Gas Association would look at that closely.

Under the Coastal Zone Management Act, Mr. Christenson said, there was a section which stated that federal action must be consistent with the state's Coastal Zone Management Program. He said that part of the Columbia River was within the Coastal Zone so federal actions would have to be consistent with that program.

Commissioner Somers MOVED that the Director's recommendation, including its amendment and findings concerning the two permits, be approved. The motion died for lack of a second.

In response to Chairman Richards, Mr. Nichols said the water permit only pertained to the terminal and unloading dock. Mr. Peter Bosserman of the Air Quality Division, called the Commission's attention to Special Condition 8 of the proposed Air Contaminant Discharge Permit, which reads:

"8. Construction is not authorized until rules are adopted to adequately control emissions from crude oil tankers."

Commissioner Densmore said he could not find a reason to deny the permits, but he was concerned with the activities that go along with them. He said it concerned him that action would be taken without giving fair consideration, regardless of the supremacy clause, to the activities that go on from such a proposed facility. Commissioner Densmore then seconded Commissioner Somers' motion.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore, and carried with Commissioners Hallock and Phinney dissenting, that the Director's Recommendation to approve the proposed water and air permits be approved.

Mr. Wrede commented that the tanker regulations were being regulated uniformly through the U.S. Coast Guard. He said he would recommend that the GATX permits be approved and that the EQC adopt a resolution indicating the concern of the State in appropriate controls of evaporative emissions for forwarding to the U.S. Department of Commerce. Mr. Wrede said he was most certain that individual state regulation of tankers was unconstitutional.

Mr. Bosserman presented the following Director's Recommendation concerning the proposed oil tanker rules.

Director's Recommendation

It is recommended that the Commission take testimony on the proposed tanker rule, and if the testimony and letters received have no significant comments, that the Commission adopt the rule with the three amendments listed below. If there are significant comments, it is recommended that the Commission authorize 10 more days for comments to be received, then request the staff to report back to the Commission at the March meeting with evaluations and recommended changes.

Amendment 1. In OAR 340-22-085 change 25% to 35% for the ballasting limit.

Amendment 2. To OAR 340-22-085 add: "This restriction may be waived if hydrocarbon emission control is provided which has a collection or destruction efficiency of at least 90%."

Amendment 3. To OAR 340-22-090 add: "This restriction may be waived if hydrocarbon emission control is provided which has a collection or destruction efficiency of at least 90%."

Ms. Margery Post Abbott, Port of Portland, said she had discussed the proposed regulations with Mr. Bosserman and commented that since the regulation affected all crude oil tankers in the State of Oregon, the proposed regulation could be read to apply to tankers taking oil into the GATX terminal and then coming up the river to to Port of Portland ship repair yard. Ms. Abbott said that at the ship repair yard they had to be able to certify that vessels were inert. She said they would like to see the regulation made clear that that was excluded from the regulation.

Ms. Abbott said they were also concerned about the Coast Guard questions on safety, and requested that the matter be delayed until those questions could be evaluated.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried with Commissioner Hallock dissenting that this matter be held over until the March 31, 1978 meeting of the Commission.

AGENDA ITEM L - ADOPTION OF RULES TO AMEND OREGON'S CLEAN AIR ACT IMPLEMENTATION PLAN INVOLVING PARTICULATE CONTROL STRATEGY FOR THE MEDFORD-ASHLAND AQMA

Mr. David Baker of the Department's Air Quality Division, presented the Summation and the following Director's Recommendation from the staff report.

Director's Recommendation

"It is the Director's recommendation that the Commission adopt the proposed rules, as modified, and forward them to the Environmental Protection Agency for approval as a revision to Oregon's State Implementation Plan."

Mr. Baker said there were activities being carried out now, or that would be carried out soon, concerning particulate control. He said there were studies which would address slash burning and an on-going study on the paved road dust problem.

Mr. Baker handed out some information on veneer dryer controls, which he said might be helpful because it set down the Department's opinion

that there were types of control equipment available which can be upgraded to a significantly higher level than equipment which would be installed just to meet the existing statewide standards.

Chairman Richards asked Mr. Baker how he saw the responsibility of the Commission as far as future controls. He asked how far the Department needed to go in warning industry that at a later time there may be partial restrictions. Mr. Baker said there was significant question as to whether control equipment existed which could meet the level of performance proposed for emissions from wood particle dryers. He said there was a good possibility that emissions from other sources would have to be reduced to make up for the shortcomings in the wood particle dryer area. Mr. Baker said the type of equipment the Department felt would be necessary to meet standards should be put in the rule to make it perfectly clear.

Chairman Richards said his point was that they don't need that particular equipment to comply with the present regulation, and industry had clear warning that because of that particular problem they may be asked to make further reductions because the particulate reductions may not be attained. Chairman Richards asked why the regulation needed to be so specific. Mr. Baker replied that there may be equipment industry installed which could not be practicably upgraded and would have to be junked if the Department decided that emissions from that particular source needed to be upgraded. Mr. Baker said that if the Department was satisfied that industry recognized that the situation was that they may be forced to junk some equipment, then they have made their point. Chairman Richards said that if the industry had a clear indication of what might happen, he did not think the Commission had to go so far as to adopt specific language to that effect. Chairman Richards said he would like to consider deleting some of the language.

Mr. John Kowalczyk of the Air Quality Division, said that the Department was required to develop a plan to meet standards by a certain date. He said that if the option to upgrade veneer dryer control was closed at this time, it would mean the Department would be closing one of the best options it had of bringing another strategy on-line if one strategy fails. He said they felt it was a good likelihood that one of the other strategies might fail in being able to be implemented, such as the particleboard dryer strategy. Mr. Kowalczyk said that if the Department allowed equipment to be installed that might have to be junked, it would take longer to put on equipment to meet the higher standard. However, if the option for upgrading was kept open, he said, the controls could be put on sooner, allowing the deadline for cleaning the air to be met.

Commissioner Phinney asked if an industry were to put in a new system now, would they have to come to the Department for a permit or modification of their existing permit. Mr. Kowalczyk replied they would, and the Department would have an opportunity at that time to warn them. He said he thought they had already warned industry through the proposed rules, but that did not mean a permit could be denied if they still insisted on putting in the system.

Commissioner Somers said he would like to set the matter over to the March meeting. Chairman Richards asked staff if that would have any effects on the Implementation Plan. Mr. Baker replied that there were no Clean Air Act requirements that needed to be met before the March meeting. However, Mr. Baker said, there were outside industries interested in locating in the Medford-Ashland area, and to do so before rules were adopted they would have to comply with the federal emission offset policy, whereas afterwards they would have to ensure they would not violate standards, but would not have to provide emissions offsets.

Commissioner Densmore said they were looking at a very serious issue in economic development and environmental control affecting the area he lived in. He said that the industry affected by these rules had been a major part of the economic base of the Medford-Ashland area for many years and to a large extent have complied with the pollution control requests made of them. If, he said, the proposed rules would not achieve what they are supposed to achieve, the safety margin for growth in new emissions might be very slim. Commissioner Densmore said he would like to take a little longer to do the best job with the rules they could and find out if any safety margin was left.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore, and carried unanimously that this matter be set over until the March Commission meeting.

AGENDA ITEM M - SUBSURFACE SEWAGE RULES - PROPOSED ADOPTION OF AMENDMENTS TO OAR 340, SECTION 71, 72, 74 and 75 PERTAINING TO SUBSURFACE AND ALTERNATIVE SEWAGE DISPOSAL

State Representative Bill Rogers appeared before the Commission to discuss the sections of the proposed rules which pertain to HB 2858, sponsored by him and passed by the 1977 Legislature. Representative Rogers said that the reason he introduced this bill was because of problems in getting approval for alternative sewage disposal systems. He said he supported the use of compost toilets as a alternative to regular subsurface sewage disposal. He said that one of the reasons this legislation was presented was to enable alternative systems to be installed where existing sewer systems were in use to lighten the loading on the sewage treatment systems within metropolitan areas.

Representative Rogers said that the proposed rules did not contain a policy statement by the Commission that would encourage the use of composting toilets as an alternative to solve other problems such as water pollution, and the use of water.

Representative Rogers said that the proposed amendment to 340-71-030(5)(g) should have the word "a" inserted to read better. The proposed amendment should read as follows:

"...pretreatment facility such as, but not limited to a septic tank..."

He said that the reason for this particular wording, as supported by staff, was because the law itself contained it. He said that was because he felt we should not be limited to a septic tank as a pretreatment devise.

Representative Rogers said that he recommended in the public hearing that some changes be made in 340-71-030(5)(g)(A), (B) and (C). In regard to (A), he said, the law stated that the drainfield area could be reduced in size. This would be taking an actual alternative away, he said, if a full size initial and a full size replacement disposal field were required. He said that alternatives were needed in some marginal areas.

Representative Rogers said he asked during the hearing that a separate section of the rule be set aside for gray water systems and that it not be made a part of the regular septic tank system. In regard to (B), he asked that the matter of the size of a septic tank be dealt with because if only gray water were to be settled out, then the large septic tank called for would not be needed. He said that (C) dealt with somewhat the same thing.

Representative Rogers said he would like to see DEQ encourage the use of alternative systems as opposed to septic tank and drainfield systems. He said that in the case where an applicant meets all the requirements for a conventional system, he believed there should be more flexibility within DEQ than there currently was for someone putting in an alternative system. He said that even if it appeared the system would not work, at least let it be tried with the understanding that if it failed a conventional system would have to be resorted to. In this way, he said, adequate data could be developed.

Commissioner Hallock asked if staff would comment on Representative Rogers' comments on the rule changes and check to see if they felt it was consistent with the 1977 law. She said she would like to defer adoption of these regulations until the March meeting.

Mr. Jack Osborne, of the Department's Subsurface Sewage Division, said he did not think they would have a problem with holding the regulations over until the next meeting.

Mr. Harold Sawyer of the Department's Water Quality Division, said there were several components to the proposed rules and the Department was quite anxious to get the procedural rules on experimental systems in place which was separate from the existing rule revision. Mr. Sawyer said it may be worthwhile to consider splitting those two matters.

Commissioner Somers asked what the problem was with holding action until March 31. Mr. Sawyer said that the Department had been holding off on experimental system applications until the procedural rules were adopted.

Mr. Osborne said Representative Rogers was dealing with the question of gray water systems and as to whether or not the Department had done any

work in regard to those systems in particular. Of the permits that were presently out on the experimental program, he said, 30 of those dealt with a variety of gray water systems. He said a number of those were reduced-size septic tanks and reduced-size drainfields. Therefore, he said, the Department was working with the question of gray water systems.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the following Director's Recommendation be adopted.

Director's Recommendation

"It is the Director's recommendation that:

1. The Commission adopt the proposed amendments to Oregon Administrative Rules, Chapter 340 Sections 71, 72, 74 and 75 as contained in attachment "D" for prompt filing with the Secretary of State to become effective March 1, 1978.
2. The Commission direct the Department to work with all affected agencies to develop a plan for protection of groundwater in East Multnomah County. Further direct that the plan be ready for Commission adoption not later than December 31, 1978.
3. The Commission direct the Department to continue to work with the Citizens Advisory Committee to develop a satisfactory version on those proposed amendments deferred for further study."

AGENDA ITEM N - VEHICLE EMISSION TESTING RULES (OAR, CHAPTER 340-24)
CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO RULES GOVERNING MOTOR
VEHICLE EMISSION INSPECTION TO INCLUDE TESTING OF PUBLICLY OWNED VEHICLES

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the Director's recommendation to adopt the vehicle emission testing rules regarding publicly owned vehicle testing be approved with an effective date of April 1, 1978.

AGENDA ITEM P - REPORT ON GROUNDWATER AND SUBSURFACE SEWAGE DISPOSAL,
HERMISTON-BOARDMAN AREA

AGENDA ITEM Q - MULTNOMAH COUNTY GROUNDWATER AQUIFIER - STATUS REPORT

Commissioners Somers and Phinney thanked the staff for their reports on these matters.

No action of the Commission was required on these items.

AGENDA ITEM 0 - NPDES JULY 1 1977 COMPLIANCE DATE - REQUEST FOR APPROVAL
OF STIPULATED CONSENT ORDERS FOR PERMITTEES NOT MEETING JULY 1, 1977
COMPLIANCE DEADLINE

Mr. Fred Bolton of the Department's Regional Operations Division, presented the staff report on this matter.

Chairman Richards asked if Mr. Bolton was satisfied that the efforts being made by the City of Eugene to upgrade their municipal treatment facilities were adequate. Mr. Bolton said he felt it could have been more timely, but because of the hurdles in getting everyone involved together, he thought it was appropriate that the extra time be given.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the following Director's Recommendation be approved.

Director's Recommendation

"I recommend that the Commission approve the following Consent Orders:

1. Department of Environmental Quality v. City of Eugene, Stipulation and Final Order No. WQ-MWR-77-308.
2. Department of Environmental Quality v. City of Eugene, Stipulation and Final Order No. WQ-MWR-77-309."

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol A. Spletstaszer
Recording Secretary

Special Meeting
of the
ENVIRONMENTAL QUALITY COMMISSION

March 17, 1978
Third Floor Conference Room, DEQ Offices
Yeon Building
522 S. W. Fifth Avenue
Portland, Oregon

- 9:00 am A. Field Burning Rules - Continuation of February 24, 1978 EQC meeting agenda item to consider adoption of permanent rule revisions to OAR 340-26-005 through 26-025 pertaining to agricultural burning. (A public hearing was held February 24, 1978 and the record was held open until March 6, 1978 for written comments. Additional testimony is not anticipated).
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MINUTES OF THE SPECIAL MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

March 17, 1978

On Friday, March 17, 1978, a special meeting of the Oregon Environmental Quality Commission Convened in conference Room 3A of the Department of Environmental Quality Offices, 522 S.W. Fifth Avenue, Portland, Oregon.

Present were all Commission members: Mr. Joe B. Richards, Chairman, Dr. Grace S. Phinney, Vice-Chairman; Mrs. Jacklyn Hallock; Mr. Ronald Somers; and Mr. Albert Densmore. Present on behalf of the Department were its Director and several members of the Department staff.

The staff report presented at this meeting, which contained the Director's recommendation mentioned in these minutes, is on file in the Director's Office of the Department of Environmental Quality, 522 S.W. Fifth Avenue, Portland, Oregon.

FIELD BURNING RULES - CONTINUATION OF FEBRUARY 24, 1978 EQC MEETING AGENDA
ITEM TO CONSIDER ADOPTION OF PERMANENT RULE REVISIONS TO OAR 340-26-005
THROUGH 26-025 PERTAINING TO AGRICULTURAL BURNING. (A public hearing
was held February 24, 1978 and the record was held open until March 6, 1978
for written comments.)

Mr. E. J. Weathersbee, Administrator of the Department's Air Quality Division presented the staff report on this matter. Mr. Weathersbee said that the staff report evaluated and responded to testimony received during and since the February 24 public hearing.

Commissioner Somers said that one of the findings the Commission had to make was that there would be no violation of state or federal law in the rules they adopted. Mr. Weathersbee said the staff was caught between writing regulations to either violate state or federal law. He said that the regulations could be made universally applicable to not violate either.

Commissioner Somers asked how the 50% moisture content was arrived at. Mr. Richard Vogt of the Air Quality Division, replied that that was 50% relative humidity derived from the study on the California rice fields. Mr. Vogt said that study was cited as a reference and was also in material received from the City of Eugene. Mr. Weathersbee said that the 50% relative humidity was only proposed to be applied on north wind situations. He said that the south wind conditions were usually accompanied by high relative humidity, and were also some of the better burning days from the standpoint of protecting the South Valley. In response to Commissioner Somers, Mr. Vogt said that was a 50% relative humidity and 20% fuel moisture content. Commissioner Somers asked who would make the tests to determine the fuel moisture content. Mr. Weathersbee replied that a test had to be developed by September 1 that the farmers could use. Mr. Weathersbee said that the 12% fuel moisture content cited in the California studies and proposed by the City of Eugene applied only to the straw. He said that the

staff felt that the 20% fuel moisture content was more applicable to the grass seed fields, including the regrowth.

Mr. Weathersbee presented the following Summation and Director's Recommendation from the staff report.

SUMMATION

As required by law, the Commission must:

1. After consulting OSU and the Department, establish the maximum amount of acreage which may be open burned during 1978.
2. Establish the method of allocating burning permits should acreage registration exceed the limitation established in (1) above.
3. Adopt rules incorporating (1) and (2) above to minimize emissions and field smoke impact on air quality.

Since the EQC is presently bound by the 180,000 acre limit in complying with a formal opinion issued by the State Attorney General, discussion of rule revision center on points (2) and (3) above.

The two important factors influence drafting and adopting of the proposed rules are:

1. Public testimony, and
2. The need to develop and support a one year interim control strategy to be submitted to EPA and which shall include a 180,000 acre limitation.

The Department proposes the attached rule changes to meet the following needs:

1. To adopt permanent rules for operation of field burning and other agricultural burning programs as required by 1977 Oregon Laws, Chapter 650 (HB 2196).
2. To establish acreage allocation procedures, the acreage for which permits may be issued and the maximum acreage that may be open-burned in 1978.
3. To provide rules to facilitate improvements in smoke management and air quality in time for the 1978 field burning season.

In addition, the attached proposed rules contain the following specific additional changes as a result of public hearing:

4. A fee of \$3.50/acre to off-set the costs of experimental open burning programs. Fees, so collected are proposed to be established in a separate account for experimental open burning efforts.
5. Relative humidity (RH) is adopted as a measure of fuel moisture content such that when RH is greater than 50 percent, under north wind conditions, burning would be prohibited due to high fuel moisture content.

6. After September 1, 1978, no field shall be burned with a average fuel moisture content greater than 20 percent, wet weight basis.
7. All south priority acreage burned upwind of Eugene-Springfield shall be burned using backfire or into-the-wind striplighting techniques.

DIRECTOR'S RECOMMENDATION

It is the Director's recommendation that the Commission take the following actions:

1. Acknowledge as of record the consultation with and recommendations of Oregon State University and the Department pursuant to ORS 468.460(3) as revised by HB 2196.
2. Find that reasonable and economically feasible alternatives to the practice of annual open burning have not been developed.
3. Find that practices developed from experimental burning conducted under Department supervision:
 - a. Can, in theory, reduce the adverse effects on air quality or public health from open field burning; and
 - b. Is necessary in order to obtain information on air quality, public health or the agronomic effects of an experimental form of open field burning.
4. Adopt the proposed amendments to OAR, Chapter 340, Section 26-005 through 26-030 (Attachment 1).

Commissioner Somers MOVED that the Director's Recommendation be approved and that ORS 340-26-013(T)(a) be amended as follows:

- (a) "During 1978, shall not exceed 180,000 acres" add "and further shall not exceed applicable state and federal laws and regulations."

Commissioner Hallock said that she agreed with Commissioner Somers that in view of the Attorney General's opinion and the letter received from the environmental Protection Agency, the report should be amended. She asked Department's legal counsel, Ray Underwood, if a number should be left in the language. Mr. Underwood said it would be his recommendation to omit the specific number and have 340-26-013(1)(a) read: "During 1978, shall not exceed the maximum number of acres permitted by law."

Commissioner Somers withdrew his motion. He asked Mr. Weathersbee what the Commission would be doing by adopting this language, and how would the Department enforce it. Mr. Weathersbee replied that the Department would do the best it could. Commissioner Somers asked how many acres would be allowed to be burned. Mr. Weathersbee said that would come out of the one-year control strategy which would come before the Commission March 31. He said the proposed rules would be part of that one-year strategy.

Commissioner Somers said he realized that the Commission was bound to follow the guidelines set by the Legislature, but the Commission also has a responsibility to uphold the United States laws and regulations. He asked Mr. Underwood if it was correct that the Commission was limited to 50,000 acres stated in the federal Clean Air Plan. Mr. Underwood replied that that was what the Attorney General's opinion of March 16, 1978 stated. In response to Commissioner Somers, Mr. Underwood read from the Attorney General's letter of March 16, 1978, as follows:

"Until approval is secured from the EPA to burn more than 50,000 acres, the EQC is subject to the acreage now specified in the State Implementation Plan."

Commissioner Somers asked if by adopting the language now proposed for 26-013(1)(a) the Commission or Department would have no personal liability to the federal government for violation of their regulations. Mr. Underwood replied that that was his opinion.

Chairman Richards clarified that after the Commission took action on March 31 the one-year control strategy, and submitted it to EPA, if EPA said that 180,000 acres could not be burned, the Commission would then be bound by the acreage number submitted by EPA. Commissioner Somers replied that that was correct. Chairman Richards said that because the Commission had been advised by the Attorney General that the federal law was preeminent, the Commission would have no choice if EPA said a lesser number of acres than 180,000 would be burned.

Commissioner Densmore asked if there was any assurance that EPA would give the Commission guidance on a reduced number of acres. Mr. Weathersbee said that there was no assurance, however if the State could arrive at a program that the principals involved on either side of the issue could accept, than EPA would be inclined to accept that as well as a one-year strategy.

Chairman Richards said the Department knew that it would be taking a risk when it submitted a plan to EPA, but there was not time to go over the entire Implementation Plan before the next deadline in January 1979.

~~Chairman Richards read into the record the following policy statement in regard to OAR 340-26-015(4)(e).~~

"The Department shall conduct experimental burning by requiring areas to be burned using into-the-wind striplighting and back-burning techniques during the period July 1, to August 31, 1978. During such period research shall be conducted on the effect of such techniques on characteristic emissions and plume behavior. The Department shall determine whether such techniques reduce low level smoke emissions.

If the Department finds such techniques reduce the total amount of particulate emissions and will not adversely affect air quality, it shall require the use of such techniques for burning stubble of those grasses specifically not susceptible to damage by use of such techniques."

Mr. Weathersbee said that the policy statement accurately described what the Department intended to do.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the above policy statement be adopted as the intent of the Commission.

Commissioner Phinney suggested, and Mr. Weathersbee agreed, that in 26-015(5) the word "fuel" should be inserted between "average" and "moisture". The section would then read:

"(5) After September 1, 1978, no field shall be burned which has an average fuel moisture content of greater than 20 percent wet weight basis, as determined by using the Department of Environmental Quality fuel moisture test procedures."

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock, and carried unanimously that the above amendment to OAR 340-26-015(5) be adopted.

Chairman Richards asked for an assessment of the impact of the adoption of the proposed alternative section 26-015(d)(c) in Attachment II of the staff report pertaining to the burning of south priority acreage. Mr. Vogt said a crude estimate would be that approximately 50% of the registered acreage in the south valley priority would not be burned.

Mr. Dave Nelson, Oregon Seed Council, said that in looking at the proposed section (c), the Commission should consider that the Portland Area was a non-attainment area.

Chairman Richards noted that the staff had not recommended adopting this amendment. He said that if the Commission was interested in this amendment it would be saying that for those areas such as Albany and Lebanon whose residents have not really protested burning conditions this would impact those areas more intentionally to keep smoke out of the Eugene-Springfield non-attainment area.

He asked if the Portland non-attainment area had ever been impacted by field smoke to a substantial degree. ~~Mr. Weathersbee said the impact of it could be measured, but he didn't know if it would cause intolerable conditions on a one-season basis.~~ Mr. John Kowalczyk of the Department's air quality staff, said that because of the distance involved, he doubted that a significant impact would be made upon the Portland non-attainment area.

Commissioner Hallock MOVED and Commissioner Phinney seconded that the proposed substitution to 26-014(4)(d) as stated in Attachment II be made; and the language be amended as follows:

"No south priority acreage may be burned on north wind days upwind of the Eugene-Springfield or other non-attainment area."

Commissioner Phinney asked why the reference to "other non-attainment area."
Mr. Vogt replied that he did not think it would hurt to remove that reference.

Commissioner Somers said that by removing that reference, they would be giving the Eugene-Springfield area preferred treatment.

Mr. Vogt said it was the intent of the staff to have the alternate subsection in addition to the proposed rule.

Commissioner Hallock amended her motion to add instead of substitute the above subsection to 26-015(4)(d) as subsection (D).

Chairman Richards asked Mr. Underwood if the record could be left open, and if the Commission could take action on the rest of the rules except this proposed subsection; then defer action on the proposed subsection until the March 31 meeting. Mr. Underwood said that the Commission could adopt everything else and leave the record open on the subsection under discussion.

Commissioner Hallock withdrew her motion. Chairman Richards stated for the record that by unanimous consent the Commission would consider the subsection, now to be numbered (D) under 26-015(4)(d) at their meeting March 31, 1978.

Commissioner Densmore invited further written information from the public on this matter. Chairman Richards said that by unanimous consent the record would permit written input prior to and until March 27, 1978 at which time the record would be closed.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the following amendment be made to the proposed OAR 26-015(4)(d)(c):

"(C) All south priority acreage located upwind of the Eugene-Springfield priority area shall be burned using backing fire or into-the-wind striplighting techniques, except as provided by 26-015(4)(e)."

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the rules as amended be adopted.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol A. Spletstaszer
Recording Secretary

Environmental Quality Commission Meeting

March 31, 1978

Main Floor Conference Room

Harris Hall

125 E. Eighth Street

Eugene, Oregon

- 9:00 am A. Minutes of February 24, 1978 EQC Meeting
- B. Monthly Activity Report for February 1978
- C. Tax Credit Applications
- PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.
- D. Teledyne Wah Chang, Albany - Proposed issuance of NPDES permit modifications for Teledyne Wah Chang Company GROSZKIEWIZ
- E. Sewage Disposal, Bend Area - Status report on discussions with Deschutes County Commission regarding sewage disposal problems within the Bend Urban Growth Boundary SHIMEK
- F. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Orders for NPDES permittees not meeting July 1, 1977 compliance date BOLTON
- 0:00 am G. River Road/Santa Clara Area, Lane County - Public hearing on proposed order prohibiting or limiting installation of subsurface sewage disposal systems within the River Road-Santa Clara Area, Lane County. JOHNSON
- H. Field Burning - Continuation of March 17, 1978 EQC meeting agenda item to consider adoption of permanent rule revisions to OAR 340-26-005 through 26-025; and consideration of adoption of proposed one-year control strategy for submittal to EPA, relative to 1978 field burning. FREEBURN & KOWALCZYK
- I. Medford Air Quality Maintenance Area - Proposed adoption of amendments to Oregon Clean Air Act Implementation Plan involving particulate control strategy rules for the Medford Air Quality Maintenance Area KOWALCZYK
-
- J. Crude Oil Tanker Rules - Proposed adoption of rules controlling emissions from crude oil tankers calling on Oregon ports BOSSERMAN
- K. Legislation - Status report on legislative concepts under consideration for submittal to the 1979 Legislative Assembly SWENSON
- 11:00 am L. King City Sewage Treatment Plant - Consideration of petition from George and Margaret Benz regarding permit to operate the King City Sewage Treatment Plant GILBERT
- M. Clatsop Plains - Consideration of adoption of temporary amendment to OAR 340-71-020(7)(b)(c). GILBERT

Because of the uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items G & L. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 a.m.) at the Eugene Hotel, 222 E. Broadway, Eugene. Lunch will be in Conference Room A of the Harris Hall Cafeteria, see address above.

MINUTES OF THE NINETY-FIFTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

March 31, 1978

On Friday, March 31, 1978, the ninety-fifth meeting of the Oregon Environmental Quality Commission convened in Harris Hall, 125 East Eighth Street, Eugene, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; Mrs. Jacklyn Hallock and Mr. Albert Densmore. Mr. Ronald Somers was absent. Present on behalf of the Department were its Director and several members of the Department staff.

Staff reports presented at this meeting, which contain the Directors's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF THE FEBRUARY 24, 1978 EQC MEETING

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the minutes of the February 24, 1978 meeting be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR FEBRUARY 1978

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the monthly activity report for February 1978 be approved.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

In regard to application T-949, Medford Corporation, Commissioner Hallock asked if it was Department practice to give tax credits for such things as landscaping and office furniture which do not seem to be part of providing a solid waste recovery facility. Mr. Michael J. Downs, Administrator of the Department's Management Services Division, replied that he did not know if a precedent had been set on that matter. Commissioner Hallock said she would not like to set a precedent by approving these items even though in this particular application they seemed like reasonable expenditures, they might not always be.

Commissioner Densmore said that there was a need to ask the Legislature to reassess tax credit policy. He said he did not know if the Commission had the authorization to go inside individual applications. Mr. Ray Underwood, Department of Justice, replied that he did not think the Commission had that authorization under the present statutes.

Commissioner Hallock asked if in the preliminary certification phase the Department could tell an applicant that they would not receive tax credit for these types of items, without Legislative action. Mr. Underwood replied it would take legislative action, especially in the area of solid waste.

It was MOVED by Commissioner Densmore, seconded by Commissioner Phinney and carried unanimously that the following tax credit applications be approved: T-953, T-954, T-955, T-956, T-957, T-958, T-959, T-960, T-961, T-963, T-973, T-976, T-977, T-978, T-979, T-980 and T-949.

PUBLIC FORUM

No one wished to speak on any subject.

AGENDA ITEM D - TELEDYNE WAH CHANG, ALBANY PROPOSED ISSUANCE OF NPDES PERMIT MODIFICATIONS FOR TELEDYNE WAH CHANG COMPANY

Mr. Ted Groszkiewiz of the Department's Willamette Valley Region, presented the following summation and Director's recommendation from the staff report.

Summation

1. Because Wah Chang was not confident they could meet the effluent limits to go into effect July 1, 1977, they requested a modification of ammonia, MIBK, Fluoride and toxicity limitations. That request was made April 25, 1977.
2. They later revised their application by withdrawing their request for a modification of MIBK limitations and relaxation of toxicity standards. They also reduced their request for an ammonia increase. They added a request for increased TOC limitations and requested fluoride limits be removed.
3. Until the final action could be taken on the modification they entered into a stipulated consent order with a minimal daily penalty.
4. The Department has determined to deny the modification which they requested. However, a modification will be issued which (a) increases ammonia limits to a level determined by EPA to be Best Practical Technology (BPT), (b) returns fluoride limits to pre-July 1977 levels, (c) increases TOC limits to account for unidentified constituents which show up in the TOC test, (d) redefines toxicity in terms of TLM, (e) adds a statement clarifying the permitted point of discharge, (f) redefines the bioassay results to report, and (g) adds monitoring of the creek in order to determine if pollutants are entering at other points other than the authorized discharge point.
5. The Wah Chang sludge ponds appear to be leaking. The Department will continue to evaluate this and take enforcement action if necessary.
6. TWCA has made substantive improvements to the steam stripper the past 30 days which should enable them to meet the limits of the amended permit.
7. No additional evidence has been submitted by TWCA which convinces us that the limits as proposed are not appropriate or achievable.
8. The EPA Regional Administrator approved the permit modification by a letter dated March 20, 1978.

9. EPA sent a Notice of Violation to TWCA which tells them that EPA is ready to initiate enforcement action in 30 days if the Department does not take appropriate action. We believe that by issuing this modification we will be taking that action required.

Director's Final Action

After due consideration of all the evidence presented, the Director intends to deny Teledyne Wah Chang Albany's request for permit modification and to issue the modification initiated by the Department.

Commissioner Phinney asked if it was possible to correlate the present TOC data with the historical COD data. Mr. Groszkiewiz replied that there was no correlation between TOC and COD, therefore, as far as the TOC, there was no historical data.

Mr. Tom Nelson, Acting Director of Environmental Control for Teledyne Wah Chang Albany, testified that Wah Chang had requested the permit modifications detailed in the staff report because they felt these modifications were needed to avoid violations which may occur. Mr. Nelson said they felt that EPA should not have compared Wah Chang with any other industry in determining best practicable control technology because Wah Chang was a unique industry. Even though Wah Chang had installed equipment recommended by EPA, he said, they had no assurance that they would be able to meet the discharge limit on ammonia nitrogen proposed by DEQ.

Mr. Nelson said they were concerned about unrealistic discharge limits causing them to cut back on production because of the effect it would have on their employees and the users of their product.

Chairman Richards said that from the information the Commission had, EPA had determined that the limit on ammonia nitrogen was within the best practicable control technology, and asked Mr. Nelson if he understood this EPA determination. Mr. Nelson said they understood that determination had been made based on a comparison between the zirconium and the columbium-tantalum industry. In response to Chairman Richards, Mr. Nelson said they had received a notice of violation from EPA, and regardless of the modifications the EQC might make on the permit, Wah Chang would still be subject to the EPA enforcement action.

Chairman Richards said in view of EPA, he did not think the Commission had a choice in allowing Wah Chang's request and changing the permit modifications. In response to Chairman Richards, Mr. Nelson said the company felt that modification they had requested had a realistic base.

Director Young said that no action was needed by the Commission on this action, and that the permit would be issued by him.

Mr. Vern D. Bergevin, President of the Steel Workers Local 613 at Teledyne Wah Chang Albany, testified that they were in support of the Company's efforts to get modifications on the ammonia discharge limit.

AGENDA ITEM E - SEWAGE DISPOSAL, BEND AREA - STATUS REPORT ON DISCUSSIONS WITH DESCHUTES COUNTY COMMISSION REGARDING SEWAGE DISPOSAL PROBLEMS WITHIN THE BEND URBAN GROWTH BOUNDARY

Mr. Robert Shimek of the Department's Central Region Office, presented Director's recommendations on this matter, as follows:

Director's Recommendation

1. The Director recommends that the Commission direct the staff to continue to work with Deschutes County and City of Bend Officials to obtain a written agreement outlining how DEQ, Deschutes County and City of Bend can work together to solve the problems discussed in previous meetings.
2. The Director recommends no Commission action at this time and that the Commission be advised on status of this item in the future as appropriate.

No Commission action was need on this item.

NPDES JULY 1, 1977 COMPLIANCE DATE - REQUEST FOR APPROVAL OF STIPULATED CONSENT ORDERS FOR PERMITTEES NOT MEETING JULY 1, 1977 COMPLIANCE DEADLINES

Mr. Fred Bolton, of the Department's Regional Operations Office, presented the staff report on this matter. He said that the City of Newport was unable to consistently treat sewage to the required level of secondary treatment, and the Department had reached agreement with the City on a consent order providing for an orderly construction/modification of the existing facilities and interim treatment limitations.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that Stipulation and Final Order No. WQ-NWR-78-25, Department of Environmental Quality v. City of Newport, be approved.

AGENDA ITEM J - PROPOSED ADOPTION OF RULES CONTROLLING EMISSIONS FROM CRUDE OIL TANKERS CALLING ON OREGON PORTS

Chairman Richards asked Mr. Underwood, Department of Justice, if he had a recommendation on how the Commission should respond to these proposed rules. Mr. Underwood said he had some serious questions as to whether or not the proposed rules would be valid in light of recent court cases, particularly with regard to federal preemption and undue burden on commerce. He said he did not feel he could recommend at this time that the rules as proposed were sufficiently free from doubt on these issues. Mr. Underwood said that if the Commission acted on the rules it would be without his recommendation.

Chairman Richards asked if Mr. Underwood had consulted with the staff as to whether any harm would occur by delaying adoption of these rules. Mr. Underwood said it was his understanding that no harm would be done by postponing rule adoption.

Mr. Peter Bosserman, of the Department's Air Quality Division, responded to Chairman Richards that the staff deferred to Mr. Underwood's judgment on the legality of the proposed rule. Mr. Bosserman said that the only harm would be in the delay of the GATX Terminal Construction because their permit was conditioned upon adoption of these rules.

Mr. John Burns, Portland Attorney for Western Oil and Gas Association, agreed that there were problems with the proposed rule and asked that the Commission delay action on the rules so that he could have some input into the deliberations on the rule.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that this matter be deferred until such time as the staff felt it should be reconsidered.

AGENDA ITEM K - LEGISLATION - STATUS REPORT ON LEGISLATIVE CONCEPTS UNDER CONSIDERATION FOR SUBMITTAL TO THE 1979 LEGISLATIVE ASSEMBLY

Mr. Jim Swenson, of the Department's Public Affairs Office, summarized the Legislative proposals for the Commission. He pointed out that these proposals were not complete and were not the Director's judgment of what he was going to give to the Executive Department. Mr. Swenson reminded the Commission that the Executive Department was requiring agencies to submit by April 15, 1978, a summary of those legislative concepts they would like to see pursued in the upcoming legislative session. By the middle of May 1978, he said the Executive Department would indicate back to the agency their feelings about those proposals, and somewhere in the middle of this calendar year the Department would be required to submit actual completed draft legislation to the Executive Department for consideration by the Governor in his legislative package.

Commissioner Hallock asked if there would be an opportunity for the Commission, as a body, to talk about the proposed legislation.

In response to a question by Commissioner Densmore, Mr. Swenson said that a team from the Department had gone over the original proposals which the Commission received at an earlier date and developed the list in the staff report. He said that in many cases those original proposals could be taken care of by policy statements from the Director, administrative rule changes requiring no change in a statute; and, in some cases, were deemed to be unconstitutional. Mr. Swenson said that the proposals in the staff report appeared to be those that the Legislature should address.

Chairman Richards suggested that Legislation could be discussed at the lunch meeting, and invited any members of the public that might be interested to attend that lunch. He said that the budgeting process would also be discussed.

Commissioner Densmore stressed that he hoped the Commission would be able to assist the Department in mounting a strong legislative position with respect to changes in air quality laws which would enable the Commission and the Department to have more tools to work with as they try to comply with the Clean Air Act.

The Commission had no further comment on this item.

AGENDA ITEM G - PUBLIC HEARING ON PROPOSED ORDER PROHIBITING OR LIMITING INSTALLATION OF SUBSURFACE SEWAGE DISPOSAL SYSTEMS WITHIN THE RIVER ROAD-SANTA CLARA AREA, LANE COUNTY

Mr. Daryl Johnson of the Department's Willamette Valley Region, said that for several years the local public health officials had been concerned that extensive development of the River Road-Santa Clara might be causing contamination of the shallow groundwater in the area.

Mr. Johnson presented the following Director's Recommendation:

Director's Recommendation

1. Impose a moratorium on issuance of construction permits for new subsurface sewage disposal systems and favorable reports of site suitability in the River Road-Santa Clara area of Lane County by adopting the proposed amendment to OAR 340-71-020 as shown in the Attachment "A".
2. Impose a moratorium on any pending new or modified sewage disposal facility which would use subsurface injection: to read as follows in the proposed rule:
 - (9) Pursuant to Oregon Revised Statutes 454.685, neither the Director nor his authorized representative shall issue either permits or any pending new or modified sewage disposal facility which would use subsurface injection, or...
3. Direct Department staff to work with Lane County to resolve the issue of groundwater contamination in the River Road Santa-Clara area within the six months period proposed by the Lane County Board of Commissioners, if possible.
4. After successful resolution of the groundwater contamination problem in the River Road-Santa Clara area, the Commission repeal the proposed amendment to OAR 3470-71-020, thereby lifting the moratorium.

Chairman Richards asked if legal counsel had been consulted as to whether a six month limitation should be made a part of the administrative rules. Mr. Johnson replied that it was his understanding that the law did not allow for a six month or temporary moratorium. Mr. Underwood replied that that was correct; a time limit could not be put on a moratorium, but it could be revoked at a later date.

In response to Chairman Richards, Mr. Johnson said that they know there were ~~some wells in the area that may be used for drinking water, however, they did not know the number.~~

Chairman Richards asked to what extent there was contamination to users of the aquifer for drinking water, north of the River Road-Santa Clara area. Mr. Johnson said the groundwater flowed northwesterly and there were wells down gradient from that area.

Mr. Ron Davis of Cottage Grove, member of the water quality "208" program Citizen's Advisory Committee, said that most of the concern about this area appeared to be about nitrate contamination. He questioned that this nitrate contamination was coming from the River Road area and that there was substantial evidence to warrant a moratorium in this area to preserve the Class I and II soils, but not from a public health standpoint. He said that by imposing a moratorium, the only alternative would be sewerage which would then discharge to the river, causing degradation. Chairman Richards asked if Mr. Davis meant an area on a sewer system rather than a septic tank drainfield system was less ecologically sound. Mr. Davis replied that he believed that to be correct.

Mr. Davis encouraged the Commission to direct the staff to pursue alternative systems to sewage disposal more quickly than they had been.

Ms. Vora Heintz, Eugene, presented testimony in opposition to the moratorium. Ms. Heintz's written testimony is made a part of the record on this matter. She said that she did not feel the information available warranted a moratorium at this time.

In response to Chairman Richards, Ms. Heintz said she understood that the moratorium had been requested by the county, however, that the newly appointed River Road-Santa Clara Task Force had just barely begun to work on this matter. In response to Commissioner Phinney, Ms. Heintz said that the Task Force had been appointed by the County Commissioners, however, she was not representing the Task Force.

Mr. James Hale, Eugene, appeared in opposition to the moratorium. He requested a delay on this matter until better information could be made available to the Commission. He said it might be 18 months to two years before adequate information could be developed. He said that if after that time it appeared that there was a serious problem, then moratorium should be imposed. Mr. Hale said there was no real public health problem because the vast majority of residents had a community drinking water supply.

Chairman Richards said that if the Commission acted favorably on the Director's recommendation and if there were a moratorium, he would assure that the matter would be on the Commission's agenda in September to take definite action to continue to discontinue a moratorium.

Mr. J. Harry Whitson, Santa Clara, supported Ms. Heintz's testimony and said that the residents in the Santa Clara area only requested adequate information.

Mr. Jeff Siegel, Eugene, said that nitrates could not be removed from any waste material going into a sewer or septic tank. He also said that the difference between coliforms and fecal coliforms was not made clear in the staff report. He said that fecal coliforms were totally the result of human waste and total coliforms were the result of any kind of animal waste. Also, he said, both types of coliforms only survived in the environment for about 30 to 48 hours.

Mr. Siegel said he was in favor of the River Road moratorium because he would not like to see more development in the area. However, he said, there was no data to support that there was a clear and present health hazard.

Mr. Siegel said that there were already failing septic tanks in the area, however, if the Commission failed to pass the moratorium, new septic tanks would probably work. He said that the problem was not to prevent further septic system construction, but to get the failing septic systems repaired. Mr. Siegel said that one of the ways to accomplish this repair was to give tax incentives to residents to repair their septic systems.

Mr. Siegel presented to the Commission some data on nitrate levels and coliform levels in selected wells in the area. This data is made a part of the record on this matter.

Mr. Siegel concluded that the data before the Commission did not support that the River Road area septic tank failures were causing the high nitrate levels, and he did not think there was any data whatsoever that supported a health hazard.

Mr. George Kramer, Aide to Lane County Commissioner A. Weinstein, said that only a few wells in the River Road-Santa Clara were tested. He said this did not give a comparison to the sewered areas of Eugene-Springfield. Mr. Kramer presented some data on wells in other areas. He said review of this data showed very little difference between the sewered areas and non-sewered areas. Mr. Kramer questioned that there was enough data of any kind to support a moratorium.

Mr. Stanley Wojtowicz, Santa Clara Area, said that most of the problem was created by elected officials. He said that the River Road area was primarily rural and zoned for agricultural purposes. Mr. Wojtowicz said the decision to sewer this area had been made several years earlier when a major subdivision was planned for the area. He said that a moratorium would not solve the present problem.

Mr. Wojtowicz said that approximately 40% of the residents in the north part of the River Road-Santa Clara area were using their wells for drinking water. He said that some people used this water all year, while others used it only in the summer. He said that one-third of the area under consideration for the moratorium did not have access to a public water supply.

Mr. Wojtowicz said that with properly designed and inspected septic tank systems, the area would not be forced to annex to the City. He said it should be determined if an immediate health hazard existed.

Mr. Jeff Siegel pointed out that if the data for sewered area presented by Mr. Kramer was averaged, the nitrate level average for the sewered area of the City of Eugene was approximately the same as the unsewered area of River Road.

Chairman Richards asked Mr. Johnson to respond to the points raised earlier by Mr. Siegel, i.e., that there was no increase over a period of time in the nitrate levels. In his findings, the nitrate level was below EPA standard by approximately half, and that there was no basic difference between the nitrate level in the Eugene-Springfield area and the River Road area.

Mr. Johnson responded that he did not expect there would be a great amount of difference in nitrates, however, there would be some influence of nitrate levels throughout the total level. This assumed, he said that they were talking about the same groundwater body. In response to Chairman Richards, Mr. Johnson said he would have to do research to determine if the same groundwater body flowed through the River Road area and also the City of Eugene.

Commissioner Phinney asked, because the data given was taken only during a one-year period, and that was a low rainfall year, was the Department getting valid data? Mr. Johnson replied that the total picture was needed of the sources up gradient of the testing point.

Commissioner Densmore said the issue was to whether impose the moratorium at this time while the data was being compiled, or not impose the moratorium and compile the data for a later decision.

In response to Chairman Richards, Mr. Johnson said he thought Mr. Siegel had raised some valid points and reminded the Commission that they were facing a valid concern about a potential health hazard. He said this concern related to a density of development relating to the shallow groundwater aquifer. Mr. Johnson said it was true that there were satisfactory soils in the area, however, the aquifer must be considered. Mr. Johnson suggested that the Commission look toward a six-month or longer moratorium to establish the hard facts that did not exist at the present time.

In response to a question by Commissioner Densmore, Mr. Johnson said he did not think that sewerage an area would affect the nitrate level.

Mr. Kent Mathiot of the Water Resources Department, said he had not had a chance to review the Randy Sweet Study which was before the Commission, however, he had been aware of the River Road-Santa Clara problem for some time. He considered the problem serious but not unique compared to other areas in the Valley. Mr. Mathiot said he would expect the nitrate levels in the Eugene area to be much higher if the area was not sewerage.

Chairman Richards asked if septic tank moratoriums should be considered in other areas of the Willamette Valley. Mr. Mathiot said that high density use of drainfields in shallow groundwater areas was not a recommended method of waste disposal because of the groundwater contamination problem. Mr. Mathiot said that Randy Sweet created a model in this report based on statistical evaluation of the amount of contaminant going into the ground and the amount of water available for dilution. Based on that, Mr. Mathiot said he tried to locate wells that would either prove or disprove the conclusions he drew from his model. Mr. Mathiot said that more work would need to be done to get the conclusive answers people were asking for.

Chairman Richards read the following findings of fact as required by ORS 454.685 (2) (a) through (k) that the Commission must include in their decision.

- Present and projected density of population
- Size of building lots
- Topography
- Porosity and absorbency of soil
- Any geological formations which may adversely affect the disposal of sewage effluent by subsurface means

- Ground and Surface water conditions and variations therein
- Climatic Conditions
- Present and project availability of water from unpolluted sources
- Type of and proximity to existing domestic water supply sources
- Type of and proximity to existing surface waters
- Capacity of existing subsurface sewage disposal systems

In response to Commissioner Densmore, Chairman Richards said he would review the matter in six months because he said he would, but all the evidence seemed to say that there would not be anything substantially different to report in six months. Commissioner Phinney asked in view of the findings of fact listed by Chairman Richards, if he was comfortable with imposing the moratorium. She expressed concern that the area might get into a more serious problem in the next six months without the moratorium.

Director Young said it would be possible for the staff to review the testimony received at this meeting and draft a response which also addressed the statutory findings by the next meeting.

Chairman Richards asked what the impact on building would be if the Commission delayed action for 30 days. Mr. Roy Burns, of Lane County Environmental Services replied that the impact should not be significant within a 30 day time frame.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that this matter be deferred until the next regular meeting of the Commission.

AGENDA ITEM L - KING CITY SEWAGE TREATMENT PLANT - CONSIDERATION OF PETITION FROM GEORGE AND MARGARET BENZ REGARDING PERMIT TO OPERATE THE KING CITY SEWAGE TREATMENT PLANT

Chairman Richards said that Mr. Willis West, representing the petitioners, had informed him that he had a number of witnesses to appear and might take upward to an hour. Chairman Richards advised Mr. West that anything over 45 minutes would have decreasing value to the Commission. Mr. West replied that he had anticipated that his presentation would take three to four hours. Chairman Richards said this matter could be referred to a Hearing Officer because the Commission was not informed that this matter would take that length of time.

After consultation with his clients, Mr. West asked if the matter was heard before a Hearing Officer, would he be limited in the time for presentation. Chairman Richards said that the Administrative Procedures Act gave the Hearing Officer the discretion to limit testimony when information becomes cumulative.

Chairman Richards said that according to EQC counsel, this was not a contested case hearing but an informational one. Mr. West replied that he had

no notice it would not be a contested case hearing. Mr. West said he would like to present a contested case so that all the issues in the matter could be settled. Chairman Richards said he would take no action to change the hearing from an informational one to a contested case. Mr. Underwood said that this matter did not fall under the definition of a contested case in the Administrative Procedures Act. He said that under that same Act, the Commission could designate a case not specifically defined in that Act as a contested case if it wished. However, he said he would not recommend that. Mr. West asked if the Commission would consider making this matter a contested case. By unanimous consent, the Commission declined to designate this matter as a contested case.

Chairman Richards said that the matter would be referred to a Hearing Officer. Mr. West requested that the hearing be held in Portland as soon as practicable.

AGENDA ITEM M - CLATSOP PLAINS - CONSIDERATION OF ADOPTION OF TEMPORARY AMENDMENT TO OAR 340-71-020(7)(b)(C)

Mr. Robert Gilbert, Regional Manager of the Department's Northwest Region, presented the following Director's Recommendation from the staff report.

The Director recommends that the EQC take the following action:

1. Enter findings that:

- A. Failure to act would result in serious prejudice to the public interest or the interest of the parties concerned in that Clatsop County has encouraged and caused investment by Joseph R. Camberg and Clatsop Quality Construction Company based on the County's interpretation that the proposed development did conform with OAR 340-71-020(7)(b)(C). In addition, the language in OAR 340-71-020(7)(b)(e) is confusing.
- B. The attached proposed temporary rule amendment (Attachment 2) will continue to prevent unacceptable degradation of groundwater while allowing such development as, at present, appears to be compatible with preserving the quality of the the groundwater.
- ~~C. At the time a comprehensive plan and appropriate zoning are accomplished, it is expected further review will be appropriate.~~

2. Adopt the attached temporary rule amendment to OAR 340-71-020 (7)(b) and (7)(3) to take effect upon filing with the Secretary of State pursuant to ORS 183.355 for a period of not longer than 120 days.

3. Authorize the Hearing Officer to proceed with the appropriate hearings for permanent rule amendment to OAR 340-71-020(7)(b) and (7)(e). The Hearing Officer report to the EQC will be scheduled for the June 1978 EQC Meeting.

Chairman Richards asked if there was any opposition to the Director's recommendation. Mr. Gilbert replied that there was not, but representatives of the county were present to answer questions if the Commission wished. None of the Commission members had questions.

Commissioner Hallock MOVED, Commissioner Phinney seconded and it was carried unanimously that the Director's recommendation as stated above be approved.

AGENDA ITEM H - FIELD BURNING - CONTINUATION OF MARCH 17, 1978 EOC MEETING
AGENDA ITEM TO CONSIDER ADOPTION OF PERMANENT RULE REVISIONS TO OAR 340-26-005
THROUGH 26-025; AND CONSIDERATION OF ADOPTION OF PROPOSED ONE-YEAR CONTROL
STRATEGY FOR SUBMITTAL TO EPA, RELATIVE TO 1978 FIELD BURNING

Mr. John Kowalczyk of the Air Quality Division, presented overhead illustrations regarding the interim control strategy. He said EPA returned Oregon's request to modify its State Implementation Plan to increase field burning acreage from 50,000 to 180,000 acres. In returning it, he said, EPA suggested that the Department develop a one-year interim control strategy.

The four elements of this control strategy, Mr. Kowalczyk said, were as follows:

1. All reasonable control measures be taken to alleviate the particular problem in the Willamette Valley.
2. That implementation dates for these measures be specified.
3. That a schedule for the final strategy development be provided.
4. That means be provided to prevent air quality standards from being violated.

Mr. Kowalczyk said that primary emphasis in this control strategy was on the area that exceeded health standards in Eugene-Springfield. The strategy also attempted to maintain the 180,000 acre limitation as suggested by the Attorney General's Office he said. Also, he said all possible control measures had been looked at.

Mr. Kowalczyk said that the final proposed control strategy contained five elements. The first two dealt with field burning emissions he said, about which the Commission adopted rules at their meeting on March 17. Also proposed, Mr. Kowalczyk said, were control strategies for road dust, in addition to the control measures which were already in place. Voluntary industrial control measures were also addressed he said. These elements, Mr. Kowalczyk said, would result in a reduction of 1041 tons per year in emissions during 1978.

Mr. Kowalczyk said they had concluded that the proposed control strategy would more than offset the 130,000 acre increase for which the state requested approval from EPA. Also, he said a 28% step toward attaining health standards compliance in 1978 would be made.

Mr. Kowalczyk said the Department believed it had developed an interim control strategy that would more than offset the air quality impact from the requested increase in field burning acreage. He said they believed the strategy would satisfy EPA's requirements and would generally satisfy the requirements of all affected parties.

Mr. Kowalczyk presented the following Director's recommendation regarding the interim control strategy.

It is the Director's recommendation that the EQC approve the proposed one-year interim control strategy and require the Director to immediately submit the strategy with all appropriate documentation to EPA for their review and approval.

Mr. Scott Freeburn presented the item on the proposed field burning rule, OAR Chapter 340, Section 26-015(4)(d)(c). He said that at the last meeting of the EQC there was some confusion regarding the rule regulating the burning of south priority acres and exactly what each option presented by the staff meant. Mr. Freeburn said that the staff report presented the following three options to the Commission.

1. That which the Commission had already adopted, requiring backfiring of all south priority acres.
2. Require that no south priority acres in conditions which would bring smoke into the Eugene-Springfield area.
3. A combination of the first two options which would have the effect of reducing impact and emissions from those acreages.

Mr. Freeburn said the staff believed options 2 and 3 would have significant reductions in field burning particulate in this area. However, he said, it would jeopardize the results of the field burning season. Therefore, he said, the staff was not supporting options 2 and 3.

Mr. Freeburn presented the following Director's recommendation.

It is the Director's recommendation that the Commission retain the present rule and not adopt option 2 or 3 which would further restrict south priority burning, in order that the Department's studies of the field burning impact this summer may provide representative and useful input into the formal State Implementation Plan revision applications which must be submitted to EPA by April 1979.

Chairman Richards asked if it were not for the need to obtain data this summer on field burning smoke impact, would the Department take a different view on the south priority burning acreages. Mr. Freeburn replied that it would probably alter the Department's view, and if the monitoring had not already been in place, they would probably be supportive of another option.

Mr. Gene Maudlin, Public Affairs Counsel of Salem representing the Oregon grass seed industry, said they thought the staff did a good job on the strategy. He said the grass seed industry supported the proposed monitoring study to be

conducted during the summer. He said it would be a grave error for the EQC to not allow this study because it would deprive the staff of the data it would need to determine future levels of field burning.

Mr. Maudlin said they agreed with the staff recommendation for the oiling of certain gravel roads in the City of Springfield, thus limiting fugitive dust emissions. He said the interim control strategy would fail unless this road oiling program was undertaken. Mr. Maudlin said the EQC had the duty to assure EPA that this problem would be solved.

Mr. Maudlin said they felt both an interim control strategy and the new State Implementation Plan that would be developed should address not only the problems of the City of Springfield but also the problems known to exist in Eugene.

Mr. Dave Nelson, Oregon Seed Council, said over the past three years the grass seed industry had contributed to almost a 50 percent reduction in actual particulate in the Willamette Valley.

Mr. Nelson said that decisions on acreages to be burned were basically being made without an accurate data base. He said that was one reason why the monitoring network was established and funded.

Mr. Nelson said that the proposed rules would put the burden on the farmers in the south priority areas. He said they thought that was an undue hardship that was not justified based upon the proposed reduction, and it was not needed to achieve the reductions in the AQMA.

Mr. Nelson said they were concerned about backfiring and into-the-wind strip lighting in south priority areas concerning fire safety and the controlling of those fires. Because of unexpected wind changes he said, the fire could become uncontrolled. He said more experimentation on the impact and implementation of these practices was needed. Mr. Nelson said therefore, the Seed Council opposed options 2 and 3. He said they would cautiously support option 1 if the staff was not given the discretion to mandate it flatly.

In regard to the interim control strategy, Mr. Nelson said, that certain assumptions were made in the calculation of the field burning rules that the priority smoke all winds up in Eugene. He said he felt that was erroneous. He said they were concerned about the number of tons of particulate emitted by head fire in those priority areas and the calculations that were done that would result in a significant reduction of impact in the AQMA. He said these were best guess estimates done without specific measurements of the emissions from those techniques in the Willamette Valley on grass seed fields.

It appeared from the support document, Mr. Nelson said, that fugitive dust was a real problem, primarily in the roll-back area. He said that the support document indicated that 57% of the particulate on the filters in that area was from dust. Mr. Nelson said there was also growing evidence that field burning was less a contributor to the problem in the Eugene-Springfield AQMA than had been

previously suspected. Particularly, in view of the 50% reduction in particulate emissions since 1974 he said.

Mr. Jay Waldron, attorney with the Oregon Seed Council, said that family farm industry was being put out of business by reductions in acreages to be burned. He said he supported the 180,000 acreage suggestion. Chairman Richards said the Commission had no choice at this time but to submit a plan for 180,000 acres. Mr. Waldron said there were a number of strategies the Commission could adopt if EPA accepted or rejected the plan. He said the one thing that the Legislature mandated was a plan for the burning of 180,000 acres.

Mr. Stanton Long, attorney for the City of Eugene, said they did not agree with the staff method of measurement of emissions. He said that the staff figures did not propose to eliminate violations, but only to reduce them.

Mr. Long said they were disappointed with the staff recommendations that the Commission not adopt options 2 or 3. He said these options were originated by the staff. He said that one of the past net effects of south priority burning was to aim smoke at Eugene. In regard to the justification of accumulating data this summer, Mr. Long said it was not appropriate to consider the citizens of Eugene as guinea pigs. Mr. Long said that the Department was not doing all it could if it proposed to allow smoke into the Eugene area in order to monitor its effect.

Mr. Long said the Commission had it within its power to stop the smoke impact on Eugene. He said if that would produce hardships for individual growers, then the Commission should address those hardships. He urged that the Commission do all it could within its authority to stop directing smoke at Eugene from the burning of south priority acres.

Mr. Long said that they did not feel that notice for the public hearings on this matter were adequate or sufficient, and in general the City did not feel that the one-year interim control strategy agreement represented any kind of improvement over the proposed or required 1978 standards, in fact it was a digression.

Commissioner Densmore asked Mr. Long for his assessment of what would happen if the smoke were aimed in a different direction. Mr. Long replied that meteorology was unpredictable, but there was a step that the Commission could take and the information would be obtained in any event.

Mr. Vern Adkison, Director of the Lane Regional Air Pollution Authority, spoke regarding the Springfield City Shop monitoring station. He said the station was originally installed as an enforcement station to monitor a specific source, National Metallurgical, before a court case. Mr. Adkison said he did not feel that this particular monitoring station represented an ambient air mass for which that type of station should be assigned. At one time, he said he had ordered the removal of the station because he felt it reflected only local dust and gravel dust from the immediate area.

Mr. Adkison said this monitoring station was located in an area that was unpaved and reflected heavy dust from the sand and gravel operations in the area. He said he would have grave doubts about any data derived for the area based on that monitoring station. He said he thought the station should be reevaluated.

Chairman Richards asked if Mr. Adkison would have more confidence in the results to be produced by the 10 new air monitoring stations. Mr. Adkison replied that he would.

Commissioner Densmore asked what the effect would be if the ban on south priority acreage burning was adopted. Mr. Freeburn replied that those fields that would be burned under allocation transfer would be burned under south wind conditions, thus impacting areas north of that field. In response to Commissioner Densmore, Mr. Freeburn said that would specifically be Albany and Lebanon.

Chairman Richards said that damage would be done to the field burning program if options 2 or 3 were adopted. He said he was not convinced that burning could be prohibited in a priority area. Chairman Richards said that if farmers in those areas had known a year ago that a ban on burning in those priority areas might be adopted, they would have planted other crops. He said that if EPA were to say that another 30 tons of particulate had to be eliminated, and one way to do that was to eliminate south priority burning, then he would have no trouble voting that way. However, he said, until that happens he would support the present strategy the staff recommended.

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock, and carried with Commissioner Phinney dissenting that the Director's recommendation in regard to the field burning rules be adopted.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney, and carried with Commissioner Densmore dissenting that the Director's recommendation in regard to the one-year control strategy be adopted.

AGENDA ITEM 1 - MEDFORD AIR QUALITY MAINTENANCE AREA - PROPOSED ADOPTION OF AMENDMENTS TO OREGON CLEAN AIR ACT IMPLEMENTATION PLAN INVOLVING PARTICULATE CONTROL STRATEGY RULES FOR THE MEDFORD AIR QUALITY MAINTENANCE AREA.

Mr. John Kowalczyk of the Department's Air Quality Division, presented the staff report on this matter. He said that rules pertaining to this air quality maintenance area should be adopted as proposed to provide a margin of safety and room for growth and to keep the most viable options open for further control. Mr. Kowalczyk said that the Medford-Ashland Citizen's Advisory Committee had reviewed the staff report and recommended that alternative 1 be adopted; which is to adopt the rules as proposed. He said the staff recommended that the rules be adopted as proposed and that a permanent emission trade-off rule be formulated as soon as possible.

Mr. Kowalczyk presented the following Director's recommendation.

It is the Director's recommendation that the EQC adopt the rules as proposed at the February 24, 1978 meeting and direct the Department to develop a permanent emission trade-off rule for the AQMA as expeditiously as practicable.

Commissioner Densmore asked if the trade-off issue had always been a part of the proposed rules. Mr. Kowalczyk said that the strategy was designed to attempt to provide a growth margin to accommodate any new or expanded industries. He said it was just becoming apparent that the growth margin was small to nonexistent, so the trade-off policy was a possible way of accommodating changes in the airshed without facing a zero growth situation.

In response to Commissioner Densmore, Mr. Kowalczyk said that only over the last month had it become apparent that there was a critical growth problem.

Chairman Richards asked if in the past, air quality rules had been adopted which were technology forcing. Mr. Kowalczyk said he believed so, such as the case of pulp and paper mills. Chairman Richards asked what the statutory authority was to allow forcing a future technology. Both Mr. Underwood and Mr. Kowalczyk replied that they knew of no other statutory authority than that contained in ORS Chapter 468.

Mr. Lynn Newbry, Medford Corporation, expressed concern about mention in the staff report of the EPA study on wood particle dryers. He said that more than one pilot study was needed in the Medford area. He said what was stated in the staff report regarding the EPA study was an entirely different understanding than what they had agreed to participate in.

Mr. Newbry said a reasonable alternative to the staff recommendation would be to modify the existing rules relative to hardboard plants suggesting a 75% roll-back strategy. He said this roll-back strategy would cover the total plant emissions, not just that from fiber dryers, and would give the Company the opportunity to control the entire plant through a variety of sources. He suggested that the Commission consider adopting a strategy for wood-fired dryers which was immediately achievable and consider a reduction of other sources of particulate in the AQMA (such as road dust), which would bring the AQMA into attainment just as easily as forcing companies into an untried and unproven method of control on a particular source.

Mr. Gary Grimes, SWF Plywood Company and member of the Medford-Ashland Citizen's Advisory Committee, said there had been some misinterpretation in the intent of the rule. ~~He said it was the intent of the Citizen's Advisory Committee that~~ the most probable and best utilization of material in wigwam burners would be to keep it under a more efficient type of combustion.

Chairman Richards asked if the strategy for the area evaluated road dust. Mr. Kowalczyk replied that it did. He said that they were addressing unpaved road dust which EPA says can be controlled effectively. In the Medford area, he said there were no unpaved roads which were traveled extensively so there was really no unpaved road emission problem. There was, he said, 3000 tons of paved road dust which EPA had indicated was uncontrollable. In response to Commission Densmore, Mr. Kowalczyk said that unlike the City of Springfield, the traffic volume on the unpaved roads in the Medford area was not significant.

Commissioner Densmore asked what the impact would be of the Commission adopting the proposed rules and not establishing a permanent trade-off policy. Mr. Kowalczyk said they would then have to rely on the growth built into the plan to accommodate any new sources or any modifications to existing sources. Once that was used up he said, then the area would be in a no-growth situation.

Commissioner Phinney asked about the possibility of trade-offs being sold by existing industries to new sources. Mr. Kowalczyk said that this sort of thing was happening already back East and in the Los Angeles area. Commissioner Densmore said that assumed an industry wanted to locate in a particular area bad enough and did not have a reason to locate somewhere else.

Commissioner Densmore asked if he had a potential conflict of interest because he was the Mayor of Medford. Chairman Richards said he hoped Commissioner Densmore did not see it as a conflict of interest.

It was MOVED by Commissioner Densmore and seconded by Commissioner Phinney to adopt alternative number 2, adopt rules as originally proposed, without upgrade, without trade-offs.

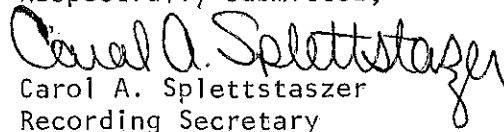
It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried with Commissioner Densmore dissenting to amend the motion to delete the words "without trade-offs".

Director Young clarified that the motion now before the Commission was to adopt alternative 2 which deleted the requirement for an upgradable designation but admonished the staff to prepare a trade-off policy.

The motion was adopted with Commissioner Hallock dissenting.

Mr. Tom Donaca, Associated Oregon Industries, said the Commission had adopted what amounted to a State Implementation Plan revision for the Medford area. He wanted to point out that both the Portland and Eugene AQMA would have monitoring done in advance of proposed rules being presented to the Commission for adoption. Mr. Donaca said the Commission should keep in mind that after they have looked at the Portland and Eugene AQMA's they might want to review their action in regard to the Medford AQMA in light of whatever information might be applicable from the other AQMA's.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Carol A. Spletstaszer
Recording Secretary

April 23, 1978
Hearing Room 346, State Capitol Building
Salem, Oregon

- 8:15 am A. Minutes of the March 17, 1978 and March 31, 1978 EQC Meetings
B. Monthly Activity Report for March 1978
C. Tax Credit Applications
- PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.
- D. Willamette Valley Region - Report of Region Manager on significant on-going activities in the Willamette Valley Region BORDEN
- 8:30 am E. Contested Case Review - DEQ v. Sam Davis et al. Appeal to Commission involving 12 subsurface sewage disposal permits in Jackson County HASKINS
AINSWORTH
- 9:30 am F. River Road/Santa Clara Area, Lane County - Continuation of public hearing on proposed order prohibiting or limiting installation of subsurface sewage disposal systems within the River Road-Santa Clara Area, Lane County JOHNSON
- G. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Orders for NPDES permittees not meeting July 1, 1977 compliance date BOLTON
- H. Health Hazard Annexations - Certification of plans for sewerage systems as adequate to alleviate health hazards, ORS 222.898
(1) City of Rogue River
(2) City of Gold Beach HILBRICK
- I. Subsurface Rules, Clackamas County - Request for authorization to hold public hearing on proposal to amend the subsurface permit fee schedule for Clackamas County, OAR 340-72-010 OSBORNE
- ~~J. Hazardous Wastes Rules - Request for authorization to conduct a public hearing on proposed amendments to rules governing procedures for obtaining a Hazardous Waste Management Facility license DELETED~~
- K. Motor Vehicle Emission Testing Rules - Request for authorization to hold public hearing on proposed amendments to incorporate 1978 model year vehicles in emission testing rules, OAR 340-24-300 to 24-350 JASPER
-
- ~~L. Procedural Rules - Request for authorization to conduct a public hearing on proposed rules revising civil penalty and contested case procedures, OAR 340-11-097 to 11-140 and 340-12-030 to 12-075 DELETED~~
- ~~10:00 am M. Browns Island Landfill, Marion County - Request for concurrence of Commission with plans for expansion of Browns Island Landfill DELETED~~
- 10:00 am Field Burning - Discussion of EPA reaction to proposed one-year interim strategy
- N. Proposed Agreement Between the Department of Environmental Quality and the Oregon Department of Forestry (OSFD) - Informational Item LUCAS

Because of the uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items E, F and M. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:00 am) and lunch (1:15 pm) in the Blue Room of the State Capitol Building. The Commission plans to attend the Governor's Natural Resource meeting at 11:00 am. If the EQC meeting is not concluded at that time, it may be reconvened at 2:30 pm.

MINUTES OF THE NINETY-SIXTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

April 28, 1978

On Friday, April 28, 1978, the ninety-sixth meeting of the Oregon Environmental Quality Commission convened in Hearing Room 346 of the State Capitol Building in Salem, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace Phinney, Vice Chairman; Mrs. Jacklyn Hallock and Mr. Albert Densmore. Mr. Ronald Somers was absent. Present on behalf of the Department were its Director and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S.W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF THE MARCH 17, 1978 MEETING

It was MOVED by Commissioner Phinney, seconded by Commissioner Densmore and carried unanimously that the Minutes of the March 17, 1978 special EQC meeting be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR MARCH 1978

It was MOVED by Commissioner Densmore, seconded by Commissioner Phinney and carried unanimously that the Monthly Activity Report for March 1978 be approved.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

Mr. Bud Keeney, Plant Manager for Stimpson Lumber Company in Forest Grove, appeared regarding their request for Preliminary Certification for Tax Credit. He said they were asking for Preliminary Certification for the installation of two new hog fuel boilers. Mr. Keeney said they realized that boilers were not considered eligible for tax credit, but they felt that using dryer fuel and having more boiler capacity would achieve the same pollution control results as such equipment as scrubbers and baghouses. In response to a question by Chairman Richards, Mr. Keeney said that particulate emissions would be reduced by the installation of these boilers. Chairman Richards asked if production would increase. Mr. Keeney said they did not plan an increase in production.

Chairman Richards asked about the statement in the staff report that particulate emissions would not change significantly from existing levels, in view of the applicant's statement that the particulate emissions would be reduced. Mr. Steve Carter replied that source tests in 1976 showed a grain loading of between 0.07 and 0.09 gr/scdf. He said that Department documentation indicated the

facility was running in compliance at the present time. Chairman Richards asked if tax credit had ever been granted for hog fuel boiler installations. Mr. Carter replied that tax credit had been granted under Solid Waste but not Air Quality. He said that the boilers were the main power boilers for the plant.

In response to Commissioner Phinney, Mr. Carter said the source test was done with all three boilers on line at the normal standard steaming rate.

Chairman Richards asked Mr. Carter what he believed the company's substantial purpose was in installing the boilers. Mr. Carter replied it was his opinion that it was a wise move from a power engineering standpoint because it would allow the company to maintain production with two boilers operating while the third one was down for routine maintenance.

Mr. Carter said the request was evaluated from a pollution control standpoint and whether or not the new boilers would effectively reduce particulate emissions.

It was MOVED by Commissioner Phinney, seconded by Commissioner Densmore and carried unanimously that Pollution Control Facility Certificates be issued for tax credit applications T-938R, T-951, T-965, T-966, T-970, T-974, T-983, and T-988 and that Certificate No. 549 issued to Georgia-Pacific Corporation be revoked because the certified facility was no longer in use.

It was MOVED by Commissioner Phinney, seconded by Commissioner Densmore and carried unanimously that Stimson Lumber Company's request for Preliminary Certification for Tax Relief be denied.

PUBLIC FORUM

Mr. Ladd Henderson appeared before the Commission regarding a contested case matter. He said he felt the Department was purposely delaying final action on this matter which was causing him a hardship. Chairman Richards said that there were hearings held before Mr. Henderson's on which decisions were still pending due to the Hearing Officer's backlog, so he did not feel the Department was deliberately delaying a decision. Mr. Henderson said he was accusing the Department of abuse of power and requested a hearing before the Commission. Chairman Richards said that he would not place the matter on a Commission agenda until the Hearing Officer's report was available. However, he said, if Mr. Henderson felt there were abuses on the part of the Department then he could write to the Commission and the matter would be looked into.

AGENDA ITEM D - WILLAMETTE VALLEY REGION - REPORT OF REGION MANAGER ON SIGNIFICANT ON-GOING ACTIVITIES IN THE WILLAMETTE VALLEY REGION

Mr. John Borden, Willamette Valley Regional Manager, summarized the staff report for the Commission. In addition to those items listed in the staff report, Mr. Borden added that Stokley-Van Camp in Albany had disconnected from the city sewer system in 1977 and had been irrigating onto 180 acres, thus allowing the Albany sewage treatment plant to function better. Previously, he said, this plant had experienced upset conditions due to the effluent from the Stokley-Van Camp plant.

Mr. Borden said that Simpson Timber had done an excellent job of cleaning up glue, oil and septic tank problems and were very innovative in their pollution control measures.

The City of Corvallis, Mr. Borden said, had their new sewage treatment plant partially on-line and the plant was producing a consistently high quality effluent beyond what theoretically was obtainable. He said they thought this was due to the built-in flexibility of the plant.

Mr. Borden said that Boise Cascade in Salem had improved their sulfur dioxide control and the plant had met 200 ppm daily and 400 ppm hourly since mid-1976. Mr. Borden said that complaints had also declined regarding this source.

Mr. Borden added that the noise emissions from Cascade Steel Rolling Mills were now in compliance. He said the Company had also made significant improvements in air contaminant control.

AGENDA ITEM E - CONTESTED CASE REVIEW - DEQ v. SAM DAVIS et al. APPEAL TO COMMISSION INVOLVING 12 SUBSURFACE SEWAGE DISPOSAL PERMITS IN JACKSON COUNTY

Mr. Robert Haskins, Assistant Attorney General, said this matter involved the revocation of 12 sewage disposal system construction permits in Jackson County. Mr. Haskins said the grounds for revocation were failure to satisfy the prior approval rule. He said that the respondent's counsel had filed an answer indicating the permits had been based on prior approvals. They also maintained, Mr. Haskins said, that the Department had no power to revoke the permits.

Mr. Haskins said a hearing was held and the Hearing Officer's ruling had been issued. He said the Hearing Officer proposed that the Commission revoke one of the permits and rule that the Department failed to carry the burden of proof in regard to the remaining 11 permits.

The permit issued to William D. and JoAnn A. Paulsen was the one recommended to be revoked, Mr. Haskins said. He requested that consideration of this permit be delayed for possible consideration in the future. Hopefully, he said, the matter would be settled. Chairman Richards said the matter of the Paulsen permit would be withdrawn from consideration at this meeting.

Mr. Haskins said that respondents Harlon and Diane Trent had changed attorneys and their new attorney requested and was given additional time to review the transcripts and prepare a brief. Therefore, he said, the Trent's case was severed from the remaining cases.

Chairman Richards asked if Mr. Haskins' brief contained an administrative law reference that once having entered into a settlement agreement, and having acted on it, the respondents would be barred from proceeding further with any administrative appeal. Mr. Haskins said he cited ORS 183.415, and the Hearing Officer indicated that the Department and respondents had taken advantage of the statute.

Mr. Sidney Ainsworth, attorney, appeared on behalf of the respondents. Chairman Richards summed up the Department's position by saying that even though no one offered a valid written prior approval, it would still be presumed that there was a writing somewhere that Sanitarian Ronald Slater knew about. Mr. Ainsworth replied that large portions of the Jackson County records were missing which they maintain were in the custody of either the Jackson County Sanitarian or DEQ. He said that they maintained prior approvals were issued by letter from Orrie Moore, Jackson County Sanitarian, and that Mr. Slater personally inspected each site and then issued permits.

Mr. Ainsworth said that the parties involved were not afforded a hearing prior to revocation of their permits. He said the permits were simply revoked by letter.

Mr. Haskins replied that there was a hearing prior to revocation of the permits and the decision to revoke the permits was the decision of the Commission. He also said that the Hearing Officer found that Mr. Slater went to the sites but he did not find that Mr. Slater made any personal inspection of the soils.

The Commission went into Executive Session to deliberate on this matter.

Chairman Richards reconvened the meeting and submitted the following decision regarding DEQ v. Sam Davis et al. He said that the determination was made only by Commission members Densmore, Phinney and himself who were present when arguments were made, and Commissioner Hallock did not participate in the decision. It was the conclusion of the Commission, he said, as to the seven permittees which answered Mr. Kramer's letter of July 6, 1975, offering options for compromising and settling, that they did accept the first option, recorded deeds containing the restrictions mentioned, and the legal effect of that was to abandon an appeal and to enter into a compromise and settlement with the Department. Therefore, Chairman Richards said, they found in favor of the Department and against those respondents.

Chairman Richards said the Commission found that they rejected the position taken by the respondents' attorney that the Hearing Officer's decision and proposed finds were final and binding upon the Commission by his interpretation of ORS 183.460. Mr. Underwood clarified that that finding related to all 10 cases.

As to the remaining three, Chairman Richards stated the Commission found that Mr. Slater did not perform his official duties in a regular manner. Therefore, he said, there was not sufficient evidence to support the fact that those three permits were regular. Nor, Chairman Richards said, was there evidence of prior approval. He said that a further finding was that in fact the soils in question did not qualify and do not qualify for a permit to be issued, and therefore the permits would be revoked.

Chairman Richards asked that Mr. Haskins draw the findings of fact and conclusions of law and present the order to the Commission for signing.

AGENDA ITEM M - FIELD BURNING - DISCUSSION OF EPA REACTION TO PROPOSED ONE-YEAR INTERIM STRATEGY

Chairman Richards said the City of Eugene and the Seed Council had requested time to formulate a recommendation to the Commission on how to deal with the EPA letter of April 27, 1978. Chairman Richards requested that the City of Eugene and the Seed Council respond by the next Friday with either a coordinated response or notice that they could not agree on a response, and then allow the staff until the Friday after that to respond to the City and the Seed Council. He said that the Commission would then hold either a special meeting or a conference call to respond to the EPA letter. This was agreed to by the City of Eugene, the Seed Council and Department staff.

It was MOVED by Commissioner Densmore, seconded by Commisisoner Hallock and carried unanimously that this matter be deferred and that action be taken according to the above request of Chairman Richards.

AGENDA ITEM F - RIVER ROAD/SANTA CLARA AREA, LANE COUNTY - CONTINUATION OF PUBLIC HEARING ON PROPOSED ORDER PROHIBITING OR LIMITING INSTALLATION OF SUBSURFACE SEWAGE DISPOSAL SYSTEMS WITHIN THE RIVER ROAD/SANTA CLARA AREA, LANE COUNTY

Chairman Richards said they would hear testimony but requested no testimony be given which was a rehearing of what was presented at the March 31, 1978 public hearing.

Ms. Vora Heintz, Eugene, said she felt the residents of the River Road/Santa Clara area were being forced to annex to the City by the proposed moratorium. She said septic tanks in the area were working satisfactorily, and requested that more data be developed before a moratorium was imposed.

Ms. Heintz said the residents of the area were requesting a chance to vote on city annexation and on construction of a sewer system. She also asked public review on alternative systems.

Mr. James Hale, Eugene, commented regarding the responses to the statutory findings in the staff report on population densities, availability of water from unpolluted sources and the capacity of existing subsurface sewage disposal systems. He said the staff did a good job in responding to the statutory requirements, but he did not feel there had been enough analysis to support the conclusions. He said he differed most from the staff recommendations on the capacity of the existing system. He said the figures given in the report were suspect and did not give an analysis of the capacity. Mr. Hale said that the analysis given as proposed findings needed to include what the nitrate level was. Chairman Richards responded that they had asked the staff to specify to what extent there was evidence that the nitrate level standard was being exceeded.

Mr. Hale said that the problem was not deteriorating at a significant rate, and the building taking place was not creating a large problem. He said that moratorium action would not be helpful to a long-range solution. He said the residents of the area saw this as a political maneuver to force them to annex to the City.

Mr. Jeff Siegel, Eugene, said he found that the testimony he presented March 31, 1978 was not evaluated in the staff report. Mr. Siegel quoted the following sentence from the "Santa Clara/River Road Groundwater Contamination Evaluation 1978" study by H. Randy Sweet:

"...it is not possible to verify the anticipated NO₃-N concentrations in the local shallow ground-water in the River Road/Santa Clara area at this time."

Mr. Siegel said that showed this was an inconclusive report. He said the necessary water quality monitoring was not done in order to verify nitrate levels.

Mr. Siegel said that the area was low in septic tank failures, and in fact the area seemed to handle septic tank systems adequately.

Mr. Siegel also spoke to the availability of water from unpolluted sources. He said that the areas north and northwest of the River Road/Santa Clara area were being required by the Lane County Department of Environmental Health to take water from a deep lying aquifer. He said that they were not being allowed to utilize the shallow groundwater aquifer.

Mr. Siegel said he did not think the data substantiated an increase in pollution and if anything there was a decline in the nitrate level. He also said he did not think there was any data which indicated a moratorium would stop an increase in pollution if the increase didn't exist. He said there was no increase and there was no difference between sewered and non-sewered areas. Mr. Siegel said that the Commission had to consider that septic systems had not been shown to affect the nitrate levels.

Mr. Siegel reiterated that he did not think that the data presented to the Commission supported a moratorium at this time.

Mr. Roy Burns, Lane County, submitted to the Commission a memorandum, staff report and some information regarding the development activity within the River Road/Santa Clara area. These documents are made a part of the record on this matter.

On behalf of the Board of County Commissioners, Mr. Burns stated that the issue before the Commission was specifically a request for moratorium pursuant to a resolution adopted by the Board of County Commissioners on February 22, 1978.

Chairman Richards asked Mr. Burns to respond to Mr. Siegel's remarks that there was no evidence that the nitrate/nitrogen filtered through the soil and into the aquifer. Mr. Burns replied that he was not a groundwater specialist, however, from the information he had he knew subsurface sewage disposal systems did have the ability to inject nitrate into the groundwater depending on the type of geological formation it was installed in.

Mr. Burns said that Mr. Sweet's complete report showed that there was a source of nitrate contamination to the groundwater from development within the River Road/Santa Clara area which was utilizing subsurface sewage disposal systems.

Mr. Daryl Johnson of the Department's Eugene Office presented the staff report on this matter. He said the Department looked at the failures in this area as a failure where contaminants affiliated with sewage enter the groundwater. This, he said, was unseen unless it was tested for. Mr. Johnson said they believed that data existed to substantiate that that type of failure in the area, and the staff was asking for time to research it.

Mr. Johnson presented the following word change revision to the proposed rule:

"(9) Pursuant to ORS 454.685, neither the Director nor his authorized representatives shall issue either permits for any [pending] new [or modified] sewage disposal facility..."

Mr. Larry Lowenkron of the Department's Eugene Office, said that after the March 31, 1978 meeting the staff made two quick sampling runs through the area. He said a large concentration of nitrates in the River Road/Santa Clara area was from sewage, which was not the case in Eugene-Springfield. Mr. Lowenkron presented maps and data of the wells tested to the Commission. These documents are made part of the record on this matter.

Mr. Burns stated that the River Road/Santa Clara area was covered by water districts, however water districts did not have the ability to prevent the development and use of a well as an alternative to connecting to the domestic water supply.

It was MOVED by Commissioner Hallock, and seconded by Commissioner Phinney that the Director's Recommendation as follows be approved:

Director's Recommendation

1. Impose a moratorium on issuance of construction permits for new subsurface sewage disposal systems and favorable reports of site suitability in the River Road/Santa Clara area of Lane County by adopting the proposed amendment to OAR 340-71-020 as shown in Attachment "A".
2. Impose a moratorium on approval of any new sewage disposal facility which would use subsurface injection.

3. Direct Department staff to work with the staff of the Metropolitan Wastewater Management Commission, Lane County, the Cities of Eugene and Springfield, and the Lane County Local Government Boundary Commission to obtain development and implementation of a plan for preventing and reducing groundwater pollution in the River Road/Santa Clara area.
4. Direct Department staff to provide the Commission with a status report within the six months period proposed by the Lane County Board of Commissioners regarding investigation progress.

Chairman Richards said he had been concerned whether or not there was sufficient evidence that there would be probable degradation and he left the last meeting being unsure. Chairman Richards said that the best evidence in the case was the Sweet report because of Mr. Sweet's expertise. He said that the opposition to the moratorium did not bring testimony of a consultant of equal qualifications. Chairman Richards said he was convinced that there was some probable cause. He said that this was not a final action and he was concerned if they waited until other competent evidence was brought forward to take action, then harm might be done to the groundwater. Chairman Richards said he also took into consideration that Lane County was satisfied with the evidence provided in the Sweet Report and had asked the Commission to impose a moratorium. For these reasons, he said he would support the Director's recommendation.

Mr. Siegel reiterated that the data supplied did not support the conclusions arrived at. He then reviewed some of his presentation at the March 31, 1978 meeting, reiterating that there was no exceeding of the EPA drinking water standard. In response to Chairman Richards, Mr. Siegel said that three of the wells tested for the report exceeded the EPA standards and there was no correlation in where they were located to the northerly portion of the River Road/Santa Clara area.

Also in response to Chairman Richards, Mr. Siegel maintained that Mr. Sweet in his report did not deal with his own data in an appropriate manner. Mr. Siegel said Mr. Sweet merely presented the data and did not discuss it.

Commissioner Hallock asked if the staff expected to have an improved data base at the end of six months if the moratorium was imposed. Mr. John Borden, Willamette Valley Regional Manager, replied that it would be difficult to gather substantial data by that time due to the seasons, the time frame, and the amount of money required. Mr. Burns said that to do the type of study Mr. Sweet indicated was necessary they had estimated an 18 month time frame to cover a full water year.

Mr. Kent Mathiot of the State Water Resources Board, said that the direct correlation between precipitation amounts in the area and water table fluctuations were well documented and provided sound evidence for the rapid permeability and porosity of the surface materials in the area which allowed rapid downward movement of soil moisture. Mr. Mathiot said the Frank report, also before the Commission, answered some of Mr. Siegel's points. He said this report gave background information for similar aquifers within the region that had very low nitrate/nitrogen levels.

Mr. Mathiot said EPA had recently reaffirmed their stand that 10 ppm level of nitrates was a recommended drinking water standard because of new evidence which indicated as well as causing "blue" babies, this level of nitrate/nitrogen concentration might also be related to carcinogenic effects in infants, and that these effects appear at or slightly below the 10 ppm concentration.

Mr. Mathiot said that when you were dealing with groundwater contamination problems it was frequently the case that localized problems develop before regional detection of a problem. Mr. Mathiot said he was concerned that enough evidence had not been gathered to address the consideration that degradation in

the lower portions of the aquifer might be occurring that had not been detected because the wells in the area were shallow. He said he was concerned about the potential of a future problem as well as the existing problem.

Chairman Richards asked if there was a correlation between the conclusions drawn by Randy Sweet and the factual material contained in his report. Mr. Mathiot replied he thought there was. Therefore, Chairman Richards asked if the conclusions Mr. Sweet drew supported the factual material in his report. Mr. Mathiot replied it was his opinion they did and also the models Mr. Sweet worked up based on that factual information.

Commissioner Hallock amended her motion to include as findings the following three items from the Lane County staff report on the River Road/Santa Clara area.

1. A highly permeable and productive aquifer underlies the study area and this shallow aquifer is readily accessible for development as well as surface contaminants.
2. Disposal of sanitary wastes via on-site disposal systems is the primary source of nitrogen in the study area, and as the population increases, a proportional increase in $\text{NO}_3\text{-N}$ can be expected.
3. Theoretical and measured $\text{NO}_3\text{-N}$ concentrations have been shown to locally exceed EPA primary drinking water standards.

The motion as amended was adopted with Commissioner Densmore dissenting.

AGENDA ITEM G - NPDES JULY 1, 1977 COMPLIANCE DATE - REQUEST FOR APPROVAL OF STIPULATED CONSENT ORDERS FOR PERMITTEES NOT MEETING JULY 1, 1977 COMPLIANCE DEADLINE

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock and carried unanimously that the following Director's recommendation be approved:

I recommend that the Commission approve the following Stipulated Final Orders:

1. Department of Environmental Quality v. City of Dundee, Stipulation and Final Order No. WQ-SNCR-770261, Yamhill
2. Department of Environmental Quality v. City of Astoria, Stipulation and Final Order No. WQ-NWR-78-26, Clatsop

AGENDA ITEM H - HEALTH HAZARD ANNEXATIONS - CERTIFICATION OF PLANS FOR SEWERAGE SYSTEMS AS ADEQUATE TO ALLEVIATE HEALTH HAZARDS, ORS 222.989; (1) CITY OF ROGUE RIVER, (2) CITY OF GOLD BEACH

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the Director's recommendations to approve the proposals

of the Cities of Rogue River and Gold Beach and to certify said approvals to the Cities be approved.

AGENDA ITEM I - SUBSURFACE RULES, CLACKAMAS COUNTY - REQUEST FOR AUTHORIZATION TO HOLD A PUBLIC HEARING ON PROPOSAL TO AMEND THE SUBSURFACE PERMIT FEE SCHEDULE FOR CLACKAMAS COUNTY, OAR 340-72-010

AGENDA ITEM K - MOTOR VEHICLE EMISSION TESTING RULES - REQUEST FOR AUTHORIZATION TO HOLD PUBLIC HEARING ON PROPOSED AMENDMENTS TO INCORPORATE 1978 MODEL YEAR VEHICLES IN EMISSION TESTING RULES, OAR 340-24-300 to 24-350

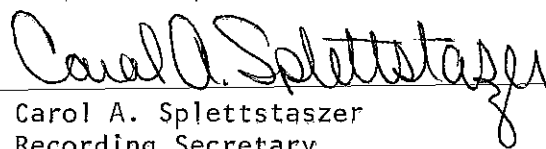
It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the Director's recommendations in these matters to hold public hearings be approved.

AGENDA ITEM N - PROPOSED AGREEMENT BETWEEN THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE OREGON DEPARTMENT OF FORESTRY (OSFD) - AN INFORMATIONAL ITEM

Director Young said this item had been discussed at the Commission breakfast. He said it was the Department's intention to forward to the Governor a recommendation that this agreement and the forestry work plan and the citizen involvement document go forward with a designation of the Department of Forestry as the appropriate agency in the State to pursue water quality matters on forest lands, both state owned and private. And further, he said, to certify the current forest practices rules as being state of the art best management practices for this year.

There being no further business the meeting was adjourned.

Respectfully submitted,



Carol A. Splettstaszer
Recording Secretary

ENVIRONMENTAL QUALITY COMMISSION MEETING
May 26, 1978
Portland City Council Chambers
1220 S. W. Fifth Avenue
Portland, Oregon

- 9:00 am A. Minutes of the March 31, 1978 and April 28, 1978 EQC meetings
- B. Monthly Activity Report for April 1978
- C. Tax Credit Applications
- PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.
- D. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Orders for NPDES permittees not meeting July 1, 1977 compliance date
- E. Hazardous Waste Rules - Request for authorization to conduct a public hearing on proposed amendments to rules governing procedures for licensing hazardous waste management facilities, OAR Chapter 340, Sections 62-005 through 62-045
- 9:30 am F. Browns Island Landfill, Marion County - Request for concurrence of Commission with plans for expansion of Browns Island Landfill
- ~~G. Al Peirce Lumber Company - Request for variance to allow extension of time to install easy-let-down device until September 1, 1982~~ DELETED
- H. Proposed revision to sewerage works construction grant priority criteria
- I. Status Report - Water Quality "208" planning project
-
- J. City of Gold Hill - Proposed amendment to Stipulation and Final Order, WQ-SWR-77-253, Jackson County
- K. Field Burning - Consideration of adoption of revised temporary rules pertaining to agricultural burning

Because of uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except item F. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) at the Portland Motor Hotel, 1414 S. W. Sixth Avenue, Portland. Lunch will be catered in Conference Room 3A on the third floor of the DEQ offices, 522 S. W. Fifth Avenue, Portland.

MINUTES OF THE NINETY-SEVENTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

May 26, 1978

On Friday, May 26, 1978, the ninety-seventh meeting of the Oregon Environmental Quality Commission convened in the Portland City Council Chambers, 1220 S. W. Fifth Avenue, Portland, Oregon.

Present were all Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; Mrs. Jacklyn Hallock; Mr. Ronald Somers; and Mr. Albert Densmore. Present on behalf of the Department were its Director and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF MARCH 31, 1978 AND APRIL 28, 1978 EQC MEETINGS

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the minutes of the March 31, 1978 and April 28, 1978 EQC meetings be approved.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR APRIL 1978

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the Monthly Activity Report for April 1978 be approved; and that the Commission would be reviewing the Indirect Source rule with the possibility of some proposed rule modifications or procedural modifications at the June 1978 meeting.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

Mr. Jerry Butler appeared on behalf of Stayton Canning Company. He said that the application for tax relief involved 95 acres of land which the Company added to their Brooks processing facility. He said that the recommendation to deny this application was because the Company inadvertently failed to obtain prior approval to construct. He said the purpose of this land was solely to extend the present waste water facility. Mr. Butler said they did not believe they violated the intent of the law.

Commissioner Somers said he accepted what Mr. Butler said, but he did not see how the statute could be waived without an opinion from the Attorney General. Mr. Butler said he recognized that they had not fulfilled the requirement of the law, but asked that it be waived if possible.

Commissioner Densmore asked if the Commission had the ability to waive the requirements of the statutes if they were not sure whether or not approval was issued, either verbally or on a form. Chairman Richards noted that the staff report indicated that the regional engineer could not recall giving verbal approval. Mr. Robert Haskins, Department of Justice, said he was not familiar with any case which would allow the Commission to waive the requirements of the statute.

Mr. Michael Downs, Administrator of the Department's Management Services Division, said that although he could not cite any specific examples, he knew that in the past the Commission had given tax credit to facilities where they had not formally applied on the Department's forms for preliminary certification or notice of construction. This was done, he said, on the basis that staff said they had verbal conversations with the applicant and that verbal application had been made.

Mr. John Borden, Willamette Valley Region Manager for the Department, said they extensively researched whether or not there had been verbal approval from the staff to Stayton Canning Company. He said they would have approved this facility. Regarding the precedent of such approval without written application, he said, he could recall one incident and would look it up if the Commission wanted him to.

Mr. Paul Aubert appeared in regard to his application for preliminary certification for tax credit. He said that at the time he installed an orchard fan he was not aware it would be eligible for tax credit. As soon as he found out he was eligible, Mr. Aubert said, he made application. He said the fan was not completed until April 15, 1978 and he made application April 4, 1978, after construction had begun. Mr. Aubert said he felt he was due some consideration because he had been unaware of the law.

Chairman Richards said that if the language of the statute was mandatory the Commission did not have the discretion to waive that part of the statute. He told Mr. Aubert that there would be some discussion and he was not sure that final action would be taken at this meeting. He said the Commission could be in a position where they had no choice in a matter where there was neither verbal nor written application.

Commissioner Densmore suggested that the Commission consider recommending to the next Legislative Session a redraft of that particular section of the law. Commissioner Phinney said that the preliminary certification requirement of the law was as much for the protection of the consumer as the protection of the agency. Without the precertification, she said, people would install equipment which would not be satisfactory and would not be eligible for tax credit. Commissioner Densmore said his concern was with how specific that preliminary requirement should be.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney, and carried unanimously that tax credit applications T-981, T-982, T-985, T-991, T-995, T-996, T-997 and T-986 be approved, and that no action be taken on the denial of tax credit for application T-964, Stayton Canning Company, and the denial of preliminary certification request of Mr. Paul Aubert.

Chairman Richards asked that those two application on which no action was taken come up at the next meeting and an outline of the legal position and possible course of action the Commission might take be presented. Chairman Richards advised the applicants to feel free to present a memorandum on their position prior to the next meeting.

Mr. Downs requested that the Commission defer action on tax credit application T-877 and the revocation of pollution control facility certificates 106, 201, 229, 230 and 663. He said that application T-877 of Georgia-Pacific was a case where a solid waste facility should have, under the law, had a notice of intent to construct; it did not because the Solid Waste Division did not believe that a notice of intent to construct was needed. As there was some question, he said, that even if verbal approval was granted, tax credit could be given if an applicant did not meet the letter of the law, application T-877 could probably be deferred until a legal opinion could be obtained. Chairman Richards agreed.

In regard to the certificate revocations for Reynolds Metals, Mr. Downs said that Commissioner Somers asked if the correct procedures were followed for revocation and reissuance. Mr. Downs said that upon reading the statutes he felt the staff had proceeded incorrectly and requested that this matter be deferred until the next meeting.

The Commission agreed that those two matters would be deferred until the next meeting.

AGENDA ITEM F - BROWNS ISLAND LANDFILL, MARION COUNTY - REQUEST FOR CONCURRENCE OF COMMISSION WITH PLANS FOR EXPANSION OF BROWNS ISLAND LANDFILL

Mr. Gary Messer of the Department's Willamette Valley Region, presented the summation and Director's recommendation as follows from the staff report.

Director's Recommendation

The request for expansion of the Browns Island Sanitary Landfill be approved, subject to the following:

1. The permit for a sanitary landfill expansion be issued for up to a maximum of five years terminating on or before July 1, 1983; with no sanitary waste disposal being allowed at Browns Island after that date.
2. Approvable final engineering plans for proper site engineering design to ensure against flood and erosion hazards be submitted to the Department prior to construction. These plans shall also include provisions for reducing lechate production and discharge, and for improving attenuation to ensure that the beneficial use of groundwaters on Browns Island or in the Willamette River will not be threatened.

3. Prior to September 1, 1978, Marion County remove the "all weather access" road down to natural ground elevation to remove the restriction to the natural flood relief channel.

It is further recommended that Marion County be directed to submit annual progress reports starting August 1, 1978, which show progress toward replacement of Browns Island and development of a long-range solid waste management program. If at any time it is deemed by the Director that sufficient progress is not being made by the County, the Director should bring it to the immediate attention of the Commission.

In response to Commissioner Somers, Mr. Messer said the house adjacent to the landfill was existing before the landfill and the access road in question was built expressly for access to the landfill. Mr. Messer said that there was another access road to the house. Commissioner Somers said that if they wanted to continue to use the landfill they could assume the responsibility of obtaining easements for the closure of the road running in favor of the State and Marion County. Chairman Richards said either that or a hold harmless from the county.

Commissioner Somers asked if utilizing the waste going into Browns Island for heating purposes had ever been considered. Mr. Messer replied that he believed there was an unofficial movement in the Salem area proposing using up to 100 tons/day in a heat recovery, steam processing facility.

Commissioner Phinney asked if the all weather road was removed, would the site be usable in all weather. Mr. Messer replied that because the landfill was located in a flood plain area there was the potential that up to two weeks per year Marion County might have to divert their waste to Woodburn until the river subsided to allow access. Commissioner Phinney wondered if the recent institution of curb-side pick-up of recyclable wastes in Salem was part of a long-range plan to reduce wastes. Mr. Messer said that this was a program to determine the feasibility of household recycling. He said that at the present time there was only about a 3% to 4% participation; however, they hoped this project would develop into a long-term program to reduce solid waste in the area.

Mr. Robert DeArmond, Attorney representing Sanitary Service, requested that the Commission adopt the Department's recommendation and grant their application to 1983. Commissioner Somers asked if there was any problem in obtaining from all of the legal interests on the Island, easements running in favor of the State of Oregon and the County to close off the all weather access road. Mr. DeArmond replied that they did not have control over either access road. In response to Commissioner Somers, Mr. DeArmond said if they were required to obtain easements they would.

Mr. Frank McKinney, Marion County Legal Counsel, said that the access road was owned by Marion County. He said the county didn't need easements because they owned the road and the only problem was that occasionally high water closed the road. He said they could lower the road if it was needed, but they could not hold the State harmless and did not see any need for easements. In response to Commissioner Somers, Mr. McKinney said the road was deeded to the County as a road.

Mr. John Anderson, Marion County Engineer, replied to Commissioner Somers that the county had constructed a dike across the channel and he was not sure if it was deeded for road purposes only. Also in response to Commissioner Somers, Mr. Anderson said that if they discontinued use of the property as a road it would not revert back to the original property owner. Mr. Anderson said he understood that the Department was asking that the dike be removed and the county was agreeable to that.

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

Amend Director's Recommendation #3 as follows:

3. Prior to September 1, 1978, Marion County (~~remove~~) lower the "all weather access" road down to natural ground elevation over its course to remove the restriction to the natural flood relief channel.

Add a Director's Recommendation #4 as follows:

4. Prior to September 1, Marion County and the applicant obtain in a form satisfactory to the State all rights in the public to any elevation above the natural ground elevation.

PUBLIC FORUM

No one wished to appear on any subject.

AGENDA ITEM D - NPDES JULY 1, 1977 COMPLIANCE DATE - REQUEST FOR APPROVAL OF STIPULATED CONSENT ORDERS FOR NPDES PERMITTEES NOT MEETING JULY 1, 1977 COMPLIANCE DATE

AGENDA ITEM E - HAZARDOUS WASTE RULES - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON PROPOSED AMENDMENTS TO RULES GOVERNING PROCEDURES FOR LICENSING HAZARDOUS WASTE MANAGEMENT FACILITIES, OAR CHAPTER 340, SECTIONS 62-005 THROUGH 62-045

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that Stipulation and Final Order No. WQ-ER-78-29, DEQ v. City of Prairie City, Grant County, Oregon be approved; and that a public hearing be authorized on the matter of amending the administrative rules governing the procedures for licensing hazardous waste management facilities.

Commissioner Hallock requested that the proposed hazardous waste rules be routed through the Public Information Office of the Department for their comment.

AGENDA ITEM H - PROPOSED REVISION TO SEWERAGE WORKS CONSTRUCTION GRANT PRIORITY CRITERIA

Mr. Tom Blankenship of the Department's Water Quality Division presented some overhead illustrations of the proposed revisions in the construction grant priority criteria. These revisions are contained in the staff report on this item.

Commissioner Phinney presented an amendment to Attachment I, first paragraph on the second page under item IV, Priority Criteria. The amended paragraph would read as follows:

Each project will receive a Letter Code under the Project Need category and in addition each project will be assigned appropriate points from the five remaining categories. The order of priority shall be: the projects with highest priority will be those with the highest Letter Code; within each Letter Code, project priority will be determined by the total numerical points assigned. In the event of ties....

Mr. Blankenship agreed that this wording was clearer than that in his report.

Commissioner Somers asked why sewerage the area of Multnomah County presently on cesspools was not given a high priority as a large percentage of the population was affected. Mr. Blankenship said that the assignment of points was based strictly on what came out of the Water Quality Management Plan. He said that if more emphasis should be placed on a particular stream, then the Statewide Plan should reflect that.

Commissioner Densmore said he was appreciative of the work the Advisory Committee did and wondered if it would be advisable to reconvene that group from time to time if revisions to the criteria needed to be made. Director Young said that could be a possibility. Mr. Blankenship said that the criteria specifically stated it would be reviewed annually.

~~Ms. Claire Puchy, Department of Land Conservation and Development, commented that her Department felt the Oregon Sewage Works Construction Grant Priority Ranking System should reflect the State's comprehensive land use planning program. As an alternative to the Department's original proposal, she recommended as a minimum, points should be awarded to projects which were within urban growth boundaries established in conformance with Statewide Goal #14 on urbanization. Ms. Puchy urged that coordination continue between DEQ and the local jurisdictions in the delineation of facility planning areas so that consistency with urban growth boundaries could be assured.~~

Mr. Blankenship said that their analysis on the land use points just summarized what the Advisory Committee found. He said that the Department already accounted for compliance with state land use law before it authorized any project for design and construction monies. However, he said, at the present time extra points were not allotted for compliance with land use planning goals.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the following Director's recommendation and the amendment to Attachment 1 proposed by Commissioner Phinney be adopted.

Director's Recommendation

1. That the EQC acknowledge the efforts of our Water Quality Grants Advisory Committee.
2. That the priority criteria as shown in Attachment No. 1 be adopted.
3. That the EQC authorize DEQ to hold a public hearing at the end of June 1978 concerning a draft grant priority list developed in accordance with Attachment No. 1.

AGENDA ITEM I - STATUS REPORT - WATER QUALITY "208" PLANNING PROJECT

Mr. Carlton Whitehead, Chairman of the Water Quality Policy Advisory Committee, said they realized they were in the "home stretch" in their efforts to assist in the development of an effective water quality program to be submitted in the fall to EPA. He said they were most concerned in identifying those primary or potential sources of non-point source pollution and the development of programs which would decrease pollution from that area. Mr. Whitehead said that the Forestry Agreement was a major step in their goal and another concern was the development of an agricultural program. He said that the subcommittee had worked hard on it; there was general consensus of the full committee on the conclusions; and it would be submitted to the Department in the near future. Mr. Whitehead said they were also concerned about pesticide application and the Committee wanted to look at it further.

Mr. Lester Wade, Member of the Water Quality Policy Advisory Committee, said they were concerned about the progress on public involvement and the long-range planning program. He said it was the PAC's feeling that their program had been successful and a lot of progress had been made.

Chairman Richards expressed appreciation of the PAC's work and said the Commission was grateful for the public involvement efforts the PAC had made.

AGENDA ITEM J - CITY OF GOLD HILL - PROPOSED AMENDMENT TO STIPULATION AND FINAL ORDER, WQ-SWR-77-253, JACKSON COUNTY

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

Director's Recommendation

1. Since it's the Department's opinion that the City acted in good faith in attempting to secure a site through negotiation, it is recommended that the Commission approve the City of Gold Hill's request and amend the Stipulation and Final Order to require:

<u>Compliance Item</u>	<u>Compliance Date</u>
1. Submit final engineering plans and specifications.	July 1, 1978
2. Submit complete Step III grant application.	July 15, 1978

AGENDA ITEM K - FIELD BURNING - CONSIDERATION OF ADOPTION OF REVISED TEMPORARY RULES PERTAINING TO AGRICULTURAL BURNING

Mr. Scott Freeburn of the Department's Air Quality Division, highlighted some points of the proposed rules. He said that EPA had returned to the Department the one-year control strategy indicating general acceptance but identifying four specific areas which the Department should look at more closely:

1. The tighter control of south priority acreage burning under north winds,
2. A closer look at moisture content of the fuel and how it related to possible burning,
3. The increased reliance on backfiring and striplighting, and
4. A possible reduction in total number of acres burned within a season.

Mr. Freeburn said that the City of Eugene and the Oregon Seed Council spent considerable time negotiating a possible agreement to incorporate these points in rules. He said there was insufficient time to conclude that agreement.

In regard to tighter control of south priority burning, Mr. Freeburn said the Department had accepted the last negotiated position of the two parties which would identify special priority areas much smaller than the existing priority areas that could be burned under conditions where smoke would travel toward Eugene. He said the total area involved had been reduced by about 75% and the number of acres that could be burned on a given day were reduced about 90%.

Mr. Freeburn said that the negotiations ran out of time at a point when the two parties had agreed to striplight annual ryegrass and bentgrass fields. He said that the rule had been worded such that annual ryegrass, cereal and bentgrass fields would be backfired or striplighted with the understanding that under more favorable ventilation conditions the more traditional techniques could be employed to take advantage of the greater plume rise expected from those techniques, and to minimize low-level smoke.

The last negotiated position on the moisture content of fuel, Mr. Freeburn said was that the moisture content averaged over the entire straw load on the field would be set at 15% prior to August 15 and 20% after that date. He said that if the straw moisture content exceeded those values than burning would not be allowed on that field.

In regard to the reduction in the total amount of acres burned, Mr. Freeburn said the last negotiated position the Department was aware of called for an analysis of the performance of the overall smoke management program by measuring the number of hours of smoke intrusion into the Eugene-Springfield area and comparing that to an established norm. He said if that norm were exceeded, the 180,000 acre limitation would be dropped to 150,000 acres.

Mr. Freeburn said they tried to stay close to the last negotiated positions of the Seed Council and the City of Eugene in drafting the proposed rules. He said the Department believed the major reductions in acreage burned in the south priority areas would not be representative of the conditions that had occurred in previous years.

Mr. Freeburn stated the need for emergency action and presented the following Director's Recommendation:

Director's Recommendation

1. Acknowledge as of record the consultation with and recommendations of Oregon State University and the Department and any other parties consulted pursuant to ORS 468.460(3) as revised by HB 2196.
2. Find that reasonable and economically feasible alternatives to the practice of annual open field burning have not been developed.
3. Enter a finding that failure to act promptly will result in serious prejudice to the parties involved and to the public interest for the specific reasons cited above.
4. Enter a finding that, under the Department's supervision, experimental burning:
 - a. Can in the future, in theory, reduce the adverse effects on air quality or public health from open field burning; and
 - b. ~~Is necessary in order to obtain information on air quality,~~ public health or the agronomic effects of an experimental form of open field burning.
5. Subject to any changes found appropriate as a result of recommendations made to the Commission or findings reached at this May 26, 1978 meeting, adopt the proposed amendments to OAR Chapter 340, Sections 26-005 through 26-030 as temporary rules to become effective immediately upon filing with the Secretary of State.
6. Instruct the Department to file promptly the adopted rules and findings with the Secretary of State as temporary rules to become effective immediately upon such filing and to remain effective for 120 days thereafter and to forward the rules and other pertinent information to the EPA as a supplement to the one-year interim control strategy submitted to EPA on April 7, 1978.

Commissioner Somers asked what the serious prejudice would be if the Commission did not take action at this meeting. Chairman Richards replied that then the maximum acreage to be burned would be 50,000 acres. Mr. Freeburn said that if action was not taken at this meeting, it would not be possible to prepare adequately for the upcoming burning season.

Mr. Tom Myles, Consulting Engineer, testified in regard to the moisture content of the fields. He said the loose straw varied between 6% and 15% moisture content with a fairly consistent average of about 10%. Stubble, he said, was consistent at 30% to 45% moisture content. He said that stubble represented roughly 50% of the straw load. Therefore, he said, if the loose straw and stubble were averaged, the moisture content would be about 20%. Mr. Myles said as a result of work done for the Field Burning Committee in 1975 and 1976, the conclusion was made that moisture content was not a valid consideration and should not be used at this time as a part of the rules. After specific emission moisture data was compiled, he said, it may then be that it should become a part of the rules.

In response to Commissioner Hallock, Mr. Myles said at the present time he did not feel that moisture content was a valid tool to prevent smoke but perhaps with further study it may be worthwhile to include it.

Ms. Janet Gillaspie, Oregon Environmental Council, said for the most part the OEC agreed with the staff report. In regard to proposed rule 26-005(6)(a), she requested that the reference to Eugene-Springfield be changed to Corvallis. Ms. Gillaspie requested the moisture control level be changed from 15% to 10% to 12%. She said they believed that moisture controls would help mitigate some of the smoke related pollutants. Ms. Gillaspie requested that should the pollutants in the Eugene-Springfield area exceed 13 hours, minimum acreage not exceed 100,000 acres.

Ms. Gillaspie also suggested that for better readability the definition of unlimited ventilation conditions in 26-015(1)(d) be moved to the definition section of the rule.

Dr. Harold Youngberg, Oregon State University, commented on the basing of the straw moisture content control on data collected on rice fields in California. He pointed out that annual crops such as rice were dead when it was time to burn them, while the perennial crops such as the Oregon grass seed crops were living when burned and it was important for them to survive from one year to the next. Because these crops are living, he said, their moisture content is higher.

Dr. Youngberg said under 26-015(4)(e)(A), bentgrass should be deleted because it could be severely injured by the use of backfiring and strip-lighting techniques. He strongly recommended that perennial grass species not be included in the rules.

Dr. Youngberg reiterated that he questioned the applicability of the data from California rice fields to Oregon grass seed fields. He said he agreed with Mr. Myles that it was difficult to measure the accuracy of straw moisture because of the variability of the moisture in the straw itself and the inaccuracy of the quick test for moisture content.

Mr. Stanton Long, City of Eugene, clarified that they were talking about a one-year condition for which a Federal limitation existed and the Commission was engaged in trying to persuade the Federal Government to relax, on a discretionary basis, its regulations.

Mr. Long said EPA stated if an agreement was made between the City of Eugene and the seed growers, which then became regulation, they might consider adopting a certain form of order so that there would be stability in the industry during the upcoming year. He said it was accurate that if the burning limitation was not 108,000 acres, Eugene might take legal action. He said it had also been suggested that if burning was not limited to at least 180,000 acres then the industry might take legal action. Mr. Long said it was clear that if no interim agreement was reached with EPA then the limitation would be 50,000 acres. He said it was also a problem that the Attorney General stated the limitation of 180,000 acres must be adhered to if at all possible.

Mr. Long said the acreage release system was an important aspect of the overall rules and regulations. The City of Eugene felt, he said, that this acreage release system was consistent with the Attorney General's opinion. If the Commission did not take action on the rules as proposed, with some modifications to be proposed by the City of Eugene, Mr. Long said the City would view that as grounds to take some sort of action.

In regard to the south priority acreages, Mr. Long said the objective from their point of view was to remove the policy or practice of permitting intrusions of smoke into Eugene. He said what the staff had proposed would accomplish burning those acres in another way, except that Section 26-005 (6)(a) would permit burning on north wind days of acres which were about three miles from Eugene. He said he did not think this type of unreasonable risk of intrusion was necessary. If Corvallis was substituted for Eugene-Springfield in this section, he said, then those acres could be burned under wind conditions that would not intrude on Eugene.

Mr. Long said that Section 26-010(2)(e) required a person who burned to have a permit at the burn site. He said that one of the problems was that burning did not always occur during the best part of the good conditions because of the time it took to obtain the permit and return to the burn site. He suggested that verbal authorization be allowed.

In regard to moisture content, Mr. Long said EPA suggested the Commission look at placing greater reliance on moisture content restrictions. He said the City of Eugene's original position with respect to moisture control was that there be a 12% moisture restriction on straw. Mr. Long said that the present 20% figure could constitute an unintentional ban on burning which was not the City's intent. Chairman Richards asked Mr. Long how he felt about a clause in the rule that it would not be enforced unless it was found that the enforcement of the rule would cause a reduction in excess of 50% of the acreage that would have otherwise been burned. Mr. Long replied that he would find such a rule to be reasonable and consistent with their purpose of attempting to solve the clean air problem with due regard to the economic impact on the industry. Mr. Long said they felt that the net improvement of the rules would not be adequate without some reliance on moisture restriction.

Mr. Long said their proposal was for backfiring and striplighting of annuals and one type of perennial. He said they did not urge these burning techniques where they would cause unnecessary risk to perennials. He asked that experiments be made using those techniques on perennials to see if the perceived risks were real.

In regard to the acreage release system, Mr. Long said the figure of 150,000 acres was arrived at by their calculation of the net reduction in particulate emissions from other control techniques which produced the equivalent of a properly regulated 50,000 acre burn. Also, he said they had enough confidence that this system would work well enough to justify the additional release of acreage. Mr. Long said he had no way of knowing if the Department's proposal of establishing a further acreage limitation not to exceed 15,000 acres if by August 15, 1978 the total acreage burned exceeded 120,000 acres, was acceptable to his client. He said what was acceptable was 150,000 acres plus 50,000 acres if there was an improvement. He said that Section 26-013 (1)(a)(B) as modified by Mr. Freeburn, might be acceptable.

Mr. Long said it was his judgement that there would be sufficient improvement in the quality of air in Eugene to justify the release of the additional 30,000 acres, provided the Department did not take the position that the moisture content of the fuel made no difference. He said he was confident that if the Commission provided a reasonable rule the improvement would be sufficient to release additional acres and all the objectives of the participants would be satisfied. This would mean, he said, that the amount of acreage authorized by the Legislature would be burned, that the air quality in Eugene would have improved, and that some progress would have been made as required by Federal Law and policy with respect to improving the air quality. Mr. Long requested the Commission look again at the City's original proposal for 12% moisture content of straw. Also, he said, if the Commission chose not to deal with the moisture control regulation and authorized an additional 15,000 acres to be burned when the conditions were bad, then the 150,000 acre limit should be lowered by 15,000 acres to 135,000 acres.

Mr. Long expressed concern that the rules were being made from the standpoint of how to permit burning instead of how to clean up the air. He said he was satisfied that EPA would look at the rule from the standpoint of achieving compliance with Federal Law and policy.

Mr. Long said they were substantially encouraged and confident that reasonable suggestions had been incorporated into the proposed rule.

Mr. Dave Nelson, Oregon Seed Council, said during the past few weeks they met with representatives of the City and came close to a reconciliation of their differences of opinion. He urged the Commission to keep in mind that the proposed rules were made with an almost total absence of data gathered in Oregon using grass seed straw under meteorological conditions that exist in the State.

The moisture content rule, Mr. Nelson said, should be looked at in light of the effect on total particulate emissions. He said he believed there was no intent on the part of the City of Eugene to preclude burning by establishing an arbitrary rule on moisture. Mr. Nelson said it was their position that the rule ought to be designed based on hard evidence that moisture content has a significant bearing on the amount of particulate emitted during an individual season, and that it does not arbitrarily preclude burning a large number of acres. He said they do not know the variation in moisture of bent-grass straw, annual rye grass straw or the other types of straws that are burned in the Valley. Applying a moisture rule which could accidentally preclude acreage being burned because of the variation in straw moisture loading, Mr. Nelson said, was not good rule making and could cause problems in accomplishing any burning, even under good conditions.

In response to Commissioner Somers, Mr. Nelson said that the purpose of burning was for sanitation. Commissioner Somers said it would be reasonable for the Commission to require that no straw be burned, but that it be transported off the field. Thus, Commissioner Somers said, the field could still be sanitized but the pollution would be reduced. Mr. Nelson replied that the Field Sanitation Committee had been trying to devise a method of doing that since 1971 and had yet to come up with a system of sanitizing the field using that approach. Mr. Nelson said the field would not burn without the straw.

Mr. Nelson said they concurred that Eugene-Springfield in Section 26-005 (6)(a) was probably an error and should read Corvallis.

Mr. Nelson said they supported the 180,000 acre limitation. In regard to the tighter control on south priority burning, he said they supported restructuring the south priority area. The requirement for a broader application of backfiring or striplighting techniques and the application of the moisture rule, he said, proposed great promise and perhaps use could be made in future years of both striplighting and backfiring techniques and a moisture regulation of some kind. What concerned them, he said, was the transfer of the California rice straw data in the moisture rule itself. He said they found this to be completely prohibitive of burning. Mr. Nelson said this same problem existed with the transfer of data connected with backfiring and into-the-wind striplighting. He said they asked several years ago that research be done on better means of field ignition and better means of smoke management, and the Field Sanitation Committee rejected their request. He said they favored incorporating into the upcoming summer's burning program, extensive experimentation and evaluation of backfiring, striplighting, and extensive testing of emission levels of various straws on various days at various stages of maturity.

Mr. Nelson said they agreed with Mr. Long that the good burning period during the day might be missed because of the grower having to obtain a permit and return to the burn site. Therefore, he said, they supported Mr. Long's suggestion that authorization to burn could be given over the telephone. He said the purpose of this was to somehow provide for the commencement of burning when the hour arrived, and not only after the permit was in hand.

In regard to the acreage limitation section, Mr. Nelson said the number of acres was argued thoroughly during the 1977 Legislative Session and the Legislature picked 180,000 acres as the limit. Changing this Legislative number, he said was beyond the purview of the Commission; had been addressed by the Attorney General; and had not been rejected by EPA. Mr. Nelson said their position was that the amount of acreage ought to be contingent on a day-to-day basis to the conditions that were present on that day. What was ultimately burned, he said, ought to be the sum of those individual daily decisions made throughout the burning season. Mr. Nelson said it was their position that the Commission should submit 180,000 acres in the resubmission of items to EPA.

Mr. Nelson said Section 26-015(1)(d) about an unlimited ventilation condition was a new concept included since EPA requested resubmittal. During discussions with the City, he said a specific ventilation index number was not agreed on. He said the Seed Council totally disagreed with the mixing depth of 5000 feet which was also added to this requirement. They felt, he said, that those two combined conditions occurred very infrequently. He suggested alternative language for Section 26-015(1)(d) as follows: "A ventilation index of 32.5 or greater, or a mixing height of 5000 feet."

Mr. Nelson said they had identified 5000 acres in the south priority area that could be burned. He said the daily quota had been set at only 250 acres which could mean burning those acres over a 20-day period. He suggested that this daily quota be increased to 500 acres, and every effort be made to burn those acres under conditions other than north winds. This way, those acres could be burned as quickly as possible.

In regard to the Silverton Hills area in East Marion County, Mr. Nelson said they were being asked for zero emissions on days that were upwind of the City of Eugene. He said they did not ask for authority to blow smoke into Eugene. He said this should be looked at as to what was a good regulation.

Mr. Nelson said their intent was in the whole discussion of south priority acreages to reduce smoke in that area and to be able to conduct burning so that it was not upwind of the Eugene area to the maximum extent possible. However, he said they were concerned that the Department's Smoke Manager had sufficient authority and flexibility to alter the rules in case they were impacting someone the rule makers were not aware of.

In regard to the backfire and striplighting requirement for bentgrass, Mr. Nelson said he received information from growers indicating they could backfire or striplight bentgrass. However, he said, Dr. Youngberg of OSU said that could be damaging to the crop. If there was this type of problem, Mr. Nelson asked that those techniques be optional for bentgrass growers. Mr. Nelson said they saw safety hazards for backfiring and striplighting techniques because of the topography of the area and the potential that the fire could spread into wooded areas. Because bentgrass growers harvest the end of August, he said, they must compress their burning time into three or four weeks in September. Mr. Nelson suggested that the quotas be significantly increased so that during that condensed period of time the grower in the Silberton Hills area could burn a maximum amount of acreage and get it out of the way.

In conclusion, Mr. Nelson said, they thought the implementation of the various techniques may be good; however, there was a certain amount of lead time required for a grower to gear up to handle that implementation adequately. He said they would prefer the Commission consider extensive experimentation in the Valley on the proposed burning techniques and then gear up to implement them in 1979 if they were successful.

In response to Commissioner Somers, Mr. Nelson said they had tried for 30 days to resolve with the City of Eugene some basic questions involved in EPA's request. However, he said, they had been unable to reach an agreement.

Commissioner Hallock said that the Commission needed to make a decision at this meeting and they should deal with what they could realistically amend in the proposed rules.

Chairman Richards asked Mr. Freeburn to comment on the City of Eugene's statement that unless the moisture content of straw was reduced from 15% to 12%, in effect there would be no limitation. Mr. Freeburn replied he had heard the same conflicting testimony the Commission had, and there was Oregon data collected from various years which indicated the loose straw moisture content level was below 12% a significant amount of the time. He said he chose what he felt would be an average moisture content and assumed that it would have some restrictive effects on burning. Commissioner Phinney asked if the Department expected to have any more definitive information on the significance of moisture content either at the end of the upcoming burning season or at the beginning of the next. Mr. Freeburn replied that he believed they would, due to the studies proposed for the summer. He said the primary purpose of the proposed study was to address the effect of backfiring and striplighting; however, the moisture content was of equal importance.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney, and carried unanimously that proposed rule 26-013(1)(b)(B) be amended to read:

- (B) The Commission may establish a further acreage limitation not to exceed 15,000 acres above the 150,000 acre limitation...

Commissioner Somers said that serious prejudice would result to the Seed Growers and the City of Eugene if the regulations were not adopted at this meeting and the rules could not have been adopted before because of conflicting Attorney General opinions and rejections of earlier proposed rules by EPA. Therefore, he said, some action needed to be taken at this meeting because of the mandate to have a program which could be implemented during the upcoming season.

Commissioner Somers MOVED that Attachment 1 to the staff report, Subdivision 6 of OAR Chapter 340 be adopted with the following amendments:

- 26-005(6)(a) The words "Eugene-Springfield" be deleted and replaced with "Corvallis"
- 26-010(2)(e) After "...at the burn site" add "or be able to readily demonstrate authority to burn..."
- 26-010(3)(c) Add "After August 15, 1978" before "No field shall be burned...", and change "15%" to "12%".
- 26-013(1)(b)(B) After "...acreage limitation" add "not to exceed 15,000 acres...", as previously adopted by the Commission
- 26-010(3)(c) After the first sentence ending in "conditions exist." add "Unless the Department shall find that this moisture content rule enforcement has caused or is likely to cause a reduction in excess of 50% of the acreage that would have otherwise been burned in compliance with the remaining rules, in which event this moisture content rule shall not be enforced."
- 26-015(4)(e)(A) After "...cereal crops, and" add "if so directed by the Department..."

Commissioner Somers included as Exhibit A in his motion "Findings Regarding Emergency" submitted by Mr. Robert Haskins, Department of Justice. These "Findings" are attached to and made a part of these minutes.

The motion was seconded by Commissioner Hallock and carried unanimously.

Mr. Haskins said it was his understanding the rules which had been adopted would be submitted to EPA for their action. Chairman Richards asked what the action of the Commission would be if EPA were to reject the proposed rules.

Commissioner Somers said that if for any reason the rules were rejected by EPA, a special meeting would be held to further consider the rules. He said the rules were subject to the non-rejection by EPA.

Chairman Richards said that he did work for the Eugene Renewal Agency which was separate from the City of Eugene and asked if any Commission member considered that a conflict of interest. The Commission members had no comment.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Splettstaszer
Recording Secretary

Field Burning Regulations
OAR Chapter 340, Sections 26-005 through 26-030

FINDINGS RE EMERGENCY

Failure to act promptly would result in serious prejudice to the public interest and to the interest of the parties for the specific reasons that:

1. _____ acres registered to be burned in 1978;
2. The approved State Implementation Plan presently allows only 50,000 acres to be burned;
3. In October 1977 Oregon submitted a proposal to the Environmental Protection Agency to revise the State Implementation Plan to allow 180,000 acres to be burned in 1978;
4. By letter dated January 27, 1978, Donald Dubois, Regional Administrator of Region X, Environmental Protection Agency (document #10 in list of documents on page 2 of staff report) returned Oregon's proposed State Implementation Plan revision and suggested that Oregon submit another State Implementation Plan revision proposal, or a one year interim control strategy (ICS);
5. There was not sufficient time to develop the necessary data and submit a State Implementation Plan revision in sufficient time for action to be taken thereon by the Environmental Protection Agency before the 1978 burning season;
6. In April 1978 Oregon submitted a proposed ICS to the Environmental Protection Agency for their approval;
7. By letter dated April 26, 1978 (document #16) Mr. Dubois refused to approve the ICS as constituting the undertaking of "all reasonable measures" until the Environmental Quality Commission has considered the additional measures of the types set forth in the proposed rule amendments;
8. Agreement of the principal parties (Department of Environmental Quality, Seed Council and City of Eugene) to the provisions of a revised ICS has been sought and good faith negotiations have been conducted since receipt of the April 26, 1978 Dubois letter;
9. Complete agreement by the principal parties has not yet been reached;
10. ORS 468.475(7) requires that the 1978 field burning rules be adopted on or prior to June 1, 1978;
11. Existing Oregon statutes and Environmental Quality Commission rules are inconsistent with the Federal Clean Air Act;

12. There has not been sufficient time since receipt of the April 26, 1978 Dubois letter to provide full Administrative Procedures Act notice of this hearing in this matter;
13. To limit burning to 50,000 acres in 1978 would cause serious adverse economic consequences to the grass seed industry in general and to the individual farmers in particular.

ENVIRONMENTAL QUALITY COMMISSION MEETING
June 30, 1978
Valencia Room
Nendels Inn
1550 N. W. Ninth Street
Corvallis, Oregon

- 9:00 am A. Minutes of the May 26, 1978 meeting.
B. Monthly Activity Report for May 1978.
C. Tax Credit Applications.
- 9:30 am D. Al Peirce Lumber Company - Request for variance to allow extension of time to install easy-let-down device until September 1, 1982.
- 9:45 am E. Coos Head Timber Company - Request for variance to allow extension of time to install easy-let-down device until September 1, 1982.
- 11:30 am PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.
- F. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Orders for NPDES permittees not meeting July 1, 1977 compliance date - City of Wheeler.
- G. Clatsop Plains - Adoption as permanent rules housekeeping amendments to subsurface sewage regional rule governing Clatsop Plains area, OAR 340-71-020 (7)(b)(c).
- H. Vehicle Emission Testing Rules - Adoption of proposed amendments to OAR 340-24-300 through 24-350 to incorporate standards for 1978 model year vehicles.
- ~~I. Indirect Source Rule - Consideration of changes in administrative procedures for processing applications and potential authorization for public hearing for rule change.~~ DELETED
- J. Noise Control Rules - Authorization for public hearing to consider rule changes for new passenger cars and light trucks proposed by petition from General Motors Corporation.
- K. Noise Control Rules - Authorization for public hearing to consider proposed rules for motor racing facilities.
- L. Medford AQMA Rules - Authorization for public hearing to consider proposed amendment of Oregon Clean Air Act Implementation Plan to include Offset Rule for new or modified emission sources.
- M. Conflict of Interest Rules - Authorization for public hearing to consider proposed amendment of Oregon Clean Air Act Implementation Plan to include rules pertaining to conflict of interest by State Boards in order to comply with Section 128 of Clean Air Act.
- N. Lincoln County - Solid Waste Disposal Site Open Burning Variance Report.
- O. 1979-81 Budget - Discussion of preliminary proposals for 1979-81 Biennial Budget. (At end of formal meeting the Commission will go into an informal work session to discuss this item. Discussion will be open to the public.)

Because of uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items D and E. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) and lunch at Nendels Inn.

MINUTES OF THE NINETY-EIGHTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

June 30, 1978

On Friday, June 30, 1978, the ninety-eighth meeting of the Oregon Environmental Quality Commission convened in the Valencia Room of Nendels Inn, 1550 N. W. Nineth Street, Corvallis, Oregon.

Present were all Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; Mrs. Jacklyn Hallock; Mr. Ronald Somers; and Mr. Albert Densmore. Present on behalf of the Department were its Director and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF THE MAY 26, 1978 MEETING

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the minutes of the May 26, 1978 EQC meeting be approved.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR MAY 1978

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the Monthly Activity Report for May 1978 be approved.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

Mr. Jerry Butler, Stayton Canning Company Cooperative, came before the Commission in regard to the proposed denial of their tax credit application. ~~Mr. Butler appeared in regard to this same matter at the May 26, 1978~~ EQC meeting. He repeated that the application was for an addition to an existing facility and the purpose of this expansion was to better protect the environment.

In response to Chairman Richards, Mr. Butler said they had received the Attorney General's opinion. He said the Company was in disagreement with the staff as to whether or not oral approval was given. The way he interpreted the opinion, Mr. Butler said, was that if it was found that oral approval was given, and the Department wanted to accept it as an application, the Department could do so. Also in response to Chairman Richards, Mr. Butler said their engineer had discussed with the Department their expansion proposal. He said that the Department did not recall, nor could they find a record of such a discussion.

Chairman Richards said that the rules of the Commission required a formal pre-construction application. Even if the Commission decided to accept verbal application, he said, if there was nothing to show that such application was made, and the Company itself was not sure it was an application, then he could not vote for approval because of the precedent it would set.

Mr. Butler said they recognized that their case was weak and came to the Commission because they assumed the Commission had the power to grant the tax credit application. Chairman Richards told Mr. Butler they would be entitled to a contested case hearing if the Commission decided against the Company. Mr. Butler said they would not press the matter beyond the Commission because they did not anticipate finding any further evidence than what they had already presented to the Commission.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the following Director's Recommendation in regard to tax credits be approved.

1. Issue Pollution Control Facility Certificates for 15 applications: T-877, T-968, T-971, T-984, T-087, T-992, T-993, T-994, T-999, T-1000, T-1001, T-1003, T-1004, T-1005, and T-1009.
2. Deny tax credit application T-964 (Stayton Canning Company) per the Director's recommendation in the review report.
3. Deny Preliminary Certification for Tax Credit request of Paul Aubert per the Director's Recommendation in the review report and the informal opinion of the Attorney General.
4. Revoke Pollution Control Facility Certificates 106, 201, 229, 230 and 663 issued to Reynolds Metals Company. Reissue Certificate No. 230 in the amount of \$596,511.73 and Certificate 663 in the amount of \$135,862.73 per the Director's recommendation in the review report.
5. Reissue Pollution Control Facility Certificate No. 473 to American Forest Products because of a change in ownership.
5. Amend Pollution Control Facility Certificates 147, 148, 149, 150, 151, 176, 508, 648, 649 and 770 to reflect the joint ownership of the certified facilities by American Can Company and Pope and Talbot, Inc.

AGENDA ITEM F - NPDES JULY 1, 1977 COMPLIANCE DATE - REQUEST FOR APPROVAL OF STIPULATED CONSENT ORDERS FOR NPDES PERMITTEES NOT MEETING JULY 1, 1977 COMPLIANCE DEADLINE - CITY OF WOODBURN AND CITY OF WHEELER

Mr. Fred Bolton, Department's Regional Operations Division, presented the staff report on this matter.

It was MOVED by Commissioner Somers that the Director's recommendation in this matter be approved and noted that the delay on these projects appeared to be reasonable and necessary to accomplish the intent of the statute. The motion was seconded by Commissioner Hallock and carried unanimously. The adopted Director's recommendation follows:

1. Stipulation and Final Order No. WQ-WVR-78-75, DEQ v. City of Woodburn, Marion County, Oregon, be approved.
2. Final Order amending Stipulation and Final Order No. WQ-SNCR-77-244, DEQ v. City of Wheeler, Tillamook County, Oregon, be approved.

AGENDA ITEM G - CLATSOP PLAINS - ADOPTION AS PERMANENT RULES HOUSEKEEPING AMENDMENTS TO SUBSURFACE SEWAGE REGIONAL RULE GOVERNING CLATSOP PLAINS AREA. OAR 340-71-020(7): PROPOSED NEW TEMPORARY RULE

Mr. Peter McSwain, Commission's Hearing Officer, presented some background on this matter and the Director's recommendation.

It was MOVED by Commissioner Somers that the Director's recommendation be approved based on the findings and facts presented in the report and the testimony presented at the public hearing. The motion was seconded by Commissioner Phinney and carried unanimously. The adopted Director's recommendation follows:

The Director recommends that the Commission take the following actions:

1. Adopt the updated Statement of Need to be filed with the permanent amendment of OAR 340-71-020(7).
2. Adopt as a permanent rule, the temporary amendments to OAR 340-71-020(7)(b) and (e), said rule to become effective upon its prompt filing with the Secretary of State.
3. Enter a Finding that, unless the Commission acts promptly, there will be serious prejudice to the interests of the parties involved, in that the person requesting adoption of the temporary rule and others in the class to which the proposed temporary rule would make a difference, may forfeit substantial options in the disposition of their property, which options would be of no cognizable effect on the environment.
4. Adopt as a temporary rule, effective upon its prompt filing with the Secretary of State, which changes the date when a parcel could have last been transferred and not be identified as an "existing" or "original" parcel within the meaning of OAR 340-71-020(7)(b) of the present rule (a part of the temporary amendment whose permanent adoption is recommended herein). The date would be changed from April 2, 1977 to October 28, 1977, the date of adoption of the rules intended to allow new density of one acre or less for family equivalents.

5. Direct that staff explore the drafting of further amendments which would allow unforeseen inequities in the "Clatsop Plains Moratorium" to be resolved without rule changes by virtue of variances, exceptions or whatever method might be employed so long as such method affords due process to citizens and is within a framework of standards which allows property owners to reasonably estimate what will be result of their actions when the rule is applied to them. Such drafting, if drafting satisfactory to the staff is found, should be brought to the Commission for authorization to conduct a public hearing on the advisability of its adoption. The time expended should allow consolidation of this public hearing process with the other hearing process recommended herein.

AGENDA ITEM H - VEHICLE EMISSION TESTING RULES - CONSIDERATION OF ADOPTION OF AMENDMENTS TO MOTOR VEHICLE INSPECTION RULES TO INCLUDE 1978 MODEL YEAR VEHICLES. OAR 340-24-300 through 24-350

Mr. William Jasper, of the Department's Vehicle Inspection Program, said this matter dealt with the annual update of the vehicle inspection rules to cover standards for 1978 model year vehicles.

Commissioner Somers noted that the rules did not mention the diesel Oldsmobiles. In response to Commissioner Somers, Mr. Jasper said this would not eliminate their sale in Oregon. He said diesel categories were mentioned in the rules and were tested for a 1% idle CO with no hydrocarbon check.

After consultation with Mr. Ray Underwood, Department of Justice, Mr. Jasper offered amendments to the proposed rules as follows:

	<u>%</u>	<u>Enforcement Tolerance Through June 1979</u>
<u>Chrysler Corporation</u>		
Diesel engines (all years)	1.0	0.5
<u>General Motors</u>		
Diesel engines (all years)	1.0	0.5
<u>International Harvester</u>		
Diesel engines (all years)	1.0	0.5

Mr. Jasper pointed out that there was a "catch-all" provision in the rules for all vehicles not listed and vehicles for which no values were entered, which would cover any models not listed.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that the proposed rule amendments, as further amended above, be adopted.

AGENDA ITEM J - PETITION TO AMEND NOISE REGULATIONS FOR NEW PASSENGER CARS AND LIGHT TRUCKS

Mr. John Hector, Department's Noise Section, said the Department had received a petition from General Motors Corporation to amend the standards for new passenger cars and light trucks. Specifically, he said, they requested that the 75 dBA standard scheduled for 1981 and subsequent models be recinded and the present standard of 80 dBA be retained. He said General Motors submitted a similar petition in 1976. Mr. Hector said that the Commission could either deny the petition and serve a written order on the petitioner, or approve the Director's recommendation to authorize a public hearing.

Commissioner Somers suggested that Tri-Met be included in these noise standards. He said in order for an area to qualify for federal funding for low-cost housing it must meet federal ambient noise regulations. Because of the numbers of vehicles in a transit mall situation, Commissioner Somers continued, those areas violated standards and therefore were not eligible for federal funding. Commissioner Somers suggested that something be done to bring this matter to a public hearing, so that a solution could be worked out soon.

Commissioner Hallock requested that when Mr. Hector reported back to the Commission he give them his candid opinion about whether vehicles meeting the Department's proposed standards would not be significantly quieter in real-world traffic situations.

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

It is the Director's recommendation that the Commission authorize the Department to hold a public hearing, before a hearing officer, at a time and location to be set by the Director. Notification should be given that any automobile manufacturers or manufacturer associations interested in filing similar petitions, may in lieu thereof, be heard at this public hearing. The hearing officer will receive testimony limited to amendments to the noise rules pertaining to the sale of new automobiles and light trucks.

It was MOVED by Commissioner Somers that the staff bring to the Commission, 60 days from this meeting, a proposal the Commission could discuss sending to public hearing regarding amendment of DEQ rules to permit public housing adjacent to major transit corridors. The motion was seconded by Commissioner Densmore and carried unanimously.

AGENDA ITEM K - PROPOSED MOTOR RACE FACILITY NOISE RULES - AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER ADOPTION

Mr. Frank Hall, Division Director for the National Hot Rod Association, testified that it was important his Association be notified of any meetings where proposed noise regulations were discussed, and submitted a schedule of the Association's major events for the remainder of 1978. He requested these dates be taken into consideration when the proposed hearings were scheduled.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that the Department be authorized to hold a hearing, before a hearings officer, at a time and location to be established by the Director, to consider the proposed rules for motor race facilities; and that wide distribution be made of such notice to various racing associations and interested local governments.

AGENDA ITEM L - MEDFORD AQMA RULES - AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENT OF OREGON CLEAN AIR ACT IMPLEMENTATION PLAN TO INCLUDE OFFSET-RULE FOR NEW OR MODIFIED EMISSION SOURCES

Chairman Richards said it was agreed by the Commission at their breakfast meeting that this item be taken off this meeting's agenda and placed on the agenda for July because industry had questioned some language in the proposed rule.

Commissioner Densmore said he was in receipt of a letter from the Medford Air Quality Advisory Committee regarding some permit actions. He requested the staff address the role of the Advisory Committee in relation to these permit actions.

AGENDA ITEM D - AL PEIRCE LUMBER COMPANY - REQUEST FOR EXTENSION IN INSTALLING A LOG EASY LET-DOWN DEVICE

AGENDA ITEM E - COOS HEAD TIMBER COMPANY - REQUEST FOR EXTENSION IN INSTALLING A LOG EASY LET-DOWN DEVICE

Mr. Jeff Cambell, Attorney, appeared on behalf of Al Peirce Lumber Company and Coos Head Timber Company. Chairman Richards asked if there had been a stipulation by both companies to the terms of the permits. Mr. Cambell said the companies had signed the stipulations. He wanted to clarify that it was the intent of the parties that if the Commission granted the requested extensions then the appeal would be dropped; but if the Commission denied the extensions, the appeal would go forward. Chairman Richards said it was also the understanding of the Commission that the companies would abandon their right to a contested case hearing if the Commission granted the extensions.

Mr. Cambell said he thought they had a workable plan and permit; and under the permit and the extension they would be able to work with the Department to improve the water quality of Isthmus Slough and Coos Bay.

In response to Commissioner Hallock, Mr. Cambell said the companies had begun to remove debris daily, and this would be continuous throughout the extension period.

Commissioner Hallock declared a possible conflict of interest. She said she was an officer in Ted Hallock, Inc, public relations, and one of the firm's clients was a trade association which represented small mills.

Commissioner Phinney asked if the companies met deadlines which had already past. Ms. Barbara Burton, of DEQ's Southwest Region, replied she had not been tracking the dates because she understood if the permit had been appealed none of the conditions were in effect. She said that Al Peirce Lumber Company was moving forward with their plan to install the easy let-down device this year, although the Department had not seen any of the engineering plans. In response to Commissioner Phinney, Ms. Burton said if the Commission approved the extensions, the dates would still be in effect but compliance would be late, Chairman Richards requested to be informed of any modification of dates.

Ms. Burton informed the Commission of input she had received from the Northwestern Steelheaders Council and the Oregon Fish and Wildlife Commission. Chairman Richards read into the record a letter from the Northwestern Steelheaders Council expressing their concern about pollution in the Slough and requesting that if an extension was granted the companies be required to carry on clean-up activities. Ms. Burton replied that there was confusion about just what "clean-up" entailed. She said that certain activities were required under the permit, including containing and skimming off the bark and floating debris around the log dumps and the mill site. At this point, she said, the Department was not requiring that there be any type of clean-up of debris which had gotten away and washed up onto banks of private property.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that extensions until September for the installation of a second easy let-down device be granted Al Peirce Lumber Company and Coos Head Timber Company.

AGENDA ITEM N - REQUEST FOR VARIANCE TO CONTINUE OPEN BURNING OF GARBAGE AT DISPOSAL SITES IN LINCOLN COUNTY

Mr. Ernest Schmidt, Administrator of the Department's Solid Waste Division, presented the Summation and Director's Recommendation from the staff report. He said this matter dealt with requests for variances to continue open burning of garbage at two disposal sites in Lincoln County. Mr. Schmidt said it was the Director's recommendation that:

1. The variances for the Waldport-Yachats and North Lincoln disposal sites not be extended beyond July 1, 1978.
2. The Department immediately proceed with issuing new Solid Waste Disposal Permits for these facilities requiring prompt compliance with State standards pertaining to landfills.
3. The Department continue to actively assist Lincoln County in its negotiations with Benton County.

Chairman Richards asked if adopting the recommendation would mean the burning would be prohibited but that landfilling by covering with adequate materials would be permitted. Mr. Schmidt replied that would be correct in accordance with permits which would be written as soon as possible.

Mr. Gordon MacPherson, Newport attorney, appeared on behalf of a group opposing the Director's recommendation because they felt it was approaching the solution from the wrong angle. He said that Lincoln County had a comprehensive plan for the disposal of solid waste which called for dealing with the problem totally within the County. Also, he said, they had discussed with Georgia-Pacific at Toledo the possibility of mixing the waste with hog fuel and burning it to produce steam. However, he continued, it did not appear that this would be a viable alternative. Mr. MacPherson said a written agreement had been made between Valley Landfills in Benton County and the Lincoln County landfill operators on the manner in which waste would be hauled. All that remained to be done between the contractual parties, he said, was for permission to be granted to haul the waste to Coffin Butte. To be in line with the Director's recommendation, Mr. MacPherson stated, would mean expending money for equipment to turn these burning dumps into landfills when the money should be spent for transfer stations and equipment for a regional solid waste facility. They did not feel, he said, that the pressure of the staff to close down the two dumps was the way to bring about progress on the overall plan.

Chairman Richards said it might be valuable to extend the variances for a limited period of 90 days to see if the governmental cooperation could be worked out so that arrangements with Benton County could be made. He said he was interested in how long government should have to work this out and at what time it would be more realistic to go back to complying with State law. Mr. MacPherson replied that he thought 90 days was unrealistic and that a longer period of time might be requested.

In response to questions regarding why it was not feasible for Georgia-Pacific to take the waste, Mr. Schmidt said that the Company did not feel it could take on the development of the technology to burn the waste, however they were burning shredded tires. He said that the BTU value to the company was greater from burning the tires from all over the State than from the relatively small amount of garbage from Lincoln County.

State Representative Max Rijken, requested that the variance extensions be granted and suggested that in the meantime the parties involved could meet to solve the Lincoln County solid waste problems. In response to Commissioner Somers, Representative Rijken said he would contact Georgia-Pacific regarding the feasibility of their burning the garbage.

Lincoln County Commissioner Andy Zedwick, presented some background of events which occurred in the attempts to solve the Lincoln County solid waste problem. In response to Commissioner Hallock, Commissioner Zedwick said they had a written agreement from Georgia-Pacific that they would take the garbage, but staff in the company had changed since the agreement was signed and the company had decided to nullify the agreement.

Benton County Commissioner E. Larry Callahan, welcomed the Commission to Corvallis, He said they had been trying for a year to help out Lincoln County with their solid waste problem. Commissioner Callahan said neither county owned the sites and an application would have to be made to the Planning Commission by Valley Landfills, the private owner of the Coffin Butte site. He said the earliest time for a decision on this matter would be the early part of September. Commissioner Callahan urged the Commission to look to the time element when making their decision as he could not see

how this matter could be solved within 90 days. Commissioner Callahan stated that the delay was not caused by the two county commissions, because any action on this matter depended on Valley Landfills.

Mr. Emmett Dolby, Lincoln County Sanitarian, said a public forum meeting had been arranged for July 19 between the interested public and government parties. After visiting sites with DEQ staff, Mr. Dolby said it was his opinion that the existing sites could be operated as sanitary landfills. However, he said, he thought the cost of converting these sites would be unreasonable if the ultimate solution would be to transfer the waste to Benton County. In response to Chairman Richards, Mr. Dolby said a reasonable extension time would be at least a year to eighteen months.

Mr. Gene Dahl, Operator of Dahl Disposal Service and the Waldport-Yachats dump, testified that they served 5,000 to 6,000 people in the South Lincoln County area. He said they burned all the garbage about once a week in the summer. He said it would be almost economically impossible to convert to a sanitary landfill. Mr. Dahl read into the record a letter from Joseph P. Bird, Mayor of the City of Waldport, opposing the closing of the dump site, and requesting that continued burning be allowed at the site. In the 14 years that he had operated the dump, Mr. Dahl said they had not received any complaints. Mr. Dahl assured the Commission that Lincoln County was working on the problem, and requested that the extension be allowed.

Mr. Jack LeBlanc, North Lincoln County Sanitary Service, said they served the North Lincoln County area. He said after they were granted the last extension he had changed the billing system to accommodate a charge for transfer and disposal costs to Benton County; obtained and cleared land for a transfer station; and developed a closure plan for the site and reviewed it with DEQ. He said the plan called for the conversion of their sites after they were closed to accept demolition material. He said that if the extension was not granted and they were forced to try to fill and cover, their site would rapidly fill up and the site would then be unusable for demolition disposal, which the area needed. Mr. LeBlanc requested the Commission to consider an extension of the variance.

Commissioner Somers asked where the waste would go if it could not be taken to Benton County. Mr. LeBlanc presumed that the county would try to shred the material and fill it with a modified cover.

Mr. Roger Emmons, Oregon Sanitary Service Institute, testified that when the county originally requested a nine month variance they thought they would have the problem solved in that time; however they proved to be too ambitious. He said that under current regulations neither site was appropriate for a sanitary landfill, and there was no chance that they could be converted within 90 days.

Commissioner Somers said it bothered him that Georgia-Pacific had received a tax credit for an incinerator on the basis that they would be burning garbage from Lincoln County, and now had decided not to take the garbage. He suggested the possibility of revoking the tax credit. Chairman Richards said that the possible revocation of Georgia-Pacific's tax credit should be discussed with legal counsel. Commissioner Densmore said it appeared to him that an arrangement with Georgia-Pacific would be the best solution. Commissioner Phinney said she did not think it was up to the Commission to

tell Lincoln County the avenue they must take to reach a solution. She said she was concerned that the parties involved were looking at the deadline as one where they should start action instead of a deadline for a solution.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried with Commissioner Somers desenting that a variance be granted for 180 days; that a progress report be provided to the Commission at that time; and subject to that report being acceptable, the variance be extended another 180 days. The Commission also made the finding that strict compliance would result in closing of the facilities and no alternative facility or alternative method was yet available.

PUBLIC FORUM

Mr. Del Cesar, City Manager of The Dalles, appeared before the Commission to discuss the priority list for sewer projects. He said the City had been assured several years ago that when the engineering was completed on proposed sewerage the City could be moved up on the priority list. This engineering, he said, had now been completed and the City was notifying residents of assessments based on 100% of the cost. Mr. Cesar requested that the City be moved up on the priority list so that they could notify residents that their assessments would come down accordingly.

Mr. William Gildow, Water Quality Division, Construction Grants Section, replied that the hearing on the priority list was being held in Portland at the same time as the Commission meeting, to specifically take testimony on the level of the priority lists. He said the information presented at this Commission meeting would be taken by the Hearing Officer as testimony.

Commissioner Somers noted that the area proposed to be annexed known as "Murray's Addition" was considered a health hazard, and was currently served by seepage pits.

Chairman Richards said that it would not be proper for the Commission to act at this time because the public hearing was going on and the record on that matter was still open. Chairman Richards requested that notice be sent to the Hearing Officer that if he was sufficiently impressed with the emergency nature of this request; was inclined to put it in a position to be eligible; and if it took Commission action, the Commission could hold a telephone conference call meeting to deal with it.

AGENDA ITEM O - PRELIMINARY 1979-81 BUDGET BRIEFING

The Commission and staff discussed the proposed 1979-81 Department budget during lunch.

AGENDA ITEM M - CONFLICT OF INTEREST RULES - AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENT OF OREGON CLEAN AIR ACT IMPLEMENTATION PLAN TO INCLUDE RULES PERTAINING TO CONFLICT OF INTEREST BY STATE BOARDS IN ORDER TO COMPLY WITH SECTION 128 OF THE CLEAN AIR ACT

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that a public hearing be authorized on the proposed conflict of interest rules.

FISHHAWK LAKE ESTATES

Chairman Richards said that Department's legal counsel found there was an earlier agreement with the people involved and the Commission was precluded from altering their contractual agreement.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried with Commissioner Somers desenting that the substitution of other security for the bond be approved, pursuant to agreement of July 30, 1976.

TELEDYNE WAH CHANG ALBANY

Mr. C. Kent Ashbaker, Water Quality Division, said that one year ago the Commission entered into a Stipulated Consent Order with Wah Chang pending the resolution of a permit modification requested by the Company. He said that this order was written to expire June 30, 1978 to coincide with when the permit was to have been renewed. The permit renewal had been delayed, he said, because there was a delay in making the final determination on the modification and the Company had requested an increase in production which would take some extensive public participation on the issuance of the permit. Mr. Ashbaker said Wah Chang requested that the Order be extended because of this delay.

Mr. Ashbaker said that the Director recommended that the Consent Order be extended and that it be modified to address fugitive discharges by:

1. Requiring certain already planned corrections to be completed by September 1.
2. Requiring that Wah Chang commence to investigate and identify all other possible sources of fugitive discharges to Truax Creek and submit a report to the Department by September 1.

He said a \$200 per day civil penalty which went into effect April 3 remained in effect during the renewed order.

Commissioner Phinney asked to what extent this delay was necessary because of the change of company plans and because of failure of the Department to meet the necessary time requirements. Mr. Ashbaker said the Department did not start on the permit renewal until they had a final determination on the modification, when they really should have started three months before but felt they could'nt until they knew what would happen.

Commissioner Hallock asked if the Department would now try to address the control of fugitive emissions within the existing permit level. Mr. Ashbaker replied that the present modified permit had a limit of 400 pounds per day and did not authorize any other discharges. He said that the Department's first intent was to find out where the fugitive emissions were, if they were controlable, and over what time span.

Mr. Tom Nelson, Teledyne Wah Chang Albany, said it was the company's attitude that the proposed extension of the consent order was appropriate and they agreed with it in principle.

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

SEWERAGE WORKS CONSTRUCTION GRANTS PRIORITY CRITERIA LIST

Chairman Richards said the Commission received a letter of criticism from Val Toronto suggesting the needs of smaller cities were subordinate to those of larger cities. He said he had received a similar letter from one of the owners of a Neskowin project. He said the Water Quality Division replied that the criteria had to be changed to comply with requirements of P.L. 92-500 and subsequent regulations. Present criteria, he said, emphasized water pollution control problems instead of financial needs. Chairman Richards continued that beginning in FY 1979 small communities would have a better chance for project funding since the State would be required to use 4% of its allotment for rural communities with innovative projects.

Chairman Richards noted that the Commission had received a letter from LCDC after the last meeting requesting the Commission to again consider different criteria. He said that the Director of LCDC said they didn't feel that the Department's proposed criteria reflected the State's comprehensive land use planning program. After consulting with staff, the Commission agreed that the Department did take into consideration land use planning.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

(Tentative Agenda)

ENVIRONMENTAL QUALITY COMMISSION MEETING

July 28, 1978

LaGrande Community Center

808 Adams Avenue

LaGrande, Oregon

9:00 am A. Minutes of the June 30, 1978 meeting.

B. Monthly Activity Report for June 1978.

C. Tax Credit Applications

PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

D. 1979-81 Budget - Discussion of preliminary proposals for DEQ's 1979-81 biennial budget.

E. Eastern Region - Report of Region Manager on significant on-going activities in the Eastern Region.

F. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Orders for NPDES permittees not meeting July 1, 1977 Compliance date: City of Dundee, Yamhill County.

10:00 am G. Conflict of Interest Rules - Public hearing to receive testimony and consider adoption of amendments to the Oregon Clean Air Act Implementation Plan to include rules pertaining to conflict of interest by State Boards, required by Section 125 of the Clean Air Act.

H. Subsurface Sewage Rules - Proposed adoption of rules governing the fees charged by Clackamas County for subsurface or alternative sewage disposal system permits, OAR 340-72-010(4)(b).

I. Medford AQMA Rules - Authorization for public hearing to consider proposed amendment of Oregon Clean Air Act Implementation Plan to include Offset Rule for new or modified emission sources.

J. Sulfur in Fuel Oil - Status Report on availability of clean fuels (Clean Fuels Policy).

K. "208" Plans - Areawide designation and certification. Also, involved citizens are invited to comment on the emerging draft portions of Oregon's Statewide Water Quality Management Plan (according to Section 208, Federal Clean Water Act).

L. Emergency Response Plan - Report on Emergency Response Plan

Because of uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except item G. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) and lunch at the Smokehouse Restaurant, 2208 E. Adams, LaGrande.

MINUTES OF THE NINETY-NINTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

JULY 28, 1978

On Friday, July 28, 1978, the ninety-ninth meeting of the Oregon Environmental Quality Commission convened in the LaGrande Community Center, 808 Adams Avenue, LaGrande, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; and Mr. Ronald M. Somers. Commissioners Jacklyn L. Hallock and Albert H. Densmore were absent. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522, S. W. Fifth Avenue, Portland, Oregon.

Chairman Richards informed those in attendance that the Commission received the staff reports a week in advance of the meeting and were familiar with the material. Therefore, he said it might appear the Commission was making hasty decisions when they actually were not.

AGENDA ITEM A - MINUTES OF THE JUNE 30, 1978 MEETING

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried unanimously that the Minutes of the June 30, 1978 meeting be approved.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR JUNE 1978

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried unanimously that the Monthly Activity Report for June 1978 be approved.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

Mr. Michael J. Downs, Administrator of the Department's Management Services Division, said that the Attorney General's Office had some problems with application T-975, Menasha Corporation. The problem, he said, was that although the Department had no record of receiving a request for preliminary certification, the Company did show the Department a copy of a transmittal letter and an application for preliminary certification from the Company's files. Based on that, Mr. Downs said, the staff believed the Company did submit an application eventhough the Department had no record of it. Mr. Downs said that Mr. Robert Haskins, Department of Justice felt that the burden was on the Company to be sure the Department received the application.

Mr. Robert Haskins, Department of Justice, said that it was a simple matter to prove that an application for preliminary certification was received, and that it would best serve the purpose of the statute to require such actual receipt.

Commissioner Somers said he was satisfied, based on staff belief, that preliminary certification had been requested before construction. Commissioner Phinney asked what assurance the Department had that a Company would not just put a letter in their files, after the fact, and not submit the application. Commissioner Somers said that the Department had the Company's statement to that effect and believed the Company to be truthful.

In response to Chairman Richards, Mr. Haskins said that in order for the Commission to grant this tax credit, they would have to find that the application was sent and received.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the wording in application T-975's review report be changed as follows:

"Menasha apparently submitted and there was apparently received a Notice of Intent to Construct and a Request for Preliminary Certification for Tax Credit on January 26, 1977."

and that applications T-975, T-1008 and T-1011 be approved.

PUBLIC FORUM

Mr. Steven Gardels, Department's Eastern Region Manager, presented a petition on behalf of approximately 50 citizens in the Hermiston area dealing with odors from rotten potatoes being used for cattle feed in an area near their residences. Mr. Gardels said that he was presented the petition because none of the petitioners were able to appear, and he was acting for those petitioners. This petition is made a part of the Commission's record on this matter. Mr. Gardels said that the smell from the rotting potatoes and the flies and other pests that go along with them, was indescribable.

Mr. Gardels said that rural cattle feedlots were currently exempt from the air quality rules. Under normal circumstances where cattle were fed grain materials accepted odors did occur, he said. Because of the large potato production in the area, Mr. Gardels continued, more and more cattle raisers were using waste potatoes as feed, and this was not the only feedlot with odor problems. Commissioner Somers asked why the owners of this property were not cited for lack of a solid waste disposal permit. Mr. Gardels replied that they did not need a solid waste permit because they were actually feeding cattle. The problem was, he said that more potatoes were dumped in the area than the cattle could eat.

Mr. Gardels said he met with the owners of the feedlot and they informed him they intended to bring in more potatoes because they were good feed. He said the owners said they would try to get the potatoes spread out to where the cattle could eat them faster. Mr. Gardels said he could only deal with this problem through the water quality rules because the Department did not have air quality rules to deal with the odors from feedlots and they did not need a solid waste permit because the potatoes were being used as feed. Commissioner Somers suggested that this might come under the solid waste rules as a salvage site.

Chairman Richards asked why they were buying more than the cattle could eat. Mr. Gardels replied that because they were already harvesting potatoes in the area, last year's storage was being cleaned out. He said the owners indicated they were going to bring in more cattle to consume the potatoes. Even if that happened, he said, there would still be a gross amount of odors.

Mr. Gardels requested guidance from the Commission on this matter. He said it was a legitimate use of a waste product, but it was developing into a large environment concern in the area. He said he did not think it was a salvage operation.

Chairman Richards said that one remedy would be for the petitioners to hire an attorney to test this. He said that the Commission was not in a position to make a decision on this matter at this time. Chairman Richards asked that Mr. Gardels check with Headquarters staff and legal counsel to see if this matter fell within the Department's regulations. He said that Mr. Gardels might have to advise the petitioners that they may have recourse through the courts. Commissioner Phinney suggested that the petitioners may want to call this to the attention of their Legislators.

Mr. Stanley G. Wallucis, appeared on behalf of the City of Prairie City, which was under a moratorium on sewer construction. He requested that grant assistance be set aside for the City as part of a Step 1 grant for the correction of existing infiltration inflow. He said that a recent questionnaire survey indicated that 110 out of 132 persons questioned would vote for a bond issue for improvements to the sewer system. Mr. Wallucis presented a letter from Ms. Zelma Woods, City Records, which was made a part of the record of this meeting.

Mr. Jack Baisden, City Manager, City of Irrigon, read a statement regarding their belief that the area was a health hazard and in need of funding for a sewer system. He said they had appeared at the Department's public hearing in July regarding the Sewerage Works Construction Grants Priority List, in an effort to get them raised on the priority list. Mr. Baisden submitted additional material which was made a part of the record of this meeting and forwarded to the Hearing Officer in connection with the July public hearing on this matter.

Commissioner Somers said he had been very concerned about this problem and had requested a survey be conducted. None of the concerns expressed by Mr. Baisden, he said, showed up as a result of the survey. He said his concern was that this was one of the most rapidly growing areas in the Northwest. He asked if a pressure line had been explored to transport the sewage to an existing treatment plant. Mr. Baisden replied that the pipeline would have to be at least six to seven miles through primarily agricultural land and could cost several million dollars. He said Umatilla had indicated they didn't want to be involved. The next closest town was Boardman, he said, ten miles away.

Mr. Harold Sawyer, Administrator of the Department's Water Quality Division, said that this material had been submitted at the Department's public hearing and the staff was analyzing all testimony from that hearing in terms of what types of additions, changes and modifications would be necessary to the proposed list. He said this matter was being looked at and the final proposed priority list would be submitted to the Commission for adoption at its next meeting.

Chairman Richards said that the material presented by Mr. Baisden at this meeting would be evaluated by the staff in their review and finalization of the priority list.

Mr. Vernon Stewart, Mayor of the City of Irrigon, also requested that the City be given consideration on their position on the priority list.

Mr. John W. Beck, Blue Mountain Intergovernmental Council, requested to be allowed to submit written testimony regarding septic tanks and the water quality "208" plans. Chairman Richards granted his request and asked that staff send copies of the testimony to the Commission as soon as received so that they would have an opportunity to look at it.

Mr. Gene Butler, appeared on behalf of the County of Wallowa, concerning the denial of septic tank permits in the county. He requested permission to submit additional written testimony because he had inadequate time to prepare for this meeting. It appeared, he said, that these denials were not being made equitably and he requested review of this matter.

Chairman Richards replied that the Commission was aware of the problem and informed the public that the Director and members of Department staff would be in Wallowa County in August to do personal inspections of sites where permits had been denied. He continued that it was unfortunate that there was not sufficient staff until recently to do adequate inspections and the Department was the first to admit that there were a number of permits that had been issued which probably should not have been because they did not meet the requirements of the regulations. Chairman Richards said they realized that as a result there was a lot of dissatisfaction but wanted to assure the audience that the Department was receptive to this problem.

Mr. Roland W. Johnson, appeared on behalf of property owners in the Lostine River area of Wallowa County. He said that in the past few months almost all applications for septic tank permits in the county had been denied. Mr. Johnson was also concerned that the issuance of septic tank permits had been inconsistent, and that the regulations had not been applied evenly. He asked the Commission to investigate the application of the regulations in this area so that septic tank permits could be issued for all feasible sites.

Commissioner Somers gave Mr. Johnson a copy of the Subsurface Regulations and requested that he look them over and if he saw areas that modifications could be made to inform the Department. Commissioner Somers said that one of the problems staff had when investigating possible sites was the concern that a septic tank not be placed in an area where it could contaminate an aquifer. Commissioner Somers said that most people, if they understand the problems, really don't want to build a bad system.

Chairman Richards said he appreciated Mr. Johnson's comments and assured him that this problem was a high priority item. He reiterated that Department staff would be in the area in August and he hoped that some solutions would come out of that visit.

Mr. Mark Platt, Wallowa County Planning Commission pointed out that the mottling of rocks which indicated water had been in an area at some time, could be from the old system of flood irrigation which had now been changed to a sprinkler system. Therefore, he said, there was no longer the underground flow of water in the area. He suggested that the Department take this into consideration.

AGENDA ITEM E - REPORT OF EASTERN REGIONAL MANAGER ON SIGNIFICANT ITEMS OF THE REGION

Mr. Steven Gardels, Eastern Region Manager, explained some of the significant activities of his region. He emphasized that a large amount of their work was in the subsurface area and a lot of support work for the subsurface program was being done by the county planning department staff.

Mr. Gardels said that in 1974 the Energy Facility Siting Council restricted coal plants from the Grand Ronde, Baker and Snake River airsheds based on DEQ's recommendations. He said that there was growing concern in those areas that the State had put undue restrictions on the airsheds and thus prevented the construction of coal plants.

Mr. Gardels continued by highlighting some of the activities contained in the staff report on this matter, and answered inquiries from Commission members.

AGENDA ITEM G - CONFLICT OF INTEREST RULES - PUBLIC HEARING TO RECEIVE TESTIMONY AND CONSIDER ADOPTION OF AMENDMENTS TO THE OREGON CLEAN AIR ACT IMPLEMENTATION PLAN TO INCLUDE RULES PERTAINING TO CONFLICT OF INTEREST BY STATE BOARDS, REQUIRED BY SECTION 125 OF THE CLEAN AIR ACT

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the public hearing be continued and action on this matter be deferred to the Commission's August 1978 meeting. The record notes that no one was present at this meeting to testify.

AGENDA ITEM I - MEDFORD AQMA RULES - AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENT OF OREGON CLEAN AIR ACT IMPLEMENTATION PLAN TO INCLUDE OFFSET RULE FOR NEW OR MODIFIED EMISSION SOURCES

AGENDA ITEM J - SULFUR IN FUEL OIL - STATUS REPORT ON AVAILABILITY OF CLEAN FUELS (CLEAN FUELS POLICY)

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that:

- the Director's Recommendation to authorize a public hearing to consider proposed amendment of Oregon Clean Air Act Implementation Plan to include Offset Rule for new or modified emission sources be approved; and
- the Status Report on the availability of clean fuels (Clean Fuels Policy) be accepted.

AGENDA ITEM K - "208" PLANS - AREAWIDE DESIGNATION AND CERTIFICATION

By unanimous consent the Commission commended the Department and the Water Quality Advisory Committee for their efforts in this matter.

AGENDA ITEM L - EMERGENCY RESPONSE PLAN - REPORT ON EMERGENCY RESPONSE PLAN

AGENDA ITEM F - NPDES JULY 1, 1977 COMPLIANCE DATE - REQUEST FOR APPROVAL OF STIPULATED CONSENT ORDERS FOR NPDES PERMITTEES NOT MEETING JULY 1, 1977 COMPLIANCE DATE

AUTO EMISSION TESTING RULES

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that:

- the staff be commended for their work on the report on the Emergency Response Plan and that the report be accepted;
- Final Order amending Stipulation and Final Order No. WQ-SNCR-77-261, DEQ v. City of Dundee, Yamhill County, Oregon, be approved; and
- A public hearing be authorized for the Commission's September 1978 meeting to deal with an amendment to the Auto Emission Testing Rules.

AGENDA ITEM H - SUBSURFACE SEWAGE RULES - PROPOSED ADOPTION OF RULES GOVERNING THE FEES CHARGED BY CLACKAMAS COUNTY FOR SUBSURFACE OR ALTERNATIVE SEWAGE DISPOSAL SYSTEM PERMITS, OAR 340-72-010(4)(b)

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that amendments be adopted to Oregon Administrative Rules governing Subsurface and Alternative Sewage Disposal, OAR 340-72-010(4)(b).

Commissioner Somers stated for the record that in all these matters findings were being made per the agenda packet. Chairman Richards said that in all rule adoption matters the Director's Recommendation should make reference that the facts were true as set forth in the staff report.

AGENDA ITEM D - 1979-81 BUDGET - DISCUSSION OF PRELIMINARY PROPOSALS FOR DEQ'S 1979-81 BIENNIAL BUDGET

Commission members and Department staff discussed preliminary proposals for DEQ's 1979-81 biennial budget,

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

SPECIAL MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

August 16, 1978

On Wednesday, August 16, 1978 a special conference telephone call meeting of the Oregon Environmental Quality Commission was held. Connected by conference telephone call were Mr. Joe B. Richards, Chairman, in Junction City; Mr. Ronald Somers, in The Dalles; and Mr. Albert Densmore in Medford. Present in DEQ offices in Portland were Mrs. Jacklyn Hallock, DEQ Director William Young, Mr. Dave Nelson of the Oregon Seed Council, members of the Department staff and representatives of the news media. Present in DEQ offices in Eugene were Mr. Scott Freeburn of the Department's Air Quality Division, DEQ staff and representatives of the City of Eugene. Commission Vice-Chairman Grace Phinney was unavailable for the call.

FIELD BURNING

Mr. Freeburn said that when the Commission adopted field burning regulations in May 1978, they set the date of August 15, 1978 when a moisture content of straw rule was to go into effect, and a review to be made of the smoke intrusions to that date. He said that at this time the EQC was to make a determination whether the annual acreage allocation should be lowered from 180,000 acres to 150,000 acres.

Mr. Freeburn said that the Department had been studying the moisture content testing procedure for several weeks and had not been able to come up with an accurate test the farmer could use in the field. He recommended that the moisture content be determined by the normal smoke management practices presently in use, and the staff would continue taking moisture samples throughout the season and use the information to determine whether or not burning should be allowed on a given date. This way, he said, the moisture content rule would be enforceable. Mr. Freeburn pointed out that the moisture data collected to date had been through a relatively dry part of the summer. ~~Chairman Richards asked if the seed growers and the City of Eugene had been advised of Mr. Freeburn's recommendations. Mr. Freeburn replied that they had.~~

Mr. Freeburn said that the smoke intrusion rule stated if smoke which was significantly attributable to field burning caused nephelometer readings in the Eugene/Springfield area to exceed 13 hours on the average, then the Commission would reduce the annual acreage allocation from 180,000 to 150,000 acres. To date the total average was 7 1/2 hours, Mr. Freeburn said, and it did not appear the Commission would be required to reduce the acreage.

Mr. Dave Nelson, Oregon Seed Council, commented that all parties involved did an exceptionally good job in the smoke management program. He said they were concerned about the implementation of the moisture content rule with the established level of 12%. Chairman Richards said that if Mr. Nelson was suggesting a substantial modification to the rule then it would have to be addressed at the regular meeting of the Commission. He asked what harm would be done if the Commission adopted Mr. Freeburn's recommendation and deferred any other action until the next regular meeting which would be held August 25. Mr. Nelson replied that in his estimation the greatest impact would

be in the harvest of bentgrass where the 50% preclusion of burning would be exceeded, which the Commission was trying to avoid.

Mr. Tim Sercomb, City of Eugene, said they concurred with the staff recommendation that an individual field test for moisture content was impractical at this time. However, he said, they encouraged the Commission to direct the staff to continue to experiment to see if an individual field test could be arrived at, so that the moisture content rule could be enforced in future burning seasons.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the staff recommendation to continue to use the 12% moisture content rule on a regional rather than an individual grower basis and to continue to experiment to determine if a method could be identified for individual growers to use in future years, be approved.

Mr. Young said the Department would determine what notice needed to be given to further discuss the field burning matter at the Commission's August 25, 1978 meeting.

Mr. Freeburn said the Department had received an application from Manning Farms for a hardship burning permit. He said the applicant had applied last year and had relied heavily on the previous application for supporting documentation. Mr. Freeburn said he did not feel Manning Farms had demonstrated an unusual hardship over and above that which would not normally happen by not being able to burn the fields. In addition, he said, they had been able to burn all their fields through acreage transfers for the last two years which would put them in better shape than most growers. No one from Manning Farms was present to testify.

It was MOVED by Commissioner Hallock, seconded by Commissioner Densmore and carried unanimously that the hardship application of Manning Farms be denied.

DEQ v. SAM DAVIS et al

Mr. Young said that the Commission was informed at its last meeting that there had been an offer for settlement in this case and the Commission decided they did not want to pursue that offer. Mr. Young advised the Commission that an appeal had been filed to the Court of Appeals on this matter and the staff was in the process of gathering the necessary materials for a submittal to the Court of Appeals. He suggested that the Commission might want to hear any further information at their next meeting. Mr. Robert Haskins, Department of Justice, said that no action of the Commission was needed at this time.

Commissioner Somers asked that if any rule changes were proposed by the City of Eugene of the Seed Council immediate review be made so that proper notice could be given and that the Commission be informed as to whether or not that notice was given before their August 25 meeting. He also asked that Commission members be furnished with a copy of ORS 487.465, the Basic Speed Rule, in connection with a recent highway accident being attributed to poor visibility because of field burning smoke. Mr. Nelson commented that the seed growers

were also concerned about any future incidents and were instructing those growers with fields near roadways to double their precautionary efforts whenever they burn.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

ENVIRONMENTAL QUALITY COMMISSION MEETING
August 25, 1978

Room 602, Multnomah County Courthouse
1021 S. W. Fourth Avenue
Portland, Oregon

- 9:00 am A. Minutes of the July 28, 1978 Meeting.
B. Monthly Activity Report for July 1978.
C. Tax Credit Applications

PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

- 9:15 am ** Field Burning Rules - Review and Discussion
- D. Sewage Works Construction Grants - Consideration of adoption of Sewerage Works Construction Grants Priority List for Federal Fiscal Year 1979.
- E. Groundwater, Multnomah County - Consideration of proposed Multnomah County Groundwater Protection Plan.
- 9:30 am F. Indirect Source Rule - Beaverton Mall Phase II, C. E. John, Developer; appeal of staff proposal to approve only partial development of the proposed project.
- G. Portland Transit Mall Noise - Discussion of noise impact caused by Portland's Transit Mall and other major transit corridors.
- H. Vehicle Noise Testing - Progress report on noise testing in the Motor Vehicle Inspection Program and authorization to hold public hearing to consider adoption of Light Duty Vehicle Noise Standards.
- I. Snowmobile Noise Rules - Authorization for public hearing to consider petition from International Snowmobile Industry Association to amend noise rules pertaining to the sale of new snowmobiles.
- 10:00 am J. Conflict of Interest Rules - Public Hearing to receive testimony and consider adoption of amendments to the Oregon Clean Air Act Implementation Plan to include rules pertaining to conflict of interest by State Boards, required by Section 125 of the Clean Air Act.
- K. Chem-Nuclear License - Authorization for public hearing to consider amendments to Chem-Nuclear's license for operation of Arlington Hazardous Waste Disposal Site.
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- L. Hazardous Wastes Rules - Consideration of adoption of rules governing procedures for licensing hazardous waste management facilities, OAR Chapter 340, Sections 62-005 through 62-045.
- 10:30 am M. Delta Sand and Gravel - Consideration of request for variance from rules governing the deposition of solid wastes in groundwater, OAR 340-61-040.
- N. Federal Grant Application - Review of Consolidated Federal Grant Application for Air, Water and Solid Waste for Federal Fiscal Year 1979.
- O. Subsurface Rules - Authorization for public hearing to consider minor amendments to rules governing Subsurface and Alternative Sewage Disposal, OAR 340-71-020(1)(i) and 72-010(5).
- 11:00 am P. Josephine County AQMA Petition - Consideration of petition of Friends of Josephine, Inc., et al to declare Josephine County an Air Quality Maintenance Area.

Because of uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items I, L and O. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) in Conference Room A of the Standard Plaza Building, 1100 S. W. 6th, Portland. Lunch will be catered in the DEQ Offices, 522 S. W. 5th, Portland.

MINUTES OF THE ONE-HUNDREDTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

August 25, 1978

On Friday, August 25, 1978, the one-hundredth meeting of the Oregon Environmental Quality Commission convened in Room 602 of the Multnomah County Courthouse, 1021 S. W. Fourth Avenue, Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chariman, Dr. Grace S. Phinney, Vice-Chairman, Mrs. Jacklyn Hallock; and Mr. Albert Densmore. Commissioner Ronald S. Somers was absent. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF THE JULY 28, 1978 MEETING

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the minutes of the July 28, 1978 meeting be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR JULY 1978

It was MOVED by Commissioner Hallock, seconded by Commissioner Densmore and carried unanimously that the Monthly Activity Report for July 1978 be approved and that the four requests for disposal of hazarous wastes from out-of-state be approved.

ADENDA ITEM C - TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Densmore, seconded by Commissioner Phinney and carried unanimously that tax credit application T-1010 (Fred N. Bay News Company) be approved.

PUBLIC FORUM

No one wished to appear on any subject.

PROPOSED BUZZARD ROOST DAM - ILLINOIS RIVER

DIRECTOR Bill Young told the Commission there was a proposal for an impoundment on the Illinois River which had been circulating through state agencies for some time. He said the Department had commented several months ago and raised concerns about the impact that the construction activity would have on the water quality in the area. He said that the Governor's Office had decided to proceed with official intervention along with the federal government. He asked the Commission if they wanted to instruct the Department or the Attorney General's Office to represent them as a party to this activity for the specific interests that are within its scope.

Mr. Ray Underwood, Department of Justice, read to the Commission a proposed statement from them regarding this matter indicating the EQC's opposition. He said that this proposed language would be contained in the Governor's Petition for Intervention.

It was MOVED by Commission Phinney, seconded by Commissioner Hallock, and carried unanimously to join in the Petition of Intervention.

AGENDA ITEM - FIELD BURNING RULES - REVIEW AND DISCUSSION

Mr. Scott Freeburn, Air Quality Division, said that on August 16 the Commission held a conference call and discussed certain significant features of the rules which were to have gone into effect on August 15.

Mr. Freeburn said that prior to August 16 the weather had been dry and the Department did not have any information on what the impact of the moisture rule would be because the straw samples which were obtained were below the moisture content restriction. It had been raining since, he said, but the information available was still very limited. He told the Commission the Department still believed that the moisture content rule and the proposed implementation of that rule outlined on August 16 were valid. Mr. Freeburn recommended that the program outlined on August 16 be continued.

Chairmen Richards asked if Mr. Freeburn felt he had the discretion, for example, to check moisture content later in the day and release more acreage or to cancel acreage already released if necessary. Mr. Freeburn said he believed both cases were within the discretion of the staff. He said they proposed to use the moisture content rule in the overall determination of whether or not burning should take place.

Mr. Dave Nelson, Oregon Seed Counsel, told the Commission that the growers were entering a critical time. Typically, he said, the end of the burning season came from the 15th of September on. He said it would be another

four or five days before adequate drying occurred to be able to satisfactorily burn any of the fields in the Valley. Mr. Nelson pointed out, in a letter submitted for the record, that the Director's transmittal of the interim control strategy to EPA in June 1978 stated the rule was conditioned such that if burning was highly restricted by the rule, it might be waived. Mr. Nelson said that an adequate field test for moisture content had not been found. Because of the severe impact the moisture rule would have, Mr. Nelson requested that the Commission waive this requirement.

No action was needed by the Commission on this item at this time.

AGENDA ITEM F - INDIRECT SOURCE RULE - BEAVERTON MALL PHASE II, C. E. JOHN, DEVELOPER: APPEAL OF STAFF PROPOSAL TO APPROVED ONLY PARTIAL DEVELOPMENT OF THE PROPOSED PROJECT

Mr. John Kowalczyk, Air Quality Division, said this item related to a request by the C. E. John Development Company to expand the Beaverton Shopping Mall and add an additional 575 parking spaces. He said in order for the indirect source program to have any merit, there must be a point at which a project was considered unacceptable. The Department had been using, he said, a very liberal criteria to determine when a project was considered unacceptable. Mr. Kowalczyk said they were using a criteria published by the Environmental Protection Agency (EPA) in 1977. Even though the C. E. John Company had agreed to some improvements in traffic flow and signalization in the area, Mr. Kowalczyk said their consultant's analysis showed that air quality in the area would worsen and contribute to a violation of the carbon monoxide standard. He said that EPA's criteria for significant impact would be exceeded by over 60%. It was the staff recommendation, he said, that the project only be approved up to the point where it would not cause a significant impact. Mr. Kowalczyk said the Director proposed a permit to allow 398 parking spaces to be constructed at the site. If a permit was issued for 398 spaces, he said, the amount of square footage of retail space would also have to be reduced.

Mr. Kowalczyk submitted for the record four letters received in comment to this project.

In response to Chairman Richards, Mr. Kowalczyk said what the Department was trying to do with this program was to prevent any major new problem from occurring which might hinder developing a successful traffic circulation plan. Chairman Richards said that if the Commission then authorized a project they would be authorizing higher levels than permitted under the Federal standards. Mr. Kowalczyk affirmed Chairman Richard's statement.

Mr. Steve R. Schell, appeared before the Commission on behalf of C. E. John. He said that no standards had been adopted by the EQC which dealt with when an indirect source of this nature should or should not be allowed. The lack of clear standards, he said, resulted in unintentional unfair decisions. He continued that there was mitigation possible in this situation which had not been adequately considered by the staff.

Mr. Schell said that there had not been a presentation of the information necessary for a developer or staff to prove or disprove an applicant's qualifications. Until clear standards were adopted, he said, it was their position that the kind of standards proposed in the staff report should not be applied. Mr. Schell submitted, for the record, a letter supplementing his testimony.

Mr. F. Glen Odell, of Seton, Johnson and Odell, said his firm conducted air quality studies in the Beaverton area for the Beaverton Shopping Center, Tektronix and Floating Point Systems. He said that consultants develop data differently and there was no control requiring calibration so different results can come from different consultants. Mr. Odell said that they disagreed with the staff decision, but went ahead and made an emission control program. He said that many of the measures available to shopping centers for emission control cannot be quantified in terms of impact.

Mr. Odell said they had demonstrated to staff that on an average weekday the .5 mg/m³ standard was not exceeded. In response to Chairman Richards, Mr. Odell said that based on their modeling, the standard would be exceeded 10 or less days a year. Chairman Richards asked Mr. Odell if he thought it was within the Commission's authority to approve a facility in which standards might be exceeded only two days a year. Mr. Odell replied that there were several areas that were not meeting standards now, nor would they in the near future. He said that he thought the .5 standards was an effort to not deny numerous projects. He felt that the .5 standard was inadequate.

Mr. Jim Howell, Tri-Met Planner, testified on Tri-Met's plans for transit improvement in the Beaverton area. He said they hoped to implement by next June a time-transfer system in the Beaverton area. He said this would greatly increase local transit service in the area, and at the same time, in the off-peak hours, reduce the number of busses coming into the Downtown area. Due to a request for more transit service from Tektronix, Mr. Howell said a bus line was proposed between Tektronix and the Beaverton Mall in line with some improvements on Hall Boulevard. In response to Chairman Richards, Mr. Howell said he did not have the information on how the better transit service would help the air quality in terms of meeting standards.

Mr. John, C. E. John Development Company, said they owned the Beaverton Mall adjacent to Jenkins Road and had a traffic congestion problem when

Tektronix changed shifts. Tektronix, he said, had recently been allowed 3100 more parking spaces which would add to the problem. Mr. John said they proposed to widen Jenkins Road to five lanes and put in improved signaling to alleviate congestion to and from the shopping mall. He said they felt that if they made these improvements then traffic would speed up through the area. However, Mr. John said, if they couldn't build all their buildings they would not go ahead with their Phase II B. They are going ahead, he continued, with an extension of an Albertson Market and a widening of Walker Road with "duck-out" lanes.

Mr. Schell said they had tried to give the Commission some examples of the mitigation possible in this matter. He maintained it was unfair for the Commission to not grant the Beaverton Shopping Center's application for 575 spaces and grant additional spaces to facilities such as Fred Meyer, Tektronix and Floating Point systems, all in the same area.

In response to Commissioner Densmore, Mr. Schell said that Seton, Johnson and Odell's s_3 modeling had a 95% probability of being correct, which amounted to $+ 4 \text{ mg/m}^3$. Statistically, he said, there is still the 5% probability of being incorrect.

Commissioner Hallock said she was bothered by the large number of spaces just approved for nearby sources versus the few spaces the applicant was asking for and the fact that the mitigating factors might not occur without the granting of the requested spaces. She was also very concerned, she said, that the same calibration was not required on the modeling from different consultants. Commissioner Hallock continued that she would not feel fair in going along with the staff recommendation in this case.

Chairman Richards asked Mr. Kowalczyk to comment on the suggestion that the Department did not have standards for consultants' tests and a wide variation in data could result. Mr. Kowalczyk replied that up until October of last year the Department had been using standards which were widely published and if a project exceeded those standards it would be considered unacceptable. He said when EPA published their guidelines the Department reduced their standards to the .5 and had been using that number for all projects since that time, including those applications for Tektronix and Floating Point Systems. He said the Department felt it was applying a uniform criteria.

Commissioner Densmore asked if any other states were applying a similar indirect source rule, and if they were had they entertained any mitigating factors. Mr. Kowalczyk said that the indirect source program had been unpopular because it posed a threat to rapid growth of retail operations, and therefore most states do not operate an indirect source program. He said there were just a few states that continued to operate the program and he knew some states had turned down some applications. He said that Oregon was trying to prevent situations that some states were allowing to happen.

Commissioner Hallock asked about the possibility of allowing the company a variance to permit the additional 177 spaces. Mr. Kowalczyk said that under the rules that could be done, and would be up to the discretion of the Director.

In response to questions from the Commission, Mr. Kowalczyk said it was not Department policy to require an applicant to do a monitoring program model because it delayed processing of applications. He said Department policy would accept reasonable modeling effort results that had been done within EPA criteria. If the modeling results were unacceptable, he said, they would allow an applicant to go back and monitor to see if his model could be improved. Mr Kowalczyk said he felt the Department had done the best it could to eliminate disparity in models.

Chairman Richards asked if the Commission could ask the Director to approve 398 spaces in his recommendation and in addition under variance conditions and findings of hardship issue the additional 177 spaces.

Mr. Ray Underwood, Department's Legal Counsel, replied that they would then be giving the Department guidance on how they wanted things done and it would be up to the Director to follow that guidance.

Commissioner Hallock commented that she found it incredible that recently 7000 parking spaces had been approved in the area and they were now having trouble with 177. She said that was the only reason she was considering a variance in this case. She said that kind of reduction should have been shared by all the sources and not just the last applicant.

Director Young said that if it was the sense of the Commission to approve all applications then he would like some guidance on returning to the Commission with whatever information would distinguish this particular application from others. If that was not done, he said, then the effect of approving this application would be to raise the standard for every other application that came in.

Chairman Ricahrds agreed with Mrs. Hallock and said he would adopt the Director's recommendation on how the application would be viewed. Commissioner Densmore said he was troubled as to whether or not the Director could go back and word a variance so as to not do violence to the .5 standard. Director Young said the staff would try to explore to find out if there were ways that this application could be dealt with as an extraordinary case and the Commission would be informed of the findings.

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock and carried unanimously that this matter be referred back to the Director to determine if there were certain factors that would warrant granting the additional 177 spaces in this particular case. The Director was also instructed to come back to the Commission and inform them if it could be done and how it would be justified.

Chairman Richards said that if an application came in for any additional spaces in the area in the near future, he would not encourage the Director to accept the application. Commissioner Hallock agreed.

AGENDA ITEM J - CONFLICT OF INTEREST RULES - PUBLIC HEARING TO RECEIVE TESTIMONY AND CONSIDER ADOPTION OF AMENDMENTS TO THE OREGON CLEAN AIR ACT IMPLEMENTATION PLAN TO INCLUDE RULES PERTAINING TO CONFLICT OF INTEREST BY STATE BOARDS, REQUIRED BY SECTION 128 OF THE CLEAN AIR ACT

Chairman Richards noted that no one wished to appear and give testimony on this matter. He then closed the public hearing.

Mr. Mike Ziolk, Air Quality Division, said that last August the U.S. Congress passed section 128 of the Clean Air Act relating to conflict of interest of state boards. The rules proposed by the Department, he said, were based on guidance supplied by EPA regarding those rules. He said that no testimony had been received in this matter since public notice went out in June. He said they were troubled about definition of "represent the public interest" in the proposed rule, as it could eliminate almost everyone proposed as an EQC member.

Mr. Ray Underwood, Department of Justice, read the statutory provision in the Clean Air Act which indicated what the EQC was required to do in this matter. He said that the EPA-proposed rule should be viewed that if it was not sufficient to meet the Clean Air Act provisions then it was possible that any action of the Commission implementing the Clean Air Act and the State Implementation Plan might be attacked. He felt that further refinement of the proposed language was warranted. Mr. Underwood said that the phrase contained in the definition of "represent the public interest" -- "...or hold any other official or contractual relationship" was too broad and should be deleted. He said he did not think this phrase was necessary for the protection intended to be provided by this regulation.

In regard to the phrase, under that some definition, "...any person subject to permits or enforcement orders...", Mr. Underwood suggested the language read "...any significant source of air pollution..." He said there had been some indication from discussions with EPA that that wording would possibly be acceptable.

Another alternative, Mr. Underwood said, would be the following general definition:

"Represent the public interest" means that the individual has no special interest or relationship that would preclude objective and fair consideration and action by that individual in the best interests of the general public."

He said that had the advantage of keeping the rule general and broad and would satisfy the statutory requirement.

Mr. Underwood said he was not recommending a definition change of "significant portion of income", but that did not mean the Commission could not change it and still be within the parameters of the Clean Air Act.

Mr. E. J. Weathersbee, Air Quality Division, pointed out that the language defining "significant portion of income" was very similar to that also applied under the Federal Water Pollution Control Act which the Commission was operating under at the present time. EPA, he said, made the Clean Air Act more lenient than the Water Pollution Control Act, in that they required only a majority of members to meet this criteria.

Chairman Richards said all present members of the Commission would not be able to continue to serve if the proposed rules were adopted as is. He requested that Mr. Underwood report to the Commission some additional suggested language and cite Section 128 of the Clean Air Act, so that the Commission would have something to review before the next meeting.

Mr. Ziolko informed the Commission that until the rule was an approved portion of the State Implementation Plan, any air quality permits or enforcement orders may be subject to legal challenges.

AGENDA ITEM D - SEWAGE WORKS CONSTRUCTION GRANTS - CONSIDERATION OF ADOPTION OF SEWAGE WORKS CONSTRUCTION GRANTS PRIORITY LIST FOR FEDERAL FISCAL YEAR 1979

Mr. R. Marvin Carroll, Vitro Engineering, said he had been employed by the City of Irrigon to investigate their possible groundwater pollution problem and subsequent funding for a sewage treatment system. He said they objected to the adoption of the priority list before the Commission and requested that the City of Irrigon be moved up on the list to and "A" category as a health hazard. He said they had a letter from the State Health Division which somewhat concurred with their findings.

Mr. J. N. Hershberger, attorney for the City of Irrigon, commented that a letter addressed to the Department from the Health Division, dated August 23, 1978 indicated that the Health Division supported the proposed Irrigon Sewerage Project. This letter is made a part of the record on this matter. He also submitted a July 19, 1978 and August 24, 1978 letters from Mr. Carroll to Mr. Clarence Hilbrick of the Department which represented the position of the City in this matter. He said they realized it could be quite a jump for them on the priority list to be able to be funded in 1979, but they felt there was a health hazard emergency in the area which warranted the reclassification.

Mr. Jack Baisden, Manager of the City of Irrigon, said that since the last time he appeared before the Commission, another 35 tests had been taken in the area which showed another couple of wells were bad. Most of the problem was within the City and the urban growth boundary, he said. He said that over 110 tests had been made on five different instances and about 30-35% of the wells were turning out bad and the beach had turned out bad in all the tests.

Mr. Tom Blankenship, Water Quality Division, summarized for the Commission the modifications made to the Sewage Works Construction Grants Priority List.

In response to Chairman Richards', Mr. Blankenship said that the letter from the Health Division regarding the City of Irrigon was not an official health hazard certification. He said the health hazard certification procedure now in the statute was only related to the mandatory health hazard annexation procedure. The Health Division, he said, does have other authorities relating to water supply in declaring health hazards. Again in response to Chairman Richards, Mr. Blankenship said that despite testimony offered at this meeting the staff would not be recommending raising the City of Irrigon on the list. He added he was meeting with the Health Division to investigate another process in coordination with DEQ and the Health Division to certify other health hazards which would be in keeping with the approved criteria.

Chairman Richards asked if the Commission were to approve the list at this meeting, would the Department have the discretion to modify the list based on a change in health hazard criteria. Mr. Blankenship replied that there was a provision in the criteria for changing the priority list during the year by Commission action. He continued that with the hearings process it would take approximately 90 days to adopt a modified list.

~~Commissioner Densmore said he would like the staff to pursue other types of health hazard certifications other than just the existing health annexation provision.~~

Mr. Blankenship said that the criteria for determining rank on the priority list could be changed by the Commission at its regular meetings, but that public notice and the hearing process would have to be gone through to change the priority list.

Mr. John Huffman, Manager of the Health Hazard Studies Program for the State Health Division, said there were a number of projects on the priority list that they had been involved with. He said that the Century Drive-Drapersville area in Albany had not been formally declared a health hazard even though a public hearing had been held. He realized that this area could not be moved up on the priority list, but urged the Commission if there were any unexpended funds left over from other projects, some

consideration and help be given to Albany for the planning stages of this project. Mr. Huffman said that over 100 cases of gastro-intestinal upset had occurred in the area. He said that the outbreak seemed to have abated but the conditions still existed. He said it took about two years from the declaration of a health hazard until sewers were constructed. Mr. Huffman said that sewerage this area was an unbudgeted item on a strict timetable. He continued that the administrator of the public works department had recently resigned leaving the situation even more difficult.

Mr. Jim Rankin, City of Albany, reiterated that if there were unexpended funds available, they would like consideration for them to be used to help planning. He said it appeared that within the next few months they would be forced to annex the area. He said it would cost approximately \$3 million to extend sewer lines to this area. He said they were not asking to be reprioritized on the list.

Commissioner Densmore said he wasn't aware that there were any unexpended funds. Director Young said it was possible to have funds from one year to the next from projects that were on the priority list which did not go forward. He said there was a reservation of funds to cover unanticipated alteration of costs for projects on the list. If these funds were not used, he said, they might be used. Specifically, Mr. Blankenship replied, there was a \$500,000 reserve of which must have been used this fiscal year for unspecified planning and design grants.

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the modified Fiscal Year 1979 priority list be approved based on the findings contained in the Summation of the staff report and that the Department be authorized to utilize the FY 1979 priority list when federal appropriations were met.

AGENDA ITEM E - GROUNDWATER, MULTNOMAH COUNTY - CONSIDERATION OF ADOPTION OF PROPOSED MULTNOMAH COUNTY GROUNDWATER PROTECTION PLAN

Mr. Robert E. Gilbert, Northwest Regional Manager, reminded the Commission that in February, 1978 that they instructed the staff to work with Multnomah County to develop a plan to protect the groundwater aquifer in central and eastern Multnomah County. He said that a proposed plan was not being submitted to the Commission for approval and issuance of the consent order. Mr. Gilbert said the plan proposed to continue approving cesspools in the area. Multnomah County, he said, together with the Cities of Gresham and Troutdale were pursuing whether a regional sewage treatment plant or independent expansion of the three existing plants ought to take place. He continued that this would take place between 1982 and 1985. Mr. Gilbert said that the County proposed to use a network of interceptors

and trunks to get the high sewage users off-line quickly and eventually sewer the area by 1990. This plan was similar to the drill-well disposal plan in Central Oregon, he said.

It was MOVED by Commissioner Densmore, seconded by Commissioner Phinney and carried unanimously that the following Director's Recommendation be approved:

Director's Recommendation

Having found the foregoing facts to be true, I recommend that the EQC authorize the Director to enter into a consent order with Multnomah County containing the basic features stated in the staff report subject to the following conditions:

1. Acknowledgment by the property owner (applicant) that any new on-site system is interim and the agreement to connect when a sewer system becomes available.
2. New construction must be oriented to future sewers. (Plumed to facilitate abandonment of on-site system and connection to sewers.)
3. New developments (i.e. subdivisions, apartments) be required to connect and/or provide dry sewer.

In addition, it is the Director's recommendation that the EQC instruct the staff to amend its subsurface sewage disposal rules to allow approval of cesspools only under the above conditions and only in areas where a master sewerage plan is adopted and an implementation agency is formed.

AGENDA ITEM G - PORTLAND TRANSIT MALL NOISE - DISCUSSION OF NOISE IMPACT CAUSED BY PORTLAND'S TRANSIT MALL AND OTHER MAJOR TRANSIT CORRIDORS

Mr. John Hector, Noise Section, said the Commission directed the staff in June to report to them regarding noise along major transit corridors. He said the staff was continuing to work on the Portland Transit Mall Noise problems, and Tri-Met was entering a program to retrofit their buses with noise control devices. He said an EPA/HUD-funded noise study was being scheduled to begin within the next few months to look at existing noise levels and some mitigation means to bring housing sites present in excess of the HUD standards into compliance so funding could be obtained.

Commissioner Hallock asked if the information on bus volumes was up-to-date. Mr. Hector replied that as far as he knew they were. Commissioner Hallock asked if the Banfield Alternatives being studied were taken into

consideration as far as noise reduction. Mr. Hector said he did not know if Tri-Met had taken that into consideration. Mr. Gary Brentano, Tri-Met, replied that during this study they would not be looking at one specific area, but at the overall problem of bus noise. In response to Commissioner Hallock, he said that the 1990 figure of bus volumes was current to this time but it was no longer a 1990 figure. Mr. Brentano said they were attempting to do something about the nose of the individual bus which would result in an overall noise reduction along transit corridors.

Commissioner Densmore asked if there was any information about downtown noise levels in cities in the state other than Portland. Mr. Hector said they had very little ambient noise information from other areas of state. He assured Commissioner Densmore that anything developed through the study would be able to be applied in other areas.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the following Director's Recommendation be approved:

Director's Recommendation

I recommend that the Commission authorize the Department to:

1. Continue coordinated action with the City of Portland, Tri-Met, HUD and others to determine the extent, causes, and feasible mitigation measures for urban noise levels especially in the Portland Transit Mall in downtown Portland and along major transit corridors.
2. Specifically, to continue staff efforts to:
 - a. Monitor Tri-Met's bus retrofit program;
 - b. Participate in the Wyle Labs study to measure noise levels downtown and along transit corridors, and to develop a model capable of predicting traffic noise based on vehicle mix, and evaluating noise mitigation strategies;
 - c. Continue development of reasonable noise standard proposals for the vehicle caused urban noise problem for consideration by the Commission at the nearest appropriate time in the future; and
 - d. Lobby for appropriate noise controls at the federal level.
3. Over time, develop a strategy for reducing urban noise to the lowest practicable levels, for Commission review and approval.

AGENDA ITEM H - VEHICLE NOISE TESTING - PROGRESS REPORT ON NOISE TESTING
IN THE MOTOR VEHICLE INSPECTION PROGRAM AND AUTHORIZATION TO HOLD PUBLIC
HEARING TO CONSIDER ADOPTION OF LIGHT DUTY VEHICLE NOISE STANDARDS

Mr. John Hector, Noise Section, presented the Director's Recommendation in this matter.

It was MOVED by Commissioner Phinney, seconded by Commissioner Densmore and carried unanimously that the following Director's Recommendation be approved:

Director's Recommendation

I recommend that the Commission authorize the Department to:

1. Hold a public hearing, before a hearings officer, at a time and location to be set by the Director, to receive testimony limited to the consideration of the adoption of noise emission standards for light duty vehicles and motorcycles enforceable through the Department's motor vehicle inspection centers.
2. Initiate a "voluntary" noise inspection program for heavy duty gasoline powered vehicles and report back to the Commission within twelve(12) months with recommendations for the adoption of standards to implement a mandatory program for this vehicle category.

AGENDA ITEM I - SNOWMOBILE NOISE RULES - AUTHORIZATION FOR PUBLIC HEARING
TO CONSIDER PETITION FROM INTERNATIONAL SNOWMOBILE INDUSTRY ASSOCIATION
TO AMEND NOISE RULES PERTAINING TO THE SALE OF NEW SNOWMOBILES

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that public hearings before a hearings officer be authorized at times and locations to be set by the Director.

AGENDA ITEM K - CHEM-NUCLEAR LICENSE - AUTHORIZATION FOR PUBLIC HEARING
TO CONSIDER AMENDMENTS TO CHEM - NUCLEAR'S LICENSE FOR OPERATION OF
ARLINGTON HAZARDOUS WASTE DISPOSAL

It was MOVED by Commissioner Hallock, seconded by Commissioner Densmore and carried unanimously that public hearings be authorized in Portland and Gilliam County, before a hearings officer, to take testimony on the proposed modifications to the Chem-Nuclear license for operation for the Arlington hazardous waste disposal site.

AGENDA ITEM L - HAZARDOUS WASTES RULES - CONSIDERATION OF ADOPTION OF
RULES GOVERNING PROCEDURES FOR LICENSING HAZARDOUS WASTE MANAGEMENT
FACILITIES, OAR CHAPTER 340, Sections 62-005 through 62-045

Mr. Ernest Schmidt, Solid Waste Division, said a hearing was held July 18, 1978 on the proposed rules and the hearing officer's report was submitted to the Commission. Mr. Schmidt presented the Summation and Director's Recommendation from the staff report.

Commissioner Hallock said she felt definition (4) of the proposed rules concerning "dispose" or "disposal" was still unclear. Mr. Schmidt responded that that definition came directly from the federal law 94-580 which was the Resource Conservation Recovery Act and was also included in the new state statute which was SB 246.

Commissioner Hallock said she felt the wording of proposed 340-62-100(3)(b)(i) and (ii) was too weak and would make the rule worthless. Mr. Schmidt agreed with Commissioner Hallock's concern and said that section was difficult to write.

Schmidt said the staff realized they might be put into an awkward position at times. He said they felt it was the intent of that section rather than the particular wording used, and the staff would be receptive to any wording that would make the intent clearer.

Commissioner Hallock asked if there was somewhere the proposed rules which asked that financial responsibility on the part of the licensee be shown. Mr. Schmidt said that anyone who applied for a hazardous waste disposal license had to show financial responsibility.

Commissioner Phinney asked if there was some practical reason why section 62-010(10) the definition of "person" was rewritten to eliminate the U. S. Government. Mr. Schmidt said this definition was taken directly from the enabling statute. Commissioner also questioned the definition of "store" or "storage" under 62-010(11). Mr. Underwood replied that one reason for the wording would be to make it clear that temporary was to be included as well as long-term storage. Mr. Underwood also said that the United States and agencies thereof could be inserted in 62-010(10).

It was MOVED by Commissioner Phinney, seconded by Commissioner Densmore and carried unianmously that OAR 340-62-010 be amended to read as follows:

"(10) "Person" means the United States and agencies thereof, the State or a public agency or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity."

Commissioner Phinney asked if any consideration had been made for the acceptance of materials from out of the Country. Mr. Schmidt replied that

they did not attempt to define geographic areas, but had been operating under the policy of accepting wastes from basically the northwestern region. He said there was a new supreme court decision which would make it more difficult to control.

Chairman Richards said he felt that the staff should address some of the problems the Commission was having.

It was MOVED by Commissioner Hallock, seconded by Commissioner Densmore and carried unanimously that this matter be deferred until the next regular meeting of the Commission.

AGENDA ITEM M - DELTA SAND AND GRAVEL - CONSIDERATION OF REQUEST FOR VARIANCE FROM RULES GOVERNING THE DEPOSITION OF SOLID WASTES IN GROUND-WATER, OAR 34-61-040

There being no one who wished to testify, Chairman Richards concluded the public hearing on this matter.

Mr. Daryl Johnson, Eugene Office, said that staff and the State Water Resources Department met with Delta Sand and Gravel on several occasions and inspected the site and looked at proposed plans. He said that the Department was in favor of the proposal. Mr. Johnson presented the Summation and Director's Recommendation from the staff report.

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the following Director's Recommendation be approved.

Director's Recommendation

I recommend that a variance from OAR Chapter 340, Section 61-040(3)(c) be granted to Delta Sand & Gravel Company for establishment of their proposed disposal site subject to the following conditions:

1. Landfill construction and operation shall be in accordance with plans approved in writing by the Department and in compliance with a Solid Waste Disposal Permit issued by the Department.
2. If at any time the Department finds evidence that the fill is causing, or is likely to cause, adverse environmental effects, it may terminate the permit and the operation must immediately cease. Upon such permit termination the fill site must be completed in a manner approved by the Department.

AGENDA ITEM N - FEDERAL GRANT APPLICATION - REVIEW OF CONSOLIDATED FEDERAL GRANT APPLICATION FOR AIR, WATER AND SOLID WASTE FOR FEDERAL FISCAL YEAR 1979

Chairman Richards said that any time the staff wrote reports such as this on policy, technical terms should be spelled out so that the report would be more meaningful to those reading it.

Some discussion followed between the Commission and staff regarding this item.

This item was presented for information purposes and no action of the Commission was necessary.

AGENDA ITEM O - SUBSURFACE RULES - AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER MINOR AMENDMENTS TO RULES GOVERNING SUBSURFACE AND ALTERNATIVE SEWAGE DISPOSAL, OAR 340-71-020(1)(i) and 72-010(5)

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation to authorize a public hearing on this matter be approved.

AGENDA ITEM P - JOSEPHINE COUNTY AQMA PETITION - CONSIDERATION OF PETITION OF FRIENDS OF JOSEPHINE, INC., et al TO DECLARE JOSEPHINE COUNTY AN AIR QUALITY MAINTENANCE AREA

There being no one present who wished to testify on this matter, Chairman Richards closed the public hearing.

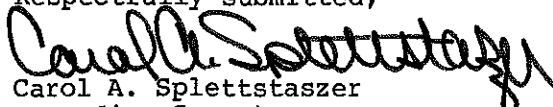
Mr. Mike Ziolko, Air Quality Division, presented the Director's Recommendation on this matter. In response to Chairman Richards, Mr. Ziolko said that at least a year's worth of data would be needed before a decision could be made on this area.

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the petition be denied and the staff be requested to present within 18 months a recommendation as to whether or not an air quality maintenance area should be set up for Josephine County.

The Commission expressed its regrets at being unable to accept the petition because those living in the perceived an air pollution problem even through there was not the necessary data to support the establishment of an AQMA.

There being no further business the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

ENVIRONMENTAL QUALITY COMMISSION MEETING
September 22, 1978

Room 602, Multnomah County Courthouse
1021 S. W. Fourth Avenue
Portland, Oregon

- 9:00 am A. Minutes of the August 16, 1978 Special Meeting and the August 25, 1978 regular meeting.
- B. Monthly Activity Report for August 1978.
- C. Tax Credit Applications
- PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.
- 9:30 am D. Contested Case Review - DEQ vs. Ladd Henderson, SS-CR-77-136.
- E. Indirect Source Rule - Proposed issuance of Indirect Source Permit to Beaverton Mall Phase II, C. E. John, Developer.
- F. City of Seaside - Request for extension of time to comply with Stipulation and Final Order No. WQ-SNCR-77-159.
- G. City of Prairie City - Modification to City of Prairie City Stipulated NPDES Consent Order.
- 10:00 am H. Open Burning - Treasure Valley Opportunities, Ontario - Request for variance from open burning regulations.
- 10:15 am I. Open Burning Dumps - Request by Curry County for extension of variances from rules prohibiting open burning dumps, OAR 340-61-040(2)(c).
- J. Hazardous Waste Rules - Proposed amendments to the Administrative Rules governing the procedures for licensing hazardous waste management facilities, OAR Chapter 340, Division 6, Subdivision 2.
- K. Used Oil Recycling - Request for authorization to hold public hearing on proposed rules for used oil recycling.
- 10:30 am L. Vehicle Emission Testing Rules - Public hearing and consideration for adoption of housekeeping changes to vehicle emission testing rules, OAR 340-24-340(10) and OAR 340-24-350(5)(b).
- M. Vehicle Emission Testing Program - Status report on contractor operation vs. state operation of the DEQ motor vehicle emission testing program.
- ~~N. Emergency Action Rules - Status report on proposed amendments to the Statewide Emergency Action Rules.~~ **DE FILE**
- O. Volatile Organic Chemical Rules - Request for authorization for public hearing to consider proposed statewide rules for controlling emissions of volatile organic chemicals (VOC) and modification of the Oregon State Clean Air Implementation Plan (SIP).
- P. Lane Regional Air Pollution Authority (LRAPA) - Request for Commission approval of Lane Regional Air Pollution Authority requests for state and federal financial assistance.
- Q. Conflict of Interest Rule - Proposed adoption of rules pertaining to conflict of interest by state boards as required by Section 125 of the Federal Clean Air Act and modification of the Oregon State Clean Air Implementation Plan (SIP).
- R. Kraft Mill Study - Staff report on pulp and paper industry kraft mill particle size distribution and chemical composition study.
- S. Indirect Source Rule - Proposed Settlement of litigation relative to Indirect Source Rule.

Because of uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items D, H, I and L. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) in Conference Room A of the Standard Plaza Building, 1100 S. W. Sixth, Portland. Lunch will be catered in the DEQ Offices, Room 511, 522 S. W. Fifth Avenue, Portland.

MINUTES OF THE ONE HUNDRED FIRST MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

September 22, 1978

On Friday, September 22, 1978, the one hundred first meeting of the Oregon Environmental Quality Commission convened in Room 602 of the Multnomah County Courthouse, 1021 S. W. Fourth Avenue, Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; Mr. Ronald M. Somers; Mrs Jacklyn L. Hallock and Mr. Albert Densmore. Present on behalf of the Department were its Director, William H. Young and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF THE AUGUST 16, 1978 SPECIAL MEETING

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR AUGUST 1978

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Minutes of the August 16, 1978 special EQC meeting, and the August 1978 monthly activity report be approved.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the following portions of the Director's Recommendation regarding Tax Credit Applications be adopted:

- Issue Pollution Control Facility Certificate to Application T-1014 (Gray & Company).
- Revoke Pollution Control Facility Certificates 96, 481, 517, 518, 626, 627, 628, 789, 790, and 831, issued to Kaiser Gypsum Company, Inc. because certified facilities have been sold.
- Revoke Pollution Control Facility Certificate 916, issued to Weyerhaeuser Company because the certified facility had been destroyed by fire.

PUBLIC FORUM

No one wished to speak on any subject.

AGENDA ITEM F - CITY OF SEASIDE - REQUEST FOR EXTENSION OF TIME TO COMPLY WITH STIPULATION AND FINAL ORDER NO. WQ-SNCR-77-159

Commissioner Somers asked Mr. Fred Bolton, Administrator of the Department's Regional Operations, if the statements made in the staff report were true to the best of his knowledge. Mr. Bolton replied they were.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the Director's Recommendation to approve a Final Order amending Stipulation and Final Order No. WQ-SNCR-77-159, DEQ v. City of Seaside, Clatsop County, Oregon, be approved.

AGENDA ITEM G - CITY OF PRAIRIE CITY - MODIFICATION TO CITY OF PRAIRIE CITY STIPULATED NPDES CONSENT ORDER

Mr. Fred Bolton, Administrator of the Department's Regional Operations, said that it appeared the City was going to go ahead with this project and therefore the infiltration problems and the problems with the sewer plant would be solved in the immediate future. In response to Commissioner Somers, Mr. Bolton said that the facts contained in the staff report were true to the best of his knowledge.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the following Director's Recommendation be approved:

Director's Recommendation

I recommend that Stipulation and Final Order WQ-ER-78-29 be modified as follows:

1. That the date on page 3, line 21 be changed to October 30, 1978 [A(1)(a)].
2. That paragraph A(4) (the sewer connection moratorium) be deleted and replaced with a time schedule requiring Prairie City to eliminate excessive infiltration into its sewerage collection system by replacing the sewers along one block on East Sixth and one block on Railroad Street on or before June 1, 1979.

I further recommend that the Commission consider reinstating a sewer connection moratorium at its June 1979 meeting should Prairie City fail to comply with all of the conditions of Stipulation and Final Order No. WQ-ER-78-29.

AGENDA ITEM E - INDIRECT SOURCE RULE - PROPOSED ISSUANCE OF INDIRECT SOURCE PERMIT TO BEAVERTON MALL PHASE II, C. E. JOHN, DEVELOPER

Chairman Richards asked if this item would affect Agenda Item S on the proposed settlement of litigation relative to the Indirect Source Rule. Mr. John Kowalczyk of the Department's Air Quality Division, and Mr. Robert Haskins, Department of Justice, replied that they believed the two matters were separate. Chairman Richards said it was his intention that these matters be separate and nothing the Commission would do under this agenda item would bind them in dealing with Agenda Item S.

In response to Commissioner Somers, Mr. Kowalczyk said that the facts stated in the staff report on this matter were true. Mr. Kowalczyk submitted a revised recommendation for the Commission's consideration. The recommendations were, he said, to (1) provide some justification for approving the additional 177 spaces for the Beaverton Mall on the grounds that the project would incorporate all reasonable mitigating measures; (2) that needed traffic flow improvements would be made if the project went forward in full development; and (3) that the project is in conformance with local planning and zoning rules. Mr. Kowalczyk said they felt that type of reasoning should be applied to other projects in the future and the second recommendation would be to follow this type of rationale for all future indirect sources.

After some discussion, Chairman Richards asked where a developer would look to find out that after this meeting the Department would be taking a closer look at indirect source applications. Mr. Kowalczyk replied that this policy could be put into the application for permit and instruction materials, and they would make an effort to notify those consultants in the area dealing with these applications. Chairman Richards requested that those forms be submitted to the Commission for their review and comment. Mr. Kowalczyk said that the policy could also be made a part of the rule. In response to Chairman Richards, Mr. Kowalczyk said that by putting this policy in the rule, it would not be a rule change but a clarification of the existing rule.

Commissioner Hallock asked about considering allowing the additional 177 spaces to the Beaverton Mall as a variance until there was time to change the policy formally. Mr. Kowalczyk replied that he did not think a variance to the rule was needed to approve the 177 spaces.

Ms. Melinda Renstrom, Oregon Environmental Council, said they were opposed to the Director's recommendation. They felt, she said that it would make the indirect source rule interpretation dangerously broad. Ms. Renstrom said they felt DEQ was avoiding responsibility by refusing to control indirect sources and that the wording of this recommendation was an attempt to evade the rule making procedures of the Oregon Administrative Procedures Act. The recommendation, she said, should be viewed as an amendment to the regulations and appropriate rule making procedures should be followed.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the additional 177 spaces for the Beaverton Mall be approved on the grounds that the project would incorporate all reasonable mitigating measures; that needed traffic flow improvements would be made if the project went forward in full development; and that the project was in conformance with local planning and zoning rules.

Commissioner Hallock said she felt the matter should go to hearing and the mitigating factors referred to in the recommendation should be better defined. Commissioner Hallock said she was concerned that by facilitating the administration of the rule they were weakening the rule without offsetting it in any way.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried with Commissioner Densmore desenting that the remaining part of the Director's recommendation be deferred for action until the next meeting.

AGENDA ITEM D - CONTESTED CASE REVIEW - DEQ v. LADD AND LARRY HENDERSON, SS-CR-77-136

Chairman Richards said they were considering the appeal of Ladd Henderson and the two matters to be considered were (1) the motion received on September 14, 1978 asking that the Hendersons be allowed to submit additional evidence and (2) a determination on the merits.

Commissioner Somers said that after considering the Motion, he found it irrelevant to the issue of whether Mr. Henderson did or did not obtain a permit to establish a subsurface sewage system before construction was commenced.

Mr. Ladd Henderson testified that the reason for the Motion was stated in the affidavit supporting the Motion. Basically, he said, the beginning of their problem was February 28, 1977 when a representative of the Department rejected an application for a subsurface disposal system based on an administrative rule which stated that the Department or its representatives shall not issue a permit if a community or areawide sewerage system was available which would be operated in compliance with a waste discharge permit issued by the Department.

At the time of hearing, Mr. Henderson said they attempted to ask the Department representative if the City of Hood River had a notice of violation filed against it, which would then indicate it was not being operated in compliance. However, he said, they were not allowed to ask the staff because that question was considered irrelevant and immaterial. At the close of the hearing, Mr. Henderson said it was stipulated that they be allowed the daily monitoring reports of the Hood River treatment plant and a copy of the wastewater discharge permit. However, he said, the permit was not supplied to them until the day before this meeting. He said the Hearing Officer made his recommendations in the proposed order based on a lack of the waste discharge permit. Based on this, Mr. Henderson said he felt there was a basis for bringing in additional information which would indicate (1) that the treatment plant was not being operated in compliance so the Department could not deny a permit, and (2) that the same people that were filing the notice of violation against them also were filing a notice of violation against the City of Hood River, and at the same time.

Chairman Richards said he would vote to deny the Motion because whether the City was or was not in compliance did not constitute a legal defense to constructing a system without a permit. He said the narrow issue at this hearing was whether or not a system was constructed. If no system was constructed, he said, then the Commission would rule in favor of the Hendersons. If a system was constructed, he said, and a permit was issued in advance of construction, the Commission would rule in favor of the Hendersons. If a system was constructed without a permit, Chairman Richards continued, then he would be prepared to rule against the Hendersons.

Chairman Richards asked Mr. Henderson if he thought the issue was different than that which he stated. Mr. Henderson replied that it was different because the remedial action called for in the Notice of Violation was to (1) obtain a permit which they had attempted to do for four months preceding the Notice of Violation or (2) abandon the system. He said that anything which determined the basis for the Department's denial of a permit was relevant.

Commissioner Somers said that the question before the Commission was did Mr. Henderson install a subsurface sewage disposal system without a permit. Mr. Henderson asked if that issue could be expanded to include if the permit was issued, if the permit was not issued and on what basis it was not issued, and whether or not that basis was legal. In response to Commissioner Somers, Mr. Henderson said that that defense was in his Answer which he was only allowed 10 days to submit. If the Hearing Officer had allowed this defense, he said, there would be no problem.

Mr. Robert Haskins, Department of Justice, said that the matter of additional evidence was irrelevant to the issue of whether or not a subsurface disposal system was constructed without a permit. He recommended that the Commission deny the Motion.

After some discussion, Chairman Richards said that to allow the Motion would mean that a violation by a governmental agency would justify another violation. Commissioner Somers said that what Mr. Henderson was trying to say was that the original Notice of Violation was incorrect because at the time there was not an approved system which met the rules that they could hook up to. Chairman Richards said that assuming that was true, it still was not relevant to the final determination as to whether there was a system installed without a permit.

It was MOVED by Commissioner Hallock, seconded by Commissioner Densmore and carried with Commissioner Somers dissenting that the Motion to submit additional evidence be denied.

~~Mr. Ladd Henderson said that unless he could change the basis of the issue any defense would be useless and the time he had spent on this case would have been wasted. He said that the burden of proof was on the Department to determine if a subsurface disposal system had been constructed with or without a permit. Mr. Henderson continued that by examining the record there was no way the Department could prove that a subsurface disposal system was constructed with or without a permit.~~

Mr. Henderson said they felt there were many issues to this matter and if they couldn't bring out affirmative defense issues they would bring out the legal points which the Department had missed on. He cited the fact that they had been allowed 10 days instead of 20 to file an Answer. Chairman Richards asked what the issues were that they could not present at the hearing because they were not allowed 20 days to prepare an Answer. Mr. Henderson replied that he could not operate on what he could have presented, and did not have the time to waste on looking into what he could have presented had he had the time to prepare.

Mr. Henderson said their case had been fairly well set out in the record before the Commission and they felt the main problems were the February 28, 1977 denial by the Department; that a system was not available to them; and the reason for the whole problem was if a permit was not issued, why it wasn't issued. He said he thought the Commission would find that the Department denied them a permit when there was not a system in compliance that they could hook up to and they were restricted by court order.

Chairman Richards asked Mr. Henderson if he had any other testimony to present. Mr. Henderson requested that the Commission review the complete record, including the arguments and exceptions to the Hearing Officer's rulings and the alternate Proposed Order and Conclusions of Law and Findings of Fact.

Chairman Richards then swore in Mr. Henderson and asked him under oath if a tank was installed on the premises at any time. Mr. Henderson said it was not proper to request information beyond the time of the Notice of Violation, which was June 13, 1977. In answer to Chairman Richards, Mr. Henderson said a tank was not installed June 13, 1977. Chairman Richards asked if one had been installed prior to that date. Mr. Henderson replied no. Chairman Richards asked if one had been installed after June 13, 1977. Mr. Henderson declined to answer, saying he respectfully refused during this proceeding to answer questions about the time after June 13, 1977.

Mr. Robert Haskins, Department of Justice, appeared representing the Department in this matter. He said that the case was simple and the Department only alleged that respondents had constructed a subsurface sewage disposal system without a permit and the Department had ordered respondents to obtain a permit or to abandon the system. He said the Department did not allege that respondents had used the system.

Mr. Haskins said that Hearing Officer Wayne Cordes found that respondents had constructed a system without a permit. He said Mr. Cordes ruling was well based on the evidence in the record.

Mr. Haskins said it would be difficult to imagine what additional evidence respondents would have come up with had they been given an additional ten days to file their Answer. He said respondents answer during this meeting indicated they could not think of anything additional to add.

In response to issues raised by respondents, Mr. Haskins said Mr. Cordes had replied to many more issues than were really involved in the case. Mr. Cordes found in favor of the Department in all of them, he said, so the Department did not object, but it was a simpler case than the ruling would indicate.

Mr. Haskins said the issue was not whether or not the respondents' application was properly denied because respondents never applied for a subsurface sewage disposal system construction permit and never paid any application fee for such a permit. On two occasions, he continued, respondents had applied for site suitability evaluations but never followed up with an application for a construction permit. The negative site suitability evaluation which respondents received, he said, did not give them the right to a contested case hearing as the Hearing Officer had previously ruled.

Mr. Haskins said the important point was had the respondents actually applied for a construction permit and paid the necessary application fee and then been denied a permit, they would have then been entitled to a contested case hearing on that denial. Respondents failed to follow the due processes which the Legislature and the courts had set up for review of this type of action, he said.

In response to Commissioner Somers, Mr. Haskins said he agreed with Chairman Richards that a violation committed by the City provided no defense for the respondents unlawful construction of a subsurface sewage disposal system without a permit.

Chairman Richards asked if Joint Exhibit I was done at the time of the hearing. Mr. Haskins replied that it was an exhibit that was actually drawn in the hearing with participation of both parties. In review, Chairman Richards said the basic things being relied on as evidence that a tank was installed as well as a drainfield, were (1) in early June a tank and some rock were seen on the premises and then were not seen, and that the soil had been disurbed; and (2) some judicial admissions such as an exhibit in which respondents said if they were not permitted to install a tank and drainfield they would do it anyway.

Chairman Richards asked if Mr. Haskins agreed there would need to be proof that the tank and drainfield were installed prior to June 10, the date of Mr. Bolton's Notice of Violation. Mr. Haskins replied that what evidence there was in the record showed that a subsurface sewage disposal system or part thereof was constructed on or about June 8 or 9, 1977, between the period of June 3 when the Department inspected the site and June 8, when it was reinspected. He said he did not see that it was important that the whole system be completed or be used at any time to constitute a violation.

Commissioner Somers said he had given the matter considerable thought; reviewed the exhibits; reviewed the contentions of the respondent and the Department; and had considered oral arguments on behalf of Mr. Henderson; and could arrive at no other conclusion than that of the Hearing Officer, which was that the system was constructed without a permit in violation of the rule, and that the Notice of Violation was correct. He further noted that the entire matter could be resolved by Mr. Henderson signing a waiver of remonstrance and hooking up the rest of his property to the City sewer.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Hearing Officer's recommendation in this matter be sustained.

After a Commission recess, Commissioner Somers MOVED, Commissioner Hallock seconded and it was carried unanimously that the previous motion be reconsidered.

Commissioner Somers said that the reason for reconsidering his motion to support the Hearing Officer's findings and conclusions was that he felt his motion should be inclusive to direct the staff to make a final remedial order to bring before the Commission at its next regular meeting. In response to Chairman Richards, Commissioner Somers said his motion would include that the Henderson's be immediately notified of the action taken.

It was MOVED by Commissioner Somers to support the findings of the Hearing Officer and the Final Order issued by the Commission shall be prepared and brought before the Commission at its next regular meeting, October 27, 1978, in Salem. The motion was seconded by Commissioner Densmore and carried unanimously.

AGENDA ITEM H - TREASURE VALLEY OPPORTUNITIES, ONTARIO - REQUEST FOR VARIANCE FROM OPEN BURNING REGULATIONS

Chairman Richards noted for the record that there was no one from Treasure Valley Opportunities, Inc. present at the meeting to testify.

Mr. Fred Bolton, Regional Operations Administrator, said they had determined that the cost to haul the material to a nearby dump site in Idaho would be \$2.00/10 yards. He said the Company had a 10 yard dump truck and there was about 120 yards of material to be disposed of. So, he continued, for about \$25, using their truck, the Company could dispose of the material. He said the Department had done a lot to stop open burning in the Ontario area and there were other companies nearby waiting for the decision of the Commission and if the variance were approved they would also be asking for permission to burn waste material.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation to deny the request for variance be approved.

AGENDA ITEM I - REQUEST BY CURRY COUNTY FOR EXTENSION OF VARIANCES FROM RULES PROHIBITING OPEN BURNING DUMPS, OAR 340-61-040(2)(c)

Mr. Michael Fitzgerald, Curry County Commissioner, said they wanted the Commission to understand they were serious in their attempt to find a solution to the Brookings area solid waste site. He said they had budgeted over 1/2 million dollars for this project but at the moment the delay was caused by an attempt to work the private sector into the solution. Mr. Fitzgerald said it should be the last need for an extension of the variance and in any event a permanent site would be found and activated within a short time.

In response to Commissioner Somers, Mr. Fitzgerald said that the dates proposed in the extension met with their approval.

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

1. Variances for the Brookings Disposal Site and Nesika Beach Disposal Site in Curry County be extended until August 1, 1979. This date will allow for continued open burning through the winter and spring when heavy rains would hinder construction of an alternative facility.
2. The County be required to adopt a solid waste management plan and obtain a suitable alternative disposal site by January 1, 1979. The Department shall be notified in writing by not later than January 15, 1979 that these requirements have been met.
3. The Brookings Disposal Site and Nesika Beach Disposal Site be closed prior to the expiration date of the variance if a suitable alternative becomes available.
4. The EQC find that the variance request meets the intent of ORS 459.225(3)(c) in that strict compliance would result in closing of the disposal sites and no alternative facility or alternative method of solid waste management is available.

AGENDA ITEM L - PUBLIC HEARING AND CONSIDERATION FOR ADOPTION OF HOUSEKEEPING CHANGES TO VEHICLE EMISSION TESTING RULES, OAR 340-24-340(1) and OAR 340-24-350(5) (b)

Mr. William Jasper, DEQ Vehicle Inspection Program, said this matter covered an omission made during the last major review and revision of the vehicle emission testing rules. He said basically the purpose of the proposed changes was to keep a uniform operation of the fleet inspection program.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the proposed rule amendments be adopted.

AGENDA ITEM J - PROPOSED AMENDMENTS TO THE ADMINISTRATIVE RULES GOVERNING THE PROCEDURES FOR LICENSING HAZARDOUS WASTE MANAGEMENT FACILITIES, OAR CHAPTER 340, DIVISION 6, SUBDIVISION 2

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried with Commissioner Densmore dissenting that the Procedures for Licensing Hazardous Waste Management Facilities, as amended, OAR 340-62-005 through 62-100 inclusive, be adopted.

In response to Commissioner Phinney, Mr. Fred Bromfeld of the Department's Hazardous Waste Section, said it was correct that approximately 60% of the wastes now received at Arlington were from out of state. He said of that 60%, at least 95% were from the State of Washington, which does not have a disposal site for hazardous wastes.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that as a part of the regular Monthly Activity Report the Commission continue to be notified of the out of state wastes being disposed of at Arlington.

AGENDA ITEM K - REQUEST FOR AUTHORIZATION TO HOLD PUBLIC HEARING ON PROPOSED RULES FOR USED OIL RECYCLING

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the Director's recommendation to authorize a public hearing on the proposed rule for sign posting be approved.

AGENDA ITEM M - STATUS REPORT ON CONTRACTOR OPERATION VERSUS STATE OPERATION OF THE DEQ MOTOR VEHICLE EMISSION TESTING PROGRAM

Commissioner Somers asked if it would be beneficial to put the matter up for a prospective bid so that the Commission would know whether or not they could save money by going to a private contractor. Mr. Ron Householder DEQ's Vehicle Inspection Program, replied that it was their suggestion that that not be done because of the upcoming Legislative Session. He said the cost and effort of preparing a request for proposal were extensive.

Commissioner Densmore said that one of the proposals being carried to the next Legislative Session was that the Medford-Ashland AQMA have a vehicle emission testing program. He asked if this type of proposal would fit an area where there was not an existing testing program. Mr. Householder replied that this was one of the reasons why the Department wished to delay on going ahead and reviewing the contractor approach. He said if the Legislature directed the Department to operate a testing program in another area it would reduce the total cost of a contractor program by increasing the number of vehicles which would be affected. This would also decrease the individual cost to the customer, he said. Mr. Householder said there were not contractors interested in a program which would test cars every other year until the volume were higher.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the following Director's Recommendation, as amended be adopted.

Director's Recommendation

I recommend that the Commission enter a finding on the matter of private contractor operation in comparison with state operation of the I/M program that given the indicators available and within the current statutory struction of the inspection program there is (1) indication that cost to the public might be higher, (2) that the Department would have inadequate resources to monitor the maintenance of program quality, (3) that there would be no deterioration of program efficiency, (4) that the costs involved in the issuance and evaluation of an RFP are not justified at this time because of statutory limitations on program operation, (5) that the concept of a contractor operation is still a viable alternative to state operation, (6) and that following the 1979 Legislative Session, the Department shall reevaluate for the Commission's consideration the alternative of a private contractor operation of the motor vehicle emission inspection program.

AGENDA ITEM O - REQUEST FOR AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER PROPOSED STATEWIDE RULES FOR CONTROLLING EMISSIONS OF VOLATILE ORGANIC CHEMICALS (VOC) AND MODIFICATION OF THE OREGON STATE CLEAN AIR IMPLEMENTATION PLAN (SIP)

Commissioner Somers MOVED, Commissioner Hallock seconded, and it was carried unanimously that the Director's recommendation to authorize a public hearing for the VOC rules for October 16, 1978 in Portland, and to consider the rules for adoption at the Commission's December 1978 meeting be approved.

AGENDA ITEM P - REQUEST FOR COMMISSION APPROVAL OF LANE REGIONAL AIR POLLUTION AUTHORITY REQUESTS FOR STATE AND FEDERAL FINANCIAL ASSISTANCE

It was MOVED by Commissioner Somers that the Director's Recommendation be approved based on the following findings:

1. That LRAPA's boundaries constitute an appropriate air quality control area considering the geographic and demographic factors.
2. That LRAPA program is adequately staffed and funded and is operating effectively to control air pollution.
3. The air pollution problems within the LRAPA area are being adequately addressed and that the Commission certifies the LRAPA application and the Director is authorized to disperse such funds as may be subsequently appropriated.

The Motion was seconded by Commissioner Hallock and carried unanimously.

AGENDA ITEM Q - PROPOSED ADOPTION OF RULES PERTAINING TO CONFLICT OF INTEREST BY STATE BOARDS AS REQUIRED BY SECTION 125 OF THE FEDERAL CLEAN AIR ACT AND MODIFICATION OF THE OREGON STATE CLEAN AIR IMPLEMENTATION PLAN (SIP)

Mr. Mike Ziolk, DEQ's Air Quality Division, said the proposed rules had been sent to EPA to see if they would be approvable as an SIP revision. He said EPA responded with some changes to make the rule approvable. Mr. Ziolk explained the rule changes to the Commission.

After some discussion among members of the Commission, it was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried unanimously that the Director's recommendation to approve the proposed rule, amended as follows, be adopted.

Amendments to Conflict of Interest Rules, OAR Chapter 340-20-200 through 20-215.

1. 340-20-2-5 - Definitions

- (1) [Adequately] "Disclose" means explain in detail in a signed written statement prepared at least annually and available for public inspection at the Office of the Director, or the Oregon Ethics Commission.

(4) "Persons subject in Oregon to permits or enforcement orders under the Clean Air Act"...

(7) "Significant portion of income" means [25] 10 percent...

2. 340-30-210 - Public Interest Representation

"At least [~~three-(3)~~] a majority of the members of the Commission and the Director..."

3. 340-20-215 - Disclosure of Potential Conflicts of Interest

"Each member of the Commission and the Director shall [~~adequately~~] disclose any potential conflict of interest."

AGENDA ITEM R - STAFF REPORT ON PULP AND PAPER INDUSTRY KRAFT MILL PARTICLE SIZE DISTRIBUTION AND CHEMICAL COMPOSITION STUDY

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that the Director's Recommendation to accept this report as adequately fulfilling the commitment made by the pulp and paper industry to the Environmental Quality Commission on May 27, 1977, be adopted. Commissioner Somers complimented the staff on their report.

AGENDA ITEM S - PROPOSED SETTLEMENT OF LITIGATION RELATIVE TO INDIRECT SOURCE RULE

The Commission went into Executive Session for the purpose of discussing this pending litigation.

In regular session, Commissioner Somers MOVED, Commissioner Densmore seconded, and it was carried with Commissioner Hallock desenting, that the settlement agreement be adopted.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol A. Spletstaszer
Recording Secretary

(Tentative Agenda)

ENVIRONMENTAL QUALITY COMMISSION MEETING
October 27, 1978

Hearing Room D
State Capitol Building
Salem, Oregon

- A. Minutes of the August 25, 1978 and September 22, 1978 EQC meetings.
- B. Monthly Activity Report for September 1978.
- C. Tax Credit Applications

PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

- 9:30 am D. DEQ v. Ladd Henderson, SS-CR-77-136.
- E. Clatsop Plains - City of Gearhart, Modification to Subsurface Sewage System Moratorium, OAR 340-71-020(7).
- F. Bonneville Power Administration (BPA) McLoughlin Substation - Adoption of Memorandum of Agreement in conformance with DEQ noise regulations.
- G. Noise Control Rules - Consideration of adoption of proposed amendments to Noise Control Regulations for new automobiles and light trucks, OAR 340-35-025.
- H. Medford-Ashland AQMA - Proposed adoption of particulate and volatile organic compounds (VOC) offset rules for the Medford-Ashland Air Quality Maintenance Area (AQMA).
- I. Field Burning Regulations - Authorization for public hearing to receive testimony on field burning acreage limitations and other possible changes to the Department's Field Burning Rules for the 1979-80 field burning seasons.
- 10:00 am J. Weyerhaeuser Corporation - Request from Weyerhaeuser Corporation for a change in the General Emission Standards for Particulate Matter, OAR 340-21-015 Visible Air Contaminant Limitations, and OAR 340-21-020, Fuel Burning Equipment Limitations, to exempt salt emissions in coastal areas.

- 10:30 am K. Teledyne Wah Chang Albany - National Pollutant Discharge Elimination System (NPDES) permit issuance.
- L. Indirect Source Program - Status Report.

Because of uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items D, J and K. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) and lunch in the Blue Room at the Capitol Building.

MINUTES OF THE ONE HUNDRED SECOND MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

October 27, 1978

On Friday, October 27, 1978, the one hundred second meeting of the Oregon Environmental Quality Commission convened in Hearing Room B of the State Capitol Building in Salem, Oregon.

Present were Commission Members: Mr. Joe B. Richards, Chairman, Dr. Grace S. Phinney, Vice-Chairman; and Mr. Ronald M. Somers. Commission members Jacklyn L. Hallock and Albert H. Densmore were absent. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF THE AUGUST 25, 1978 MEETING

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the August 25, 1978 minutes be approved.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR SEPTEMBER 1978

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the Monthly Activity Report for September 1978 be approved.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the following Director's Recommendation be approved.

1. Issue Pollution Control Facility Certificates to applications T-998, T-1007, T-1012, T-1013, T-1015, T-1016, T-1019, T-1020, T-1021, T-1024, T-1025 and T-1029.
2. Be informed of the Director's intent to issue Preliminary Certification for Tax Credit Relief to Apollo Metals Finishing, Inc., and Teledyne Wah Chang Albany.

AGENDA ITEM E - CLATSOP PLAINS - CITY OF GEARHART, MODIFICATION TO SUBSURFACE SEWAGE MORATORIUM, OAR 340-71-020(7)

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the following Director's Recommendation be approved.

1. Enter findings that:
 - a. Failure to act would result in serious prejudice to the public interest or the interest of the parties concerned in that the City of Gearhart has at its own expense completed a study. While the plan was not acceptable to the Department, the City has requested an interim modification of the subsurface sewage moratorium which is acceptable. Development in the City of Gearhart will continue to be held up unless a modification to the moratorium is made. The City asserts that its citizens generally will be affected and beneficially affected by the temporary rule and subsequent permanent amendment to OAR 340-71-020(7).
 - b. The proposed temporary rule amendment will continue to prevent unacceptable degradation of groundwater while allowing such development as at present appears to be compatible with preserving the quality of the groundwater or surface waters.
 - c. At the time the Clatsop County study presently underway and the proposed 208 study are completed and a comprehensive plan and appropriate zoning are accomplished, further review will be appropriate.
2. Adopt the attached temporary rule amendment to OAR 340-71-020 to take effect upon prompt filing with the Secretary of State pursuant to ORS 183.355 for a period of not longer than 120 days.
3. Authorize the hearing officer to proceed with the appropriate hearings for permanent rule amendment to OAR 340-71-020. The hearing officer's report to the EQC will be scheduled for the January 1979 EQC meeting.

AGENDA ITEM F - BONNEVILLE POWER ADMINISTRATION (BPA) McLOUGHLIN SUBSTATION - ADOPTION OF MEMORANDUM OF AGREEMENT IN CONFORMANCE WITH DEQ NOISE REGULATIONS

Commissioner Sommers noted that this was a carefully thought-out agreement, and MOVED the Director's recommendation to enter into a Consent Agreement with BPA to comply with OAR 340-35-035(1)(f), Table J, be approved. The Motion was seconded by Commissioner Phinney and carried unanimously.

Commissioner Phinney suggested that the wording in paragraph 2 of the Findings of Fact in the Agreement be changed as follows:

2. "The transformers...are a noise source which [are] is in excess of the sound pressure levels..."

AGENDA ITEM G - CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO NOISE CONTROL REGULATIONS FOR NEW AUTOMOBILES AND LIGHT TRUCKS, OAR 340-35-025

After some discussion among Commission members, Mr. John Hector of the Department's Noise Section, and Mr. Bruce Gregg of General Motors, action on this matter was deferred until the Commission's November 17, 1978 meeting because of the importance of the matter and because two members of the Commission were absent.

AGENDA ITEM D - DEQ v. LADD HENDERSON, SS-CR-77-136

Mr. Ladd Henderson, protested the manner in which this matter was being handled on the following points:

1. The action being taken to withdraw the Hearing Officer's final order and modify it after the respondents' left the hearing room at the last meeting.
2. Mr. Cordes' letter of September 25, 1978 stated,

"The Commission's concern was on your behalf and they directed the staff and Department's counsel to review the matter and prepare a modified proposed remedial action order. Particularly with respect to broadening or extending the time frame for compliance."

Mr. Henderson said that upon reviewing tapes of the last meeting, he noted that the matter was not discussed in the meeting and could only conclude that this was decided during a Commission break.

3. The respondents were also told by Mr. Cordes in his letter of September 25, 1978 that,

"It is my understanding that neither party will be allowed to present further oral or written argument."

Mr. Henderson said that the Final Order stated "the parties were given adequate notice and were given an opportunity to be heard." He continued that he had received the Final Order only 41 hours before the meeting and did not feel he had adequate time to prepare.

4. Mr. Henderson said he was not an attorney and was unable to represent anyone but himself in these proceedings. Mr. Larry Henderson, co-respondent, he continued, was not sent a copy of ~~the Final Order or the Department's memorandum in support of its~~ proposed form of Final Order. Therefore, he said, the parties had not been provided adequate notice.

Mr. Henderson said he believed the proposed modification of the Order was against state statute 454.635. Mr. Henderson read this rule to the Commission and cited instances where he felt the statute had been violated. He continued that the Commission could only affirm or reverse the order and could not modify it.

Chairman Richards said he understood Mr. Henderson's main objection to the order was that the original order required the Hendersons to either obtain a permit or abandon the system, whereas the order now before the Commission gave only the alternative of abandoning the system. Mr. Henderson said the original order asked that they have the system pumped in order to comply. He said they could not abandon a system that was not installed, so by the proposed order they were being required to construct a system without a permit in order to abandon it. Chairman Richards said that if the Commission were to adopt

an order following Mr. Cordes original order, which would require either obtaining a permit or abandoning the system, then the objection to that part of the order would be taken care of. Mr. Henderson agreed.

Chairman Richards said it was unfortunate that the Hendersons left the last meeting before action had been completed. He said that it was only called to the Commission's attention at the break that action had not been completed, but no discussion took place.

Director Young advised the Commission that he had had a meeting with both Mr. Ladd Henderson and Mr. Larry Henderson the evening before the meeting, and Mr. Robb Haskins. He said that the matter had been discussed at some length without any conclusion, whether some different solution should be pursued in this matter.

Mr. Ray Underwood, Department of Justice, said he did not agree with Mr. Henderson that the Commission did not have the authority to modify the order. He said that in doing so the Commission may wish to go back to the original proposal of the Hearing Officer to include the alternative.

Chairman Richards said he would prefer the Order be drawn along the original order of the Department and give Mr. Henderson a certain length of time to either obtain a permit or abandon the system.

At the end of the Commission meeting the Commission returned to this matter. It was noted that the Messrs. Henderson had left the meeting.

Mr. Peter McSwain, EQC Hearing Officer, said it was his understanding that the Hearing Officer in this matter affirmed the Department's remedial action order. He said the two questions were, would the Hendersons test a modification which relaxed the original Departmental order; and there was nothing in the subsurface sewage disposal system definitions that included "or portion thereof" and the statute would have to be reverted to. The statute, he said, referred to "a portion thereof" a system.

Mr. Undersood said he would leave in the reference to "a portion thereof" if Hearing Officer Cordes had that in his original proposed order. He said there had been some question as to whether they were referring to a whole system or only part of one, and they wanted to be sure to cover either way.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the Final Order be approved incorporating as Attachment A the following language:

It is hereby FURTHER ORDERED that Respondents shall forever cease and desist from using Respondents' illegally constructed subsurface sewage disposal system or portion thereof unless, within twenty (20) days of the date of this order, Respondents apply for and obtain a valid subsurface sewage disposal system installation permit to retain such system or portion thereof. Should Respondents fail to apply for or obtain such valid permit or fail to timely request a hearing on any denial of such application as may be filed with the appropriate fee with the Department of Environmental Quality, then Respondents shall, within twenty (20) days of the date of this Order abandon that system pursuant to OAR 340-71-018(2)(d) and in the manner set forth in OAR 340-71-018(4) in that Respondents shall not allow any septic tank to remain in the ground unless it (a) is substantially free of sludge and (b) is filled with clean, bank-run gravel or other material approved by the Director or his authorized representative.

AGENDA ITEM J - REQUEST FROM WEYERHAEUSER CORPORATION FOR A CHANGE IN THE GENERAL EMISSION STANDARDS FOR PARTICULATE MATTER, OAR 340-21-015, VISIBLE AIR CONTAMINANT LIMITATIONS, AND OAR 340-21-020, FUEL BURNING EQUIPMENT LIMITATIONS, TO EXEMPT SALT EMISSIONS IN COASTAL AREAS

Mr. Frederic Skirvin, DEQ Air Quality Division, said that the hog fuel boilers at Weyerhaeuser Company's sawmill and plywood plant in Coos Bay did not currently comply with general emission standards for particulate, grain loading or opacity, partly because of some control equipment problems and partly due to salt in the fuel because of the storage and handling of logs in Coos Bay. He said the Department was asking for authorization to hold a public hearing on this matter after an informational hearing, both hearings to be in the Coos Bay area.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the Department be authorized to hold a public hearing in the Coos Bay area for the rule change, should the information received as a result of the public informational hearing support Weyerhaeuser's request for a rule change.

PUBLIC FORUM

Ms. Madelyn Rogers, Coos Bay, appeared before the Commission in regard to a septic tank approval problem. Ms. Rogers said they had recently purchased property in the Coos Bay area which had an existing septic tank and at the time they were told there was a grandfather clause that would allow them to use the septic tank. She said that they subsequently applied for a permit to reactivate the septic tank and were notified that the permit was denied because they were 300 feet from the sewer line. She said that actually they were more than 300 feet. It would cost, Ms. Rogers continued, approximately \$20,000 for them to hook up to the sewer because there was no one in the area to share the hook-up costs.

Chairman Richards explained that there was a procedure to be followed by persons that were dissatisfied with a ruling made in the field. He said that he sympathized with Ms. Rogers' problem, but there was no way the Commission could respond at this time. Chairman Richards directed members of the staff present at the meeting to work with Ms. Rogers on this problem.

AGENDA ITEM K - TELEDYNE WAH CHANG ALBANY - NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT ISSUANCE

Mr. Ted Groszkiewicz, DEQ Willamette Valley Region Office, explained the following three changes in the staff report and permit.

1. Page 3 of the permit, Schedule A, the levels on the last two lines should read as follows:

Parameters	Monthly Average kg/day	Monthly Average (lb/day)	Daily Maximum kg/day	Daily Maximum (lb/day)
Methylisobutyl Ketone	45	(120)	108	(240)
TSS	163	(360)	326	(720)

2. Page 6 of the permit, Schedule B, Condition 2, the note should read:

"When stream flows . . . monitoring can be reduced to monthly."

3. Page 10 of the permit, Schedule D, (c) add wording as follows:

(c) "It is the primary responsibility . . . to eliminate or reduce the likelihood of the recurrence of upsets."

It was MOVED by Commissioner Somers that the Director's recommendation to approve the proposed expansion along with the increased discharges during high stream flow periods be approved with the modifications outlined by Mr. Groszkiewicz. The motion was seconded by Commissioner Phinney.

In response to Commissioner Somers, Mr. Groszkiewicz said that the reason discharge had been held to Truax Creek instead of changed to the Willamette River was because of the frequency of upset conditions and the attendant toxicity problems.

Mr. Tom Nelson, Teledyne Wah Chang Albany, testified that the major issue that remained to be resolved was the discharge limits for various chemical parameters, and the proposed upset condition. He said that they were capable of maintaining Department-proposed limits only during periods of optimum operation, therefore, he said they continued to request that an upset condition be included in order to appropriately account for those occasions when the system was not operating under optimum conditions. Also, Mr. Nelson continued, there was a need to address operator error not due to negligence of the permittee and suggested that wording be included that the upset could not have been prevented by reasonable means.

Mr. Nelson said it appeared from the staff report that all parameters were being designated as best practicable treatment standards (BPT). He said they did not understand how the ammonium nitrate standard could be claimed as the outcome of BPT. He said that they had not seen any arguments which were supportive of the proposed limits.

Chairman Richards asked if it was an accurate statement that the Company could only meet standards under optimum conditions. Mr. Groszkiewicz replied that the original EPA report which set BPT asked for an efficiency in ammonia removal of 99.2%. As a result of considerable effort on the Company's part, he said, they had increased the efficiency to greater than that percentage and over the past four to five months they had been in compliance outside of upset conditions.

In response to Chairman Richards, Mr. Groszkiewicz said that they had used the EPA standard for ammonia and the thiocyanate standard was arrived at in negotiations with the Company and taking into consideration the systems the Company had in place to control thiocyanate in the discharge.

Originally, Mr. Groszkiewicz said, the Department drafted an upset condition at the Company's request. The wording in the proposed permit, he said, came about following an Attorney General's opinion. Director Young said that the viewpoint of the Attorney General's office was that no upset condition be included in the permit. He said there was a court case which indicated EPA might be bound to include an upset condition in permits and EPA has been pursuing the drafting of upset condition language. He said the agreement under which the Department issued NPDES permits did allow the state to issue a permit that is more stringent than one which would be issued by EPA. Director Young said he had concluded that an upset condition might make more manageable the Company's activities and the Department's ability to deal with them. He said the language before the Commission was the preferred language on upset conditions.

Chairman Richards stated he was in favor of putting an upset condition in the permit, but he wanted a time limit of a year to 18 months on it so that the Commission could look at it and see how it was working. This would be a different time limit than the whole permit, he said.

Director Young indicated that the proposed permit had been submitted to EPA and they found the present language acceptable.

Ms. Susan Smith, Oregon Environmental Council, testified that since the public hearing the proposed permit had changed significantly. Ms. Smith reminded the Commission that the Federal Water Pollution Control Act set the goal that discharge to navigable waters be eliminated by 1985. She felt that requiring the Company to plan did not guarantee that they would act upon those plans. OEC was concerned, she said that the present proposed permit would permit discharges into Truax Creek and did not set a deadline for meeting water quality standards. Ms. Smith said the OEC believed this was a violation of Federal law.

Ms. Smith said they opposed the upset condition because it left too much enforcement to the discretion of DEQ. Ms. Smith said the OEC felt that if the present proposed permit were issued it would result in the permanent destruction of Truax Creek and possible degradation of the Willamette River.

In response to discussions, it was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the proposed permit be amended as follows:

Page 2, Schedule A, note 1) - The second sentence beginning with "This method is permitted . . ." will end with the word "claimed." and the rest of that sentence will be deleted.

Page 3, Schedule A, Note 2 - same as above.

After some discussion among Commission members, Director Young said the ammonia standard was one that EPA arrived at through analysis on the

the plant site. He said EPA indicated this standard represented best practicable treatment for that plant. Mr. Young continued that he did not think EPA would approve a permit with a higher ammonia standard. He continued that, if the Commission wished to raise the ammonia standard, he recommended they go with what the Company recommended and remove the upset condition. He said he would not recommend both raising the effluent limitations and keeping the upset condition.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried with Chairman Richards dissenting that item 6, Schedule A, on page 4 of the permit be amended to read as follows:

6. The effluent limitations in Condition 3 of this schedule shall apply only after written approval for an increase in production to sixty thousand (60,000) pounds per day of total oxide has been received from Director and monthly production has actually exceeded fifty thousand (50,000) pounds per day of total oxide:
 - a. The permittee is operating under a current noncontested NPDES permit.
 - b. Compliance with effluent limitation contained in this permit for a period of four consecutive months.

The Commission then voted on the main MOTION as amended, stated previously. The motion passed unanimously.

AGENDA ITEM 1 - AUTHORIZATION FOR PUBLIC HEARING TO RECEIVE TESTIMONY ON FIELD BURNING ACREAGE LIMITATIONS AND OTHER POSSIBLE CHANGES TO THE DEPARTMENT'S FIELD BURNING RULES FOR THE 1979-80 FIELD BURNING SEASONS.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried unanimously that a public hearing on proposed 1979-80 field burning rules be authorized.

AGENDA ITEM 1 - INDIRECT SOURCE PROGRAM - STATUS REPORT

Chairman Richards noted that there was no one present who wished to testify on this matter.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried unanimously that the Director's recommendation that the present administrative policy on indirect sources be continued and that any future changes, other than those arising from the proposed Settlement Agreement be pursued through rule hearing after January 1, 1979, be approved.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

(Tentative Agenda)

ENVIRONMENTAL QUALITY COMMISSION MEETING
November 17, 1978

Eugene City Council Chambers
City Hall, 777 Pearl Street
Eugene, Oregon

- 9:00 am A. Minutes of the September 22, 1978 and October 27, 1978 EQC Meetings
B. Monthly Activity Report for October 1978
C. Tax Credit Applications

- 9:15 am D. Indirect Source Rules - Public Hearing to consider proposed amendments to Indirect Source Rules, OAR 340-20-100 through 20-135

- 9:30 am E. Field Burning Regulations - Public hearing on proposed revisions to the Agricultural Burning Rules to establish maximum acreage limitations and burning procedures for 1979 and 1980 field burning seasons, OAR 340-26-005 through 26-030

PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

- F. Medford-Ashland AQMA - Proposed adoption of particulate and volatile organic compounds (VOC) offset rules for the Medford-Ashland Air Quality Maintenance Area (AQMA)

- G. Noise Control Rules - Reconsideration of adoption of proposed amendments to Noise Control Regulations for new automobiles and light trucks, OAR 340-35-025

- H. OEC Petition - Consideration of petition from Oregon Environmental Council requesting promulgation of rules to regulate noise emissions from airports

- 11:30 am I. Contested Case Reviews:
a. DEQ v. Suniga - Civil penalty for alleged open burning violation
b. DEQ v. Randall Taylor - case review

- J. Clatsop Plains Subsurface Sewage Disposal Rules - Proposed adoption of technical amendments, OAR 340-71-020(7)

- K. Chem-Nuclear License - Proposed adoption of amendments to Chem-Nuclear's license for operation of Arlington Hazardous Waste Disposal Site

- L. 208 Nonpoint Project - Request for approval to add new elements to Statewide Water Quality Management Plan

- M. Sunrise Village, Bend - Appeal of subsurface sewage disposal requirements

Because of uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items D, E, and I. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) at the Eugene Hotel, 222 E. Broadway; and lunch Conference Room B off the cafeteria at Harris Hall, 125 E. Eighth Street, Eugene.

MINUTES OF THE ONE HUNDRED THIRD MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

November 17, 1978

On Friday, November 17, 1978, the one hundred third meeting of the Oregon Environmental Quality Commission convened in the Eugene City Council Chambers, 777 Pearl Street, Eugene, Oregon.

Present were all commission members: Mr. Joe B. Richards, Chairman; Dr. Grace Phinney, Vice-Chairman; Mr. Ronald M. Somers; Mrs. Jacklyn L. Hallock; and Mr. Albert H. Densmore. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF SEPTEMBER 22, 1978 EQC MEETING

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the Minutes of the September 22, 1978 EQC meeting be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR OCTOBER 1978

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Monthly Activity Report for October 1978 be approved as presented.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that the following Tax Credit Applications be approved: T-972 (Georgia-Pacific Corporation), T-1002 (Edward Hines Lumber Company), T-1027, T-1028 (both Champion International Corporation), and T-1006 (Boise Cascade Corporation).

PUBLIC FORUM

No one wished to appear on any subject.

RESOLUTION

Commissioner Densmore expressed the hope that the resignations tendered by Chairman Richards and Director Young would not be accepted. He said he had observed that the Director had been doing a superior job with the agency, and he believed it would not serve the environmental programs of the state to change Directors of the Department at this time. He also complimented Chairman Richards on the excellent manner in which he directed the Commission.

The following resolution was agreed upon unanimously by Commission members with Chairman Richards abstaining.

BE IT RESOLVED by the State of Oregon, Environmental Quality Commission, that Governor-Elect Victor Atiyeh consider and reject the resignations of Mr. Joe B. Richards, Chairman of the Environmental Quality Commission, and Mr. William H. Young, Director of the Department of Environmental Quality.

It was directed that this resolution be forwarded to Governor-Elect Atiyeh.

AGENDA ITEM L - 208 NONPOINT PROJECT REQUEST FOR APPROVAL TO ADD NEW ELEMENTS TO STATEWIDE WATER QUALITY MANAGEMENT PLAN

Mr. Tom Lucas of the Department's Water Quality Division presented this item. He said that the 2-year 208 project was nearing completion. Some 11 projects had been worked on, he continued, with emphasis on forestry and agriculture. Mr. Lucas presented Volumes V, VI and VII of the Statewide Water Quality Management Plan for Commission approval.

Following questions by Commission members regarding references in the three volumes, Mr. Lucas was requested to reference the document clearly and return later in the Commission meeting for adoption. It was noted that no one was present to testify on this matter.

AGENDA ITEM D - PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO INDIRECT SOURCE RULES OAR 340-20-100 THROUGH 20-135

Mr. Howard Harris of the Department's Air Quality Division, said a change to the rules was being sought to meet the terms of an out-of-court settlement agreement. The proposed amendments, he said, did not change the type or amount of information required by the current Indirect Source Rules.

Mr. Harris said the major change was in the information requirements of the rules which would require the Department or Regional Authority to consider an application complete if a written demand for additional information was not mailed or delivered within a 15 day period.

Mr. Harris then presented the following Director's Recommendation.

DIRECTOR'S RECOMMENDATION

Subject to such changes as the Commission may find appropriate after receiving testimony at the public hearing, it is the Director's Recommendation that the Commission take the following actions.

1. Adopt the Proposed Amendments to OAR 340-20-129 as permanent Rules to become effective upon their prompt filing with Legislative Counsel, Legislative Counsel Committee, and the Secretary of State.
2. Adopt as Final Statement of Need for the Rules that statement contained in the staff report on this item.

Mr. Marc Kelley of the City of Portland's Mayor's Office, appeared opposing the change in indirect source rules. The rule change they were concerned with, he said, dealt with the less stringent standards proposed for sources of 1000 parking spaces or more outside of large metropolitan areas. Mr. Kelley said the City would like to see the technical justification for why some sources over 1000 spaces in nonattainment areas would be reviewed under a different criteria than sources of the same size within the same nonattainment area. They realized, he said, that DEQ reserved the right to request additional information from those projects outside of the metropolitan areas.

Mr. Kelley said they believed that any development of 1000 spaces or more within urban growth boundaries should be required to submit the same information as a matter of course and not as a matter of the Department requesting it. He urged that the present rules which required the same information from all applicants of large sources be continued.

Mr. Douglas DuPrist, attorney with Coons and Anderson in Eugene, appeared representing several organizations that were involved in the process that lead to the proposed amendments. He said that the amendments were proposed as a means of eliminating certain issues that were raised by the present regulation. He expressed the support of the organizations he represented for the proposed amendments and encouraged their adoption.

Mr. DuPrist wanted the Commission to be aware that although the amendments reduced the number of issues between his clients and the Commission they would not eliminate them entirely. He said the remaining issues were set forth in an exhibit attached to the Settlement Agreement which the Commission would take up later in the meeting. He wanted to reiterate their objections on those other issues. He also asked that the Commission consider testimony and evidence from an earlier hearing with regard to the proposed rule amendments. Their concern, Mr. DuPrist said, was that the proposed amendments address specific technical corrections; and it was their position that the adoption of those refinements did not constitute a re adoption of the entire rules.

Commissioner Hallock asked if it was necessary for the Commission to act on this matter at this meeting. She indicated she had some concerns about the Settlement Agreement and the proposed rules which she would like additional time to review.

Mr. Robert Haskins, Department of Justice, responded that according to the Settlement Agreement, it was effective provided the Commission adopted the agreed-upon amendments within six months. The Agreement was signed by the last party in September 1978, he said, therefore it would be possible for the Commission to act at a later date. Mr. Harris said that since he administered the program he would be pleased to have the amendments adopted at this meeting and did not see a significant change in the proposal would come by further review.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried with Commissioners Hallock and Densmore desenting that the Director's Recommendation as stated above be approved.

AGENDA ITEM E - PUBLIC HEARING ON PROPOSED REVISIONS TO THE AGRICULTURAL BURNING RULES TO ESTABLISH MAXIMUM ACREAGE LIMITATIONS AND BURNING PROCEDURES FOR 1979 AND 1980 FIELD BURNING SEASONS, OAR 340-26-005 THROUGH 26-030

Representative Nancie P. Fadeley, Eugene, requested the Commission keep in mind that the report in front of them talked about the impact of burning valley-wide; dealt with average levels of pollution throughout the valley; and did not address those peaks in certain areas.

Representative Fadeley was also concerned that this report did not deal with fine particulate which caused health problems. She wanted the Commission to keep in mind that the monitoring this summer did not pick up the fine particulate which contributed to the health problems in the area. In response to Chairman Richards, Representative Fradeley said she was not opposed to the Department's recommendations on this matter and thought the Department was doing the best it could with what they had to work with.

Mr. Lawrence Barton, Sweet Home City Council, appeared on behalf of the City Council and also presented a memorandum from the Sweet Home Chamber of Commerce. He said the City did not have the expertise to comment on the technical aspects of the proposed field burning regulations, however they wished to comment based on the citizen complaints of smoke intrusions which the City had received. Mr. Barton complimented the Department on their willingness to respond to citizen complaints, especially by Mr. Scott Freeburn's appearance on a local radio talk show.

Mr. Barton said it was their impression that the smoke intrusions into the Sweet Home area were becoming worse over the years instead of better. He said they objected to the smoke intrusions, but did not object to the grass seed industry and did not wish to use the smoke issue to cause

economic problems to the industry. He said they would encourage self-policing by the industry rather than more governmental regulation. They realized, he said, that some monitoring standards were necessary and it would be appropriate for DEQ to monitor compliance as they do with municipal wastewater facilities.

Mr. Barton also encourage continued research into alternate techniques to burning. He presented some results of a survey by the Chamber of Commerce in the area on field burning. He said it was 2 to 1 in favor of designating Sweet Home as a smoke-sensitive area, and 2 to 1 opposed to deregulation concerning field burning. He said that the majority of responses acknowledged the economic necessity of field burning to the grass seed industry.

Chairman Richards said the staff report before the Commission on this matter was basically the same as was submitted to the Commission in October. He asked if any additional information had caused a modification of the Director's recommendation in this matter.

Mr. Scott Freeburn, DEQ's Air Quality Division, said that a report received from AeroVironment, Inc., pointed out that field burning and slash burning had significant impact on fine particulate matter. He said that monitoring done this summer showed increased in fine particulate levels when field burning smoke was intruding into the monitoring area.

In response to Commissioner Phinney, Mr. Freeburn said that approximately 152,000 acres were burned during the last burning season and approximately 171,000 acres were burned in 1977.

Chairman Richards said it was intended that testimony be taken at this public hearing and that the record be kept open for 10 days to receive additional comments. Final action, he continued, would be taken at the Commission's next meeting scheduled for December 15.

In response to Chairman Richards, Mr. Freeburn said that the State Law required the Commission to establish an acreage limitation prior to January 1, for the next two years based on the AeroVironment study and what the Department felt was a fairly good year in terms of smoke impacts in the Eugene-Springfield area. Mr. Freeburn said they recommended retaining the 180,000 acre limit with the possible check-off to 150,000 acres upon noted smoke intrusions.

Chairman Richards asked if there was a reasonably good prospect that smoke intrusions on the Eugene-Springfield area could be held down as successfully as was done during the burning season just past. Mr. Freeburn said that the weather factors were significant in holding the smoke intrusions down this year and that given similar or better circumstances they should be able to continue on that level.

Mr. John Vlastelicia, Oregon Operations Office of the Environmental Protection Agency, said he was not appearing to present an EPA position either for or against the proposed regulation. He wanted to make sure that the relationship between the proposed action and the Federal Clean Air Act requirements was understood and to outline EPA's concerns about proposed field burning regulations. He said that EPA's basic concern was that the final State Implementation Plan (SIP) demonstrated attainment and maintenance of the National Ambient Air Quality Standards.

Mr. Vlastelicia said that the most immediate and critical requirement was the SIP revision for the Eugene-Springfield nonattainment area which was to be submitted to EPA by January 1, 1979. He said that this SIP revision had to demonstrate attainment by 1982 through control of those sources impacting the nonattainment area, and the decision on the control of field burning was only a part of the total SIP revision package. Delays in final adoption of the SIP, he continued, might inhibit EPA's consideration of any field burning regulation revision, and unless the SIP was revised, the current SIP provision of limiting burning to 50,000 acres would still be in effect.

Mr. Vlastelicia said that without submission of an approvable SIP before the 1979 field burning season began, the interested parties would be faced with the alternatives of litigation or an acceptable Interim Strategy.

EPA was concerned, Mr. Vlastelicia said, that the proposed regulations would result in a substantial increase in emissions over those allowed by both the current SIP and the 1978 Interim Strategy. He said that the 1978 Interim Strategy was accepted by EPA because it employed all reasonable measures and both emissions and air quality impact under the strategy were expected to be about the same as that which would result under the current SIP.

Mr. Vlastelicia said EPA recognized that State Law required new acreage limitations be set by January 1, 1979, but did not feel it was appropriate to develop permanent SIP regulations without the benefit of study results not possible outside the context of the overall SIP strategy for attaining and maintaining standards.

Mr. Vlastelicia said that Prevention of Significant Deterioration (PSD) regulations must also be taken into consideration when adopting the proposed field burning regulations. He said any SIP revision for field burning must show that increased emissions over that allowed in the SIP would not cause or contribute to violations of Class II increments in the Willamette Valley or Class I increments in any of the five Class I areas adjacent to the Willamette Valley.

Mr. Vlastelicia reiterated that EPA's prime concern was that the State develop strategies to attain and maintain national standards. Since the State had in the past controlled field burning to some degree, he said, any proposed relaxation of that control must be accompanied by a demonstration that such action would not cause or contribute to violations of national standards or PSD increments.

Mr. Robert J. Elfers, appeared representing the City of Eugene. He said that although they would be making a number of suggested modifications to the proposed rules, they generally supported the approach that rules similar to the temporary rules of 1978 were justified for the next few years. However, he said they were not clearly in favor of the present proposed rules.

Mr. Elfers said that the 1978 rules were successful from the standpoint of air quality in the Eugene-Springfield area. Even though, he said, there was a lengthy period of rain during the past burning season, the total number of burning days was not substantially different from previous seasons. He said they had concluded that the dramatic reduction in the air quality impact of field burning on the Eugene-Springfield area was primarily caused by the revised Smoke Management Plan. However, he continued, striplighting and moisture requirements were ineffective.

Their analysis of DEQ emission tests, Mr. Elfers said, indicated a reduction of only 2% in average straw moisture content when 180,000 acres of fields were burned would reduce the particulate emissions by 5500 to 6800 tons. It appeared, he said, that the data indicated an emission rate of 171 pounds per ton at the 12% moisture level which would mean that 180,000 acres of field burning could produce over 55,000 tons of particulate. If this data were correct, he said, it would be additional justification for maintaining and improving the Smoke Management Program.

Mr. Elfers presented the following six recommendations to improve the proposed rules and make them more effective, flexible, easier to administer and to allow for some additional burning opportunities.

1. A modification to the acreage release system,
2. A revision of the moisture content restriction,
3. Objections to the controlled up-wind burning in certain south valley priority areas,
4. Extension of the striplighting requirement,
5. Support for future actions which would place additional responsibility and accountability in the seed industry in the management of its own air quality problems.

Mr. Elfers said the City's primary objective was the improvement and maintenance of clean air in the Eugene-Springfield area. Mr. Elfers presented a written statement which contained additional technical information prepared by the City's Environmental Analyst in support of the City's recommendations. This statement will be made a part of the Commission's record on this matter.

Mr. Terry Smith, City of Eugene, appeared to discuss some of the points made by Mr. Elfers. He said the results of the Department's open burning testing during last summer indicated that straw moisture was extremely important in effecting a reduction in total emissions. He said that the emission factors found for field burning from the summer's research work

were considerably larger than had been previously expected. Mr. Smith said the entire emissions from Eugene-Springfield were 16,000 tons for the year; consequently, three Eugene-Springfields reduced to 0 emissions would be needed to offset the emissions of field burning. No matter what the actual emissions were from field burning, he said, the same measured impact would be present. Trying to comply with those points brought up by EPA's testimony, he continued, would be extremely difficult in light of the new data from the summer's burning season.

Commissioner Phinney asked if the ideas about the contribution slash burning had changed in light of the new data. Mr. Smith replied that new information had been obtained on slash burning also so that its relative importance to field burning would be about the same. He said it did make field and slash burning the largest single emitters in the entire state.

Mr. Donald A. Haagensen, Oregon Seed Council, appeared to testify about the legal issues involved with the Clean Air Act, Oregon SIP revisions and the proposed field burning rules. Mr. Haagensen said that when Congress enacted the Clean Air Act, among the pollutants identified by EPA was particulate matter and EPA set standards for control based on total suspended particulate (TSP) present in the area. Once these pollution standards were established, he said, the primary responsibility for controlling air quality through use of those standards fell to individual states.

Mr. Haagensen said that under the nonattainment provisions of the Clean Air Act, Oregon had the duty to submit a revision for particulate matter to its SIP for the Eugene-Springfield AQMA. However, he said, none of the requirements for nonattainment area revisions dictated that Oregon adopt a particular scheme of regulation for field burning. Field burning, he said, was classified by EPA as a non-traditional source which in EPA's view need only be controlled to the extent necessary to meet the Clean Air Act schedules set up for attainment.

Mr. Haagensen said field burning operations in the Willamette Valley occurred in areas that were attaining the national air standards and the 1977 amendments to the Clean Air Act required a particulate matter revision to Oregon's SIP which contained emission limitations and other measures necessary to prevent significant deterioration of air quality in attainment areas. He said the PSD provision of the Clean Air Act required states to implement a permit program for any "major emitting facilities". However, he said none of these requirements for attainment area revisions dictated that Oregon adopt a particular scheme of regulation for field burning.

Mr. Haagenson said that by submitting rules designed to minimize nuisance effects as part of an SIP revision the state would relinquish its control over those rules and set the rules "in concrete" as federally enforceable rules. This procedure would mean, he continued, that as new field burning regulations were adopted each year they must be submitted to EPA and approved before they replace the prior rules.

Mr. Haagensen presented written testimony which is made a part of the Commission's record on this matter.

Chairman Richards read into the record a statement by the League of Women Voters of Central Lane County in support of the revisions to the field burning rules. This written statement is made a part of the Department's record on this matter.

Mr. Hal Burkitt, Oregon Seed Council presented an analysis of the AeroVironment, Inc. study. He said this evaluation related to the data which had been collected by the monitoring network and DEQ. Mr. Burkitt said it could be concluded from the data collected and presented in the AeroVironment study that the absence of any measurable impact on TSP values from field burning was significant, especially when rules were being considered to regulate that activity. Also, he said, there appeared to be a high degree of variation between sampling sites only a few miles apart with no correlation of TSP emitted from field or slash burning.

Mr. Burkitt said that based on collected data, the proposed rules for field burning had no scientific evidence as a reason for adoption or any indication that if adopted they would enhance the air quality in the Willamette Valley. He suggested the Commission adopt a meteorological ventilation index to determine the number of acres which could be burned on a given day with minimal impact on populated areas. He also suggested that up-wind burning of the Eugene-Springfield area be continued to be given special consideration.

Mr. Burkitt commended the EQC and the Department for their efforts in identifying the impact of field burning in the Willamette Valley. He said that based on the data collected, field burning could not be identified as a cause for exceeding any TSP daily or annual standards. He urged the Commission to adopt only rules which could be supported by sound scientific evidence.

Mr. Burkitt submitted a written statement which is made part of the Commission's record on this matter.

Mr. Dave Nelson, Oregon Seed Council, submitted a written statement which is made part of the Commission's record on this matter. He briefly commented on some of the points made in this statement.

Mr. Nelson said that the Department's staff report stated burning was satisfactory under the 1978 rules and the rules and their implementation prevented measurable impact on air quality standards. However, he said, the study indicated that the rules had nothing to do with preventing measurable impact and without any rules there would be little measurable impact on the standards. Also, Mr. Nelson said, there had been a couple of reports over the last few years which determined that field burning was not really the problem in the Eugene-Springfield area.

Mr. Nelson reminded the Commission that their objective through the Clean Air Act was to provide attainment of the primary standards established by EPA to protect health levels, and to attain soon thereafter the secondary standards to protect the livability of an area.

Mr. Nelson said they had experienced a high incidence of health complaints contributed to field burning during times when there was no burning going on, or there were other smoke intrusions than field burning. Because of the high visibility of the practice of field burning, he said, people tend to blame it for their problems.

Mr. Nelson said it was the Seed Council's recommendation that the acreage limitation be discontinued and the acreage burned on any given year be the sum of the acreage burned on each individual day on which burning is authorized. He said the annual limit only caused a hardship on growers and did not reduce particulate. The monitoring report, he continued, showed that 65+% of the particulate problem in the Southern Willamette Valley was from dust. He said that eliminating field burning would increase tillage and therefore increase dust.

The nephelometer standards, Mr. Nelson said, served only to reduce the amount of burning when an accident or an act of God caused smoke to drift into Eugene. He said there was no visibility standard at the present time and if one were implemented it should be applied to all sources of emissions causing the visibility reduction. Mr. Nelson also said there was no justification for the moisture content rule. The rule, he said, served only to reduce the amount of overall burning that could take place. Because there was no handy method of determining fuel moisture, Mr. Nelson recommended the rule should be dropped.

Mr. Nelson said they supported the restructuring of the special south valley priority burning and believed it could be accomplished if sufficient flexibility was given to the program coordinator. He said they also thought the backfiring and striplighting requirements should be eliminated from the rules because of negligible savings and because the low energy smoke had been identified as the biggest problem. He said the rules should encourage using rapid ignition as investigated by Oregon State University during the last burning season.

Mr. Nelson submitted to the Commission a copy of the proposed rule with the Seed Council's recommended changes.

Mr. Bob Davis said that what they should be interested in is the air quality in the City of Eugene. The air quality in the area was not good, Mr. Davis said, but obviously it was not the result of field burning. He said that based on the scientific data to date, if field burning were phased out completely the City of Eugene would still have an air quality problem.

Mr. Davis said it was the responsibility of the Commission and DEQ to investigate what was really causing the air quality problems in Eugene and adopt some regulations to attack those problems instead of wasting time on a source which has a minimal contribution to the air quality problem.

Mr. Davis said he thought the State should fight the federal government on this issue, and he didn't think the federal government wanted regulation of field burning. He said it was the State that put regulation of field burning into the SIP and therefore the State could remove it.

Mr. James L. Carnes, Albany Area Chamber of Commerce Agriculture, Natural Resource and Rural Affairs Committee, said his committee recommended that the proposed field burning rules be based on air quality and not on acreage limitations. He urged that field burning not be singled out and designated as a single pollutant contributor in the SIP. Mr. Carnes presented to the Commission copies of a booklet titled "Look Who's Supporting Oregon's Grass Seed Industry" which contained letters of support from 42 Chambers of Commerce, 56 Willamette Valley Cities, 16 County Boards of Commissioners and 44 fire districts, in addition to the City of Portland, Western Environmental Association and the Oregon State Board of Agriculture.

Mr. Carnes said that since DEQ had documented evidence that pollution from open field burning was far less than other measured sources of pollution, his Committee felt all sources of pollution should be measured and restricted on an equal basis and it was not realistic for open field burning to remain a part of the SIP for the State of Oregon.

Mr. Carnes submitted written testimony along with the booklet mentioned above which became part of the Commission record on this matter.

Ms. Marie Jensen, Oregon Women for Agriculture, testified to the economic impact of the regulation of field burning. She said the history of the Valley showed there had always been smoke in the Valley from grass fires or timber fires. She said the elimination of field burning would cause development of presently agricultural land.

Ms. Jensen said farmers were getting weary of regulation and most of them cannot go into growing other crops because the land is only suited to grass seed crops.

Ms. Jensen was concerned that the elimination of field burning would cause the farm land to disappear to development.

Ms. Sue Corwin, Oregon Farm Bureau, presented a written statement from the Benton County Farm Bureau which will be made a part of the Commission's record on this matter. She said they concurred with the opinions of the Seed Council already presented. They wanted to reinforce, she said, that field burning should not be included in the State Implementation Plan for the Clean Air Act.

Ms. Corwin also expressed the feeling that the farm community was weary of the field burning battle and would like to see the problem resolved. She urged the Commission to take into account the benefits of agriculture and what would happen if those benefits were eliminated.

Ms. Liz VanLeeuwen, Linn-Benton Women for Agriculture, also asked that field burning not be included in the State's Implementation Plan. She asked that the acreage limitations on field burning be removed so growers could utilize the favorable burning days in such a way as to get the maximum acreage burned with a minimal total smoke intrusion impact. She said experimental burning techniques had been used on her farm and had not proved successful.

Ms. VanLeeuwen presented a written statement which is made part of the Commission's record on this matter.

Mr. Elfers said the City of Eugene would try to prepare some additional information to be submitted to the Commission within the 10-day period before the record closed. He said he was concerned about the importance being placed on the AeroVironment report statement that there was small impact from field burning. He said he was concerned whether or not this report was being used wisely and presented accurate information. They felt it was unreasonable for the seed industry to seek to not be regulated at all, he said. Mr. Elfers said the City of Eugene was seeking adequate and sufficient quality of air for the Eugene area.

Mr. Nelson responded that the Seed Industry was not asking to be unregulated. He said they felt the smoke management program was crucial. However, he said, they believed there was a great deal of refinement needed to that program. Mr. Nelson said they were asking that regulation of field burning be kept within the State and out of the SIP.

Chairman Richards then concluded the public hearing on this matter.

AGENDA ITEM F - PROPOSED ADOPTION OF PARTICULATE AND VOLATILE ORGANIC COMPOUNDS (VOC) OFFSET RULES FOR THE MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA (AQMA)

Mr. Dennis Belsky, of the Department's Air Quality Division, presented the item pertaining to the particulate emissions and volatile organic compound (VOC) rules for the Medford-Ashland AQMA. Mr. Belsky said that further growth in the area either from existing sources or from new sources could not occur until an offset policy was in effect to mitigate the effect of the emissions.

Mr. Stuart Foster appeared on behalf of the Greater Medford Chamber of Commerce. He said they were concerned about the economic impact from the proposed offset rules. He said it appeared to them that the burden of controlling air pollution in Jackson was being placed 100% on industry

which only accounted for 25% of the identified emissions. Mr. Foster continued, that they believed these regulations would provide a disincentive for growth or new industry in the area. He said the Chamber of Commerce opposed an offset policy; however, they were not in favor of rolling back the burdens which were put on industry through the control strategy.

Mr. Foster said they felt the Commission should reevaluate its control strategy to make it broader and request legislation in areas that it does not presently have authority.

Chairman Richards said the only alternatives facing the Commission were either no-growth or offsets. Mr. Foster said they realized that the control strategies had been adopted, and urged the Commission to reevaluate those strategies because they did not believe offsets were needed.

After some discussion with Commissioner Somers, Mr. Foster requested the Commission take into account the impact of the proposed rules on the economy of Southern Oregon and reminded the Commission that one of the LCDC goals was to protect and diversify the economy.

Mr. Foster presented a written statement which is made part of the Commission's record on this matter.

Mr. Gary Grimes, SWF Plywood Company, Medford, testified on the particulate attainment portion of the proposed rules as they relate to the AQMA. He said his company wanted to be assured of the Commission's understanding and intent or direction to the staff in applying the mechanisms of these proposed rules. In particular, he said, they were concerned that in order to comply with the standards eliminating wigwam burners, they may be forced to seek an outside offset as mandated by the proposed rules. Mr. Grimes said that the Medford/Ashland AQMA Committee identified that there would be little benefit to the airshed by the removal of wigwam waste burners and a solid waste problem could be created by their elimination.

Mr. Grimes suggested the following wording be incorporated into the proposed rule:

"Sources required to cease operation for purposes of meeting compliance with the particulate attainment strategy rule are exempt from the provisions of this offset rule."

Some provisions to that, he continued, would be any new emission sources required in the phase-out would be in compliance with the particulate strategy and there should be a net improvement or resultant decrease in total emissions than existed with the facility being phased out.

In response to Commissioner Densmore, Mr. Grimes said he had discussed some changes in the rule with the staff, but not specific wording, and it would be only fair to let the staff have a chance to look at it.

Mr. Tom Donaca, Associated Oregon Industries, testified he was concerned about some issues that had come up since the public hearings. He suggested the Commission might be moving too rapidly in adopting these rules, especially in light of two ongoing studies in other air quality maintenance areas. He cited in particular a wage and price control study which pointed out that the VOC regulations on a national basis would cost between \$5 and \$9 billion a year; this would include transportation-related controls.

Commissioner Somers asked Mr. Donaca if the Medford area would be substantially prejudiced if this matter was held over until the December meeting of the Commission. Mr. Donaca replied that in light of the information that was currently available to the Portland AQMA Advisory Committee, there was reason to request a delay on the part of Portland in adopting rules. He said he could not speak for Medford or Eugene/Springfield. He said there was reason to investigate whether EPA was going to hold to a hard time line in all cases.

Commissioner Densmore commented that the position the Commission was in was having the federal mandate and the severe sanction of the possibility that, if an approval SIP was not submitted, no air quality permits could be issued in the State. He continued that until the Commission received some Legislative authority in certain areas they were stuck.

Mr. Donaca replied that the Portland AQMA Committee would be looking at some alternatives. He said they had reason to believe that fuel oil consumption was going down in the state and that would contribute to reductions in emissions. Another alternative would be determining what could be done about road dust emissions, he said.

Mr. David Sant, Manager of Industrial Development for the Department of Economic Development, testified that they had been unable to meet with local officials regarding this proposed rule, as they would have liked. They were concerned, he said, that the offset rules would be too restrictive and prevent further economic development in the Medford/Ashland area. He said the economic problem was equal to or greater than the air quality problem in the area. They were concerned, Mr. Sant said, that the proposed offset rules would carry the message that the Medford/Ashland area was closed to future economic growth.

Mr. Sant said his Department would supply a staff representative, if desired, to assist DEQ in developing a viable alternative solution to the offset rules.

After some discussion among Commission members and staff it was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that this matter be deferred until the Commission's December 1978 meeting.

AGENDA ITEM G - RECONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS
TO NOISE CONTROL REGULATIONS FOR NEW AUTOMOBILES AND LIGHT TRUCKS,
OAR 340-35-025

Mr. John Hector of the Department's Noise Control Section, said this item was presented at the last meeting; however, the Commission made no decision at that time. Mr. Hector presented the following Director's Recommendation on this matter:

Director's Recommendation

Based on the Summation in the staff report, it is recommended that the effective date for the 75 dBA noise level for automobiles and light trucks be amended from model years after 1980 to read model years after 1982.

Mr. Hector said he had received a telegram from the Ford Motor Company supporting their position that the 75 dBA standard be recinded due to the effect it will have of significantly reducing available power train combinations in light vehicles. He said they noted that trailer towing packages for vehicles may not be available in the future due to this standard. Also, he said, they had recently received a letter from Mr. F. Glen Odell supporting the 75 dBA standard.

In response to Commissioner Somers, Mr. Hector said it was not absolutely necessary to set the standard over until 1982, but it did give the industry two more years to gear up for the new standard. He said that the Director's Recommendation was hard to make and was a compromise. Commissioner Phinney asked if Mr. Hector was aware of how much gearing-up the industry did during the past two-year extension and what reason would the Commission have to expect that the next two years would be different. Mr. Hector replied that the problem was the industry did not take the Commission seriously last time and he had no idea if they would deal with the situation any more differently this time.

Commissioner Somers said that information he had indicated that other states were doing exactly what the Director was recommending in this situation.

Mr. Edwin Ratering, Director of Vehicular Noise Control of the Environmental Activities Staff of General Motors Corporation, said at a minimum they supported the Director's Recommendation. He said if the recommendation were not approved, Oregon would be the only state to have a 75 dBA standard in 1981. From their standpoint, he said, it was extremely difficult to comply with non-uniform state regulations.

Mr. Ratering said the major automobile noise problem was caused by modified and poorly maintained vehicles and not by newly manufactured automobiles and light trucks. This particular proposed regulation, he said, did not address those major noise problems as they relate to

automobiles. The 75 dBA standard, he said, would not result in a perceptibly quieter environment because motor vehicles are driven at wide-open throttle less than 1/2 of 1% of the time. He said it was clear that at least 85% of the time engine-related noise levels were not a substantive factor with respect to motor vehicle noise. With the exception of modified and poorly maintained vehicles, Mr. Ratering said tire noise also dominates. Therefore, he continued, a 75 dBA standard would impact the availability of tires and other options to some degree.

Mr. Ratering said regulations governing exhaust emissions, fuel economy and noise levels produce design requirements which run counter to each other. He asked that they be given time to develop solutions to those various problems.

In addressing the staff report, Mr. Ratering said that EPA reports on noise testing should not be used as a basis for regulation because they had already found discrepancies in the sound levels which EPA reported. He said that testimony by an engineering consultant in support of the regulation that was referred to in the staff report, was replete with errors, presented no factual data to support claims and was thoroughly discredited in industry responses.

Mr. Ratering said Oregon should take note of the substantial investigative effort that EPA was conducting prior to proposing regulations on passenger cars and light trucks. Until those studies had been completed, he said, it was premature to arbitrarily establish regulated levels.

Mr. Rich Kister, Oregon Automobile Dealers Association, submitted to the Commission the results of an economic analysis entitled, "The Impact of Oregon's Franchised Automobile Dealers on the State Economy." This document is made a part of the Commission's record on this matter.

Mr. Joe Romania, Eugene car dealer, said it appeared obvious from the statement by General Motors there was a need for the Commission to roll back the 75 dBA standard. He said that should the 75 dBA standard be implemented there would be a severe shortage of vehicles available to Oregon dealers for sale to Oregonians. Mr. Romania said he was concerned that this standard would severely restrict the consumer on the variety of automobiles available for sale in Oregon.

Mr. Robert A. Laws, Eugene Police Department, addressed this matter from the standpoint of people-problems with automobile noise. He said the vehicular noise was the single most noise problem in the metropolitan Eugene area. In addition to modified and poorly maintained cars, Mr. Laws said that manufacturers encourage people to buy certain models for their high performance. These cars, he continued, were not being operated under normal driving situations, therefore the noise levels from these cars was higher.

Commissioner Somers said the basic problem the Commission was facing was that Oregon only constituted 2% of the total automobile market in the United States. Therefore, he continued, automobile manufacturers were not going to gear up differently just for Oregon. Commissioner Phinney responded that the problem the Commission was dealing with was the effect of noise on the citizens of Oregon and she couldn't see that the evidence warranted throwing out the present regulation. Chairman Richards said the federal government was looking at this problem and there was the possibility that all state standards would be thrown out and a federal standard of 1981 implemented.

AGENDA ITEM H - CONSIDERATION OF PETITION FROM OREGON ENVIRONMENTAL COUNCIL REQUESTING PROMULGATION OF RULES TO REGULATE NOISE EMISSIONS FROM AIRPORTS

Mr. Lloyd Anderson, Port of Portland, appeared in response to a petition filed by the Oregon Environmental Council requesting public hearings on whether emissions from airports should be promulgated. The Port presented a slide presentation before the Commission concerning their position on this matter. They also submitted a written statement which is made a part of the Commission's record on this matter. Mr. Anderson requested the Commission delay its decision until legal limits of its authority were established; until the technical differences between the Port and DEQ staff were established; and to clearly identify what is wanted out of the hearing process. He said if it was the intent of the hearing process to find out what the problems are around the airports in the State, then he suggested that a public hearing might not be the best way to find out that information. He suggested that detailed surveying of an area might be better.

If it is determined that public hearing should be held, Mr. Anderson said a clear statement of the objectives of those hearings should be established.

Mr. John Hector, of the Department's Noise Section, presented the staff report on this matter. He said it would be the Department's position that public informational hearings be held on the petition and the subject matter in general to develop a proposal that addresses the grievances of the petitioners.

In response to Commissioner Phinney, Mr. Hector said they would initially be holding hearings in the areas of airports to assess the magnitude of the problem and perhaps the OEC petition would be proposed as a mechanism to cure the problem.

Chairman Richards asked about a pending court case which questioned the authority of states to regulate airports because federal law preempted states in this regard. Mr. Hector replied he understood states could not set standards for individual aircraft, however the airport proprietor has

the authority and ability to operate the airport in any way he desires. Some things however, he continued, had to be approved by the FAA for safety considerations.

Chairman Richards said he felt there were enough alternatives to be explored that perhaps the petition should be denied and the Department directed to work with the Port on this problem. Then, he continued, the petitioners could petition again in 90 to 120 days if that effort did not appear to be making headway. Mr. Hector said he understood that the petitioners had been working with the Portland International Airport and did not feel the proprietor of that airport had recognized that there was a noise problem, nor was an acceptable solution being worked on.

Ms. Jean Baker, Oregon Environmental Council, said they had been involved with this problem for 18 months and for that period of time they listened to citizen advisory groups talk about noise. She said they waited as long as they could see if the Port would make a showing of good faith, and so far they had not.

Ms. Baker said they had looked into the FAA directive, and short of the Commission accepting their petition, there was really no way to achieve that directive. The state had no authority to control an airport, she said. Also, she said, there was no tower control of planes, therefore pilots were free to come into the airport on any flight path they felt comfortable with.

Ms. Baker said DEQ and the Port had been working on this problem for about two months and it resulted in a 27 page report on their unresolved differences. She said they wanted some serious attention on the part of the Port to citizen complaints and a plan on what was going to be done to remedy the situation.

Ms. Baker said the Port should be more demanding, and perhaps impose fines on those pilots who do not use designated flight paths into the airport. So far the Port has been remiss in doing this, she said.

Chairman Richards said the law required the Commission to, within 30 days of the filing of a petition, either reject it or to initiate rule-making proceedings. He asked Ms. Baker about the possibility of extending the time and requesting staff to better define the scope of the proposed public hearings. Ms. Baker replied that she was not familiar with the EQC petition process, but would not feel comfortable if the staff did not address all those things of concern to the neighborhood groups. She said if it had to be done, she would agree to it.

It was MOVED by Commissioner Phinney that this matter be postponed until the Commission's next meeting, and that the staff be directed to report on what they see as a viable topic for public hearings. The motion was seconded by Commissioner Hallock and carried with Commissioner Somers desenting.

AGENDA ITEM J - PROPOSED ADOPTION OF TECHNICAL AMENDMENTS TO CLATSOP
PLAINS SUBSURFACE SEWAGE DISPOSAL RULES OAR 340-71-020 (7)

Mr. T. Jack Osborne, of the Department's Subsurface and Alternative Sewage Disposal Section, said the amended Clatsop Plains moratorium rule provided for a density of one family unit per acre within the moratorium area. He said lots of less than one acre in size existing prior to April 2, 1977 were exempt. A temporary rule adopted earlier changed that exemption date to October 28, 1977, he said. The Commission was being asked to make that temporary rule permanent, he continued.

In response to Chairman Richards, Mr. Osborne said the Department had received no objections to this proposal.

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

Director's Recommendation

It is the Director's recommendation that, based on the summation in the staff report, the Commission take action as follows:

1. Adopt as a permanent rule Attachment A of the Hearing Report, such rule to be filed with Legislative Counsel and the Secretary of State before its expiration as a temporary rule.
2. Adopt as its final State of Need for Rulemaking the Statement of Need incorporated in this report, such statement to be filed with the rule as set forth above.

AGENDA ITEM K - PROPOSED ADOPTION OF AMENDMENTS TO CHEM-NUCLEAR'S
LICENSE FOR OPERATION OF ARLINGTON HAZARDOUS WASTE DISPOSAL SITE

Mr. Fred Bromfeld, of the Department's Solid Waste Division, said it was proposed that the Commission modify the Chem-Nuclear license for operation of the Arlington Hazardous Waste Disposal Site. Basically, he said, the modifications were housekeeping changes. He said it was the Director's Recommendation that the modified Chem-Nuclear license be issued.

After some discussion among staff and Commission on the proposed modifications, the Commission, by unanimous consent, indicated that they would not approve the proposed permit without the reinsertion of the old condition C7 relating to conveying title of the property to the state in event of a default on the part of the company. Mr. Bromfeld was directed to convey this to the Company.

By unanimous consent of the Commission, this matter was deferred until the Commission's next meeting.

AGENDA ITEM G - RECONSIDERATION

It was MOVED by Commissioner Hallock that the proposed noise rule relating to new automobiles and light trucks be amended to read "models after 1981," and approved of the Director's Recommendation as amended. The motion was seconded by Commissioner Somers and carried unanimously.

AGENDA ITEM L - COMPLETION

Commissioner Somers said that when this item was presented earlier in the meeting it was noted that there were several references in the report to appendices which appeared to have no significance. He said the staff had referenced Exhibit A to the staff report to each appendix.

Commissioner Somers MOVED the Director's recommendation be approved with the amended Volume 5 submitted by the staff. The motion was seconded by Commissioner Phinney and carried unanimously.

AGENDA ITEM M - SUNRISE VILLAGE, BEND - APPEAL OF SUBSURFACE SEWAGE DISPOSAL REQUIREMENTS

Mr. Richard Nichols, Regional Manager of the Department's Central Region, said this item concerned an appeal by Sunrise Village of a subsurface disposal requirement imposed on their development. Mr. Nichols then read the summation and presented the following Director's Recommendation from the staff report.

Director's Recommendation

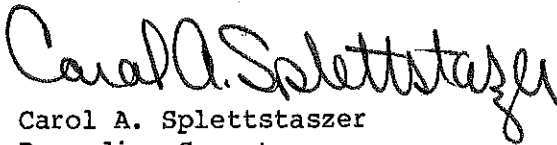
Based upon the summation, it is recommended that the Environmental Quality Commission direct the Department to not permit a community sewage disposal system for Sunrise Village unless such system is a part of the overall regional sewerage plan and would be connected to the Bend regional sewerage system at some future time. The Commission should also direct the Department staff to work with the City of Bend and Sunrise Village to reach agreement for ultimate connection of the sewage system to the regional system.

Mr. Martin West, one of the principals of the Sunrise Village development, said they were appearing before the Commission for economic reasons and out of general principle. They contend, he said, Sunrise Village was outside the original sewer service area EPA planned and funded for in the City of Bend plan. He also said that Sunrise Village had not received equal treatment compared to the Cascade Junior High School in regard to subsurface sewage disposal and city sewer agreements.

After considerable discussion among the Commission, staff and the developers of Sunrise Village, it was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that this matter be deferred until the Commission's next meeting.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol A. Splettstaszer
Recording Secretary

ENVIRONMENTAL QUALITY COMMISSION MEETING
December 15, 1978

Room 602, Multnomah County Courthouse
1021 S. W. Fourth Avenue
Portland, Oregon

9:00 am A. Minutes of the October 27, 1978 EQC meeting

~~B. Monthly Activity Report~~

DEFERRED

C. Tax Credit Applications

PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

D. OEC Petition - Reconsideration of petition from Oregon Environmental Council requesting promulgation of rules to regulate noise emissions from airports.

E. Field Burning Rules - Proposed adoption of revisions to Agricultural Burning Rules, including open field burning acreage limitations for 1979-80 burning season, OAR 340-26-005 through 26-030.

~~F. Medford Ashland AQMA - Proposed adoption of particulate and volatile organic compounds (VOC) offset rules for the Medford Ashland Air Quality Maintenance Area (AQMA).~~

DEFERRED

G. Volatile Organic Compounds Rules - Proposed adoption of rules to control emissions of volatile organic compounds (VOC) in Air Quality Maintenance Areas.

H. Chem-Nuclear License - Proposed adoption of amendments to Chem-Nuclear's license for operation of Arlington Hazardous Waste Disposal site.

~~10:30 am I. Sunrise Village, Bend - Reconsideration of appeal of subsurface sewage disposal requirements.~~

DEFERRED

~~11:00 am J. Contested Case Reviews:~~

~~a. DEQ v. Arline Laharty - Motion to Dismiss~~

~~b. DEQ v. George Suniga - Civil penalty for alleged open burning viol~~

DEFERRED

K. Noise Control Rules -
noise control rec
OAR 340-25-025.

1:30 pm L. Ochoco Pellet PJ
particulate
and 21-040

M. Stipulated
Conser
Junc

MINUTES OF THE ONE HUNDRED FOURTH MEETING
OF THE
ENVIRONMENTAL QUALITY COMMISSION

December 15, 1978

On Friday, December 15, 1978, the one hundred fourth meeting of the Oregon Environmental Quality Commission convened in room 511 of the Yeon Building, 522 S. W. Fifth Avenue, Portland, Oregon.

Present were Chairman Joe B. Richards and Commission Member Ronald M. Somers. Connected by telephone was Commission Member Albert H. Densmore. Vice-Chairman Grace S. Phinney and Commission Member Jacklyn L. Hallock were absent. Present on behalf of the Department were its Director, William H. Young and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A -MINUTES OF THE OCTOBER 27, 1978 EQC MEETING

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the minutes of the October 27, 1978 EQC meeting be approved as presented.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Somers that the Director's recommendation to issue pollution control facility certificates to applications T-1018, T-1026, T-1030, T-1031 and T-1022 and to revoke Certificate No. 533 because the certified facility was no longer in use, be approved.

For the benefit of Commissioner Densmore, Commissioner Somers explained that application T-1022, Publishers Paper Company, concerned the Company making application for the building of a turbine generator and electrical generating system to utilize their waste steam which was previously used for just heating the dry kilns in the wood process. He said the Company relied on the fact that the statute was enacted to encourage industries to use waste products and develop new energy resources from them. According to the information provided the Commission, Mr. Somers said, the Company accomplished the intent of the Legislature in that they not only recovered heat from a previously wasted commodity they also recovered an additional 5000 KW of electrical energy which meets the electrical demands of their plant and provides additional power to the community.

Mr. Lew Krauss, Rough and Ready Lumber Company, appeared regarding the proposed denial of their request for preliminary certification for tax credit. He said they had applied for preliminary certification under the solid waste statute on the basis of their installation of a system which would include a boiler and kilns. He said that the dry kiln portion of the facility was turned down for tax credit by the Department's staff.

Mr. Krauss presented exhibits to the Commission in support of his testimony. These exhibits are made a part of the Commission's record on this matter. Chairman Richards told Mr. Krauss that he would like to study the material presented. He said the Commission had discussed at their breakfast meeting what the legislative intent was and his preliminary feeling was that since the other applicant was producing energy in the commonly accepted sense, it would qualify for a tax credit because of the 1977 legislative change. Chairman Richards continued that he had tentatively felt that probably Mr. Krauss' application did not qualify. However, he said, he would not be prepared to make a decision at this time. Commissioner Somers said that the boiler could qualify for tax credit under either air or solid waste, but the problem was whether the construction of the dry kiln was utilizing waste as an energy source. He continued that it was obvious that the other system being discussed for Publishers Paper was generating electricity more than the plant needed. Commissioner Somers said that to approve these dry kilns would do severe damage to the tax credit program.

Mr. Krauss said he wanted to stress that this facility was a package unit. He said the dry kilns were not separable from the boiler. In response to Chairman Richards, Mr. Krauss said there would be no reason to produce the energy without the kilns.

Commissioner Densmore said he would be uncomfortable to vote on something he had not had time to review and suggested that this matter be deferred until the next Commission meeting. Chairman Richards agreed that the matter of the preliminary certification for Rough and Ready Lumber Company would have to be deferred until the next meeting.

Mr. Richard Miller, representing Rough and Ready Lumber Company, said they had noted that the Department has approved several particleboard plants in which the end product of the plant was composed of waste materials. He said they were asking for tax credit for the part of their facilities that really utilized the waste materials.

Chairman Richards gave Mr. Krauss and Mr. Miller a letter written by Mr. Tom Donaca of Associated Oregon Industries which summarized AOI's view of the legislative intent on this matter. He continued that the Commission did not feel that the legislative language included the type of facility Rough and Ready Lumber wished to have certified.

Commissioner Densmore asked if the Company had known that the kiln would not qualify for tax credit, would they still have built the facility. Mr. Krauss said he was unable to answer that, other than they did take various types of tax credit into consideration when they were figuring the investment in the facility.

Mr. Miller said that the kiln portion of the facility was denied on the basis that the substantial purpose of the facility was not to utilize waste material. However, he said, that further on in the statute it said, "the substantial purpose of the facility would be to utilize material that would otherwise be solid waste by the use of materials for their heat content or other forms of energy of or from the material." He said that they did not feel the heat content of their facility would go to any use unless they built the dry kilns. Without the dry kilns, he said, they had no use for the source of power.

Chairman Richards then called for the vote on the motion to approve the Director's recommendation as previously stated and noted that action on Rough and Ready Lumber Company's application for preliminary certification for tax credit would be deferred until the Commission's next meeting. The motion passed unanimously.

AGENDA ITEM K - PROPOSED ADOPTION OF AMENDMENTS TO NOISE CONTROL REGULATIONS FOR THE SALE OF NEW SNOWMOBILES, OAR 340-25-025

Mr. John Hector, of the Department's Noise Section, said the International Snowmobile Association had petitioned the Department to recind the 75 dBA standard scheduled to become effective for 1980 model snowmobiles. He said a public hearing was authorized and held in Portland on October 31, 1978. The major arguments offered at this hearing, he continued, were that noise levels emitted by the new 78 dBA snowmobiles did not pose a threat to the environment, and the state of the art of noise technology precluded the achievement of the 75 dBA standard for all models.

In response to testimony, Mr. Hector said the Director recommended that the 75 dBA standard be recinded. He said most standards were based on what industry could achieve and what DEQ as a regulatory body could get industry to achieve to a level that the environment was protected.

A representative of the snowmobile manufacturing industry answered questions of Commission members.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the Director's Recommendation in this matter be adopted.

LINCOLN COUNTY SOLID WASTE OPEN BURNING VARIANCE

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the solid waste open burning variance for Lincoln County be extended until July 1, 1979.

Commissioner Somers declared his conflict that he owned a condominium in Lincoln City.

In response to a request by Commisisoner Densmore, the staff was instructed to furnish him with further information on this matter as he was unable to attend the breakfast meeting where this matter was discussed.

LADD HENDERSON PETITION FOR DECLARATORY RULING

Director William Young said it would be his recommendation to not issue a declaratory ruling on this matter.

Mr. Ladd Henderson said he wished to point out several errors in the draft recommendation on this matter written by Mr. Robert Haskins of the Department of Justice.

Mr. Henderson said Mr. Haskins' main objection was to whether or not testimony or exhibits could be presented at the hearing for declaratory ruling. He said this matter could be settled by both parties stipulating to the taking of testimony at the hearing.

Chairman Richards said the question was whether or not the Commission should accept the petition and schedule a hearing. Mr. Henderson said he wanted to point out that he was not furnished with a copy of Mr. Haskins' recommendation until the day before. He said he did not feel it was adequate notice to prepare for a response. Commissioner Somers said it was not uncommon for an attorney to file a trial brief the day of the trial. Mr. Henderson said he would accept that.

Mr. Henderson said the petitioners would like to go on record as being in favor of allowing testimony at the time of hearing if the hearing was held.

Chairman Richards told Mr. Henderson he needed to convince the Commission that this proceeding should be acceptable to the Commission. He advised Mr. Henderson to only present those things that he believed to be issued which he had not had the opportunity to present before. Mr. Henderson replied that Mr. Haskins had stated that the Commission could not even entertain a petition which was based on untrue statements. He said he was trying to prove that the statements made were true. Chairman Richards said that the procedure Mr. Henderson had chosen was designed to draw the Commission's attention to issued which had not been dealt with in other ways. He continued that if Mr. Henderson was only raising the same issues which had been heard before and asked that he raise those issues which he felt were unique for this proceeding. Mr. Henderson replied that he found it difficult to separate the merits of the petition from the decision to hear it or not.

Mr. Henderson said that at no time was the issue of permit denial addressed. He said that the Hearing Officer ignored the daily monitoring reports for the City of Hood River sewage treatment plant. Mr. Henderson said the monitoring reports gave the information necessary to make a decision on whether or not the system was being operated in compliance.

Mr. Henderson said Mr. Haskins went on to state that the petitioners did not state sufficient facts for the Commission to make a declaratory ruling. However, he continued, had they submitted exhibits Mr. Haskins would have said they were pleading evidence. Mr. Henderson offered the following alternatives: (1) the previous offer of allowing testimony in evidence at the hearing, or (2) attaching the exhibits to the petition or resubmitting the petition with the exhibits made a part of it.

Mr. Henderson asked why DEQ should not be required to prove the applicability of an administrative rule which had been consistently used to deny the petitioners a permit over a period of one year and ten months and also asked why DEQ should have such a demonstrated fear of such a declaratory ruling. He said the Commission needed to decide if they wanted the problem solved at their level or in the courts as recommended by Mr. Haskins.

Chairman Richards said that Commissioner Densmore, because of the fact he was hearing the meeting by telephone, did not have the opportunity to see Mr. Henderson's exhibits. He said he would like to consider Mr. Henderson's brief and would like to defer action on this matter until the next meeting when hopefully all members of the Commission would be present. Mr. Henderson said he did not object to the Commission deferring action in this matter.

Mr. Haskins asked that a deadline be placed on the petitioners for submittal of their brief which would allow the department time to respond before the next Commission meeting. Chairman Richards said that Mr. Henderson was responding to Mr. Haskins brief, however if there were any added exhibits the Department should have the opportunity to respond to them.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that this matter be deferred until the Commission's next regular meeting. The record notes that the petitioners had no objection to this motion.

AGENDA ITEM G - PROPOSED ADOPTION OF RULES TO CONTROL EMISSIONS OF VOLATILE ORGANIC COMPOUNDS (VOC) IN AIR QUALITY MAINTENANCE AREAS

Mr. Peter Bosserman, of the Department's Air Quality Division, presented the summary and Director's Recommendation from the staff report. Mr. Bosserman said they had received additional information regarding these rules and presented three changes to the staff report and the rules. These changes are made a part of the record on this matter.

Mr. Gene Hopkins, Executive Vice President of the Greater Medford Chamber of Commerce presented testimony regarding these rules. He said that despite the efforts of DEQ they still did not have a good information base on which to calculate specific or overall control strategies for the unique air pollution situation in the Medford-Ashland area. He requested that the Commission request from the the upcoming legislative session specific funding for the purpose of establishing a greater data base.

Mr. J. C. Michaelson, 3M Company, White City, said they had reviewed the proposed amendments to the rule and afelt that their plant could work within the framework of those regulations.

Mr. James R. Watts, Attorney for the Roofing Contractors Association of Portland, said that following the October 1978 hearing the Association asked a consultant to draft a rule dealing with roofing kettle emissions to be submitted to DEQ. He said that DEQ took into account several recommendations of the consultant in drafting the proposed rule before the Commission. He said they had no conflict with the rule prepared by DEQ staff, however the rule they propose would go into more detail. Mr. Watts requested that the Commission substitute the rule prepared by their consultant for the rule prepared by DEQ staff.

Chairman Richards asked Mr. Watts if their proposed rule would have the effect of allowing greater or fewer emissions than the rule prepared by staff. Mr. Watts replied that their rule incorporated the same standards with respect to emissions but it detailed the standard in the rule.

Mr. John Platt, Oregon Environmental Council, said they had been following the Department's work in the preparation of these rules. He said they were concerned about the exceeding of photochemical oxidant health standards which occur in various areas of the state. He said that the proposed rules represented an important first step in coming into compliance with ambient air quality standards.

Mr. Platt said that OEC could not support the proposed rules for the surface coating industry. However, he continued, they realized that further reductions would occur later when the surface coating industry was examined as a source category.

Mr. William C. Cornitius, petroleum jobber, addressed the Commission concerning the proposed rule pertaining to the maximum gallons without vapor recovery for bulk plants. He said the cost estimates prepared by the staff were not correct and it would cost between \$80,000 and \$100,000 to comply fully for bulk plants versus the \$10,000 to \$18,000 indicated by the staff. This would, he said, cause a severe economic hardship to the bulk plants.

Mr. Tom Donaca, Associated Oregon Industries, wanted to make the Commission aware that this was a two-stage process in which large contributors were regulated in the first round, but in the second round those affected were not even aware of what was going on, but the proposed rule would greatly affect them. He said the staff should be giving the Commission a better indication of the actual relationship of the industrial/commercial contribution to the identified problem than they have given to date.

Mr. Donaca commended the staff for taking on EPA on the question of when controls should be operated. He said that the staff should be talking with EPA about intermittent controls.

It was MOVED by Commissioner Somrs that the Director's Recommendation as amended be approved with the exception of modifying 340-22-11594) to read: (4) Loading facilities loading [10,000 liters (2,375 gallons)] 76,000 liters (20,000 gallons) . . . The motion was seconded by Commissioner Densmore and carried unanimously.

AGENDA ITEM D - RECONSIDERATION OF PETITION FROM OREGON ENVIRONMENTAL COUNCIL REQUESTING PROMULGATION OF RULES TO REGULATE NOISE EMISSIONS FROM AIRPORTS

State Representative Sandy Richards, House District 22, questioned whether the public notice requirements had been satisfied by the moving of the meeting location, and registered a complaint by one of her constituents who wished to testify and expected the matter to be heard earlier but had to return to his job responsibilities. Chairman Richards said they regretted any inconvenience caused and if the party would like to send in written testimony it would be accepted.

Representative Richards said her only involvement in this matter was her attendance at the citizen advisory committee meeting, discussions with Port of Portland officials on the preparation of their master plan and conversations with DEQ officials. She said she was pleased with the technical input and policy recommendations of the Department throughout the Port's master planning process.

Representative Richards said she wanted to convey the frustrations of the public that were impacted by aircraft noise and who have been dealing with this problem for the last several months. She said she understood that the airport was now at 1980 projected traffic and the residential areas around the airport had built up markedly over the last few years. She continued that corresponding situations in other states had prompted rule adoptions.

Representative Richards said the proposal to defer rulemaking and develop a noise abatement program over the next six months was being interpreted in the community as simply another delay by another public agency.

In regard to the statement in the Director's Recommendation reading: ". . . the necessity for the adoption of specific rules and standards shall be determined" Representative Richards said that offered no guarantee that there would be rulemaking steps taken and some enforcement responsibility established.

Representative Richards asked that if noise abatement program development was the Commission's choice and the petition was denied, at the very least a serious effort be made to contact community leaders and legislators involved in the affected areas and involve the community in the noise abatement program development. She also requested that the Director's Recommendation be amended to indicate that rulemaking steps would be taken at the end of the noise abatement program development.

Commissioner Somers declared his conflict of interest because he was chairman of an airport commission in the State of Washington owned by the City of The Dalles. He said he also owned an airplane and was a pilot. Commissioner Somers said that the residents under approach corridors wanted to know that something was going to be done to take care of their immediate problem, and that would be the implementation of a noise abatement procedure. He said that if the Commission didn't take some action then a lot of unnecessary litigation would result. He asked Representative Richards if the people in her district would be willing to participate in a legislative process of hearings to make a reasonable determination

as to what noise they can live with. Representative Richards replied they were seeking to fill a void that no one was looking at the noise impacts beyond the Port facility along the approach and take-off corridors. She said they did not desire to shut down the airport, but simply wanted their noise concerns addressed in an administrative structure.

Mr. John Platt, Oregon Environmental Council, said that the noise problem at the Portland International Airport had experienced a history of delays and a lack of real recognition by the Port of the noise problem. To some extent, he said, their noise program was one of retrofitting which had not been funded by Congress and had no present likelihood of being funded. He said their petition asked for standards and for rulemaking. Mr. Platt said that the first staff report done for the Commission recognized the need for public hearings and recommended they be held. It also recognized the lack of pre-emption over certain areas of aircraft noise regulation, he said.

Mr. Platt said there had been staff criticism of the particular standard OEC proposed. He said they believed their proposed standard was strict but variance procedures could be set up along with it. He said it was essential that the Department ascertain its jurisdiction over this problem by rulemaking procedures and then proceed with an abatement program. Otherwise, he continued, the Department would be taking on the burden of showing the Port it did have an interest in the noise question, and also the burden of establishing the program rather than having the Port establish the program in order to meet standards.

Mr. Platt said that denying the petition would be only extending the delay that had been inherent in the problem of airport planning for noise. They believed, he continued, that after six months there would still be no agreement by the Port and DEQ and that a request for rulemaking would again have to be made.

In response to Chairman Richards, Mr. Platt said that other states had implemented standards and then gone through a planning process to establish variance procedures. Therefore, he said, they felt their proposed standard was sufficient as a basis for public hearings. He said they would not object to staff proposing their own standards incorporating those of OEC.

Commissioner Densmore asked if the Department took on jurisdiction over this particular noise problem without funding from the Legislature, then more harm than good would come of it. He asked if resources might be forthcoming. Mr. John Hector, DEQ Noise Section, replied that he felt his present staff could initially address this problem. He said that once the standard was adopted it would theoretically be accomplished by the airports themselves and he did not see a great need for additional Department staff. Commissioner Densmore asked about monitoring and identifying where problem areas were. Mr. Hector said they did have some monitoring capabilities and as they started to look at other airports around the state the demands on staff would increase. He said they would be concentrating on the eight commercial airports in the state.

Mr. Gary Gregory, said they did not want to close the airport. He said that the present problem had been going on for approximately 18 months. Mr. Gregory presented maps to the Commission showing the present flight corridors. He said that without a specific rule promulgated by DEQ, they could not be sure that aircraft would fly through the designated corridors. Chairman Richards asked if it was clear the Commission had the power to establish flight corridors. Mr. Gregory replied that the FAA recognized enforcement power at the local level working with the airport proprietor. He said the proprietor had the power to recommend policies to the FAA and they had certain things they could implement without FAA approval. Mr. Gregory said that a noise abatement procedure already existed but was not followed with the exception of Northwest Airlines. He said they wanted the rulemaking process to develop operational guidelines with specific standards so the public would know they could call DEQ with problems.

Chairman Richards asked Mr. Gregory, as a petitioner, if hearings were to be held did he want hearings on the rules proposed in the petition. Mr. Gregory replied that he would go along with Mr. Platt's suggestion of working with DEQ to perhaps develop specific rules governing this problem.

Mr. Clifford A. Hudsic, Port of Portland, expressed a willingness to cooperate with DEQ should the Commission decide on the Director's Recommendation on this matter. He asked that any report to the Commission fully express the powers and responsibilities of the various agencies which may be identified as implementing a noise abatement program.

Commissioner Densmore asked if the recent airline deregulation would increase the problems at the Portland Airport. Mr. Hudsic said deregulation would not have a significant effect on the amount of activity coming into the Airport. What might make an effect, he said, was the FAA ruling on retrofitting. He said that has to take place whether there was federal funding for it or not.

Ms. Jean Baker, testified she had reviewed the staff recommendation and felt it was deficient in not stating absolutely that a standard would be arrived at after a hearing process. She said that without standards there could be no noise abatement program. She said then the noise abatement program could be a part of the airport's responsibility. She said no one was proposing to preempt federal regulations on the operation of aircraft except that community noise levels should not be exceeded by a specified standard. Ms. Baker said it had already been demonstrated there was a need for standards.

Ms. Baker urged the Commission to approve OEC's original petition and to start the hearing process and rulemaking procedures.

Mr. John Hector, DEQ's Noise Section, said this item had been brought before the Commission at their November meeting and at that time staff was directed to outline the areas of jurisdiction and to develop recommendations to be considered at this meeting. He said the staff report explained the role of the airport proprietor, the state and local government and the federal government in the control of airport noise. He said the staff believed the Commission had the authority to adopt airport noise standards for which the proprietor must assure compliance.

Mr. Hector said the petitioners believed the noise problems could be solved by the use of operational controls. He said the effect of these types of controls would be to reduce the area of noise impact on land.

Mr. Hector presented the following Director's Recommendation from the staff report.

Director Recommendation

Based upon the Summation in the staff report, it is recommended that the Commission approve the following:

1. Deny the petition from the Oregon Environmental Council and co-petitioners for the reasons set forth above, and instruct the staff to notify the petitioners.
2. Authorize the Department to develop a noise abatement program for Portland International Airport to be submitted for Commission approval. This program shall assess all airport noise mitigation measures including airport operations, aircraft noise emissions and land use controls. Program implementation, compliance and assurance methods shall be identified and the necessity for the adoption of specific rules and standards shall be determined. Cooperation shall be requested from all concerned parties to develop this program, including the Port of Portland, the State Division of Aeronautics, the City of Portland, Multnomah County, the Federal Aviation Administration and the petitioners.
3. Within six months of this date, the Department shall propose, as necessary, a noise abatement program for Portland International Airport for Commission consideration and approval.
4. Subsequent to the approval of the Portland International Airport noise abatement program, the Department shall evaluate other Oregon airports and make recommendations to the Commission on the need for noise abatement programs.

Mr. Hector said that the day before this meeting the Department had received another petition on this matter. He said that after speaking with one of the signers of this new petition, Ms. Jean Baker, he understood that it was not the intent of the new petition to be a supplement or reinforcement of the one presently before the Commission. Therefore, Mr. Hector continued, the staff believed Commission action would be necessary on this second petition at a later date.

Chairman Richards asked Mr. Hector his reaction to the Commission denying the petition before it now, and then asking the staff to come back to the Commission within 60 to 90 days with Department-proposed rules, rather than going to a negotiated abatement strategy. Mr. Hector replied that he thought that would be an acceptable alternative. Chairman Richards said he would not want to go to hearings with rules in which they questioned the language.

After some discussion, Commissioner Somers MOVED to deny the petition and instruct the Department to within 60 days propose a set of rules that could be taken to hearing. The motion was seconded by Commissioner Densmore with the clarification tha the Commission was exercising its prerogatives under ORS Chapter 467. The motion passed unanimously.

PUBLIC FORUM

Ms. Liz VanLeeuwen, asked why, after repeated requests, she was not receiving notification of EQC meetings. Chairman Richards replied that he assumed that was an internal mistake and that the Department and Commission were not trying to exclude anyone from adequate notice of meetings. Ms. VanLeeuwen, testifying for the Linn County Farm Bureau and Women for Agriculture, said they objected to the Commission's consideration of matters of major importance like the water quality 208 program which the Commission heard in Eugene in November and which they understood would be heard at this meeting. Chairman Richards asked Ms. VanLeeuwen for her address and assured her that she would receive the agenda notification of EQC meetings.

AGENDA ITEM L - OCHOCO PELLET PLANT, PRINEVILLE - REQUEST FOR VARIANCE FROM PARTICULATE EMISSION LIMITATIONS, OAR 340-21-015, 21-030, and 21-040

Mr. Richard Nichols, DEQ's Central Region Manager, presented the following Director's Recommendation from the staff report.

Director's Recommendation

Based upon the summation in the staff report, the Director recommends that the Environmental Quality Commission:

1. Enter a finding that strict compliance remains inappropriate due to the physical and financial condition, and the new ownership of Ochoco Pellet Plant.
2. Extend the variance for Ochoco Pellet Plant to operate in excess of emission standards described in Oregon Administrative Ruoles, Chapter 340, Section 21-015(2)(b), 21-030(a) and 21-040 until October 1, 1979, subject to the following conditions:
 - a. Visible emissions shall not exceed 60%
 - b. Emissions shall be maintained at the lowest practical levels.
 - c. By March 1, 1979, the permittee shall submit proper plans and specifications for approval for construction of pollution control equipment.
 - d. By July 1, 1979, the permittee shall begin installation of pollution control equipment.

- e. By September 1, 1979, the permittee shall complete installation and schedule an appointment for Department personnel to verify that this facility is capable of operating in continuous compliance with State Air Quality Standards.

After some discussions, Mr. Nichols said they would like to change the date in the Director's Recommendation part D of item 2 from July 1 to June 1; and part E from September 1, 1979 to July 1, 1979. He said this would alleviate problems with EPA. The Company agreed this was reasonable.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the Director's recommendation in this matter, with the above amendments, be approved.

AGENDA ITEM E - FIELD BURNING REGULATIONS AND AMENDMENT TO THE OREGON STATE IMPLEMENTATION PLAN, PROPOSED PERMANENT RULE REVISION TO AGRICULTURAL BURNING RULES, OAR CHAPTER 340, SECTIONS 26-005 THROUGH 26-030 - RULE ADOPTION

Chairman Richards said that the public hearing on this matter had been concluded except for the holding open of the record for 10 days for written testimony. The Commission agreed to accept testimony from the City of Eugene and the Seed Council pertaining to the changes that had taken place in the rule as a result of the public hearing held in November.

Mr. Scott Freeburn, DEQ's Air Quality Division, in response to a question by Chairman Richards, said that as a result of the emission testing program during the last burning season it had been established that there was an effect moisture content had to increasing the total emissions from field burning. However, he said, it was staff opinion that the effect of atmospheric ventiation could drastically alter smoke impacts far more than moisture content. He said that to implement the program with the least amount of field personnel, the criteria suggested by the City of Eugene seemed appropriate. The City of Eugene suggested, Mr. Freeburn said, that the set value for loose straw moisture content be dropped and a criteria where there would so much waiting time after a given amount of rainfall be incorporated. He also said the city suggested keeping the 50% relative humidity limitation. However, Mr. Freeburn said he would suggest a 65% relative humidity limitation.

Chairman Richards asked if further modifications could be made in the rules after adoption as new data developed. Mr. Freeburn said they intended to submit the rules to EPA and ask them not to consider the rules except in combination with the rest of the SIP revision package.

In response to Chairman Richards, Mr. Freeburn said they intended the proposed rules to be the rules for next summer. Chairman Richards asked what would cause these rules to be modified before the next burning season. Mr. Freeburn replied that probably something as a result of Legislative activity or the results of some analyses that they had yet to complete.

Mr. Freeburn presented the following revised Director's Recommendation:

Director's Recommendation

Based upon the information set forth in pages 1-18 of the Director's December 15, 1978, staff report to the Commission; the testimony in the record of the November 17, 1978, public hearing; and the recommendations of Oregon State University pursuant to ORS 468.460(3), it is recommended that the Environmental Quality Commission act as follows:

1. Enter a finding that the open burning of 180,000 acres pursuant to the proposed rules in Attachment 1 to the Director's Staff Report will not substantially impair public health and safety and will not substantially interfere with compliance with relevant State and Federal Laws.
2. Designate as its final State of Need for Rulemaking the Statement of Need set forth on pages two and three of the Director's Staff Report.
3. Adopt as permanent rules the proposed rules set forth in Attachment 1 to the Director's Staff Report, such rules to become effective upon their prompt filing (along with the State of Need for Rulemaking) with the Secretary of State and to include an Order establishing 180,000 acres annually as the number of acres for which permits may be issued for open field burning.
4. Instruct the staff to submit the rules set forth in Attachment 1 of the Director's Staff Report to EPA pursuant to Federal rules, but request that these rules not be acted upon by EPA except as they may be later submitted as a part of an overall State Implementation Plan Revision package.

In regard to proposed rule OAR 340-26-010(6), which reads:

"(6) No person shall conduct open burning which results in a direct smoke and/or ash nuisance for adjacent residential communities, schools, or other smoke sensitive areas."

Mr. Freeburn said this proposed rule came about because of an incident which occurred during the last burning season in which there was some inappropriate burning next to a residential area. He said this proposed rule was intended to prohibit that possibility and to give the Department some recourse in responding to that type of burning in the future. However, he continued, concerns had been mentioned that his might be interpreted at a future date that such residential communities might be an individual house or several houses on a five-acre plot which might be located in an agricultural area.

Mr. Dave Nelson, Oregon Seed Council, recommended that the Commission adopt the acreage figure as required by state law and further recommended that the Commission defer adoption of the permanent operating rules. He

said that perhaps the Commission could state their intention of adopting permanent rules within the next few months. He said they were concerned about some specific items which were changed in the regulations.

He said that originally the rules proposed to keep the acreage limitation criteria to that used in 1978. This had been changed, he said, and they would prefer to see it restored. Mr. Nelson said they supported the direction the staff was going in in regard to the moisture rule, but had some concerns about it as it was proposed. In response to Chairman Richards, Mr. Freeburn said he would not be locked into prohibiting burning by the technicality of the moisture content rule. He said he could allow burning if in his judgment the humidity level would allow it. Mr. Nelson said they supported Mr. Freeburn having that flexibility.

Mr. Nelson provided the Commission with EPA's new policy on protection of agricultural land.

Mr. Nelson said that the acreage limitation in the proposed rules before the Commission was no longer a significant factor in the accomplishment of the smoke management program.

Commissioner Densmore asked Mr. Nelson if he knew of any possible Legislative action which would change the impact of the proposed rules. Mr. Nelson said he knew of no bills being drafted by any interim committee or task force to modify the field burning law. He said the Seed Council would not do anything until the Commission decided what it was going to do. He said there were some housekeeping changes that needed to be made in the field burning law.

Mr. Robert Elfers, City of Eugene, said that although they had some reservations about the proposed rules, they felt they were a fair compromise. Based on last year's experience, he said, they felt the proposed rules would do a good job in allowing the seed industry to continue with its practices and keep smoke impact out of Eugene.

Mr. Elfers said they were concerned about the elimination of the 12% moisture content rule and the 50% relative humidity restriction being lessened to 65%. He said the staff did not have justification in support of this revision. If anything, he continued, data from last summer's emission testing would support the opposite action. Chairman Richards asked Mr. Elfers if he agreed that any moisture content rule would be difficult to enforce. Mr. Elfers agreed and said they did recommend that the 12% moisture rule be dropped and in place have the growers subject to the 50% humidity rule.

Mr. Elfers said the smoke management program had few opportunities to address the question of reduction of emissions and most of it employed techniques of dispersing the smoke. He said that a smoke management program had to balance dispersion of the smoke and also reduction of emissions.

Mr. Elfers submitted a written statement which will be made a part of the Commission's record on this matter.

It was MOVED by Commissioner Somers that the Director's Recommendation on this matter be approved and that the proposed rules be amended as follows:

 OAR 340-26-010(6) be eliminated.

 26-013(1)(a) - Shall not exceed 180,000 acres [.]
 annually.

The motion was seconded by Commissioner Densmore and carried unanimously.

AGENDA ITEM H - PROPOSED ADOPTION OF AMENDMENTS TO CHEM-NUCLEAR'S LICENSE FOR OPERATION OF ARLINGTON HAZARDOUS WASTE DISPOSAL SITE

Mr. Fred Bromfeld of the Department's Hazardous Waste Section, said that after overseeing the operation of the Arlington Hazardous Waste Disposal Site, the Department determined that Chem-Nuclear's license to operate the site needed to be amended. He said the modifications to the license had been presented to the Commission at their last meeting, but concerns were raised about some of the conditions in the proposed license modification. Therefore, Mr. Bromfeld said, condition C7 which had been removed from the proposed new license, was reinserted in a modified form. These changes and modifications to the license were listed in the staff report.

Mr. Bromfeld said they believed the proposed modifications to the license addressed the Commission's concerns and said the Director's Recommendation would be that the modified Chem-Nuclear license be issued.

Mr. Pat Wicks, Chem-Nuclear Systems, Inc., said they had no objection to the proposed modifications of the license.

After some discussion, Commissioner Somers said he had not compared the proposed modifications to the old license because he thought this matter would not come up until the Commission's next meeting. Director Young said this matter had been before the Commission for four or five months and there was nothing that was made known to the Commission only at their previous meeting which had not been carried over from meetings before that. Although there was no great need to conclude this matter at this time, he said, it would be useful to the staff to get a clear sense of direction on what was still deficient in the license. Chairman Richards said he would like to finish this matter at this time.

It was MOVED by Commissioner Densmore, seconded by Commissioner Somers and carried unanimously that this matter be deferred until the Commission's January 1979 meeting.

AGENDA ITEM M - REQUEST FOR APPROVAL OF STIPULATED CONSENT ORDERS FOR THE CITIES OF BROWNSVILLE AND CAVE JUNCTION, AND BEAR CREEK VALLEY SANITARY AUTHORITY; AND AMENDMENTS TO THE CITIES OF ROCKAWAY AND SEASIDE STIPULATED FINAL ORDERS

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the following Director's Recommendation be approved.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission approve the following:

1. DEQ vs. City of Seaside, Amendment No. 2 to Stipulation and Final Order No. WQ-SNCR-77-159 (Attachment No. 2).
2. DEQ vs. City of Rockaway, Amendment to Stipulation and Final Order No. SW-SNCR-77-160 (Attachment No. 4).
3. DEQ vs. City of Brownsville, Stipulation and Final Order No. SW-WVR-78-103 (Attachment No. 5).
4. DEQ vs. City of Cave Junction, Stipulation and Final Order No. WQ-SWR-78-152 (Attachment No. 6).
5. DEQ vs. Bear Creek Valley Sanitary Authority, Stipulation and Final Order No. WQ-SWR-78-161 (Attachment No. 7).

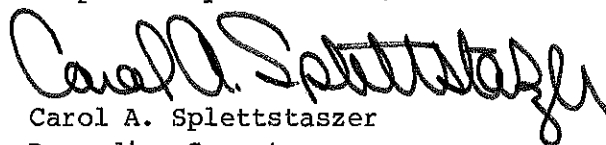
AGENDA ITEM M - CITY OF PORTLAND, GERTZ-SCHMEER ROAD - ORDER TO CONNECT SEWAGE DISPOSAL FACILITIES TO CITY OF PORTLAND SEWER SYSTEM

Mr. Stephen Carter, of the Department's Northwest Region Office, said this was a final action on a series that started in 1970 to eliminate health hazards in the Bridgeton-Faloma area of Multnomah County. He said the City had reviewed this matter and were in agreement with the Director's Recommendation. Chairman Richards noted that there was no one present to testify in opposition to the Director's Recommendation.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the Director's recommendation to approve the order to connect sewage disposal facilities to the City of Portland sewer system, be approved.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

MINUTES OF THE SPECIAL MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

January 17, 1979

On January 17, 1979, a special meeting of the Oregon Environmental Quality Commission was convened by conference telephone call.

Present were Chairman Joe B. Richards, Vice-Chairman Grace S. Phinney, Members Jacklyn Hallock and Albert Densmore. Member Ronald Somers was unavailable for the conference call. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

VARIANCE REQUEST FROM OAR 340-23-045 REGARDING THE OPEN BURNING OF WOOD, NEEDLE, OR LEAF MATERIALS IN MULTNOMAH, CLACKAMAS, WASHINGTON AND COLUMBIA COUNTIES

Mr. Tom Bispham of the Department's Northwest Region, said this special meeting had been called to request a variance of backyard burning regulations until February 28, 1979 in order to clean up debris caused by an ice storm in January. He said a meeting was held on January 16 with representatives of Multnomah, Clackamas and Washington counties, the cities of Lake Oswego, Milwaukie and Portland to discuss the problem of disposing of this debris. Also, Mr. Bispham continued, the Department had received numerous calls from the public requesting they be allowed to burn.

Mr. Bispham then presented the following Summation and Director's Recommendation from the staff report.

Summation

1. Large areas of Multnomah, Clackamas and Washington counties incurred severe storm damage during January 1979 which left large quantities of vegetative matter to be disposed of.
2. According to local governments, the quantity of debris far exceeds their capabilities, both physically and economically to dispose of entirely by chipping and landfilling.
3. Local governments propose to request special letter permits to conduct controlled burning of debris on their properties. Due to the large volume of materials remaining for public disposal, it was recommended that the current ban be lifted for a short period.
4. Granting a variance by the EQC is allowable in accordance with Oregon Revised Statutes (ORS) 468.345.

Director's Recommendation

Based upon the finding in the summation, it is recommended that the EQC:

1. Enter a finding that special circumstances render strict compliance unreasonable, burdensome, and impractical due to special physical conditions or cause.

2. Grant a variance from Oregon Administrative Rules 340-23-045(6)(e) for the purpose of open burning of wood, needle and leaf debris by the public, under the following conditions:
 - a. The variance period shall terminate at sundown on February 28, 1979.
 - b. Open burning is permitted only on those days specifically designated by the Department.
 - c. Burning shall be limited to that wood, needle and leaf debris caused by the January 1979 ice storm.
 - d. This variance is revocable at any time at which the Department determines that subject burning is causing endangerment of public health and welfare.

Mr. Bispham said the Department was prepared to have the daily burning decree issued from Portland rather from Eugene as had been done in the past.

Commissioner Phinney said that when the Commission normally considered variances such as this, they had some idea of the effect it would have on air quality. She wanted to know if the Department had any idea of how much would be burned and what percentage could be removed by other methods such as chipping. Mr. Bispham replied that that would be almost impossible to estimate. He said it had reached the point that the cities had exhausted their budgets for cleaning up this debris and some landfill areas had been filled.

Chairman Richards asked how bad the months of the regular burning periods were as far as adding to the suspended particulate load. Mr. Bispham replied that based on historical data it looked like half of the days in February would be classified as burn days. Mr. Bispham said they would not propose to burn on days with high TSP levels. Chairman Richards asked if late January and February were worse months to burn than April or May. Mr. Bispham said that one of the reasons the current burning season was in April and May was because that was when the debris was generated and there was better ventilation.

Mr. Bispham said the Department had received hundreds of calls from persons who did not have the finances or equipment available to haul the debris to a dump site, or the space to hold it until the next burning season.

Mr. Robert Buschoe, Portland Fire Department, requested that open burning be allowed to take care of the debris caused by the January ice storm. He said this material was not a fire hazard at this time, but if it was allowed to accumulate and dry out it could be a severe problem and public nuisance next summer. Mr. Buschoe continued that it was good public relations to allow people to clean up their yards now, weather permitting. It would release the City from a tremendous financial impact later, he said, if the City did not have to haul an additional mass of material left on streets and curbs.

Mr. Buschoe said they considered open burning to be the only viable solution to a difficult problem facing many homeowners. He said he was confident it could be done quickly and safely.

Mr. Bill Maslin, City of Portland Maintenance Bureau, testified that since the storm his Department had been trying to clear the streets of a tremendous amount of debris. He said that in the past five days they had hauled 150+ loads to their disposal site. He said they had been running five chippers and would continue to run them. Mr. Maslin said six dump sites had been set up throughout the City and they were hauling to a central location from these sites. He continued that this debris was the property owner's responsibility but they were working to help them take care of it.

Mr. Maslin said they felt backyard burning would reduce the impact of the material that was placed in the street for City crews to pick up.

Mayor Harold Cambell, City of Lake Oswego, said his area was one of the hardest hit by the storm in the Tri-County area. He said the City did not have the finances, manpower, or equipment to completely take care of the downed material in the public rights-of-way. With the help of the National Guard, he said, it was estimated it would take at least six weeks to pick up the material currently on public rights-of-way.

Mr. Cambell requested that the Commission help property owners to help themselves by allowing them to burn the debris on their property on those days which were declared safe for burning from an air quality standpoint.

Mr. John Platt, Oregon Environmental Council, said they did not see how this problem was really an emergency. Due to the fact the Commission was holding its regular meeting next week, he said, they did not see the need for acting on this matter by a special conference call. Therefore, Mr. Platt urged the Commission to hold off its decision until its next regular meeting.

Mr. Platt said that burning of debris from the storm would have a significant impact on the airshed. He said the wood was green and wet and therefore would have a greater impact than dry, seasoned wood. Mr. Platt said that January and February were traditionally high pollution months in the area, and the winter months were typically poorly ventilated.

Mr. Platt said it was his understanding that the law of the State of Oregon and the Regulations of the Department were aimed at preventing adverse health effects. He said that this open burning could be very damaging to persons with respiratory problems.

Mr. Platt said the Commission should look at tradeoffs with other sources of air emissions and decide whether this emergency warranted the curtailing of emissions from other sources.

Mr. Steven Lockwood, Portland AQMA Committee, said he was not speaking for the Committee at this meeting. He said the Committee did not take action on this question at their last meeting.

Mr. Lockwood said he understood that the municipalities and counties had a difficult problem in disposing of debris on the rights-of-way and he understood they were doing all they could to use chippers and other means of disposal other than burning. He said it was appropriate that municipalities and counties be granted permits to burn in centralized locations. Mr. Lockwood said he would like to see individual property owners bring their debris to centralized locations if it was necessary to burn it, rather than allow open backyard burning for individual property owners.

Mr. Lockwood said that now was the worst time to try to burn this material because it was green and it would be more desirable to wait until other means of disposal had been exhausted before open burning was allowed.

If the Commission were to allow this burning, Mr. Lockwood said, every effort should be made to inform the public that other means of disposal, including chipping and composting, were available and preferable.

Mr. Lockwood said he did not believe there was currently a safety or health problem and urged the Commission to pursue other means of disposal.

Ms. Jean Roy, Member of the Portland AQMA Committee, said she represented the League of Women Voters on this Committee. She said she was also testifying as a private citizen who was affected by this storm.

Ms. Roy said she did not feel that backyard burning was justified. She said that individuals needed to take the responsibility of disposing of the debris on their own property. She continued that people needed to be made aware of the hazards to their neighbors of open burning.

Mr. Jan Sokol, OSPIRG and Member of Portland AQMA Committee, said he was representing OSPIRG and not the Committee. He understood that in order for the Commission to grant this variance they had to make specific findings. Mr. Sokol said that as he read the staff report there appeared to be no demonstration that the public needed to burn. However, he said, there appeared to be a demonstration that local governments might have to burn, and a variance would not have to be granted for local governments to burn.

Mr. Sokol said that the statutes also required the Commission to consider the advantages and disadvantages to residents. He said that the disadvantages far outweighed the advantages. If it could be demonstrated that there was a present health or fire hazard, he said, then he would not oppose the granting of a variance. However, this demonstration had not been made, he said.

Mr. Sokol also said that alternate methods should be thoroughly investigated before a variance was considered.

There being no further witnesses, Chairman Richards concluded the public hearing on this matter.

Director William Young advised the Commission that in a briefing with the Governor's Office, they had been apprised of the decision the Commission had before it and the Governor was sympathetic to the type of decision the Commission had to make. Mr. Young said the Governor expressed support for trying to address the problem.

Chairman Richards asked the Director for his assessment of the argument against adoption of the Director's Recommendation on this matter. Commissioner Phinney also asked the Director to comment on public bodies being allowed to burn but not private property owners. Director Young said that his first thought on the matter was to deal with it at the Commission's regular meeting. However, he continued, concern by the local jurisdictions and calls by the public indicated it was critical that some early information be given to the public on how they should be expected to handle this problem. Therefore, he said, it was concluded that the Commission should address the problem quickly. Director Young said he agreed with witnesses that information on alternatives to burning should be advertised so the public would know what options were available.

In response to Commissioner Phinney's questions, Director Young said the Department had the capability to issue special letter permits to local governments for burning in circumstances of emergency. He continued that the more of the material that could be burned by local governments in a central location, the better control the Department would have.

Commissioner Hallock said she would like to defer action until the Commission's regular meeting in a week, and during that time encourage the use of alternate methods to burning. Also, she said, that would give the Commission more time to consider the problem.

Chairman Richards asked if there would be a problem with public agencies being allowed to burn and the general public prohibited. Director Young replied that that could cause problems and possible complaints. Chairman Richards asked what urgency local governments had to burn between now and the Commission's next meeting in a week. Mayor Cambell replied that if a quick determination were not made to allow people to burn on their own properties, then the problem on the City rights-of-way would be compounded by individuals placing their debris in the street. He said that people were already dumping material in the streets faster than City crews could pick it up.

Commissioner Phinney MOVED that the Commission decide at this meeting to permit local jurisdictions to burn and that they consider burning by the

general public at their regular meeting next week. The motion was seconded by Commissioner Hallock and failed with Commissioner Densmore and Chairman Richards desenting.

In response to Commissioner Densmore, Mr. Bispham said that in initial talks with local jurisdictions the Department told them they did not want them to burn but would like to see them pursue alternate means. Mr. Bispham said the local jurisdictions had set up transfer stations, allowed the public to go into city parks to cut firewood from the downed material, and several similar alternatives. He said that these methods had been going on for two weeks and during that time the Department had received over 200 calls requesting burning. Also, he said, during conversations with representatives of local governments, it became evident that these alternatives were not solving the problem. In response to Commissioner Densmore, Mr. Bispham said it was his opinion that local jurisdictions were taxed to the limit at this time.

Mr. Bispham commented that it was his understanding that the AQMA had taken action at their meeting and there was a vote on a motion to recommend to the Department that burning not be allowed. He said that motion failed by a vote of 10-6.

Chairman Richards said he felt uncomfortable with allowing local governments to burn and not members of the general public. In effect, he said, the Department would be inviting violations. He said he felt that the suggested alternatives had been fairly thoroughly considered during the past two weeks. Chairman Richards said he would prefer adopting the Director's Recommendation and strengthen the criteria as to what were allowable burn days.

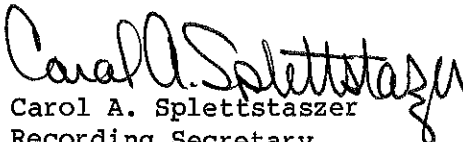
Commissioner Phinney was concerned that alternatives to burning were not being widely publicized and people might burn as the "easy way out". Chairman Richards replied that that would have to be looked at, and if there was a danger of everyone burning on the same day then perhaps some type of regional plan could be implemented. He also said people would have to know that they might be sitting with this material in their yards until April or May because of the tight restrictions the Department would be placing on burn days.

Commissioner Densmore asked if there had been increased incidence of illegal burning. Mr. Bispham replied that the field personnel had reported a handful of fires but it did not appear from telephone calls the Department had received that illegal fires were increasing. He said that several callers had threatened to burn if they did not have an answer soon.

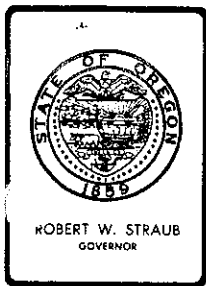
It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the Director's Recommendation be approved.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

CAS:kmm



Environmental Quality Commission

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ENVIRONMENTAL QUALITY COMMISSION MEETING

January 26, 1979

Room 602, Multnomah County Courthouse
1021 S. W. Fourth Avenue
Portland, Oregon

- 9:00 am
- A. Minutes of the November 17, 1978 EQC Meeting
 - B. Monthly Activity Reports for November and December 1978
 - C. Tax Credit Applications

PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

PUBLIC HEARING AUTHORIZATIONS (authorizes future public hearings)

- D. Request for authorization to conduct a public hearing on the question of amending administrative rules governing subsurface and alternative sewage disposal (OAR 340-71-010 to 71-045)
- E. Request for authorization to conduct a public hearing on the question of amending the administrative rules for the management of hazardous wastes (OAR Chapter 340, Division 6, Subdivision 3)
- ~~F. Request for authorization to conduct a public hearing on the question of repealing OAR 340-62-060(2) pertaining to hazardous waste management~~
- G. Request for authorization to conduct a public hearing on potential amendments to Oregon's Water Quality standards (OAR Chapter 340, Division 4).
- H. Request for authorization to hold a public hearing to modify Veneer Dryer Rule by including emission limits and compliance date for waste wood direct-fired veneer dryers (OAR 340-25-315)

CONTESTED CASE AND OTHER REVIEWS

- 10:00am
- I. Ladd and Larry Henderson - Petition for Declaratory Ruling as to applicability of OAR 340-71-015(5) (Availability of a community or area-wide sewerage system)

(more)



Contains
Recycled
Materials

10:30 am J. Contested Case Reviews:

- (1) DEQ v. Arline Laharty, Motion to Dismiss Respondent's Request for Review
- (2) DEQ v. George Suniga, Inc., Contested Case Review
- (3) DEQ v. Kenneth Brookshire, Request for extended filing of exceptions

PROPOSED RULE ADOPTIONS (action items)

- K. Noise Control Rules - Consideration of adoption of proposed amendments to noise control regulations for new automobiles and light trucks (OAR 340-35-025)
- L. Subsurface Rules - Adoption of amendments to administrative rules governing subsurface and alternative sewage disposal (OAR 340-71-020 and 72-010)
- M. Subsurface Rules - Adoption of temporary rule, Geographic Region Rule C, amending administrative rules governing subsurface and alternative sewage disposal (OAR 340-71-030(10))
- N. Used Oil Recycling - Proposed adoption of rules pertaining to used oil recycling

- 11:30 am O. Medford-Ashland AQMA - Adoption of rules to amend Oregon's Clean Air Act Implementation Plan involving an emission offset rule for new or modified emission sources in the Medford-Ashland Air Quality Maintenance Area.

OTHER ACTION ITEMS

- 1:30 pm P. Sunrise Village, Bend - Reconsideration of appeal of subsurface sewage disposal requirements
- Q. Chem-Nuclear - Proposed modification of the Chem-Nuclear license for operation of the Arlington Hazardous Waste Disposal Site
- R. Certification of plans for sewerage system as adequate to alleviate health hazard (pursuant to ORS 222.898) for areas contiguous to:
- (1) City of Monroe
 - (2) City of Corvallis
 - (3) City of Klamath Falls (Stewart Lenox area within Westside Sanitary District)
- S. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Order Addendum for City of Amity
- T. Curry County - Request by Curry County for extension of date for Solid Waste Plan adoption
- U. Variance Request - Louis Dreyfus Corporation and Bunge Corporation request for variance from OAR 340-28-070 regarding loading of ships with grain.
-

Because of uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items I, J, O, and P. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) at the Standard Plaza Building, Conference Room B, 1100 S. W. Sixth; and lunch in Room 511, DEQ Headquarters,

MINUTES OF THE ONE HUNDRED FIFTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

January 26, 1979

On Friday, January 26, 1979, the one hundred fifth meeting of the Oregon Environmental Quality Commission convened in Room 602 of the Multnomah County Courthouse, 1021 S. W. Fourth Avenue, Portland, Oregon.

Present were all Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; Mr. Ronald M. Somers; Mrs. Jacklyn L. Hallock; and Mr. Albert Densmore. Present on behalf of the Department were its Director William H. Young and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF THE NOVEMBER 17, 1978 EQC MEETING

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the minutes of the November 17, 1978 EQC meeting be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORTS FOR NOVEMBER AND DECEMBER 1978

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Monthly Activity Reports for November and December 1978 be accepted.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

Mr. Lew Krauss, Rough and Ready Lumber Company, Cave Junction, appeared regarding the proposed denial of their request for Preliminary Certification for Tax Credit. Mr. Krauss presented some background on his Company's solid waste problem. He said that in their feasibility study of the project they relied on obtaining tax credits for the whole project including the dry kiln portion.

Mr. Richard Miller, representing Mr. Krauss, said he felt they had stated their argument on why they should be granted Preliminary Certification for Tax Credit in materials already submitted to the Commission. In summary, he said, they felt the boiler and dry kilns were interrelated. Mr. Miller said they felt the kiln met the substantial purpose test of ORS 468.165 because it directly utilized solid waste by the use of materials for their heat content.

Mr. Miller said they felt that if their facility in some way did not dry lumber but used some type of blower system to blow the heat energy to other facilities within the sawmill, or to other industries, then it would not differ from the generator that was approved for Publishers Paper at the Commission's last meeting. He said that if the Commission agreed, they should at least approve the element within the dry kiln which converted the steam into heat energy and perhaps not the enclosure itself.

Commissioner Phinney said it seemed to her that once the heat was produced that was the end of the line as far as utilization of waste material was concerned. She said the energy in the steam would not be converted in this instance, but just extracted and used.

Commissioner Densmore commented that the Department and Commission had struggled with tax credits before and it was a judgment call as to just what was substantial purpose. Mr. Ernest Schmidt, DEQ Solid Waste Division, commented that in the case of the Publishers Paper matter the Department found that the substantial purpose test was met. He said that in the case of Rough and Ready Lumber, the argument would have to be made and accepted that they were drying lumber in order to get rid of solid waste.

In response to Commissioner Phinney, Mr. Schmidt said the Department would be happy to look into the pieces of the facility that were relevant to the solid waste nature of the project. Chairman Richards said that if the application was denied, it would not preclude the applicant from making a separate application on those parts of the facility.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried with Commissioner Densmore dissenting that tax credit applications T-1023, T-1035, T-1036, T-1037 and T-1039 be approved and that Rough and Ready Lumber Company's request for Preliminary Certification for Tax Relief for dry kilns be denied.

PUBLIC FORUM

Mr. Jan Sokol, Vice-Chairperson of the Portland Air Quality Maintenance Area Advisory Committee and representing OSPIRG, appeared regarding the Commission's granting of a variance allowing open burning in the Portland metropolitan area until February 28. He said he understood that on granting the variance the Commission stated that burning days would be allowed on conservative forecasts. He said that the day after the variance was granted the nephelometer readings in Downtown Portland were the highest in four years and burning was still allowed. Mr. Sokol said that contrary to the importance the EQC placed on publicity of alternatives to burning, all he had seen in the last week were three small newspaper articles.

Mr. Sokol said he had received several citizen complaints about particulate matter in the area and respiratory difficulties.

Mr. Sokol said he understood there had been a substantial increase in the number of illegal fires since the variance had been granted. He wanted to know what sort of enforcement activity the Department was using in order to eliminate the illegal fires.

Mr. Sokol requested that the Department give 10 days notice to all parties involved, hold a hearing, and revoke the variance. He said that at the Commission's January 19 conference call, there was no testimony that there was any immediate health or fire hazard. He recommended waiting until the better burning days in April or May.

Ms. Melinda Renstrom, appeared on behalf of the Oregon Environmental Council regarding the open burning variance. She said that the air quality had been worse in the last week since the variance was granted than anyone would have imagined. She requested a report from the DEQ staff regarding the effects of open burning during the last week.

Ms. Renstrom said that if burning had to be done, it should be done after a few weeks when the wood was not so green. She also said they would like to see some coordination with municipalities on disposal of this material without burning.

Mr. E. J. Weathersbee, Administrator of DEQ's Air Quality Division, said they were preparing a complete analysis of the air quality during the last week for the AQMA Advisory Committee and it should be finished soon. He said it was true that the nephelometer readings had been high on the day after burning was allowed. One complaint had been recorded by the Northwest Region he said, and he could testify that it was very smoky that day. However, Mr. Weathersbee continued, they had recorded quite a few complaints about not being allowed to burn because weather conditions did not permit.

Mr. Weathersbee said it came down to balancing the quality of the air against the need to dispose of the storm-caused debris. He said he had instructed the meteorologist who made the burning advisories to tighten up on his criteria, look at the conditions of existing air quality at the time, and to be more conservative in allowing burning.

AGENDA ITEM D - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON THE QUESTION OF AMENDING ADMINISTRATIVE RULES GOVERNING SUBSURFACE AND ALTERNATIVE SEWAGE DISPOSAL (OAR 340-71-010 to 71-045)

AGENDA ITEM E - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON THE QUESTION OF AMENDING THE ADMINISTRATIVE RULES FOR THE MANAGEMENT OF HAZARDOUS WASTES (OAR 340, DIVISION 6, SUBDIVISION 3)

AGENDA ITEM F - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON THE QUESTION OF REPEALING OAR 340-62-060(2) PERTAINING TO HAZARDOUS WASTE MANAGEMENT

AGENDA ITEM G - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON POTENTIAL AMENDMENTS TO OREGON'S WATER QUALITY STANDARDS (OAR 340, DIVISION 4)

AGENDA ITEM H - REQUEST FOR AUTHORIZATION TO HOLD A PUBLIC HEARING
TO MODIFY VENEER DRYER RULE BY INCLUDING EMISSION LIMITS AND COMPLIANCE
DATE FOR WASTE WOOD DIRECT-FIRED VENEER DRYERS (OAR 340-25-315)

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that public hearings requested in items D, E, F, G, and H be authorized.

Mr. Tom Donaca, Associated Oregon Industries, appeared regarding Agenda Item E, a request for public hearing on amendments to the rules for hazardous waste management. He said that there were now 82 pages of proposed EPA regulations regarding hazardous waste management. Mr. Donaca said that if the Commission adopted the proposed rules they would be embarking on a new program in the State which was considerably broader in scope than the area of disposal alone. Prior to the hearing, he said, they felt the Commission should receive from the staff a full evaluation of what it would take to run this program and then the Commission should make some specific determinations about whether or not they intend to assume the jurisdiction allowed under the Resource Conservation Recovery Act or have it remain with EPA. Mr. Donaca said he did not believe there currently was adequate staff to run the proposed program. He suggested that a hearing not be held until late March or April to afford the Commission the time to review the proposed program and make any budget adjustments necessary.

Mr. Fred Bromfeld, DEQ's Hazardous Waste Section, said Mr. Donaca had mentioned this matter to them previously and they had considered it. He said the Federal Government was scheduled to promulgate their proposed rules in December 1979, or the first of 1980, provided they did not get tied up in court as to the adequacy of the rules. There would be a two-year interim authorization period, he said, where a State would have time to evaluate the federal program to determine whether or not it desired to take primacy in the management of hazardous waste. Mr. Bromfeld said what the Department was proposing was not based on what the federal government intended to do, but on what the Department, in going to the 1977 Legislature, believed was necessary for an adequate Oregon hazardous waste management program. He said that presently the Department had three persons in the hazardous waste section and had authorization to hire two more people, and the Department believed that five people were adequate to administer the program proposed by the rules.

AGENDA ITEM I - LADD AND LARRY HENDERSON - PETITION FOR DECLARATORY RULING
AS TO APPLICABILITY OF OAR 340-71-015(5) (AVAILABILITY OF A COMMUNITY OR
AREA-WIDE SEWERAGE SYSTEM)

Mr. Ladd Henderson said that it had been two years since DEQ originally denied a permit to construct a subsurface disposal system for their mobile home park. Throughout this time, he said, they had been trying to bring up the question of the improper use of OAR 340-71-015(5) in denying their permit. One of the provisions of this rule, he said, was that they be able to connect to a sewage treatment plant that was in compliance. Mr. Henderson said that the Hood River sewage treatment plant had never been in compliance. Therefore, he said, that rule could not be used to deny them a permit because there was no alternative other than a subsurface disposal system available to them.

Mr. Robert Haskins, Assistant Attorney General representing the Department in this matter, pointed out that this was a separate proceeding from proceedings previously before the Commission. This Petition for Declaratory Judgment was a discretionary matter on the part of the Commission, he said. Mr. Haskins said the issue was whether or not the Commission should refer this petition to a Hearing Officer for a hearing and create a contested case, or to exercise their discretion to dismiss without considering the merits of the petition. He urged the Commission to dismiss the case without considering the merits of the petition because the petitioners had had their rightful opportunity to litigate and had chosen not to.

Mr. Haskins said the rule the petitioners claim was used incorrectly provided that the community sewerage system be in compliance at the time of connection. He said the petitioners had not hooked up to the system, therefore the rule required the Commission to look to the future when the connection would be made and predict whether the Hood River sewage treatment plant would be maintained and operated in compliance. He pointed out that the petitioners had a State Court remedy to review the February 1977 denial and failed to utilize it.

Mr. Henderson said he could be hooked onto the City system within the next two hours and if the sewage treatment plant was in compliance at that time he would go by the rule and hook into the City system. Otherwise, he said, they would request the Commission to consider their petition and look at the improper use of an administrative rule over a two-year period of time.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that the Commission exercise their discretion not to hear the petition.

AGENDA ITEM J(1) - CONTESTED CASE REVIEW - DEQ v. ARLINE LAHARTY, MOTION TO DISMISS RESPONDENT'S REQUEST FOR REVIEW

In response to Commissioner Somers, Mr. Robert Haskins, Department of Justice, said the Department's position on this matter was fully set forth in the Motion before the Commission. He requested time to respond to the respondent's argument, if needed.

Mr. R. Randall Taylor, representing Arline Laharty, said he file a brief memorandum in opposition to the Motion. He said the property had been ordered to be abandoned because of the installation of a subsurface sewage disposal system without a permit. In an attempt to resolve this problem, he continued, negotiations took place between himself, Mr. Haskins and members of the Department staff. Mr. Taylor said that no acceptable alternative had been reached although steps were being taken to determine whether or not an experimental application or reapplication for a variance would be in order.

Mr. Taylor asked that the Motion to Dismiss the Exceptions be denied on the basis that Exceptions could be filed within 30 days of the date of the Commission's Order. If the Exceptions would be filed, he said, they would basically be some technical ones concerning the amount of evidence that was introduced, and a request to be made for supplemental evidence to determine whether or not the system was functioning properly.

Mr. Haskins said that almost a year before the respondent had received an extension in response to a Motion to Dismiss. He also said that several extension requests had been made and granted since that time.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the Motion to Dismiss be granted.

AGENDA ITEM J(3) - DEQ v. KENNETH BROOKSHIRE, REQUEST FOR EXTENDED FILING OF EXCEPTIONS

Mr. Robert Haskins, Department of Justice, told the Commission that on November 22, 1978 the Department's Hearing Officer filed and served Findings of Fact, Conclusions of Law, Final Order and Judgment, and informed the respondent that he had 14 days from the date of the mailing to file with the Commission a request for Commission review of the proposed Order. He said that on the 16th day the Department received a letter from Mr. Brookshire requesting a 30 day extension to answer the Findings of Fact.

Mr. Haskins said the Commission's rule did not provide any exceptions or allow the Director, the Hearing Officer, or the Department's attorney to waive timely filing. The Order became final by operation of law, he said. At most, Mr. Haskins said, the respondent's letter could be considered a petition for rehearing or reconsideration under the Administrative Procedures Act.

Mr. Haskins urged the Commission to recognize through their rule that the Order had become final by operation of law. In response to Chairman Richards, Mr. Haskins said that if the Commission were to follow his recommendation they should take no action and therefore the Order would stand as final. Chairman Richards said it would also be appropriate to deny Mr. Brookshire's request for additional time.

Chairman Richards informed Mr. Brookshire that his remarks at this meeting were being tape recorded and asked his consent to be taped. Mr. Kenneth Brookshire, St. Paul, Oregon, replied that he had no objection to being taped at this meeting.

Mr. Brookshire said the letter the Department had received on the 16th day had been mailed on the 13th day. Mr. Brookshire stated that although he did not know that the Commission's decision would be, all he wanted was the Department "off my back." He said that if the Commission and the Department has something against him then it should be settled in Court.

Mr. Brookshire maintained that his property had been vandalized and the burning was no fault of his own. He said his constitutional rights had been violated in that a tape made by Department staff at the time of the incident had been denied him for review.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried unanimously that no further action be taken on this matter and the original Order would stand.

AGENDA ITEM K - CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO NOISE CONTROL REGULATIONS FOR NEW AUTOMOBILES AND LIGHT TRUCKS (OAR 340-35-025)

Mr. Peter McSwain, EQC Hearing Officer, said it was discovered after the Commission adopted this rule on November 17, 1978, that the Department had failed to file a draft of the proposed rule with Legislative Counsel and Legislative Counsel Committee as required by ORS 171.707. Therefore, he said it was necessary that these rule amendments be readopted.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that the proposed amendments to noise control regulations for new automobiles and light trucks (OAR 340-35-025) be adopted.

AGENDA ITEM L - ADOPTION OF AMENDMENTS TO ADMINISTRATIVE RULES GOVERNING SUBSURFACE AND ALTERNATIVE SEWAGE DISPOSAL (OAR 340-71-020 and 72-010)

Mr. Jack Osborne, of DEQ's Subsurface and Alternative Sewage Disposal Section, said that Agenda Item L dealt with amendments to the subsurface rules requested by Legislative Counsel. He said the original rules were adopted in March 1978 and Legislative Counsel felt that those rules were not within the authority of the Commission to adopt in that manner. Mr. Osborne continued that the proposed amendments now before the Commission attempted to deal with Legislative Counsel's concern.

If the proposed amendments were adopted, Mr. Osborne said, it was likely they would be reamended within the next six months.

Mr. Tom Donaca, Associated Oregon Industries, appeared on behalf of Jack Monroe of the Oregon Association of Realtors. In regard to the proposed amendment to rescind 340-71-020(1)(i) in its entirety and substitute the following language:

- "(i) Subsurface sewage disposal systems for single family dwellings designed to serve lots or parcels created after March 1, 1978 shall be sized to accommodate a minimum of a three (3) bedroom house",

Mr. Donaca said it seemed the new language accomplished the same thing as the prior language. Their concern, he said, was that there was an assumption that somehow a three bedroom house was sacrosanct, however there was a large demand for two-bedroom single-family housing. He said that the proposed rule seemed to be proscribing lot sizes which would put the Commission into a land use planning area, and also took away from local jurisdictions an opportunity to densify. Mr. Donaca said it would be more appropriate to use a performance standard.

Chairman Richards told Mr. Donaca that the Department had been told they were not in compliance with State Law by reason of the criteria the Commission had set. He said he saw this as a stop-gap measure to legalize a previously adopted attitude. Chairman Richards said he would be more comfortable adopting at this meeting what the Commission thought they did before, and extensively hear the matter on the merits through the hearing process. Mr. Donaca said they would be more comfortable if there were some way other than the variance procedure for a planned-unit development with two-bedroom homes to qualify.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that proposed amendments to OAR 340-71-020(1)(i) and 340-72-010(5) be adopted.

AGENDA ITEM M - ADOPTION OF TEMPORARY RULE, GEOGRAPHIC REGION RULE C, AMENDING ADMINISTRATIVE RULES GOVERNING SUBSURFACE AND ALTERNATIVE SEWAGE DISPOSAL (OAR 340-71-030(10))

Commissioner Somers asked where the ultimate warning to the property owners was in the use of this experimental system. Mr. Jack Osborne, of DEQ's Subsurface Program, replied that this particular system, used in accordance with the rules would no longer be experimental. Director Young said that the Department was satisfied that the information it had on this particular system was sufficient to no longer designate it as experimental. He said this was the predictable result of most of the experimental systems.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation to adopt the proposed temporary rule amendment to OAR 340-71-030 be approved and that the Hearing Officer be authorized to proceed with appropriate hearings for permanent rule amendment.

In response to a request by Jackson County, Commissioner Somers MOVED that a public hearing be authorized with respect to modification of the fee structure to accommodate the above rule amendment. The motion was seconded by Commissioner Densmore and carried unanimously.

Commissioner Densmore commended the staff and Jackson County for the work they did in this regard.

AGENDA ITEM N - PROPOSED ADOPTION OF RULES PERTAINING TO USED OIL RECYCLING

Commissioner Phinney asked if there was a time period designated for the signed to be put in place. Ms. Elaine Glendening, of the Department's oil recycling program, replied she was planning on allowing one month.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the proposed rules pertaining to used oil recycling be adopted.

AGENDA ITEM Q - PROPOSED MODIFICATION OF THE CHEM-NUCLEAR LICENSE FOR OPERATION OF THE ARLINGTON HAZARDOUS WASTE DISPOSAL SITE

After some brief discussion, Commissioner Somers MOVED, Commissioner Phinney seconded and it was carried unanimously that the Director's Recommendation to issue the modified Chem-Nuclear license be approved.

AGENDA ITEM O - ADOPTION OF RULES TO AMEND OREGON'S CLEAN AIR ACT IMPLEMENTATION PLAN INVOLVING AN EMISSION OFFSET RULE FOR NEW OR MODIFIED EMISSION SOURCES IN THE MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA

Mr. Dennis Belsky, of the Department's Air Quality Division, presented the staff report on this matter. He said that issues raised at the Commission's November meeting had been covered in the staff report. He also submitted an addendum to the staff report covering concerns of the Legislature's Committee on Trade and Economic Development.

Under the present situation, Commissioner Somers asked, how would a permit be issued. Mr. Belsky replied that currently in effect were the present State Implementation Plan and the Federal interpretative ruling as it pertained to new or expanded sources greater than 100 tons potential emissions. If the new source were over 100 tons the federal rule would come into effect, he said. Mr. Belsky said the proposed rule would lower the criteria, requiring offsets at a lower emission limit. He said that if the Commission were to defer action at this time, the Department did not have on file any new sources wishing permits which would trigger the offset process.

Chairman Richards indicated that letters had been received from Jackson County, and the Chairman of the Medford-Ashland Air Quality Advisory Committee. These letters are made a part of the Commission's record on this matter.

Mr. Belsky summarized the addendum requesting that the Commission defer action for 60 days on the proposed rule to allow the Legislative Committee on Trade and Economic Development to delve into the matter in more detail to their satisfaction and in the meantime allow time for the Department to approach EPA on obtaining an 18 month extension to attain additional reductions in particulate emissions to alleviate the primary and secondary violations apparent in the Medford-Ashland area.

Commissioner Densmore said that through the rule making process Legislative Counsel was made aware of the offset rule and the original particulate strategy by their submittal to them earlier.

In response to questions by Commissioner Densmore, Mr. Belsky said the Legislative Committee did not fully understand the situation and wanted to investigate the impact of the proposed rule on the Medford situation in particular as well as have the opportunity to review all the SIP-related work being carried on in Oregon's three AQMA's. As far as the request for an 18 month extension, he continued, it appeared that amount of time would be needed to develop the additional strategies to bring the area within the primary and secondary standards for TSP in Medford.

Ms. Pat Middelburg, acting Executive Officer for the Legislative Committee on Trade and Economic Development, said that before the Commission was a letter requesting delay of adoption of the rule to amend Oregon's Clean Air Act Implementation Plan involving the emission offset. She said they did not intend to delay the Commission's proceedings longer than 60 days. Hearings were already scheduled regarding the rule review process and to look at the Implementation Plan and control strategies for all AQMA's, she said. Ms. Middelburg said it was the Committee's intention to complete their review and have their comments back to the Commission no later than March 1.

Commissioner Somers asked what the Committee hoped to achieve that the people who had extensively studied the situation had not. Ms. Middelburg replied that she did not know what ultimate difference they would come up with, but what they were concerned about was the overall statewide impact of this particular offset rule to all areas of the State. She said it had potential economic impact throughout the State.

Commissioner Hallock said that there was nothing to prevent the Committee from looking at the rule even if the Commission didn't defer action. Commissioner Hallock said she was concerned about setting a precedent with this matter that the Commission would be unable to act on certain issues when the Legislature was in session. Chairman Richards replied that this might be more political than legal and what the Commission had to deal with was deciding if they would act differently if this request came from another group. He said that any legislative committee was entitled to ask.

Mr. E. J. Weathersbee, Administrator of the Department's Air Quality Division, said the staff would prefer a lesser time than 60 days if possible. He also asked clarification of the far-reaching request that no SIP submittals be made without the review and comment of the Committee on Trade and Economic Development. Chairman Richards said that the staff report did not focus on the suggestion of the Committee that all SIP submittals be referred to them. He said he did not feel the Commission was doing that and asked help from legal counsel on what was being done in other states.

Mr. Weathersbee said the Committee's resolution would affect time schedules that the Department had to be thinking of in adopting other parts of the SIP amendments such as the transportation-related strategies. He said Federal Law required these submittals to have been made by January 1, 1979 and Oregon was acting on the good grace of EPA in delaying these submittals.

Commissioner Densmore said he was trying to look at this matter on its merits and it was his feeling that at a time when air quality in the area was worsening beyond the forecast made earlier upon which the basic strategy was developed, it would be most prudent for the Commission to adopt the offset policy and then cooperate with the Legislative Committee in explaining how this process was going to work. In his view, he said the Committee had no jurisdiction so far as the ultimate decision was concerned.

Chairman Richards said he would vote for a delay until the March 30 meeting on the condition that the Legislative Committee have the opportunity to take testimony and make its recommendation by March 1 to allow time for the staff to review it.

Commissioner Somers MOVED that action on this matter be deferred until the Commission's March 30 meeting to allow time for the Legislative Committee on Trade and Economic Development to take additional testimony and make their comments by March 1. The motion was seconded by Commissioner Phinney and carried with Commissioner Densmore desenting.

AGENDA ITEM P - SUNRISE VILLAGE, BEND - RECONSIDERATION OF APPEAL OF
SUBSURFACE SEWAGE DISPOSAL REQUIREMENTS

Mr. Richard Nichols, DEQ's Central Region Manager, presented the summation and Director's Recommendation from the staff report.

Mr. Tim Ward, developer of Sunrise Village, said that in February of 1977 the land was designated by the Bend area General Plan as a development alternative area to have an ultimate density of no greater than one unit per 20,000 square feet. Sewer and water for the area were not provided for by the Bend area General Plan, he said, the Sewer Services Facility Plan, or the Bend Urban Service Boundary. At that time, he continued, they went to the county planning department and DEQ, and both agencies advised that the best approach for developing the land would be a full-service planned-unit development providing its own community water and sewer systems.

Mr. Ward said that DEQ had withheld design approval for eight months for the following reasons:

1. The development not being in the city sewer system would disrupt the system,
2. The system was expensive,
3. ~~Saying their being on the city sewer system violated land use planning when in fact to do otherwise would be a violation,~~
4. Not bringing up the subject of statewide goals until November and then wrongly citing their being in violation of guidelines as if they were goals or law.

Mr. Ward said DEQ had also discriminated against them by inconsistently applying policy by:

1. Requiring them to get a city sewer agreement two months before it was required of any other developer,
2. Allowing a school downstream from their development and within the planned sewer area to have a 16,000 gallon septic tank without a city sewer agreement or statement of compatibility even though they applied for a permit after them,

3. Giving septic tank approval to a development in September 1978 without requiring a city sewer agreement when the development was given plat approval the same day as they were and was specifically noted by the City as being within the sewer planning area,
4. Requiring them to get a compatibility statement before December 22, 1978 when no other development had been required to get this statement, and
5. DEQ failed to act in good faith with them in that on November 30, 1978 DEQ agreed to unconditionally allow them to form a sanitation district to operate their community sewer system and not have to go to the City for an agreement provided LCDC would not fault them for doing so.

In regard to the last point, Mr. Ward said LCDC said they would not fault DEQ, however DEQ has stipulated they must get City approval for the district which Mr. Nichols said he would actively discourage.

Mr. Ward asked the Commission to recognize the law and requested that DEQ issue them a permit according to the rules. He said there was no sewer system available to them and it appeared that none would be available in the near future.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the following Director's Recommendation be approved, deleting the reference to concurrence by the City of Bend.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Environmental Quality Commission direct the Department to not permit a community sewage disposal system for Sunrise Village unless the following conditions are met:

1. Detailed plans and specifications for the proposed sewerage system are approved by this Department.
2. A municipality, as defined by ORS 454.010(3), must control the proposed sewerage system. (This may be achieved by an agreement with the City of Bend to operate and maintain the system, or by formation of a county service district, or sanitary district.)
3. We must have a statement from Deschutes County indicating that they have tested your proposal in regard to the Statewide Land Use Goals and found it compatible.

AGENDA ITEMS R (1), (2), and (3) - CERTIFICATION OF PLANS FOR SEWERAGE SYSTEM AS ADEQUATE TO ALLEVIATE HEALTH HAZARD (PURSUANT TO ORS 222.898) FOR AREAS CONTIGUOUS TO: (1) CITY OF MONROE, (2) CITY OF CORVALLIS, AND (3) CITY OF KLAMATH FALLS (STEWART LENOX AREA WITHIN WESTSIDE SANITARY DISTRICT

In reference to items (1) and (2), it was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation to approve the proposals of the Cities of Monroe and Corvallis and to certify said approvals to the Cities, be adopted.

In reference to item (3), Mr. Harold Sawyer, Administrator of the Department's Water Quality Division, said there was a problem in the Stewart Lenox area adjacent to Klamath Falls which had been evident for some time. He said the Department had sought resolution of this matter and the only apparent solution was the providing of sewers. He said this had moved through the mandatory health hazard annexation process and plans had been submitted in accordance with that process by the City of Klamath Falls through the Health Division to DEQ for review, approval and certification back that it would alleviate the health hazard. Mr. Sawyer said there was interest on behalf of Westside Sanitary District to provide a resolution of the problem in some other manner.

Mr. Sawyer said Westside Sanitary District had filed a petition with LCDC seeking nulification of the proposed involuntary annexation. It was the Department's understanding, he continued, that the question of jurisdiction on that petition would be heard on February 8. In addition, he said, they had petitioned the Health Division for an alternate plan for providing service to the area other than the one proposed by Klamath Falls. The Health Division had not forwarded that plan to DEQ as of this date, he said, but DEQ understood the Health Division had rejected the petition as not containing sufficient signatures. Provided to the Commission was a letter from Mr. E. R. Bashaw, attorney for Westside Sanitary District. This letter is made a part of the Commission's record on this matter. Mr. Sawyer said the letter raised question as to whether or not there were sufficient signatures on the petition for that plan to be forwarded from the Health Division to DEQ.

Chairman Richards said he assumed that Westside Sanitary District's request for delay was so that they could exhaust some additional remedies. He asked what choices the Commission would have. Mr. Sawyer replied it appeared there was a statutory requirement to act within 60 days from receipt of the plan, which would lapse before the next regular meeting of the Commission. He said he interpreted that within that 60 days the Commission must either approve the City's plan or reject it for cause.

Mr. Stevel Couch, attorney representing Westside Sanitary District, referenced Mr. Bashaw's letter and asked for a delay in the Commission's decision on this matter. Chairman Richards asked Mr. Couch to address whether the Commission legally had any choice other than to grant the City's petition.

Mr. Couch explained some alternatives the Commission might have and also explained what some other government entities were doing in regard to this matter. It was possible, he said, that LCDC might claim jurisdiction over this matter.

Mr. Couch said they were denying there was a health hazard in the area but they were trying to solve their own problem and did not want to annex to the City of Klamath Falls. He said they hoped it would be possible to sewer the area without affecting the funding. Mr. Couch said a proposed regional plan included a proposal to hook up to the South Suburban Sanitary District. However, he continued, they had no conclusions available as to cost-effectiveness.

This matter was very important to the residents of the area, Mr. Couch said. They did not want to be annexed to the City, he said. Mr. Couch realized it was an imposition on the Commission, but asked them to delay this matter until some alternatives could be researched.

Chairman Richards said that if the Commission were to refuse to entertain this petition, they would be making a land use planning decision which was not their area of jurisdiction. At the end of 60 days, he continued, the only thing more the Commission would know was whether or not LCDC took jurisdiction.

Commissioner Phinney MOVED that the Director's Recommendation to approve the proposal of the City of Klamath Falls and to certify said approval to the City be adopted, and the effective date be February 17 subject to Commission review before that date. The motion was seconded by Commissioner Hallock and carried unanimously.

AGENDA ITEM S - NPDES JULY 1, 1977 COMPLIANCE DATE - REQUEST FOR APPROVAL OF STIPULATED CONSENT ORDER ADDENDUM FOR CITY OF AMITY

Mr. Fred Bolton, Administrator of the Department's Regional Operations Division, said this would amend a Stipulated Order to coincide with a construction project now underway for the City of Amity. He said the Director's Recommendation was to amend the ~~Stipulation and Final Order~~ so that the City would be in compliance with their construction project in adding full secondary treatment to the City of Amity.

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

AGENDA ITEM T - REQUEST BY CURRY COUNTY FOR EXTENSION OF DATE FOR SOLID WASTE PLAN ADOPTION

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the following Director's Recommendation be approved:

DIRECTOR'S RECOMMENDATION

It is recommended that:

1. The County be required to adopt a solid waste management plan by April 1, 1979 and notify the Department of such adoption by April 15, 1979.
2. All other dates required in granting of the variance on September 22, 1978 be maintained.

AGENDA ITEM U - VARIANCE REQUEST - LOUIS DREYFUS CORPORATION AND BUNGE CORPORATION REQUEST FOR VARIANCE FROM OAR 340-28-070 REGARDING LOADING OF SHIPS WITH GRAIN

Chairman Richards noted that no one signed up to testify on this matter and that representatives of the companies involved were at the meeting and did not oppose the Director's Recommendation.

Mr. Babcock, representing Louis Dreyfus Corporation and Bunge Corporation in this matter said the only problem was that at the time they requested a variance the March 1, 1979 date appeared feasible, however because of some OSHA regulations, he wanted to amend the variance request to extend the date to April 1, 1979.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the following Director's Recommendation be approved and that the March 1, 1979 dates be changed to April 1, 1979.

DIRECTOR'S RECOMMENDATION

Based upon the findings in the summation in the staff report, it is recommended that the Environmental Quality Commission:

1. Enter a finding that strict compliance is inappropriate at this time due to special circumstances which are considered unreasonable, burdensome, and impractical due to special physical conditions, would result in substantial curtailment or closing down of a significant portion of a business, and conditions exist which are beyond the control of the operators.
2. Grant the variance to Louis Dreyfus Corporation and Bunge Corporation in excess of the emissions standard described in OAR 340-28-070 until [~~March~~] April 1, 1979 subject to the following conditions:
 - a. By not later than [~~March~~] April 1, 1979, Louis Dreyfus Corporation and Bunge Corporation will meet with representatives of ILWU Local 8 regarding the use of the ship loading dust control equipment and take the issue to arbitration if such should prove necessary.

- b. The Department reserves the right to impose civil penalties for any violations recorded during the variance period should it become evident that a good faith effort is not being made.

STATUS OF OPEN BURNING VARIANCE

Chairman Richards asked for staff comment in light of comments made during the Public Forum section of the meeting.

Mr. Tom Bispham, of the Department's Northwest Region Office, said that review of the nephelometer readings showed there really wasn't any significant difference between that transpired the week before burning was allowed than during the days burning was allowed. In fact, he said, the SO₂ levels were up which would indicate they would be more closely associated with combustion fuels rather than open burning. He said that although Multnomah County had been extremely successful in their burning practices, the City of Portland has experienced some difficulty and were going to terminate their burning at West Delta Park. Mr. Bispham said his office had only received one complaint about burning, but numerous complaints about not being allowed to burn because weather conditions did not permit it had been received.

Director Young said concern had been expressed that illegal burning was increasing. Mr. Bispham replied that illegal burning happened throughout the year and they only know if illegal fires when a complaint is received or a field man spots an illegal fire when he is out. He said they had only received one complaint of illegal burning and it had been investigated.

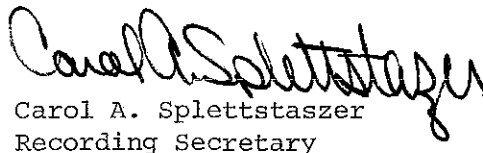
Mr. Bispham said they were looking into waiting until noon to make the burning advisory because the area had been experiencing morning inversion situations.

EXECUTIVE SESSION

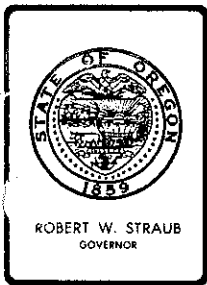
The Commission then went into Executive Session to consider pending litigation.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol A. Spletstaszer
Recording Secretary



Environmental Quality Commission

POST OFFICE BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

ENVIRONMENTAL QUALITY COMMISSION MEETING

February 23, 1979

Room 602, Multnomah County Courthouse
1021 S. W. Fourth Avenue
Portland, Oregon

AGENDA

- 9:00 am A. Minutes of the December 15, 1978, EQC Meeting
B. Monthly Activity Report for January 1979
C. Tax Credit Applications

PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

PUBLIC HEARING AUTHORIZATIONS (authorizes future public hearings)

- D. Request for authorization to conduct a public hearing on proposed rules governing contested case procedure and civil penalty assessment.
E. Request for authorization to conduct a public hearing on the matter of whether to modify the order prohibiting or limiting installation of subsurface sewage disposal systems within the River Road-Santa Clara area, Lane County.
F. Request for authorization to conduct a public hearing on proposed changes to Indirect Source Rules (OAR 340-20-100 through 20-135).
G. Request for authorization to conduct a public hearing on proposed amendment to rules for open burning (OAR 340-23-025 through 23-050).

ACTION ITEMS

- ~~9:45 am H. Subsurface Sewage Disposal - Appeal of a variance denial for Mr. Gene T. McCurley, Jackson County. DELETED~~
I. Open Burning Dump - Request by Clatsop County disposal sites for extension of variances from rules prohibiting open burning dumps (OAR 340-61-040(2)(c)).

(MORE)



Contains
Recycled
Materials

EQC MEETING AGENDA (continued)
February 23, 1979

- J. City of Gearhart - Request for permanent amendment of Clatsop Plains subsurface sewage system installation moratorium (OAR 340-71-020(7)).
- K. City of Seaside - Proposed amendment to Stipulation and Final Order number WQ-SNCR-77-159, Amendment number 2.
- L. Champion Building Products - Request for approval of Stipulated Consent Order for Champion Building Products' wet hardboard plant at Dee, Oregon.
- M. City of LaGrande - Request for approval of a Stipulated Consent Order.

10:30 am N. Sunrise Village, Bend - Request for variance from OAR 340-71-020(4).

OTHER INTEREST ITEMS (requiring no action)

11:00 am O. Noise Control Rules - Discussion of proposed noise control rules for airports.

P. Motor Vehicle Inspection - Report on Motor Vehicle Emissions Inspection Program, 1977-1978.

1:30 pm Q. Field Burning - Discussion of submission of final field burning rules to U. S. Environmental Protection Agency (EPA).

Because of uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting, except items H, N, O, and Q. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) at the Standard Plaza Building, Conference Room A, 1100 S. W. Sixth; and lunch in Room 511, DEQ Headquarters, 522 S. W. Fifth Avenue, Portland.

MINUTES OF THE ONE HUNDRED SIXTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

February 23, 1979

On Friday, February 23, 1979, the one hundred sixth meeting of the Oregon Environmental Quality Commission convened in Room 602 Of the Multnomah County Courthouse, 1021 S. W. Fourth Avenue, Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Mr. Ronald Somers; Mrs. Jacklyn Hallock; and Mr. Albert Densmore. Dr. Grace Phinney, Vice-Chairman, was absent. Present on behalf of the Department were its Director William H. Young, and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF THE DECEMBER 15, 1978 EQC MEETING

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the minutes of the December 15, 1978 EQC meeting be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR JANUARY 1979

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the Monthly Activity Report for January 1979 be approved as presented.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

Mr. Ralph Nordland, Stimson Lumber, appeared regarding the Director's recommendation to approve Preliminary Certification for Tax Credit for their bark dryer. He said this was only a part of the facility and they appreciated the Director granting Preliminary Certification for that part and wanted to make the Commission aware that the rest of the project would come up at a later date.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation as follows be approved:

1. Issue Pollution Control Facility Certificates to applications T-1034 (Willamette Industries, Inc.) and T-1040 (Tektronix, Inc.)
2. Reissue Pollution Control Facility Certificates 659, 726 and 941 to reflect change of ownership from Georgia-Pacific Corporation to Husky Industries, Inc.
3. Be informed of the Director's intention to issue Preliminary Certification for Tax Credit to the Stimson Lumber Company for their bark dryer.

PUBLIC FORUM

No one wished to appear on any subject.

PUBLIC HEARING AUTHORIZATIONS

AGENDA ITEM D - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON PROPOSED RULES GOVERNING CONTESTED CASE PROCEDURE AND CIVIL PENALTY ASSESSMENT

AGENDA ITEM F - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON PROPOSED CHANGES TO INDIRECT SOURCE RULES (OAR 340-20-100 THROUGH 20-135)

AGENDA ITEM G - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON PROPOSED AMENDMENT TO RULES FOR OPEN BURNING (OAR 340-23-025 through 23-050)

Mr. Jan Sokol, speaking on Item F, appeared representing OSPiRG. He said the Indirect Source Program directly addressed automobile traffic in Metropolitan Portland. He said the automobile had been identified as the greatest contributor to particulate problems in the Portland airshed. The proposed rule, Mr. Sokol continued, should go to the Portland Air Quality Advisory Committee for discussion prior to the holding of a hearing.

In regard to Item G, Mr. Sokol (speaking as the Vice-Chairman of the Portland AQMA Committee) wanted to make clear that the Committee's recommendations weren't limited to those they made in a letter which was included in the staff report. They wished all alternatives to be investigated, he said. In response to Chairman Richards, Mr. Sokol said the Committee was not opposed to holding a public hearing on the open burning rules at this time.

Commissioner Hallock asked how much time the Advisory Committee would need on the Indirect Source Rule revision. Mr. Sokol replied they were waiting for the final study from the Oregon Graduate Center and assumed that they might be able to submit something to the Commission within one month.

Ms. Melinda Renstrom, appeared representing the Oregon Environmental Council in regard to Item F. Ms. Renstrom said she was also a member of the Portland Air Quality Advisory Committee and was speaking for Steve Lockwood, the Chairman of the Committee. She said they were opposed to Item F on the Indirect Source Rule going to hearing at this time. She said the Committee was interested in this program and would not like to see it abandoned at this time.

Commissioner Hallock asked if the hearing on the Indirect Source Rule could be postponed for 60 days to give the Advisory Committee a chance to study the problem. Director Young replied that if the Commission was reluctant to authorize a hearing at this time, he would prefer the staff be instructed to bring this matter back at the next meeting with whatever input the Advisory Committee would have in that period of time.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that public hearings be authorized on proposed rules governing contested case procedures and civil penalty assessment and on the proposed amendment to rules for open burning (OAR 340-25-025).

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that Item F, a request for authorization to hold a public hearing on proposed changes to the Indirect Source Rules, be postponed until the Commission's next meeting.

AGENDA ITEM E - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON THE MATTER OF WHETHER TO MODIFY THE ORDER PROHIBITING OR LIMITING INSTALLATION OF SUBSURFACE SEWAGE DISPOSAL SYSTEMS WITHIN THE RIVER ROAD-SANTA CLARA AREA OF LANE COUNTY

Mr. John Borden, Willamette Valley Regional Manager, said the purpose of this item was to determine whether or not to authorize a public hearing on modifying the order prohibiting or limiting installation of subsurface sewage disposal systems in the River Road-Santa Clara area of Lane County.

Mr. Roy Burns, Lane County, presented a slide show demonstrating the progress of the groundwater study in this area.

Ms. Vora E. Heintz, spoke in favor of holding public hearings regarding this matter. She also presented several letters from various persons favoring the holding of public hearings. Ms. Heintz's written statement and the letters she presented are made a part of the Commission's record on this matter.

Ms. Bonnie Lindsay, requested that public hearings be held on this matter.

Ms. Dian Crumpacker, also requested that public hearings be held in the Eugene area on this matter.

Mr. Don Cole, asked that the public hearings be held as soon as possible in the Eugene area. He said he was concerned that with removal of the moratorium hundreds of septic tank permits would be issued unwisely.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the following Director's Recommendation be approved and that public hearings be authorized to be held in Eugene on March 28 and March 29, 1979.

Director's Recommendation

Based on the summation in the staff report, the Director recommends that:

1. The River Road-Santa Clara moratorium under Oregon Administrative Rule 340-71-020 be continued until March 1980, at which time sufficient data and analysis will be available to predict groundwater quality, including a relationship to growth.
2. The Department staff be directed to continue working with staff of the Metropolitan Wastewater Management Commission, Lane County, the cities of Eugene and Springfield, and the Lane County Local Government Boundary Commission to obtain development and implementation of a plan for preventing and reducing groundwater pollution in the River Road-Santa Clara area.

3. A public hearing be authorized and the Department staff be directed to provide the Commission with recommendations by March 1980 on whether to modify the "Order Prohibiting or Limiting Installation of Subsurface Sewage Disposal Systems within the River Road-Santa Clara Area, Lane County."

AGENDA ITEM N - SUNRISE VILLAGE, BEND - REQUEST FOR VARIANCE FROM OAR 340-71-020(4)

Mr. Richard Nichols, Central Region Manager, presented the following Summation and Director's Recommendation from the staff report.

Summation

The Commission may grant a variance to OAR 340-71-020(4). However, the Department believes a sewer agreement between the City of Bend and Sunrise Village is the most desirable form of municipal control. Sunrise Village was aware of the need for municipal control and was discouraged, but not prevented from forming a sanitary district. The City of Bend has expressed to Department staff a willingness to enter into a sewer agreement. Formation of a sanitary district is also possible. The homeowners association proposed by Sunrise Village, even with a \$25,000 performance bond and a proposed County maintenance agreement, is not equivalent to a municipality as defined by ORS 454.010(3).

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the request by Sunrise Village for a variance from subsurface sewage disposal system rule OAR 340-71-020(4) be denied.

Mr. Nichols presented letters from the City of Bend and Deschutes County concerning this matter. These letters are made a part of the Commission's record on this matter. The letter from the City of Bend indicated a willingness to work with the Developers of Sunrise Village and the City Commission's belief that this property should be included in a regional solution to the sewer problem. The letter from the Deschutes County Board of Commissioners asked that the request for a variance be denied Sunrise Village.

Mr. Tim Ward, developer of Sunrise Village, said that the letters presented by Mr. Nichols caught him off-guard. He expressed the opinion that the City and County would not have known they were asking for a variance unless Mr. Nichols had told them and asked for the letters.

Mr. Ward said that due to time delays they have lost their market for the land and interest on their loans was costing more than \$70,000 per month.

Mr. Ward said that in order to get a PUD designation they included providing sewer and water service into their full-service development. He said they had all the approvals for a community sewer system and that those approvals had come within the past two years. The law, Mr. Ward continued, made these approvals binding on local and state governments.

Mr. Ward said five homeowners associations, such as the one they had, existed in the Bend area. Just downstream from their proposed development, Mr. Ward said, Mt. Bachelor Village had a community sewer system. He said that the experience of these community sewer systems proved them to be functionally superior to sanitation districts.

Commissioner Somers asked what the recourse would be if the system failed, other than collecting on the \$25,000 bond. Mr. Ward replied that because of the vested interest the persons in the development would have, they could assess themselves for costs. He said they wanted the system to work so they would not lose the \$25,000.

Chairman Richards asked if there was a jurisdiction that would oppose Sunrise Village forming a sanitary district at this time. Mr. Nichols replied that he did not know of any, however the Deschutes County Commissioners were more inclined to try to get a City agreement before a sanitary district was formed.

Some discussion followed among Commission members regarding the feasibility of granting the variance for a specific period of time with the understanding that unless a sanitary district was formed in that time, the system would be abandoned. Mr. Young said he believed that it would be a mistake for the Commission to proceed on that assumption.

Chairman Richards said he felt that both the Department and the developer had acted in good faith on this matter, and if granting the variance under the condition that a sanitary district be formed within a specific period of time was a risk to the developer, then the developer need not take advantage of the variance.

Mr. Young said the Department was concerned that the system be installed within some management structure and that it be made clear the nature of the service that would ultimately be required in the area. The reason for his recommendation to not approve the variance, he said, was that he did not think the Department was well served by individually owned systems with multiple ownership and use of the properties.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that a variance be granted to Sunrise Village, Inc. for a period not to exceed six months and as a condition of granting this variance, any property that is sold would have deed restrictions placed on it notifying prospective buyers that a system had been approved which must be taken over by a sanitary district within a six month period or the system would have to be abandoned.

AGENDA ITEM J - CITY OF GEARHART - REQUEST FOR PERMANENT AMENDMENT OF CLATSOP PLAINS SUBSURFACE SEWAGE SYSTEM INSTALLATION MORATORIUM (OAR 340-71-020(7))

AGENDA ITEM K - CITY OF SEASIDE - PROPOSED AMENDMENT TO STIPULATION AND FINAL ORDER NUMBER WQ-SNCR-77-159, AMENDMENT NUMBER 2

AGENDA ITEM L - CHAMPION BUILDING PRODUCTS - REQUEST FOR APPROVAL OF STIPULATED CONSENT ORDER FOR CHAMPION BUILDING PRODUCTS' WET HARDBOARD PLANT AT DEE, OREGON

AGENDA ITEM M - CITY OF LAGRANDE - REQUEST FOR APPROVAL OF A STIPULATED CONSENT ORDER

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the following Director's Recommendations in regard to the above agenda items be approved.

Agenda Item J - Director's Recommendation

It is the Director's recommendation that, based on the summation in the staff report, the Commission take action as follows:

1. Adopt as a permanent rule Attachment A of the Hearing Report, such rule to be filed with Legislative Counsel and the Secretary of State before its expiration as a temporary rule.
2. Adopt as its final State of Need for Rulemaking the Statement of Need incorporated in the staff report, such statement to be filed with the rule as set forth above.

Agenda Item K - Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission approve Amendment No. 3 (attachment no. 2) to Stipulation and Final Order No. WQ-SNCR-77-159, DEQ v. City of Seaside.

Agenda Item L - Director's Recommendation

Based on the summation in the staff report, it is the Director's Recommendation that the Environmental Quality Commission approve the Stipulated Consent Order for the Champion Building Products Dee Plant. It is also recommended that the Commission direct the Department to impose necessary penalties for failure to comply with the Order.

Agenda Item M - Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission approve Stipulation and Final Order No. WQ-SNCR-77-260, DEQ v. City of LaGrande, Union County.

AGENDA ITEM O - NOISE CONTROL RULES - DISCUSSION OF PROPOSED NOISE CONTROL RULES FOR AIRPORTS

Mr. John Hector of the Department's Noise Control Section, said that at the last meeting, the staff was directed to prepare proposed noise regulations for airports. These proposed rules, he said, had been distributed to airport proprietors and other interested parties throughout the state for their review and comment. In addition, he said, the Department met informally with staff from the City of Portland and the Port of Portland.

Mr. Hector said they received letters from four families living near the Portland Airport expressing concern about noise. In addition, he said, they received comments from the City of Portland, the State Aeronautics Division, and the Federal Aviation Administration.

Ms. Melinda Renstrom, Oregon Environmental Council, said they were pleased with the staff recommendations on this matter and they felt the draft regulations were excellent. She said it was imperative that these regulations go to public hearing soon. Due to the air traffic controllers designating specific flight paths for safety reasons, she continued, the proposed regulations would be more workable and enforceable.

Mr. Clifford Hudsick, Port of Portland, said they felt that to hold informational hearings right away would be premature because there were several public policy and technical questions which needed clarification, direction, or revision for clarity in order to reasonably inform the public. He recommended a 30 day "breathing period" to resolve some of these differences. A written presentation from the Port of Portland is made a part of the Commission's record on this matter.

Mr. Richard Daniels, Multnomah County Department of Environmental Services, said they were concerned about the effect of noise from the Portland International Airport on the residents around it. The County Commissioners requested, he said that DEQ as the lead agency coordinate the development of a noise abatement program for Portland International Airport. He said that if the proposed regulations were adopted the county would continue to work with all concerned parties to improve the present situation.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Department be authorized to undertake discussions and hold informational hearings with affected parties and return within 90 days with recommendations for action, be approved.

AGENDA ITEM I - REQUEST BY CLATSOP COUNTY DISPOSAL SITES FOR EXTENSION OF VARIANCES FROM RULES PROHIBITING OPEN BURNING DUMPS (OAR 340-61-040(2)(c))

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the following Director's Recommendation be approved.

Director's Recommendation

Based upon the findings in the summation of the staff report, the Director recommends that:

1. Variances be granted to expire on March 1, 1980 for Seaside, Cannon Beach and Elsie landfills in Clatsop County.
2. Disposal sites be closed prior to expiration date of variance if a practical alternative method of disposal is available.
3. The EQC find the variance requests meet the intent of ORS 459.225(3)(c) in that strict compliance would result in closing of the disposal sites and no alternative facility or alternative method of solid waste management is available.

AGENDA ITEM O - DISCUSSION OF SUBMISSION OF FINAL FIELD BURNING RULES TO U. S. ENVIRONMENTAL PROTECTION AGENCY (EPA)

Mr. Scott Freeburn of the Department's Air Quality Division, said that at the time the field burning rules were adopted in December, the staff was directed to submit them to EPA and to ask EPA to withhold action on them until the Department could pursue some means of restricting the submittal of the rules and minimize the adoption of those rules into the State Implementation Plan (SIP). He said the staff and others were concerned about the need to have an acreage limitation included in the SIP.

Mr. Freeburn said that something needed to be submitted to EPA in order to revise the 50,000 acre limitation currently in the SIP to the 180,000 acres provided for in the recently adopted rules. He said that legislation was now pending which would have no acreage limitation and disallow the field burning rules to be submitted in the SIP. Also, Mr. Freeburn said, the Eugene-Springfield AQMA SIP revision submittal had been postponed until sometime after the 1979 field burning season and the final report of the field burning and slash burning study are also not expected to be available early enough to become part of a SIP revision.

Mr. Freeburn then presented the following Director's Recommendation from the staff report.

Director's Recommendation

Based upon the information set forth in pages one through four of the Director's February 23, 1979 staff report to the Commission, it is recommended that the Environmental Quality Commission instruct the staff to submit the rules previously adopted and set forth in Attachment 1 to the Director's Staff Report of December 15, 1978, to the Environmental Protection Agency and request that these submitted rules be approved as a one-year interim strategy for the control of open field burning during 1979.

Chairman Richards said he had talked to EPA Region X's Director, Donald Dubois to see if EPA would disapprove a one-year control strategy. In effect, Chairman Richards said, Mr. Dubois indicated he would prefer a SIP revision and that the last one-year control strategy was approved to solve a special problem. However, he said, EPA would consider a second one-year control strategy.

Chairman Richards said Mr. Dubois through the passage of prospective legislation to not limit the acreage would be a large problem for EPA because it would not give enough guidelines by which EPA could determine whether or not the source was being controlled.

Mr. Bob Elfers, City of Eugene, said the City opposed the staff proposal for another one-year interim control strategy. He said they were concerned that the staff proposal was more political than technical.

Mr. Elfers said their concern was the same as EPA in that they wanted to have something in the SIP that could be enforced. EPA had indicated to the City of Eugene, he said, that they did not see how the field burning rules could be enforced unless there was some reference to acreage limitations.

Chairman Richards said he knew that a SIP amendment would be the most acceptable to the City, however it sounded as if the granting of an interim control strategy would not give the City what it wanted in terms of an acreage control for the coming burning season. Mr. Elfers replied that although they had some reservations about the recently adopted rules, there was a feeling of semi-permanence to those rules. He said that the staff proposal now before the Commission went back to a more temporary situation.

Mr. Elfers questioned whether or not a state agency should be responding to potential legislative changes. He said the bill was still in Committee and he felt it would probably never become law.

Mr. Elfers said the proposal before the Commission would invite potential litigation and they felt strongly that if the Commission accepted the proposal the City would have no alternative but to petition EPA to reject another one-year control strategy on the basis that there was no evidence which indicated the need for one.

Mr. Elfers urged that the Commission reject the staff recommendation and submit the 1979-1980 field burning rules as part of a partial revision to the SIP.

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

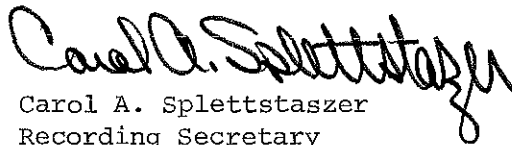
AGENDA ITEM P - REPORT ON MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM, 1977-78

Mr. William Jasper of the Motor Vehicle Inspection Program, presented the Commission with the vehicle emission inspection program report for 1977-78 as a means to update the Commission on the activities of the Vehicle Inspection Program.

This report was presented for the Commission's information and no action was necessary.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

ENVIRONMENTAL QUALITY COMMISSION MEETING
March 30, 1979

Black Angus Restaurant
220 Commercial Street, S.E.
Salem, Oregon

A G E N D A

9:00 am CONSENT ITEMS

Items on the consent agenda are considered routine and generally will be acted on without public discussion. If a particular item is of specific interest to a Commission member, or sufficient public interest for public comment is indicated, the Chairman may hold any item over for discussion.

- A. Minutes of the January 17, 1979, January 26, 1979 ~~and February 23, 1979 EQC Meetings~~
- B. Monthly Activity Report for February 1979
- C. Tax Credit Applications
- D. Request for Authorizations to Hold Public Hearings on Proposed Revisions to the State Air Quality Implementation Plan as follows:
 1. Portland-Vancouver Interstate AQMA ozone control and carbon monoxide strategies
 2. City of Salem carbon monoxide and ozone control strategies
 3. Eugene-Springfield AQMA carbon monoxide control strategies
 4. Medford-Ashland AQMA carbon monoxide and ozone control strategies
 5. Amendments to Volatile Organic Compound Rules for non-attainment areas
 6. New permit requirements for non-attainment areas
7. Consideration of changes to the oxidant ambient air standard
8. Rules to prevent significant deterioration of air quality
9. New rules pertaining to stack height

PUBLIC FORUM

- E. Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear

(MORE)

ACTION ITEMS

F. Rule Adoptions

1. Subsurface Sewage Disposal Rules - Proposed adoption of amendments to administrative rules governing subsurface and alternative sewage disposal; OAR 340-71-005 to 71-045 and 72-005 to 72-020
- 9:30 am 2. Medford Emission Offsets - Proposed adoption of emission offset rule for new or modified emission sources in the Medford-Ashland AQMA; OAR 340-30-010 and 30-110
3. Veneer Dryer Emission Limits - Proposed adoption of emission limits specific to wood fired veneer dryers, OAR 340-25-305 25-315
- 9:45 am G. Variance Request - Larry Ballman from OAR 340-71-020(7) regarding the construction of a subsurface sewage disposal system in Clatsop Plains
- 10:00 am H. Water Quality Construction Grants - Proposed use of fiscal year 1979 wastewater construction grant funds and proposed direction for future fiscal years
- 10:30 am I. Evans Products Company, new glass wool plant - proposed air contaminant discharge permit and citizen petitions for hearing
- 11:00 am J. Contested Cases and Other Reviews
1. DEQ v. Robert Wright
 2. DEQ v. George Suniga, Inc.
 3. Petition for Declaratory Ruling as to applicability of OAR Chapter 340, Sections 74-016(7) and (8) by W.W.C. Ranch, Inc.

INFORMATIONAL ITEMS

K. Indirect Source Rule Amendments - Status Report

WORK SESSION

The Commission reserves this time if needed to further consider proposed action on any item on the agenda.

Because of uncertain time spans involved, the Commission reserves the right to deal with any item at any time in the meeting except items F(2), G, H, I, and J. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Environmental Quality Commission will meet informally Thursday evening, March 29, in the Harrison Conference Room, George Putnam University Center, in the Willamette University Campus, beginning at 7:30 pm. The evening session provides the Commission with an opportunity to openly discuss items of particular interest that may be before the Commission on the formal agenda or a future agenda. The meeting is open to the public, but public testimony on discussion items is allowed only by invitation of the Commission. The Commission will not hold a Friday breakfast meeting this month. The Commission will lunch Friday at the Black Angus.

MINUTES OF THE ONE HUNDRED SEVENTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

March 30, 1979

On Friday, March 30, 1979, the one hundred seventh meeting of the Oregon Environmental Quality Commission convened at the Black Angus Restaurant, 220 Commercial Street, S.E. in Salem, Oregon.

Present were all commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; Mr. Ronald M. Somers; Mrs. Jacklyn L. Hallock; and Mr. Albert H. Densmore. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 Southwest Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - MINUTES OF THE JANUARY 17, 1979 and JANUARY 26, 1979
EQC MINUTES

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR FEBRUARY 1979

AGENDA ITEM C - TAX CREDIT APPLICATIONS

Chairman Richards asked for clarification on the Request for Preliminary Certification for Tax Credit denial for Rough and Ready Lumber Company under item C. Mr. Ernest Schmidt, Administrator of the Department's Solid Waste Division, recalled that at the last meeting Rough and Ready Lumber Company was denied Preliminary Certification for Tax Credit for their entire dry kiln system, but were told they could submit applications for parts of that facility that they felt were directly applicable to pollution control. As it turned out, Mr. Schmidt said, the Department found they could not separate out pieces of the kiln and make any different sense out of it. He said the Department would recommend that the condensation system be approved in the amount of \$13,534.60. Mr. Schmidt said the company requested tax credit for \$79,500 investment in the kiln and for \$12,150 investment in the steam heat pumps.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that the following Agenda Items be approved.

Agenda Item A - Minutes of the January 17, 1979 and January 26, 1979 EQC meetings.

Agenda Item B - Monthly Activity Report for February, 1979

Agenda Item C - Approve the Director's Recommendation as follows:

1. Issue Pollution Control Facility Certificates to applications T-1038, T-1041, T-1042, T-1043, T-1046, T-1047, T-1050, T-1051, T-1052, T-1053, and T-1055.
2. Revoke Pollution Control Facility Certificates 683 issued to Babler Brothers, Inc. and reissue it in a lesser amount because of sale of portions of the certified facilities.
3. Deny Rough and Ready Lumber Company's request for Preliminary Certification for kiln heating coils and related equipment and labor for their lumber mill at Cave Junction, Oregon, and be informed of the Department's intention to issue Preliminary Certification for the steam heat dump system and related labor at the same plant.

AGENDA ITEM D - REQUEST FOR AUTHORIZATIONS TO HOLD PUBLIC HEARINGS ON PROPOSED REVISIONS TO THE STATE AIR QUALITY IMPLEMENTATION PLAN AS FOLLOWS:

1. PORTLAND-VANCOUVER INTERSTATE AQMA OZONE CONTROL AND CARBON MONOXIDE STRATEGIES
2. CITY OF SALEM CARBON MONOXIDE AND OZONE CONTROL STRATEGIES
3. EUGENE-SPRINGFIELD AQMA CARBON MONOXIDE CONTROL STRATEGIES
4. MEDFORD-ASHLAND AQMA CARBON MONOXIDE AND OZONE CONTROL STRATEGIES
5. AMENDMENTS TO VOLATILE ORGANIC COMPOUND RULES FOR NON-ATTAINMENT AREAS
6. NEW PERMIT REQUIREMENTS FOR NON-ATTAINMENT AREAS
7. CONSIDERATION OF CHANGES TO THE OXIDANT AMBIENT AIR STANDARD
8. RULES TO PREVENT SIGNIFICANT DETERIORATION OF AIR QUALITY
9. NEW RULES PERTAINING TO STACK HEIGHTS

Mr. John Kowalczyk of the Department's Air Quality Division, presented some brief amendments to the above staff reports as follows;

On the background report, page 2, hearings schedule. Change May 4 hearing on Eugene CO Plan from Salem to Eugene and change date of Portland CO and O_x Plan from May 7 to May 4.

Item D(3), Figure 3 - 1977 roadway violations should be 10.5 kilometers instead of 28 kilometers.

Item D(6) add the following to 340-20-196 and 340-20-198:

"This section shall now apply in the Portland AQMA until such time as a SIP attainment strategy exists."

Commissioner Hallock noted that on item D(7), item 4 under the summation indicated that the Department was currently preparing all attainment and maintenance ozone air quality control strategies for submission to EPA on the basis of the new Federal standard. She said she did not mind going to hearing on these items, but she thought preparing the strategy under the assumption that the Commission would accept the new lower federal standard, was not proper. Commissioner Hallock said she was not convinced that the standard should be lowered to the federal standard. Mr. Kowalczyk said the Department was not assuming that the Commission would make a change in the ozone standard but they were preparing the SIP to meet federal law. If the Commission were to decide on a different standard other than the federal standard, he continued, then the Department would develop plans to meet the state standard and keep it separate from any Federal SIP revisions.

Commissioner Somers said it was distressing to read in the newspaper that DEQ was going to hold hearings to lower standards for ozone when it had not been mentioned to the Commission previously. Mr. Kowalczyk said that the Department was not proposing to lower the standard, but was requesting a hearing to determine whether the existing standard should be changed to the new Federal standard.

Commissioner Phinney said there had been speculation in the news media that the change in the Federal standard was a result of political pressure. However, she continued, there had been no new data or evidence to justify the change in the federal standard. Mr. Kowalczyk said several new studies had been made since EPA originally set the standard in 1970 and a lot of consideration was given to setting the new standard. He said the federal government did hold public hearings throughout the country and consideration was given to comments from several medical groups.

Director Young said he did not see a problem with the Commission making an SIP revision based on the federal standard and the Commission could leave the present state standard unaltered as a secondary standard and additional strategies may be wanted to meet the secondary standard. He said he did not see anything inconsistent with the Department addressing the federal requirement at what was the new federal standard and still retain full ability to address a more stringent standard at the state level.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried with Commission Hallock dissenting that public hearings be authorized for agenda items D(1) through (9).

AGENDA ITEM F(2) - PROPOSED ADOPTION OF EMISSION OFFSET RULE FOR NEW OR MODIFIED EMISSION SOURCES IN THE MEDFORD-ASHLAND AQMA; OAR 340-30-010 and 30-110

Director Young presented for the record a letter from the Legislative Committee on Trade and Economic Development commenting on this agenda item. This letter is made a part of the Commission's record on this matter.

Commissioner Hallock said that if this rule was adopted the State would be the only "banker." Mr. John Kowalczyk of the Department's Air Quality Division, said the way the rule was written it adopted the Federal rule by reference which indicated the State may act as banker if it wishes.

Chairman Richards asked if the rule would still be a valid response to the particulate problem in Medford if the banking reference were removed. Mr. Kowalczyk replied that the banking provision could be removed without harming the main thrust of the rule which was to protect against further degradation of the airshed while still allowing growth. Chairman Richards said he know the Legislature was looking at the complex banking question. He said he was not sure that the federal regulation adequately addressed banking and suggested that the Commission address this matter at a later date to take advantage of any hearings the Legislature might hold or any other forthcoming information.

Director Young asked that if the Commission reserved the question of banking until a later time, they make clear they were not talking about the nonbanked offset the Department had used as part of its permitting process in the past.

Commissioner Densmore said that if the Commission dropped the provision on banking from the offset rule, rules on banking would still be needed. He asked the staff to return with a recommendation on promulgating those rules including opportunity for public comment.

Commissioner Densmore submitted for the record a letter from the Jackson County Board of Commissioners which requested that consideration be given to applying the offset to the entire valley floor and that the rule be made a part of the SIP. He said the County Commissioners argued that the 1975 model on which the rule was based was not entirely satisfactory to them and they believed that if someone were going to locate from out-of-state into the area subject to the offset rule, they might not be aware of the rule unless it was part of the SIP.

Chairman Richards wanted the record to show that the Commission's action on this matter would not change any existing practice that may in any manner be understood as "banking." He also said that he believed the Commission had responded to the Legislative Committee on Trade and Economic Development by adopting the recommendations they had requested. Chairman Richards indicated that the request by the Committee they they be allowed

to review proposed revisions to the SIP was not interpreted by the Commission to mean that amendments to the SIP would not be valid until official action had been taken by the Committee. He indicated that the Commission had received excellent help from the Committee in dealing with this situation.

It was MOVED by Commissioner Hallock, seconded by Commissioner Densmore and carried unanimously that the proposed rule be amended as follows:

OAR 340-30-100

The intent of this rule is to supplement and in some cases be more stringent than the Federal Interpretative Ruling promulgated in the January 16, 1979 Federal Register on pages 3282 through 3285 (40 CFR, Part 51, except for Section IV (C) (5) thereof) hereby incorporated by reference and attached, to the extent any provision thereof or in conflict with more stringent Commission rules, the Commission rule shall prevail.

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock and carried with Commissioner Somers dissenting that the emission offset regulation for the Medford-Ashland AQMA, as amended, be adopted.

AGENDA ITEM G - VARIANCE REQUEST - LARRY BALLMAN FROM OAR 340-71-020(7)
REGARDING THE CONSTRUCTION OF A SUBSURFACE SEWAGE DISPOSAL SYSTEM IN
CLATSOP PLAINS

Mr. Robert Gilbert, Northwest Region Manager, presented the following Director's Recommendation

Director's Recommendation

Based upon the findings in the summation in the staff report, it is recommended that the Environmental Quality Commission:

1. Enter a finding that strict compliance is inappropriate at this time for cause due to the medical hardships for Mr. Gilbert Walters and Mrs. Lawrence Ballman.
2. Grant a variance to Mr. and Mrs. Ballman to construct a subsurface sewage disposal system to service a new two-bedroom home subject to the following conditions:
 - a. The variance shall terminate upon the death of Mr. Gilbert J. Walters, and the subsurface system presently in use will be disconnected, the home left uninhabited pending adoption of a Clatsop Plans Groundwater Protection Plan.

- b. If after adoption of the Groundwater Protection Plan, the home and its subsurface sewage system is not compatible with the adopted plan the home shall be razed.

In response to Commissioner Phinney, Mr. Gilbert said that the variance was strictly to allow Mr. Walters to live in the home and perhaps the language in the recommendation should be changed to reflect that.

Mr. Ray Underwood, Department of Justice, said he felt that the variance was based on just Mr. Walters' occupancy of the home and if he either died or moved away the variance would cease.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation be amended as follows:

- a. The variance shall terminate upon the death or removal of Mr. Gilbert J. Walters for a period of at least 90 consecutive days, . . .
- b. This variance shall be recorded in the deed records of Clatsop County before it becomes effective.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the Director's Recommendation, as amended, be adopted.

AGENDA ITEM H - WATER QUALITY CONSTRUCTION GRANTS - PROPOSED USE OF FISCAL YEAR 1979 WASTEWATER CONSTRUCTION GRANT FUNDS AND PROPOSED DIRECTION FOR FUTURE FISCAL YEARS

Mr. Tom Blankenship of the Department's Water Quality Division, said if the fiscal year 1979 funds were used in the manner proposed, there would be two new projects that would be called phased projects. That was, he continued, only a portion of the project costs could be handled with the money shown on the priority list. These two projects were the Hermiston and Roseburg Metropolitan Area projects, he said.

Mr. Blankenship emphasized that the recommendations in the staff report dealt with the funds that were allocated to Oregon in fiscal year 1979. He said the other items included in the staff report were there purely for discussion purposes. Buying growth capacity with grant funds was one of the most critical issues he felt.

Chairman Richards asked if the staff had a prediction on how much funding would be available for the next fiscal year. Mr. Blankenship said the President had proposed to Congress in his budget a \$3.8 billion national allotment which would mean \$49 million to the State of Oregon. However, he said, the Department had received some additional information which would indicate the allotment might be anywhere from \$0 to the full

authorized appropriations of \$5 billion. Mr. Blankenship said he felt there would be some appropriation and there was interest by some states, including Oregon, that the authorized allotment be appropriated by Congress. Chairman Richards wanted to make sure the public knew that the allotment in grant funds might be significantly less than that predicted by staff at the present time.

Mr. Lewis N. Powell, City of Medford Public Works Director, urged the Commission to support the City of Medford's Step I grant application for this fiscal year. He said the Medford Plant was a regional facility for the Rogue River and Bear Creek Valley. He said improvements were needed to the plant in order to meet standards because some failing systems were proposed to be taken over by the Medford facility. Mr. Powell asked the Commission to use their discretion on any reserved funds so that Medford could start their Step I immediately so water quality standards would not be violated.

Chairman Richards submitted for the record a letter from the Rogue Valley Council of Governments dated March 28, 1979, taking exception to the paragraph in the staff report stating the City of Medford was seeking federal monies to fund their next growth increment and emphasizing the status of the plant as a regional sewage treatment facility.

Chairman Richards read into the record comments from Amelia Feller, Recorder for the City of Donald as follows:

"I request that Donald be added: #15, #17 and especially #23 on page 2 of Summary of Suggestions of meeting held in Portland 3/5/79."

Mr. Gary Wright, Eugene-Springfield Metropolitan Wastewater Commission, requested, if it was needed, an increase in the lid of State Pollution Control Bonds be made to offset a possible shortfall in federal funds over the next three years. He also said the State should work for a change in the federal regulations to allow local governments to precommit funds to purchase items in advance and still receive the 75% grant funding. Mr. Wright also asked that Congress be requested to restore appropriations to local governments for projects already on the priority list which were in a position to use the funds immediately. He said that some states would not have a use for the money if they got it, whereas Oregon would.

Mr. Blankenship noted for the record after the March 9th deadline for testimony, 22 letters were received relating specifically to the Tri-City-County Project in Clackamas County; one letter from Deschutes County concerning the Bend project; and one letter concerning Option 3 which was taken to hearing on March 5th. This option was an approach to try to spread the money further, he said.

Mr. A. M. Westling, Eugene-Springfield Metropolitan Wastewater Commission, urged the Commission to work toward an overall adjustment of the program. He said it was difficult to see how gains could be made by postponing

things 90 days and holding more hearings. Mr. Westling observed that in the abbreviated report on hearing testimony there was no information on the reasons behind the recommendations of the staff.

In urging that the Commission take action soon, Mr. Westling said that the longer it took to finish a construction project, the more it would cost and those monies would be lost if projects already in the construction phase were spread out over a longer period of time. Also, Mr. Westling said, they were willing to go to the Legislature, if they had support, to seek authorization for DEQ to utilize Pollution Control Bond funds for these construction projects. He said they had some indication that there was a reserve of unextended Bond funds to pick up the short-fall in Federal grant monies.

Mr. C. Herald Cambell, Mayor of the City of Lake Oswego urged adoption of the Director's Recommendation that the priority list adopted in August 1978 be used as the basis for committing available FY 79 wastewater construction grant funds. He said that the Lake Oswego /Glenmorrie/Marylhurst interceptor project was high on that list. This project, he continued, was needed now to correct a long-standing sanitary problem which was steadily growing worse. Failure to continue without delay, Mayor Cambell said, would present 131 homeowners in Glenmorrie with having to live with an increasingly dangerous health situation and present users of the Willamette River below Marylhurst with the knowledge that the old Marylhurst plant would continue to dump minimally treated effluent into the river.

Mr. R. C. Smelser, Chairman of Governmental Affairs Committee for Clackamas County Home Builders Association, testified that the funding of the Tri-City sewer system in Clackamas County was a top priority with their Association. At this time, he said, there were a limited number of sewer hookups available in the area to fulfill the housing demand. Because of this, he said, home ownership was being eliminated in the area.

Commissioner Densmore asked Mr. Smelser if their concerns had been communicated to their Congressman. Mr. Smelser replied that they were doing everything they could by working with the Legislature and Senator Hatfield.

Mr. David Abraham, Utilities Director for Clackamas County, appeared regarding the Tri-Cities program in Clackamas County. He said this project included the Cities of Oregon City, West Linn and approximately 1/2 of the City of Gladstone presently served by the existing Oregon City sewage treatment plant. Studies showed, he said, that there were presently 21 points of raw sewage discharge into the Willamette and Clackamas Rivers. He said that the Oregon City Plant overflowed raw sewage into the Willamette River 180 days out of the year. A sewer connection limitation was imposed by DEQ approximately two years before on the Oregon City plant, he said. This resulted in a moratorium on all sewer hookups in the City of Oregon City, Mr. Abraham continued, and the same limitation had been imposed on the City of West Linn.

Mr. Abraham said the Tri-City project was included in the priority list adopted for FY 1979, however DEQ recommended at this time that the FY 1979 priority list be used down to the level of funds available. This would exclude the Tri-City project, he said. Mr. Abraham asked that the Tri-City project be placed higher in priority because of the moratoriums which now existed in the area.

Mr. Blankenship presented the following Director's Recommendation from the staff report:

Director's Recommendation

Based upon the summation in the staff report, it is recommended that:

1. The FY 1979 Priority List, as adopted by the EQC on August 25, 1978, and approved by EPA Region X in December 1978, be used as the basis for committing available FY 79 waste water Construction Grant Funds.
2. The policy issues identified in the staff report be discussed by the EQC at a work session and direction provided, as appropriate.

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

AGENDA ITEM I - EVANS PRODUCTS COMPANY, NEW GLASS WOOL PLANT - PROPOSED AIR CONTAMINANT DISCHARGE PERMIT AND CITIZEN PETITIONS FOR HEARING

Ms. Billie M. Moore, said she was concerned that DEQ was ignoring the requests of over 1900 people to hold another hearing on this matter. She said there was not sufficient time to prepare for the hearing that was held and several questions brought up at that hearing went unanswered. Ms. Moore said she felt that contrary to Department staff belief, new testimony would be presented at an additional public hearing.

Mr. Moore asked why sampling wasn't being done at the already operating glass wood plant in Ohio to obtain data. She also asked why workers at that plant weren't receiving pulmonary function tests upon hiring and at intervals thereafter so that data could be collected for the future. Ms. Moore was also concerned about the level of noise from the proposed plant; the dust problem from the existing Evans Products facility; and where the dust from the silica sand, borax and soda ash would go.

Ms. Moore requested that issuance of the proposed Air Contaminant Discharge permit be delayed until another public hearing was held and the public's questions answered.

Ms. Marilyn Koenitzer, Corvallis, requested that a hearing be held to hear additional comments on the health issues involved in issuing the proposed permit to Evans Products. She presented a portion of the petition which was overlooked when the petitions were originally submitted. This sheet contained ten signatures. Mr. Koenitzer said it would be improper to issue the permit until the local land use issues concerning issuance of the building permit were resolved at the county hearings. She presented for the record a copy of the petition submitted to the county concerning the issuance of a building permit to Evans Products.

Ms. Koenitzer submitted for the record the LCDC Administrative Rule on State Permit Consistency which established requirements for determining consistency of state permits with Statewide Planning Goals and Acknowledged Comprehensive Plans. Also submitted for the record was a copy of an appeal filed by the petitioners' attorney which consolidated the separate appeal of the residents within sight and sound of the proposed fiberglass facility with the City's appeal of the building permit issued to Evans Products. Mr. Koenitzer's written comments are made a part of the Commission's record on this matter.

Mr. Jerry Coffey, Corvallis, asked if the permit for the battery separator plant had been issued. Mr. Skirvin replied that a permit had been issued for the battery separator plant which would expire in 1983. Mr. Coffey said there was clarification needed on the amount of emissions the plant would have. Also, he continued, the height of the stack noted by Evans Products was 20 feet and indicated the stack would be placed next to the building. In looking at the stack, he said, it appeared to be 20-30 feet high creating a down-wash effect during high velocity winds and could draw the plume directly into the building.

Mr. Coffey questioned the need for a solid waste discharge permit on the fiberglass surplus which would be emitted by the plant. He also asked if there would be discharge to the river which would require a wastewater discharge permit.

Mr. Diarmuid F. O'Scannlain appeared as attorney for Evans Products Company in connection with this matter. He said that Evans Products supported the recommendation before the Commission and urged that it be adopted. He said they felt the staff did a thorough job in responding to letters and comments from the public and had tightened the permit from the original proposal. Mr. O'Scannlain said that Evans thought the permit now proposed was tighter than necessary, but they would accept it.

Mr. O'Scannlain said that plants using the same process existed in Santa Clara, California and in Ohio.

Mr. O'Scannlain submitted for the record a chronology of events leading to the proposed permit now before the Commission. This indicated, he said, a very public, open manner by Evans Products.

The appropriate forum to air questions of land use, Mr. O'Scannlain said, would be with the county and not the EQC. He said the county had issued a building permit and had not notified the Company they were planning on revoking it.

Mr. O'Scannlain urged that the Commission issue the permit with no further delay.

Mr. F. A. Skirvin of the Department's Air Quality Division, in response to Mr. Coffey, said that the solids out of the scrubber would be disposed of at a DEQ-approved landfill in the area so the Company would not have to have a solid waste permit of their own. He said also that the scrubber water would be recirculated so no water discharge permit would be required. In regard to the stack height, Mr. Skirvin said he had indicated concern to the Company about down-wash from the stack. He said they were attempting to eliminate that concern through engineering.

In regard to the effects on public health, Mr. Skirvin said the staff had concluded that there would be no potential for adverse environmental or health effects close to the plant.

Chairman Richards said the attorney for some residents in the area indicated to him that his clients did not feel the local governmental body had properly determined whether there was compliance with the statewide land use goal. Chairman Richards said the Department needed to satisfy themselves that the applicant had met the statewide land use goals. He asked if the Department's agreement with LCDC applied to this application and if anyone on behalf of the Department made the judgment that the applicant was in compliance with the statewide land use goal. Mr. Skirvin replied that the LCDC agreement did not apply in this situation because the application was received before the agreement went into effect. However, he said, the Department was trying to live up to the spirit of the agreement in regard to permit applications. Mr. Skirvin said that DEQ staff did not look at the application in regard to statewide land use goals.

Commissioner Hallock said she would hate to deny over 2000 persons the hearing they requested although she felt the Department had adequately addressed the matter. She asked Mr. Skirvin how seriously the plant would be held up if the petitioners were granted another permit. Mr. Skirvin replied that the plant was currently being delayed by the City's appeal to the County Planning Commission regarding the issuance of the building permit and its conformance with the zone code.

Mr. O'Scannlain said the entire project was premised on its going into production on July 1. He said construction was finished and the plant was waiting for the issuance of the air contaminant discharge permit. He said customers were waiting for materials which would be produced from this plant and that the Company's market would be jeopardized by a delay.

Ms. Moore said that many questions the public had were not answered. She also said that few people in the area were aware of what was contained in the permit. So that these questions could be answered, Ms. Moore reiterated their request for an additional hearing on the matter. Although notice was made for the previous hearing, she said, they did not have adequate time to prepare.

Commissioner Phinney said that informational hearings were held for the purpose of allowing the public to give information to the Department. The hearing record was held open for 45 days, she continued, so she felt ample opportunity had been given for the public to provide information to the Department. Commissioner Phinney suggested that rather than another hearing, a workshop could be held. Ms. Moore responded that Mr. Skirvin did meet with a small group of residents in her home.

Mr. Skirvin said he was willing to go and discuss the matter with any number of persons in Corvallis.

It was MOVED by Commissioner Sommers, seconded by Commissioner Densmore and carried unanimously that the petitioners' request for an additional public hearing be denied.

AGENDA ITEM J(1) - DEQ v. ROBERT WRIGHT

Mr. Robert J. Wright, said the issue involved the denial of a request for approval of a septic tank for a building that would house farm hands on his 60-acre farm. He said the Department gave approval for construction, he paid the fee, constructed the septic system, and requested an inspection. After the inspection, Mr. Wright continued, he was informed that a permit would not be issued on the grounds that partitioning was required.

Mr. Wright said the question was whether or not DEQ could withhold a construction permit to enforce county zoning laws. He said DEQ did not have that authority. Mr. Wright said when DEQ notified him that partitioning was required, they failed to notify him that he had the right to a contested case hearing as required by law. By failure to notify, he continued, the Department lost jurisdiction over the issue.

Mr. Robert Haskins, Department of Justice, representing the DEQ in this matter, said this case was the appeal of a civil penalty issued for operation of a subsurface sewage disposal system without first obtaining a Certificate of Satisfactory Completion. Although various issues had been raised in this case, Mr. Haskins said the respondent had limited himself in this case to four exceptions to the Hearing Officer's ruling. Two of these exceptions, he said, involved Findings of Fact and two were legal issues involving whether or not the Certificate of Satisfactory Completion was issued by operation of law and a Motion to Dismiss for want of prosecution.

Mr. Haskins said the affidavits the Department filed in this case indicated the Respondent constructed his system before he filed an application for a permit, contrary to Department regulations. Mr. Haskins said the Respondent based his argument solely on the basis that the Department failed to inspect his property within seven days after his request for inspection as required. However, he continued, the Hearing Officer ruled that the seven-day rule did not apply and the Commission upheld that ruling earlier.

Mr. Haskins said the Commission should disregard these issues as an attempt by the Respondent to "sandbag" the Commission.

Mr. Haskins said that Mr. Wright contended that because the Department failed to inform him of his right to a contested case hearing the Department lost jurisdiction and the Certificate of Satisfactory Completion was issued by operation of law. However, he continued, the Respondent cited no specific law in support of that contention. The appropriate way to present this argument, Mr. Haskins said was by filing a Petition for Judicial Review in an appropriate Circuit Court seeking an Order requiring the Commission to hold a contested case hearing.

Mr. Haskins said the Motion to Dismiss was dealt with by the Hearing Officer who indicated there was no statutory authority to dismiss or delay a proceeding other than seeking a court order.

Mr. Wright responded that before a request for hearing could be made the Respondent needed to be aware that a request could be made. Again, Mr. Wright said, the Respondent was never notified of his right to a contested case hearing and therefore never requested one.

Mr. Wright said that if needed he would take this case to the Supreme Court which would not give the Commission the right to deny a construction permit on the grounds that planning and zoning was required.

Chairman Richards said the Commission could accept the Hearing Officer's Findings of Fact and Order or they could enter an Order which was the opposite of the Hearing Officer's findings and dismiss the civil penalty.

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the Hearing Officer's Order be made the Final Order of the Commission.

AGENDA ITEM J(2) - DEQ v. George Suniga, Inc.

Mr. Robert Haskins, Department of Justice, announced that this case had been settled and a Settlement Agreement and Consent Order would be presented to the Commission for their signatures at a later date.

AGENDA ITEM J (3) - PETITION FOR DECLARATORY RULING AS TO APPLICABILITY OF OAR CHAPTER 340, SECTIONS 74-016(7) AND (8) BY W. W. C. RANCH, INC.

Mr. John Hitchcock, attorney for Petitioner, said that in 1975 residents of the Cove-Orchard area of Yamhill County became concerned about the number of subsurface sewage system failures in the area. A study was conducted, he said, which indicated that only 22% of the subsurface systems in the area were in functioning order and over 75% were failing.

Mr. Hitchcock said his client was concerned about the application of Mr. and Mrs. Wright for an experimental system. They Wright's were denied a permit for a standard system, he said. Mr. Hitchcock said his client had a stock watering pond adjacent to where the Wrights proposed to install their experimental system and requested that they be present at any hearing the Department had on granting the Wrights a permit. The Department had indicated to his client, he continued, that the rules did not allow for intervenors.

Mr. Hitchcock suggested that the Contested Case procedure was the appropriate proceeding for this type of an application in order to learn all the facts prior to making a decision. Mr. Hitchcock suggested the adoption of a rule which would make intervening in these types of applications appropriate.

Chairman Richards said the Administrative Rules indicated that the decision to issue or deny a request for permit could be reviewed by the Director and it was the Director's prerogative to either issue or deny the permit or to refer the matter to the Commission for a decision. In response to Chairman Richards, Mr. Hitchcock said they had not applied to the Director for relief on this matter. However, he said, they had applied to the Administrator of the Experimental System Program for the opportunity to appear at a hearing before a permit was issued. As of this time, he continued, a hearing had not been held nor had a permit been issued. Chairman Richards said it appeared that Mr. Hitchcock had bypassed the remedies offered by the Department and instead came directly to the Commission. He indicated to Mr. Hitchcock that until the remedies the Department could offer had been exhausted he could not support their petition.

It was MOVED by Commissioner Hallock, seconded by Commissioner Densmore and carried unanimously that the Commission decline to make a Declaratory Ruling on this matter.

PUBLIC FORUM

Ms. Melinda Renstrom, Oregon Environmental Council and member of the Portland AQMA Committee, appeared regarding the Indirect Source Rule. She wanted the Commission to know that the Committee Sub-Committee working on the Indirect Source Rule was unanimously favoring keeping the present

rule at least until time and money could provide for an adequate parking and traffic circulation plan. She asked the Commission to request the Legislative Ways and Means Committee to reinstate the Indirect Source Program in the DEQ budget.

It was MOVED by Commissioner Hallock, seconded by Commissioner Densmore and carried with Chairman Richards dissenting, that a representative from the Commission go to Ways and Means and request that 1 FTE be replaced in the budget for the Indirect Source Program. It was indicated that this would be argued for separately and not at the expense of what was already in the proposed budget.

AGENDA ITEM F(1) - PROPOSED ADOPTION OF AMENDMENTS TO ADMINISTRATIVE RULES GOVERNING SUBSURFACE AND ALTERNATIVE SEWAGE DISPOSAL; OAR 340-71-005 to 71-045 and 72-005 to 72-020

Dr. Lester N. Wright, Jackson County Health Officer, testified at the request of the Conference of Local Health Officials and the Jackson County Board of Commissioners. His testimony regarded the proposal to amend 340-71-030(11). He said this proposal would allow the issuance of permits to install septic systems that would fail either seasonally or permanently. Dr. Wright was concerned about the adverse health effects of failing septic systems. Commissioner Phinney asked if Dr. Wright thought the size of the parcel might be taken into account if the special rules for large-size parcels could be expanded. Dr. Wright replied that he thought the size of the parcel was immaterial when talking about placing the system 200 feet from the property line.

Mr. T. Jack Osborne, of the Department's Subsurface and Alternative Sewage Systems Disposal Section, recalled for the Commission that at their January 1979 meeting they instructed the Department to proceed as rapidly as possible with amendments to two or three troublesome rules within the Administrative Rules relating to subsurface and alternative sewage systems. Mr. Osborne reviewed these proposed amendments for the Commission, and presented the following Director's Recommendation from the staff report:

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission adopt the proposed amendments to Oregon Administrative Rules, 340-71-005 to 71-045 and 72-005 to 72-020 as set fourth in Attachment "A" to the staff report (as amended), for immediate filing with the Secretary of State to become effective April 5, 1979.

Chairman Richards indicated for the record receipt of a telegram from A. K. Hodel, Administrator of Benton County Health Dept. requesting deletion of the "38 acre" rule from the proposed amendments.

Mr. Richard Swenson, Oregon Environmental Health Association, presented a copy of a resolution adopted by his Association regarding the allowing of subsurface sewage disposal systems on large parcels. He urged that the Commission not adopt the proposed amendment to OAR 340-71-030(11) due to the adverse health effects which might result from the adoption of this proposed rule amendment. Mr. Swenson said his association would make their experience and expertise available to the EQC relating to on-site sewage disposal systems.

Speaking as Director of the Linn County Health Department, Mr. Swenson addressed the proposed rule amendment regarding the sizing of systems. He said he had not had time to prepare testimony for the public hearing and presented written testimony stressing that he thought there were some better alternatives for sizing systems which had not been considered and requested the Commission delay a decision on this particular rule amendment until those alternatives had been pursued.

Mr. Rick Partipilo, Polk County Environmental Health Division, presented a study from the Journal of Environmental Quality which addressed movement of bacteria in soils under saturated flow conditions which are experienced in the Willamette Valley in the winter time. He said he shared the same concerns expressed by Mr. Swenson and continued that they had seen systems fail in soils which were considerably better than those proposed for systems in the proposed rule 71-030(11).

Mr. John Huffman, Oregon State Health Division, appeared opposing adoption of proposed rule 71-030(11). He said there was little chance of these systems working and they would possibly be creating health hazards. He said he felt the Department's rules on subsurface systems were minimum standards. Although 38 acres sounded like a large parcel it was really not that great an area when taking into account the transmission of fecal material. Mr. Huffman said they were not doing a person a favor to allow them to install a system which was below standards and would fail.

Chairman Richards asked if the Department would be a party in establishing situations where a substantial risk would be taken in the spread of disease as indicated by testimony. Mr. Osborne said that under the proposed criteria some failing systems could be expected.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the Director's Recommendation be approved with the exception that proposed amendment to 340-71-030(11) be deleted.

AGENDA ITEM F(3) - PROPOSED ADOPTION OF EMISSION LIMITS SPECIFIC TO WOOD FIRED VENEER DRYERS, OAR 340-25-305 to 35-315

Director Young indicated that the staff report adequately addressed the Department's position on this matter. The record notes no one was present to testify on the proposed rule adoption.

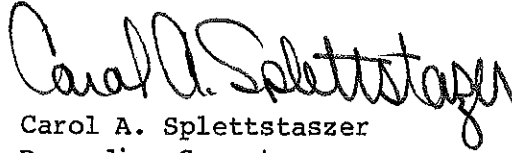
It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation to adopt proposed OAR 340-25-305 through 25-315 be adopted.

AGENDA ITEM K - INDIRECT SOURCE RULE AMENDMENTS - STATUS REPORT

Mr. John Kowalczyk of the Department's Air Quality Division, presented a Staff Report prepared by the Portland AQMA Advisory Committee. He said the Committee requested another month to prepare their recommendation. He said their inclination was toward supporting continuation of the indirect source program.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol A. Splettstaszer
Recording Secretary

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

April 27, 1979

Portland City Council Chambers
City Hall
1220 Southwest Fifth Avenue
Portland, Oregon

A G E N D A

9:30 am CONSENT ITEMS

Items on the consent agenda are considered routine and generally will be acted on without public discussion. If a particular item is of specific interest to a Commission member, or sufficient public interest for public comment is indicated, the Chairman may hold any item over for discussion.

- A. Minutes of the February 23, 1979 EQC Meeting
- B. Monthly Activity Report for March 1979
- C. Tax Credit Applications
- D. Request for authorization to hold a Public Hearing on annual rules review and update to Motor Vehicle Emission Testing Rules to include standards for 1979 model year motor vehicles (OAR 340-24-300 through 24-350)

PUBLIC FORUM

- 9:45 am E. Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear
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ACTION ITEMS

The Commission will hear testimony on these items at the time designated, but may reserve action until the Work Session later in the meeting.

- F. Rule Adoption - Proposed adoption of amendments to administrative rules governing subsurface and alternative sewage disposal (OAR 340-71-020)
- G. Field Burning Rules - Request for authorization to hold a public hearing to consider revision of rules pertaining to experimental field burning (OAR 340-26-013(6))

Environmental Quality Commission Meeting

Agenda

April 27, 1979

H. Field Burning - Consideration of submission of field burning rules to EPA as a revision to the State of Oregon Clean Air Act Implementation Plan

I. Certification of plans for sewerage system as adequate to alleviate a health hazard (pursuant to ORS 222.898) for an area contiguous to the City of Albany (Drapersville-Century Drive Area)

11:00 am J. Variance Requests

1. Request by Tillamook County for extension of variances from rules prohibiting open burning dumps (OAR 340-61-040(2)(C))

2. Request by Lake County for variances from rules prohibiting open burning dumps (OAR 340-61-040(2)(C))

K. River Road/Santa Clara Subsurface Sewage Disposal Moratorium - Status report on public informational hearings and ground water contamination study

INFORMATIONAL ITEMS

L. Sewerage Works Construction Grants - Schedule and process for developing new priority criteria and list for Fiscal Year 1980

M. Land Use Coordination Program - Status report on implementation of procedures developed to ensure DEQ site-specific actions affecting land use are in conformance with LCDC's Statewide Planning Goals

WORK SESSION

The Commission reserves this time if needed to further consider proposed action on any item on the agenda.

Because of the uncertain time span involved, the Commission reserves the right to deal with any item at any time in the meeting except Item J. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) in Conference Room A off the Standard Plaza Building Cafeteria, 1100 S. W. Sixth Avenue; and lunch in Room 511, DEQ Headquarters, 522 S. W. Fifth Avenue, Portland.

MINUTES OF THE ONE HUNDRED EIGHTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

April 27, 1979

On Friday, April 27, 1979, the one hundred eighth meeting of the Oregon Environmental Quality Commission convened in the Portland City Council Chambers, 1220 S. W. Fifth Avenue, Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; and Mrs. Jacklyn Hallock. Commissioners Ronald M. Somers and Albert H. Densmore were absent. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

BREAKFAST MEETING

The Environmental Quality Commission met informally for breakfast in Conference Room A off the Standard Plaza Building Cafeteria, 1100 S. W. Sixth Avenue in Portland, and discussed the following items without taking any action.

1. The status of the current North Albany subsurface sewage disposal permit moratorium.
2. Introduction of Ms. Linda Zucker as the new EQC Hearing Officer.
3. Content and timing of public hearing notices.
4. ~~SB 915 regarding banking of emission offsets.~~
5. Field Burning - proposed legislation status and submission of SIP revision.
6. Status of the Department budget.
7. Status of the Evans Products Permit for their Corvallis glass wool plant.
8. Status of DEQ v. Faydrex.

FORMAL MEETING

AGENDA ITEM A - MINUTES OF THE FEBRUARY 23, 1979 EQC MEETING

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR MARCH 1979

AGENDA ITEM C - TAX CREDIT APPLICATIONS

AGENDA ITEM D - REQUEST FOR AUTHORIZATION TO HOLD A PUBLIC HEARING ON ANNUAL RULES REVIEW AND UPDATE TO MOTOR VEHICLE EMISSION TESTING RULES TO INCLUDE STANDARDS FOR 1979 MODEL YEAR MOTOR VEHICLES (OAR 340-24-300 THROUGH 24-350)

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the above consent items be approved.

AGENDA ITEM F - RULE ADOPTION - PROPOSED ADOPTION OF AMENDMENTS TO ADMINISTRATIVE RULES GOVERNING SUBSURFACE AND ALTERNATIVE SEWAGE DISPOSAL (OAR 340-71-020)

Director Young said that when the Commission adopted a package of amendments to Administrative Rules governing subsurface and alternative sewage disposal on March 30, one vital amendment was inadvertently overlooked and not included in the package. He said that this item would correct that oversight. The proposed amendment, he continued, would establish the daily sewage flow for single-family dwellings at 150 gallons per bedroom for the first two bedrooms and 75 gallons per bedroom for the third and succeeding bedrooms. Director Young said that this rule, if adopted, would result in a number of advantages for the homeowner such as homes served by three-bedroom systems installed after January 1, 1974 could add a bedroom without altering the system.

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the Director's recommendation to adopt the proposed amendment to Oregon Administrative Rules 340-71-020 as set forth in Attachments A and B of the staff report, be approved.

AGENDA ITEM G - FIELD BURNING RULES - REQUEST FOR AUTHORIZATION TO HOLD A PUBLIC HEARING TO CONSIDER REVISION OF RULES PERTAINING TO EXPERIMENTAL FIELD BURNING (OAR 340-26-013(6))

Director Young said when EPA reviewed the Department's proposed one-year interim strategy for field burning, it uncovered an oversight in the drafting of the field burning rule. As conceived, he said, experimental field burning acreages were limited on a year-by-year basis in the rules. Temporary rules were adopted for the 1978 season establishing a limit for that year, he continued, and the oversight occurred when the year was not changed to 1979 upon permanent rule adoption last December. Director Young requested authorization to hold a public hearing and adopt a corrected rule at the Commission's May meeting.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the public hearing be authorized.

AGENDA ITEM H - FIELD BURNING - CONSIDERATION OF SUBMISSION OF FIELD BURNING RULES TO EPA AS A REVISION TO THE STATE OF OREGON CLEAN AIR ACT IMPLEMENTATION PLAN

Director Young said the Commission had already considered the method of incorporation of field burning rules in Oregon's SIP at its December and February meetings. At the February meeting, he said, it was decided to submit the rules as a one-year interim strategy to allow flexibility in dealing with future legislative changes and still establish acreage limits for 1979 above the 50,000 acres currently in the SIP. Subsequently, he said, EPA rejected the proposed one-year approach, therefore it was necessary to

consider this submittal again in order to gain approval for the 1979 burning season. Director Young said the staff would provide a legislative update on possible changes to the field burning law for the Commission's consideration prior to action on the proposed submission.

Mr. Scott Freeburn, of the Department's Air Quality Division, said the current field burning bill, SB 472, was approved in the Senate in its present form and went to the House Agricultural Committee. To date, he said, one hearing had been held and at that hearing several questions were raised with regard to the bill and its possible implications in adoption of the SIP and on offsets.

Chairman Richards asked if the proposed action would mean that the SIP revision would be immediately submitted in its present form. Mr. Freeburn replied it was the Department's intent to submit what had previously been a one-year control strategy, with no changes, if possible.

Mr. Freeburn presented the following Director's Recommendation:

Director's Recommendation

Based upon the information set forth in pages one through four of the Director's April 27, 1979 staff report to the Commission and information presented with regard to the status of current field burning legislation, it is recommended that the Environmental Quality Commission instruct the staff to:

1. Submit the current field burning rules previously adopted and set forth as Attachment 1 to the Director's Staff Report of December 15, 1978, and other appropriate documents as required, to the Environmental Protection Agency pursuant to Federal rules and request that these submitted rules be promulgated as a State Implementation Plan revision. Further inform EPA as to the status of new legislation and the Department's proposed plan and schedule to respond thereto.
2. Develop a State Implementation Plan revision as may be appropriate in light of legislation adopted prior to the 1980 field burning season and in substantial compliance with the schedule set forth in this staff report.

Mr. Robert Elfers, representing the City of Eugene, said that the City had been in support of submitting the field burning rules for 1979-80 to EPA as part of the SIP. However at this time, he said, the City opposed the proposed action on this matter because it appeared to be only another one-year strategy. Mr. Elfers asked if the Director would be making the same recommendation if the bill before the Legislature had already passed. They felt, he continued, that a viable SIP revision should look beyond just one year.

Mr. Elfers said if the Commission approved the Director's Recommendation on this matter, the City would seek rejection by EPA and would also seek enforcement of the current SIP which called for a 50,000 acre limit on field burning.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the Director's Recommendation in this matter be approved.

PUBLIC FORUM

Mr. Richard Sewnson, Oregon Environmental Health Association, said the impact of the adoption previously in the meeting of Agenda Item F, would serve to greatly eliminate the issuance of unnecessary permits and would be a great improvement to the subsurface sewage disposal program.

Mr. Richard Miller, representing Rough and Ready Lumber Company, appeared regarding the denial of the Company's request for preliminary certification for tax credit. He presented a diagram to the Commission indicating what portions of their equipment they were applying for in this case. Mr. Miller also briefly outlined some background on this matter as it had been before the Commission before. He said the equipment they were applying for in this instance was that which had as its end product heat energy. They did not apply for the equipment which used the heat energy to dry lumber, he said. Mr. Miller said the equipment in the kiln that they were applying for was essential to the use of solid waste material for its heat content.

Mr. Miller said they understood the Commission had to be cautious in issuing tax credits, however they believed the equipment they were applying for was definitely used in the stage of energy production as opposed to energy consumption.

In response to Chairman Richards, Mr. Miller said this was a new application which the Commission had not heard before. Also in response to Chairman Richards, Mr. Miller said the material he was presenting at this time had not been presented to the Department staff for review. Chairman Richards suggested that if the material was different than what had been submitted before, the staff be given a chance to review it before it came before the Commission. Mr. Lewis Kraus, Rough and Ready Lumber, informed the Commission that a letter had been sent to the Department so they were aware of the presentation.

Ms. Cynthia Kurtz, Portland AQMA Advisory Committee, appeared regarding the Indirect Source Program and submitted some recommendations to the Commission. Ms. Kurtz said that basically the Committee felt the rule should be retained as it now stood. A written copy of the Committee's resolution in this matter is made a part of the Commission's record.

AGENDA ITEM I - CERTIFICATION OF PLANS FOR SEWERAGE SYSTEM AS ADEQUATE TO ALLEVIATE A HEALTH HAZARD (PURSUANT TO ORS 222.898) FOR AN AREA CONTIGUOUS TO THE CITY OF ALBANY (DRAPERSVILLE-CENTURY DRIVE AREA)

Director Young said these certifications had come before the Commission a number of times. In this particular case, the State Health Division certified findings of a health hazard in an area northeast of the City of Albany, he said. The next step in the Mandatory Annexation Process, he said, was for the Commission to certify the adequacy of plans submitted by the City. Director Young said the Department had been involved in a series of meetings regarding this process generally, and the Albany area problem in particular, and as a result the findings and recommendations contained in this report differ from those presented for similar projects in the past.

Mr. Harold Sawyer, of the Department's Water Quality Division, presented the Summation and the following Director's Recommendation from the staff report.

Director's Recommendation

Based upon the findings in the Summation of the staff report, it is recommended that the Commission issue an order to the City of Albany which:

1. Disapproves the proposal of the City for the reasons cited in the Summation.
2. Directs the City to submit a completed Step I grant application to DEQ by July 1, 1979 with the scope of work and costs having been negotiated with DEQ and EPA prior to that date.
3. Directs the City to submit a revised preliminary plan consisting of a completed facility plan and an appropriate new schedule to the Commission for review within 6 months after EPA award of the Step I grant.

Mr. Richard Swenson, Linn County Health Department, testified that this situation was unique because a disease outbreak occurred during the mandatory annexation process. He wanted to stress the urgency in resolving this matter to prevent further disease in the area.

Mr. John Huffman, Oregon State Health Division, concurred with Mr. Swenson's concerns about the disease outbreak and wanted to be sure a timetable was set for compliance.

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

AGENDA ITEM J(1) - REQUEST BY TILLAMOOK COUNTY FOR EXTENSION OF VARIANCES FROM RULES PROHIBITING OPEN BURNING DUMPS (OAR 340-61-040(2)(c))

Director Young said Tillamook County was requesting a six-month extension of open burning variances for the Manzanita, Tillamook and Pacific City landfills. The County needed the additional six months to finalize engineering plans and site preparation at the proposed regional landfill site near Tillamook, he continued.

Commissioner Phinney said she thought the report was encouraging and asked if there was opposition to this proposal. Mr. Charles Gray, of the Department's Northwest Regional Office, replied that the county owned the land for the proposed regional site and there appeared to be no local opposition. He said this would be an expansion of the existing Tillamook site.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the Director's Recommendation to grant a variance to OAR 340-61-040(2)(c) for the Manzanita, Pacific City and Tillamook disposal sites until November 1, 1979, be approved. The following condition was placed on the variance:

The disposal sites are to be closed prior to the expiration date of the variance if a practical alternative method of disposal becomes available.

AGENDA ITEM J(2) - REQUEST BY LAKE COUNTY FOR VARIANCES FROM RULES PROHIBITING OPEN BURNING DUMPS (OAR 340-61-040(2)(c))

Director Young said that rural solid waste disposal sites in Lake County had historically open burned. The Lake County solid waste plan, he continued, proposed to use a portable burner to quickly burn the solid waste at a high temperature, however the Plan was not implemented by the County and the Department received a request to amend the plan to allow open burning. Director Young said that after a meeting with the County Commissioners regarding problems associated with the request, the County and the City of Paisley submitted requests for variances from Solid Waste Regulations prohibiting open burning.

Mr. Robert Brown of the Department's Solid Waste Division, said he had talked with George Carlin of the Lake County Commission who asked him to express the following concerns to the EQC:

1. All three Commissioners in Lake County feel they do not have the tax dollars this year, and they feel that public sentiment would be for closure of the sites if any more money needed to be spent. This could lead to promiscuous open dumping onto BLM property.
2. That the sites burn fast and relatively clean.
3. ~~That the time to burn the sites be selected early in the morning.~~

In response to Chairman Richards, Mr. Brown said he could consider this justification for a variance for at least a one-year period.

Commissioner Phinney asked if the County had an obligation to supply disposal sites for its residents. Mr. Brown replied that the statutes and regulations did not require counties to provide disposal sites, but they probably had a moral obligation to provide them.

Commissioner Hallock said she was reluctant to grant a variance unless they had some assurance before July 1, 1979 that the county would arrive at some timetable for phasing out these burning dumps. Director Young replied that the Department would be reviewing a timetable with the County and would be coming back to the Commission prior to July 1, 1979 with some recommendation based on that review.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the following Director's Recommendation be approved:

Director's Recommendation

Based upon the findings in the Summation of the staff report, it is recommended that the Environmental Quality Commission grant a variance from OAR 340-61-040(2)(c) until July 1, 1979, subject to the City of Paisley and Lake County being required to submit evidence to the Department to justify a variance past July 1, 1979.

AGENDA ITEM K - RIVER ROAD-SANTA CLARA SUBSURFACE SEWAGE DISPOSAL MORATORIUM - STATUS REPORT ON PUBLIC INFORMATIONAL HEARINGS AND GROUND WATER CONTAMINATION STUDY

Director Young said the subsurface approval moratorium in the River Road-Santa Clara Area of Lane County was a matter of continuing concern. Public informational hearings were held in the area March 28 and 29, 1979, he said, and the hearing record had been completed and was now available. On April 3, 1979, Director Young continued, Lane County adopted a resolution requesting that the moratorium be terminated.

Mr. John Borden, Willamette Valley Regional Manager, reviewed the staff report and alternatives for the Commission and presented the following Director's Recommendation:

Director's Recommendation

Based on the summation in the staff report, it is recommended that a rule making hearing be convened after final technical reports from the Lane Council of Governments (LCOG) study project are submitted in March 1980.

The staff will report to the Commission at its July 1979 meeting on the results of the evaluation by DEQ, EPA and LCOG of the Interim Analysis Report.

According to Mr. Borden's remarks, Chairman Richards said there would be some substantial information available in July if there was not any slippage in the due date of the LCOG report. He asked if it would be possible to schedule the hearing in July and if the technical report had not been received in time for a staff analysis, the hearing could be postponed to a later date. Mr. Borden replied that subject to the time needed for hearing notices, etc., it would be possible.

Chairman Richards said he was not comfortable with scheduling a hearing as far away as March 1980. As substantial information would be available in June 1979, he said, it was incumbent upon the Commission to set the next reasonably closest date for a hearing.

Ms. Vora Heintz, River Road-Santa Clara Community Association, thanked the Commission for their efforts to give more consideration to the situation. She also thanked the Commission for holding hearings in the Eugene area. She noted that a year after the moratorium was imposed there was no evidence of disease outbreak or health hazards in the area.

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that Option b in the staff report, as follows, be adopted.

Schedule a hearing to occur approximately 30 days after the LCOG draft interim report is available for review.

- Submit notice to Secretary of State - June 20, 1979
- Notice published in Secretary of State Bulletin - July 1, 1979
- Hold Hearing - July 27, 1979

AGENDA ITEM L - SEWERAGE WORKS CONSTRUCTION GRANTS - SCHEDULE AND PROCESS FOR DEVELOPING NEW PRIORITY CRITERIA AND LIST FOR FISCAL YEAR 1980

Director Young reminded the Commission that at their last meeting they requested a report back on the schedule and process for revising priority criteria and developing a Sewage Works Construction Grants Priority List for fiscal year 1980. He said the staff report presented a brief discussion and schedule showing public input opportunities and decision points.

In response to Chairman Richards, Mr. Harold Sawyer, Administrator of the Department's Water Quality Division, replied that the Department expected to share everything they did with everyone, including the Commission. He said they would brief the Commission every month until the process was completed.

This item was presented for informational purposes only and no action by the Commission was required.

AGENDA ITEM M - LAND USE COORDINATION PROGRAM - STATUS REPORT ON IMPLEMENTATION OF PROCEDURES DEVELOPED TO ENSURE DEQ SITE-SPECIFIC ACTIONS AFFECTING LAND USE ARE IN CONFORMANCE WITH LCDC'S STATEWIDE PLANNING GOALS

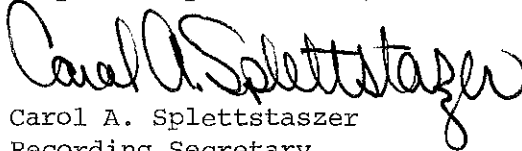
Director Young informed the Commission that the information contained in this item concerned evidence of local comprehensive land use planning coordination with facility permits and grant and plan approval requested from DEQ. The coordination mechanism is called a Local Statement of Compatibility, he said, and is to be obtained by proponents prior to making application for DEQ approval. This concept was approved by LCDC October 20, 1978, he continued, as part of DEQ's Coordination Program. Director Young said the current item specifically addressed this as well as requirements of the LCDC State Permit Consistency Rule.

Chairman Richards questioned whether smaller counties were sufficiently staffed to comply with this coordination program. Mr. Robert Jackman, DEQ's Land Use Coordinator, replied that the Department did not know yet, but expected there would be some period of questions and concern from the smaller counties as they become acquainted with the program. He said LCDC had scheduled workshops around the State to acquaint local governments with the process.

This item was presented for informational purposes only and no action by the Commission was required.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol A. Splettstaszer
Recording Secretary

MINUTES OF THE SPECIAL MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

June 8, 1979

On Friday, June 8, 1979, a special meeting of the Oregon Environmental Quality Commission convened in the Portland City Council Chambers, 1220 S. W. Fifth Avenue, Portland.

Present were all Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; Mrs. Jacklyn L. Hallock; Mr. Ronald M. Somers; and Mr. Albert H. Densmore. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

AGENDA ITEM A - PROPOSED RULE ADOPTIONS AS REVISIONS TO THE STATE AIR QUALITY IMPLEMENTATION PLAN

Chairman Richards indicated that since some limited amendments had been proposed since the time of the public hearings, testimony would be heard regarding those amendments. Otherwise, he continued, the Commission would not hear any testimony other than very brief comments on topics which there had been an opportunity to testify on previously through the public hearing process.

Director Young indicated that the items before the Commission at this meeting were the result of a process the Department had been taking part in along with other jurisdictions over the past 18 months. Before the Commission at this time, he said, were SIP (State Implementation Plan) revisions to transportation control strategies for four urban areas of the state and five supporting rules. Director Young said that the proposed rules for Prevention of Significant Deterioration and the ozone standard did not necessarily need to be adopted for the submission of the SIP to EPA in July, but the Department felt that adoption at this time would offer some guidance to the staff.

Director Young said that testimony had been received at public hearings held early in May around the State. Testimony was generally light regarding these SIP revisions, he said. Director Young then outlined some of the testimony that had been received regarding the agenda items. This testimony is summarized in the staff reports regarding each item.

Some changes had been made to the proposed rules, Director Young said, as a result of the public hearing process.

Mr. John Kowalczyk, Air Quality Division, indicated that comments received through the A-95 process came in after the staff reports had been distributed. He outlined the comments received from the A-95 process which are made a part of the Commission's record on this matter.

Commissioner Hallock commented that the Commission had only had one week to review the voluminous material submitted by the Department and asked if it was imperative that the Commission act at this meeting. Mr. Kowalczyk replied that if the Commission did not act at this meeting it would delay submittal of the Plan to EPA and therefore delay EPA's approval of the Plan. If the Plan was not approved by July 1, 1979, then growth sanctions for new and major industrial sources would automatically go into effect which would not be lifted until EPA approved the Plan. This would mean that permits could be processed but not issued, he said.

Commissioner Hallock asked if the Plan could be submitted on time if the Commission made any changes in the recommendations. Mr. Kowalczyk replied that he believed any changes the Commission would make could be incorporated into the Plan in time for it to be submitted by July 1, 1979.

Commissioner Phinney asked if portions of the present SIP had been omitted from the proposed SIP. Mr. Kowalczyk replied that all the existing rules and regulations of the current SIP were staying intact and that what was before the Commission were revisions to the current SIP.

AGENDA ITEM A(1) - AMENDMENT OF OAR 340-31-030 TO RELAX THE PHOTOCHEMICAL OXIDANT AMBIENT AIR QUALITY STANDARD FROM .08 ppm to .12 ppm TO BE CONSISTENT WITH FEDERAL STANDARDS

Director Young said this agenda item dealt with a proposed alteration to the ambient air standard for ozone. The Department was proposing that the Commission adopt the new federal standard of .12 ppm ozone, he said, and then report back to the Commission in six months following further study as to the appropriateness of adopting a secondary standard.

Dr. David Lawrence, Health Officer, Multnomah County, testified against the Department's recommendation on this matter. He said the EPA document the staff used to support its recommendation stated that .15 was the lowest level at which there were known, proven health effects. EPA also recommended a safety margin of two to two and one-half times the lowest level at which known health effects occurred, which in this case would be .06, Dr. Lawrence said. Chairman Richards asked if EPA was specifically talking about ozone. Dr. Lawrence replied it was.

Dr. Lawrence argued that ozone and photochemical oxidants were poisons and the notion of safety margins was an erroneous way to think about the effects of a poison on the human body. He again requested that the Commission reject the Director's recommendation and retain the standard at its current level.

Commissioner Hallock said the staff indicated that one of the reasons it was going along with EPA's recommendation was that it lacked the health expertise to dispute EPA's findings. She asked if Dr. Lawrence's testimony would affect the staff's decision, and also if any other testimony from health experts had been received. Mr. Ray Johnson, Air Quality Division, replied that the Department felt it did not have the health expertise, nor was there such expertise within the state to dispute EPA's conclusions. He said that the Department had received testimony from medical people on both sides of the issue.

Mr. Jan Sokol, Oregon Student Public Interest Research Group, said he believed the staff failed to give the Commission a complete picture in their report. He said the staff lacked the manpower to verify or dispute the EPA findings and suggested that the responsibility for the primary standard be on EPA.

Mr. Sokol said there was substantial information to indicate that EPA's decision was not based on a concern for public health but rather based on political and economic motives. He said that only one document the staff relied upon in making its recommendation actually supported the .12 standard. All the other documents supported either retention of the .08 standard or suggested a .10 ppm primary standard and a .08 secondary standard, he said.

Mr. Sokol said the tone of the staff report seemed to indicate that the Department was seeking to increase the standard solely to insure that the State would be able to attain the air quality goals and he didn't think that should be the purpose for increasing the standard. He suggested the Commission set up a medical and scientific advisory committee to review EPA's evidence and report back to them. He said testimony reflected that there was adequate medical and scientific expertise in the State to serve on such a committee. He thought that reliance on the EPA studies was misplaced in this case.

Chairman Richards said Mr. Sokol had raised some interesting questions, some of which bothered him also. In response to Chairman Richards, Mr. Sokol said he believed the old standard was supported by documented evidence and unless there was sufficient evidence to show that that standard was unreasonable, then the old standard should be kept until sufficient evidence was received to justify changing the standard.

Chairman Richards and Mr. Sokol then discussed the various studies EPA relied on in preparing the federal standard. Chairman Richards said he was concerned about the effects on the most sensitive population of establishing a level below .15 ppm. Mr. Sokol said that some of the studies relied upon by the Department were not done with persons that were most sensitive. He said .15 ppm caused effects on healthy persons, therefore there should be concern if .12 was protective of the most sensitive population.

Commissioner Phinney noted that it was just as impossible to prove damage above .15 as it was to prove that no damage occurred below that level. She said she did not believe the .15 ppm was a reliable figure. When all factors were taken into consideration, she continued, she was not sure than even .12 would provide an adequate safety margin.

Ms. Melinda Renstrom, Oregon Environmental Council, reiterated that this matter concerned a poison and what level of poison was wanted for Oregon. She said she had been following the ozone controversy through various periodicals on the national level and had grown cynical about how the matter was handled by EPA.

Ms. Renstrom said the .12 ppm standard was not based on protection for the sensitive population. She said it had been recommended to EPA to pay less attention to the most vulnerable segments of the population.

Ms. Renstrom urged the Commission to consider the most stringent standard in view of the fact that there was no absolute point at which ozone was safe.

This ended public testimony on this item.

Commissioner Phinney asked what effect retaining the .08 standard would have on the control strategy and what would be the result if the Commission were to decide to establish a different standard in the Portland-Salem-Medford areas. Mr. Johnson replied that the strategies could be adopted at .12 and at a later time different control strategies for the state standard could be adopted. Commissioner Phinney expressed concern as to whether the public health would be protected by changing the standard.

Commissioner Hallock asked about the possibility of having a medical task force formed to study the health effects. She also asked if the Department could conduct its own studies in Oregon through the Medical School. Mr. Johnson replied that any new studies would have to include a number of actual physical studies using human beings which would take a considerable amount of resource commitment that would have to be considered.

Mr. John Kowalczyk of the Department's Air Quality Division, commented that the .08 ppm standard was presently in the State Implementation Plan. If that standard was not changed, he continued, the federal government may require the state to meet the .08 standard under a time frame set up by them. He said it would be more reasonable to pull the .08 out of the SIP and retain it as a state standard and submit the .12 standard to EPA.

After a discussion among Commission members, Commissioner Phinney MOVED and Commissioner Hallock seconded that the .08 ppm standard be retained. Director Young advised the Commission that it was important to consider as a separate item whether or not the .08 standard would be put into the State Implementation Plan. The standard would then be subject to having established a different federal standard for the State of Oregon at that level, he said. Commissioner Hallock said she would prefer keeping the .08 ppm standard in the SIP. The motion carried with Chairman Richards desenting.

Director Young indicated that information on the impact of retaining the .08 ppm standard in the SIP would be available from EPA later in the meeting.

Chairman Richards clarified that the effect of the motion was to adopt the Director's recommendation substituting .08 ppm for .12 ppm.

AGENDA ITEM A(2) - AMENDMENTS TO VOLATILE ORGANIC COMPOUNDS RULES FOR NON-ATTAINMENT AREAS, OAR 340-22-100 THROUGH 22-150

Director Young informed the Commission that three areas of the state currently exceeded the National Ambient Air Quality Standards for ozone; Portland, Salem and Medford. These areas needed rules on volatile organic compounds to meet the standard for ozone, he continued. The amendments before the Commission, he said, were to correct some errors and to clarify parts of the rules originally adopted by the Commission in December 1978. When adopted, Director Young continued, these rules would become a part of the State Implementation Plan.

Mr. Lyman Skory, Dow Chemical Company, pointed out that the material they submitted regarding the exemption of methylene chloride was not all generated by Dow Chemical Company. Part of it was generated by EPA, he said.

No one else was present to testify on this matter.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore, and carried unanimously that proposed Volatile Organic Compound rules, OAR 340-22-100 to 22-150 be adopted and that the Department be directed to submit them to EPA as a revision to the State Implementation Plan.

AGENDA ITEM A(3) - NEW RULES FOR SPECIAL PERMIT REQUIREMENTS FOR SOURCES LOCATING IN OR NEAR NON-ATTAINMENT AREAS (PROPOSED OAR 340-20-190 THROUGH 20-198)

Director Young told the Commission that this proposed rule would add requirements for permit approval for new major sources impacting either on carbon monoxide or ozone non-attainment areas. Also proposed for adoption in this item, he said, were rules which would clarify the Department's authority to establish emission limits on a plant-site basis.

Mr. Mike Ziolko, Air Quality Division, presented amendments to the proposed rules.

Ms. Margery Abbott, Port of Portland, presented a letter from Lloyd Anderson, Executive Director of the Port of Portland, requesting a two-week continuation by the EQC on the adoption of these proposed rules to allow those impacted by the rule to work further with DEQ in developing the rules to be submitted to EPA. Mr. Anderson's letter is made a part of the Commission's record on this matter.

Ms. Cynthia Kurtz, City of Portland, opposed the adoption of these rules as they would apply to the Portland AQMA at this time. She was also concerned that the Portland AQMA Advisory Committee had not had sufficient time to go over the proposed rules and make recommendations. Mr. Kurtz requested that the Commission delay adoption of the rules for two weeks.

Mr. Dean McCargar, Associated Oregon Industries, questioned whether the issues involved in this matter had been given adequate deliberation and suggested a continuation of this hearing for at least one week to allow adequate time for public input. Mr. McCargar's written testimony is made a part of the Commission's record on this matter.

This completed public testimony on this item.

Mr. Ziolko said the Department had been issuing permits based on this proposed rule, and the rule was proposed to clarify the Department's authority to issue those permits. Therefore, he said, this action would not constitute a change in the current actions of the Department.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation to adopt the proposed revised rules, as amended, pertaining to Special Permit Requirements for Sources Locating in or near Non-Attainment Areas (OAR 340-20-190 through 20-198), be adopted.

AGENDA ITEM A(4) - NEW RULES TO PREVENT SIGNIFICANT DETERIORATION OF AIR QUALITY (OAR 340-31-100)

Director Young said this rule, if adopted and approved by EPA, would give the responsibility of the Prevention of Significant Deterioration (PSD) program to DEQ.

Mr. Mike Ziolko, Air Quality Division, presented some amendments to the proposed rule as follows:

340-31-100(j)(2)(i) add: "...rates shall apply only with respect to a pollutant for which an increment, or state or national ambient air quality standard..."

340-31-100(q)(3): "...The Federal Land Manager of any [such] Class I..."

Commissioner Phinney reminded the staff that all rules should include metric equivalents.

No one was present to testify on this matter.

It was MOVED by Commissioner Hallock, seconded by Commissioner Somers and carried unanimously that the Director's Recommendation to adopt the revised proposed rule (OAR 340-31-100), as amended, be approved.

AGENDA ITEM A(5) - NEW RULES PERTAINING TO STACK HEIGHTS IN AIR QUALITY MODELING (OAR 340-31-100 through 31-112)

Director Young said that this rule was a requirement of the Clean Air Act and contained amendments to prevent the use of tall stacks or other dispersion methods to meet ambient air quality standards.

No one was present to testify on this matter.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's recommendation to adopt the revised proposed rule (OAR 340-31-110 to 31-112) be approved.

PROPOSED ADOPTION OF TRANSPORTATION CONTROL STRATEGIES AS REVISIONS TO THE STATE IMPLEMENTATION PLAN (SIP)

Director Young informed the Commission that three of the four items under this section of the agenda reflected back to agenda item A(1) regarding the photochemical oxidant ambient air quality standard which the Commission voted to retain at .08 ppm. He suggested the EQC hear a response from EPA before deciding on these matters.

AGENDA ITEM B(3) - CARBON MONOXIDE CONTROL STRATEGY FOR THE EUGENE-SPRINGFIELD AQMA

Director Young said this item documented that the carbon monoxide (CO) standard was not going to be met by December of 1982 in the Eugene-Springfield AQMA and requested an extension of that attainment past 1982 but not later than 1987.

No one was present to testify on this matter.

It was MOVED by Commissioner Densmore, seconded by Commissioner Phinney and carried unanimously that the Director's Recommendation to approve the CO SIP revision for the Eugene-Springfield AQMA as modified to include special New Source Review requirements, be approved.

Mr. Tom Wilson, Chief of Air Quality Planning and Coordination for EPA Region X, informed the Commission that he had conferred with Region X and they briefly outlined some points of concern regarding the Commission's decision to retain the .08 ppm ozone standard.

Mr. Wilson cited the example that an area which attained .12 and had not attained .08 could be designated a non-attainment area by the State of Oregon, yet EPA could not promulgate that as a federal non-attainment area since it would not be in violation of the federal non-attainment standards. Therefore, this would strictly be a state action and EPA would play no role in this area. A more complex situation would be when an area was in violation of both the federal and state standards, he continued.

Mr. Wilson said that EPA's legal counsel had indicated that the state could submit a plan which contained both the .12 and .08 attainment dates and that if the .12 attainment occurred prior to 1987 it would be acceptable

to EPA and the state would have flexibility as to what they did to attain .08. However, he said, he was not comfortable with that interpretation because for EPA to approve and promulgate a plan they had to be assured that if the State did not do what was necessary to carry out the plan, EPA could.

If the .08 were adopted as a secondary standard, Mr. Wilson said, then the State could submit a plan for attaining the primary standard of .12 and then develop and implement a plan to attain a secondary standard of .08 in the manner and time frames it chose.

In summary, Mr. Wilson said he was not comfortable that the staff in EPA had had sufficient time to fully go over this matter to identify to the EQC all the implications of their decision. Fundamentally, he said, EPA supported any state that wanted to do more to protect the health of their citizens. Also, he continued, EPA did not want to get involved any more than they absolutely had to in what the State was doing.

Mr. E. J. Weathersbee, Air Quality Division, suggested that rather than take action based on incomplete information, perhaps the staff should return at the next meeting with more clear information so the Commission would know the consequences of what they did and how things should proceed from there. Mr. Weathersbee said the transportation control strategies proposed for adoption at this meeting did not address the .08 level and would need revision to do so.

Commissioner Hallock asked if the Commission did not want to relax the strategy could .08 be adopted as part of the SIP and time lines be set up to develop a new strategy. Mr. Weathersbee replied that that could be done and a submittal could not be made in the near future because the currently proposed strategies to meet .12 would have to be revised to address .08.

Mr. Denton Kent, Metropolitan Service District (MSD), said that the State had the option to set whatever standards it deemed appropriate. However, he said, they had not had time to reflect adequately on the ramifications of the Commission's action to retain .08 versus having had the SIP plans developed primarily on a .12 standard. Mr. Kent said he was doubtful that they could rapidly come up with control strategies to address the .08 standard.

Mr. Kent also was concerned that Oregon had a different standard than Washington in view of the parts of Washington within the Portland-Vancouver Interstate AQMA. He was concerned about the federal funding to do planning which would be necessary to meet the difference between the state and federal standard.

The question as to whether or not the .08 standard could be met in time for attainment for the federal SIP, was another concern of Mr. Kent's.

Ms. Melinda Renstrom, Oregon Environmental Council, said that several months previous MSD and DEQ began bringing preliminary SIP information before the Portland AQMA Committee and assured the Committee that the standard could be easily changed from the proposed .12 to .08 if necessary. That was never done, she said. The MSD Council had also expressed concern over the proposed change in the standard, she said.

Mr. Tom Donaca, Associated Oregon Industries, said that eventhough .08 ppm was the present standard, that standard had never been applied to industry. In response to Chairman Richards, Mr. Donaca said they assumed new industrial point source facilities were designed and built to meet a .12 ppm standard.

Mr. Donaca said it was difficult for industry to comment on these proposed rules because they did not have the information on the affect of the rule. He said these rules would be the most expensive ever promulgated and enforced by EPA.

Chairman Richards concluded testimony on this matter.

Chairman Richards asked if there would be a penalty if the SIP were submitted without the Transportation Control Strategies for Portland-Vancouver, Salem and Medford-Ashland, with the condition that they would be placed on the agenda for the Commission's June 27, 1979 meeting. Director Young said it would be useful for the staff to do some additional work if the Commission wished to withhold certain portions of the SIP submittal. This would not necessarily mean an extension of the overall review time EPA would have, he said.

Director Young said it would be his recommendation to submit all of the SIP as possible at this time which would include the carbon monoxide portions of the transportation control strategies, so that a later submittal could be as minimal as possible.

AGENDA ITEMS B(1), B(2) and B(4) - CARBON MONOXIDE CONTROL STRATEGIES FOR PORTLAND-VANCOUVER INTERSTATE AQMA, CITY OF SALEM AND MEDFORD-ASHLAND AQMA

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock and carried unanimously that the carbon monoxide control strategies for Portland-Vancouver Interstate AQMA, City of Salem and Medford-Ashland AQMA be adopted and that the Department be instructed to submit them to EPA as part of the SIP.

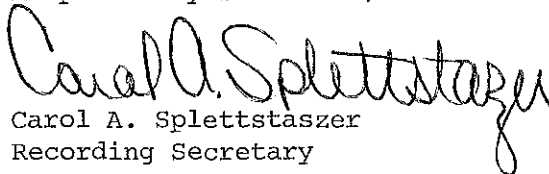
Chairman Richards said the staff was instructed to revise the ozone control strategies for Portland-Vancouver Interstate AQMA, City of Salem, and Medford-Ashland AQMA in light of the Commission's action on the ozone standard, and to bring revised strategies back to the Commission as soon as practicable. Commissioner Densmore said that

implicit in this action was the instruction to the Department to act with the lead agencies to develop its own posture with regard to the Commission's action and to advise the Commission further on the workability of that posture.

Commissioner Hallock requested that the strategies deal with identifying where most of the problem was, i.e., automobile-related, non-point source related, etc.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

MINUTES OF THE ONE HUNDRED TENTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

June 29, 1979

On Friday, June 29, 1979, the one hundred tenth meeting of the Oregon Environmental Quality Commission convened in the Portland City Council Chambers, 1220 Southwest Fifth Avenue, Portland, Oregon.

Present were all Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; Mrs. Jacklyn L. Hallock; Mr. Ronald M. Somers; and Mr. Albert H. Densmore. It is noted that this is Dr. Phinney's last meeting. Her term as Commission member expires June 30, 1979. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 Southwest Fifth Avenue, Portland, Oregon.

BREAKFAST MEETING

The Environmental Quality Commission met informally for breakfast in Conference Room A off the Standard Plaza Building Cafeteria, 1100 Southwest Sixth Avenue in Portland, and discussed the following items without taking any action.

1. Update on water quality construction grants priority list process.
2. Status of Evans Products Company permit, Corvallis.
3. ~~Airport noise rulemaking process.~~
4. Status of 1979-81 Department budget request.
5. Lake County request for an open burning variance.
6. Ozone standard.
7. Status of SB 543 exempting agriculture and forestry from noise regulations.
8. Letters from City of Eugene regarding law suits on field burning.

FORMAL MEETING

Consent Agenda

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the following items be approved:

AGENDA ITEM A - MINUTES OF THE May 25, 1979 EQC MEETING

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR MAY 1979

AGENDA ITEM C - TAX CREDIT APPLICATIONS

AGENDA ITEM E - REQUEST FOR AUTHORIZATION TO HOLD PUBLIC HEARINGS ON THE QUESTION OF AMENDING ADMINISTRATIVE RULES GOVERNING FEES TO BE CHARGED FOR SUBSURFACE SEWAGE DISPOSAL PERMITS, SITE EVALUATIONS AND SERVICES, IN ANTICIPATION OF THE PASSAGE OF HOUSE BILL 2111 (OAR 340-72-005 to 72-020 AND 340-75-040

House Bill 2111 amends statutes that establish fees in the Subsurface Sewage Disposal Program. In addition, this Bill contains provisions which will eliminate the need for the Commission to adopt rules establishing contract county fees; provides for fee refunds under certain conditions; and exempts certain persons from fee requirements for subsurface variances, among other things.

This agenda item provides for adoption of temporary rules so that the new fee schedules and other provisions of HB 2111 may be implemented immediately. In addition, it requests authorization for public hearings on those proposed rules to move them to permanent rulemaking.

At the present time the Bill has passed both the House and Senate and was passed on for signature of the Governor.

Summation

1. ORS 454.625 requires the Commission to adopt such rules as it considers necessary for the purpose of carrying out ORS 454.605 to 454.745.
2. House Bill 2111 contains provisions that require adoption of new rules to deal with subsurface fees schedules.
3. The Department's budget for the next biennium is predicated on the maximum fees provided for in HB 2111.

Director's Recommendation

Based upon the summation, it is recommended that the Commission authorize public hearings to take testimony on the question of amending OAR 340-72-005 to 72-020 and OAR 340-75-040 fees to be charged for subsurface variances, permits, site evaluations and other subsurface program services.

Mr. Young presented an addendum to the staff report explaining that since the preparation of the original staff report, HB 2111 had been amended to include an "emergency clause" to become effective upon the Governor's signature or July 1, 1979. If the Department were to go through regular rulemaking processes, several months revenue would be lost to the Department and contract counties.

Amended Director's Recommendation

Failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned for the following reasons:

1. The Department's budget is predicated on the fees contained in HB 2111 becoming effective July 1, 1979.
2. Inability of the Department and some contract counties to charge the new, higher fees will result in lost revenue necessary for efficient program operation.

Based on the above findings, it is recommended that the Commission adopt the proposed amendments to OAR 340-72-005 to 72-020 and 340-75-040 as set forth in Attachment A of the staff report, as temporary rules of the Department to become effective July 1, 1979 or upon the date of the Governor's signing of HB 2111, whichever is later.

Mr. Young clarified that if the Governor were to veto the bill, these temporary rules will not go into effect. He also requested that hearings for permanent rulemaking be authorized.

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

AGENDA ITEM D - REQUEST FOR AUTHORIZATION TO HOLD PUBLIC HEARINGS ON THE QUESTION OF AMENDING ADMINISTRATIVE RULES GOVERNING SUBSURFACE AND ALTERNATIVE SEWAGE DISPOSAL: SUBSURFACE FEES TO BE CHARGED BY MARION AND DESCHUTES COUNTIES (OAR 340-72-010)

Director Young advised the Commission that HB 2111 would allow the counties to establish fees so this request would not be needed. Therefore this agenda item is withdrawn.

AGENDA ITEM H(2) - REQUEST FOR AN EXTENSION OF VARIANCES FROM RULES PROHIBITING OPEN BURNING DUMPS, FOR THE CITIES OF MYRTLE POINT AND POWERS (OAR 340-61-040(2)(c))

The Cities of Myrtle Point and Powers are requesting an extension of variances from rules prohibiting open burning dumps. Previous variances were granted with the understanding that these sites would close when a regional site at Bandon became available. Now that the Bandon site is available, the cities contend that the long haul would be an unreasonable burden.

Summation

1. Myrtle Point and Powers are currently operating open burning dumps under EQC variances granted February 24, 1978. The variances were granted to allow the cities and Coos County time to expand the processing capacity at Bandon and to establish franchising ordinances. Both of these tasks have been completed.
2. Coos County has adopted a Solid Waste Management Plan which identifies Bandon as the disposal site for wastes from Myrtle Point and Powers. The cities verbally agreed to this proposal prior to adoption of the plan. Sufficient capacity now exists for the County to receive wastes from these cities. At least one franchised hauler has expressed interest in collecting garbage from both cities.
3. The Bandon disposal site is the only one currently in operation in Coos County that can be operated in an environmentally acceptable manner.
4. Neither dump can be upgraded to a sanitary landfill. Current deficiencies include localized air pollution, rat harborage, minor leachate discharge, insects, vectors and safety hazards.
5. Other alternatives, such as a transfer station or a new landfill would be more expensive than hauling to Bandon.
6. The City of Powers has requested an indefinite extension of their variance, citing minimal pollution problems, economic hardship (rates will probably go up at least \$7.50/month in a city populated by many retired people), and the fuel shortage.
7. The City of Myrtle Point has requested an indefinite extension of its variance, citing the minimal pollution problems and cost (rates will probably go to \$5.50-\$6.50/month).

8. Coos County supports the Powers variance request, but would only support a limited extension to Myrtle Point's variance until the new county site can be established.
9. In the Department's opinion, the variance for Powers should be granted as the long distance from the nearest acceptable landfill and the large number of retired residents on low, fixed incomes make closing the Powers dump burdensome and impractical.
10. Operation of the Powers dump can be improved by better rat, fire and litter control. This will eliminate many of the environmental problems discussed at the May 30, 1979 public meeting in Powers.

11. In the Department's opinion, Myrtle Point's request only minimally meets the statutory requirement of ORS 459.225. Therefore, only a temporary variance should be issued to allow the County time to establish the new site and to allow the local hauler time to purchase the necessary truck. Since the distance to the new Beaver Hill site is only 18 miles, and the likely fee increase is comparable to other fees in Oregon, a longer variance cannot be granted on the bases that closing the Myrtle Point dump is burdensome or impractical.

Director's Recommendation

Based on the findings in the Summation, it is recommended that:

Powers

1. The City of Powers be granted an extension of its variance from OAR 340-61-040(2)(c) until June 30, 1984. Said variance to be subject to earlier review by the Commission if in the opinion of the Department there has been a substantial change in circumstances prior to that date.
2. The City of Powers be required to submit, by August 1, 1979, a proposed plan for DEQ review and approval that provides for improving access control, rodent and insect control, litter control and fire protection by September 30, 1979.

Myrtle Point

The City of Myrtle Point be granted an extension of its variance from OAR 340-61-040(2)(c) until June 30, 1980.

Mr. Richard Reiter of the Department's Southwest Region Office, said the Department held a public informational meeting on this matter and the testimony was almost unanimously against closure of these landfills for a variety of reasons, mainly concern over increased cost. He said the local citizens felt that the rules were somewhat arbitrary for localities of their size.

Mr. Ken Cerotsky, City Administrator for Myrtle Point, thanked the Department for holding the public meeting in Myrtle Point and giving the citizens a chance to comment. He appeared in opposition to the Director's recommendation stating that a nine-month variance was not enough and asking that the time be lengthened.

Mr. James McCulloch, Mayor of Powers, testified that most of the residents in their area were low income and unable to afford the cause of hauling refuse to Bandon. He said they were concerned that the result of this would be the dumping of garbage in unauthorized areas. He asked that a variance be granted for at least five years to be able to develop a solution to this problem.

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

PUBLIC FORUM

Mr. Gordon Priday, Bend, appeared regarding the Bend sewage disposal problem. He was concerned about the disposal well method of sewage disposal and asked that no permits be granted for disposal wells in Bend. Mr. Priday's written statement is made a part of the Commission's record.

Mr. Paul C. Ramsay, Bend, was concerned about the quality of the water in the Bend area. He was concerned about the effluent escaping from the disposal well and affecting the quality of water for many miles around. Mr. Ramsey said this proposal was not acceptable even on an interim basis.

Director Young said the staff would prepare a response to Mr. Priday and Mr. Ramsay and request it at the next meeting.

AGENDA ITEM K - OZONE STRATEGY DEVELOPMENT ALTERNATIVES

At its June 8 special meeting, the Commission directed the staff to prepare a review of the problems and alternatives available for plant to attain the Federal and State ozone standards. This agenda item presented the review and recommendations.

Summation

1. The EQC requested the Department to define the problems and alternatives in meeting the new state primary standard of .08 ppm ozone, in light of efforts and requirements to meet the federal standard of .12 ppm.
2. Projected ozone levels indicate that:
 - a. The Portland area will have difficulty meeting the .12 federal standard by 1987 even with an annual I/M program and will have great difficulty meeting the .08 state standard in the foreseeable future unless some drastic measures like reducing motor vehicle travel by over 50 percent are implemented.
 - b. The Salem and Medford areas can meet the .12 federal standard by 1982 with present programs but would need an I/M program and some other control measures to meet the .08 standard within the next ten years.
 - c. The Eugene area meets the .12 federal standard and could meet the .08 state standard by 1987 with present control programs.
3. An annual I/M program appears to be by far the most effective program for making immediate further progress towards obtaining the .08 state standard in all nonattainment areas.
4. EPA has indicated that as long as the federal requirements regarding a .12 ozone strategy are met, the state is free to establish its own time schedule for meeting a more stringent state standard. If the state .08 standard or any part of the state strategy is made part of the SIP, however, those included items would be subject to federal enforcement.

5. If an .12 ozone SIP revision is not submitted to EPA by July 1, 1979, the state would be subject to monetary sanctions, if EPA rules that a good faith effort has not been made to meet this date.
 6. Local lead agencies for transportation planning unanimously favor immediate submittal of the prepared .12 ozone SIP revisions to avoid possible federal monetary sanctions.
 7. If the state ozone standard remains at .08, lead agencies unanimously favor a staged development of a strategy with a reasonable timeframe and later for plan submittal and standards attainment. They are all concerned, though, that funding will not be available for such an effort as EPA has indicated that it would not fund programs to meet state standards.
 8. Assuming immediate submittal of the .12 SIP revisions to EPA, the major alternatives for developing a .08 state ozone attainment strategy are:
 - a. Develop a .08 strategy by July 1982 with attainment by December 21, 1987.
 - b. Develop a .08 strategy and attain the .08 standard a set period of time (3-5 years) after the .12 plan schedule.
 - c. Have the Department report back to the EQC as soon as practicable but not later than 1985 with recommendations for specific time schedules, funding the legislation that may be needed to effectively plan and implement the .08 standards in all nonattainment areas of the state.
 9. Assuming continued holdup from submitting the .12 ozone SIP revision to EPA, another alternative is to develop one strategy to meet both state and federal standards as soon as possible but within a timeframe specified by the EQC.
-
10. Growth in the time period prior to developing an acceptable .08 strategy could irreversibly affect a .08 ozone nonattainment condition. Alternatives to addressing this problem include prohibiting growth or extending the EPA-type offset program for 50 tons/year VOC sources until an acceptable plan is developed.

Director's Recommendation

Based on the Summation, it is recommended that the Commission:

1. Adopt the .12 ozone SIP revision submitted at the June 8, 1979 meeting and direct the Department to immediately forward them to EPA.

2. Select a program to meet the .08 state ozone standard in consideration of the alternatives presented in the summation.
3. Advise the Department on whether it should proceed to develop interim growth management strategy with respect to .08 ozone nonattainment areas and whether this should be a prohibition or offset or other type scheme.
4. Determine whether immediate additional further progress should be made towards attainment of the state ozone standard by requiring implementation as soon as practical of all reasonable control measures such as RACT for VOC sources in the Eugene area and I/M programs in all areas not attaining the .08 state standard.
5. Advise the Department as to whether the state ozone standard and control strategy should be a part of the SIP filed with EPA.
6. Advise the Department whether and where the Department or local jurisdiction should seek funding for the strategy planning process.
7. Authorize the Department to conduct a public hearing to incorporate planning and attainment dates in the State Ozone Standard Rule if such dates are chosen by the EQC.

Mr. Scotty McArthur, Vice President of 3M Micrographics Division, shared the Commission's concern that there wasn't as much information on the health effects of ozone as everyone would like. However, he did not feel that at this time the available information justified an ozone standard lower than .12 ppm. He urged the Commission to adopt the .12 ppm ozone standard and to consider setting a goal of reaching a lower figure such as .08 ppm sometime after 1987. Mr. McArthur's written testimony is made a part of the Commission's record on this matter.

Mr. Richard L. Knowles, Mid-Willamette Valley Council of Governments, recommended that the .12 ppm standard be adopted as part of the SIP at this time and further consideration be given to the .08 ppm standard. He said they would require several months to do the planning necessary for the .08 standard. Mr. Knowles presented written materials which are made a part of the Commission's record on this matter.

Mr. Ralph Johnston, Lane Regional Air Pollution Authority (LRAPA), said ozone was not as serious a problem in The Eugene/Springfield area as it appeared to be in other areas of the State. He urged the Commission to reconsider its position with regard to the federal ozone standard of .12 ppm. LRAPA's written testimony is made a part of the Commission's record on this matter.

Mr. Jan Sokol, Oregon Student Public Interest Research Group (OSPIRG), said it appeared that the major problem area in meeting the .08 standard was the Portland Metropolitan Area. He said OSPIRG favored the submittal of a .12 ozone standard to EPA immediately in order to avoid the sanctions. He also said OSPIRG favored the submittal of .08 as a primary standard with strategy development over a reasonable time-frame.

Mr. Terry Waldeal, Metropolitan Service District, commended the DEQ staff for the report presented to the Commission on this matter. However, they thought it was weak in overemphasizing the need for attaining the .08 standard. He argued that the .08 standard was only realistic if the timetable for attaining it recognized that air quality in the region is, on the average, still very good.

It was MSD's position, Mr. Waldeal said, that by implementing measures to meet a .12 standard within the next two to three years, this area would see substantial air quality improvements and the first priority should be attaining the attainable.

Mr. Waldeal recommended that the Commission adopt alternative number 2 in the staff report with the understanding that the .12 SIP revision before the Commission be submitted to EPA immediately and that the planning process be accelerated to the extent that new resources and information become available.

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock and carried with Commissioner Somers desenting that the .12 ppm standard be attained by December 31, 1987, .08 ppm by December 31, 1992, and that control strategies to meet the .08 ppm standard be developed by January 1, 1985.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried with Commissioner Hallock desenting that until such time as the hearing process is completed, the Director judge permit applicants against the interim standard strategy.

AGENDA ITEM H(1) - REQUEST FOR AN EXTENSION OF VARIANCES FROM RULES PROHIBITING OPEN BURNING DUMPS FOR LAKE COUNTY (OAR 340-61-040(2)(c))

Lake County and the City of Paisley are requesting extensions of variances from rules prohibiting open burning dumps. They contend that strict compliance with the rules is unreasonable, since their disposal sites are small, isolated facilities with only minimal environmental impact. They also contend that the costs of operating without open burning would be excessive.

Summation

1. The City of Paisley and Lake County routinely open burn garbage at rural disposal sites in Lake County.
2. The Environmental Quality Commission, on April 27, 1979, granted a variance to OAR 340-61-040(2)(c) to allow open burning of garbage. The variance expires July 1, 1979.

3. Department staff has contacted Lake County and the City of Paisley to request information on support of a continued variance.
4. Lake County and the City of Paisley have requested a meeting with the Environmental Quality Commission to present their position and have been notified of the June 29, 1979 meeting.
5. Adequate evidence to support an extended variance has not been received by the Department.
6. Strict compliance at this time would result in probable closure of the disposal sites with no alternative facility or method of solid waste disposal available.

Director's Recommendation

Based upon the findings in the summation, it is recommended that the Environmental Quality Commission not grant an extension of the variance until such time as adequate justification for granting of a variance is received.

Based upon some new information presented to the Commission at its breakfast meeting, Director Young presented the following amended Director's recommendation.

Amended Director's Recommendation

Based on the summary and recent contacts with Lake County, it is the Director's recommendation that:

An extension of the variance to rules prohibiting open burning dumps (OAR 340-61-040(2)(c)) at Paisley, Fort Rock, Christmas Valley, Silver Lake, Summer Lake, Plush and Adel be granted to October 1, 1979, and that the Commission urge Lake County and the City of Paisley to work with the Department staff to prepare by September 1, 1979 a schedule for upgrading and/or justification for continuation of the variance.

No one was present to testify on this matter.

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

Mr. Ray Underwood, Department of Justice, pointed out that the Commission needed to make a finding as to the necessity for the continuation of the variance as required by statute.

In reconsidering their action on this matter, it was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that based on the findings as required by ORS 459.225, the variance is extended until October 1, 1979.

It was noted by Commissioner Somers that background material on this matter was presented to the Commission during a staff briefing at their breakfast meeting.

AGENDA ITEM H(3) - REQUEST FOR AN EXTENSION OF VARIANCES FROM RULES PROHIBITING OPEN BURNING DUMPS FOR DISPOSAL SITES IN LINCOLN COUNTY (OAR 340-61-040(2)(c))

Lincoln County is again requesting an extension of variances from rules prohibiting open burning dumps on behalf of two privately operated disposal sites. Previous variances were granted while the county was exploring several alternatives to open burning. Currently, a consultant is attempting to locate a regional sanitary landfill site to replace the two open burning dumps. The County believes it will be another year before the new site is available.

Summation

1. Lincoln County is in the process of identifying a new regional landfill site. Following completion of this study in the fall of 1979, the County plans to construct a new County landfill. Some method of transferring waste to the landfill from the north and south ends of the County will be necessary.
2. The new landfill will not be constructed for at least one year.
3. Agate Beach landfill could accept additional waste from the north and south ends of the County for a limited period of time in order to reach final grade on the second lift.
4. As soon as the transfer system is implemented, all solid waste except demolition waste should be transferred to either the Agate Beach site (until fall) or the new landfill and both the Waldport and North Lincoln sites be closed or converted to demolition sites.
5. ~~Lincoln County should immediately begin seriously considering transfer system options, operation and financing. Their consultant's report this fall should outline several potential alternatives. The County should get itself to a point where a decision on this issue can be made rapidly after receiving the study results and that decision implemented without delay.~~
6. Lack of cover material and useable area at the North Lincoln site is beyond the control of the operator. The cost of importing cover material would be unreasonable and would result in closure of the site with no other alternative available.
7. The Waldport site could be converted to a modified landfill, however, the cost of obtaining adequate equipment is unreasonable if the site is to remain open only until the transfer system is implemented (estimated one year).

Director's Recommendation

Based upon the findings in the Summation, it is recommended that:

1. Lincoln County submit a plan and time schedule for implementing a transfer system and the new landfill to the Department by November 1, 1979. This plan must also address the question of whether the Waldport site will remain open as a modified landfill or whether waste will be transferred to the new landfill.
2. Lincoln County submit progress reports on implementation of the transfer system and new landfill to the Department on February 1, 1980 and May 1, 1980.
3. The open burning variance for the Waldport site be extended until the transfer system has been implemented, but not later than July 1, 1980, unless the transfer system plan referred to in number 1, above, recommends keeping the Waldport site open indefinitely as a modified demolition landfill. In that case, the open burning variance should terminate on April 1, 1980 and the site be converted to a modified demolition landfill.
4. The open burning variance for the North Lincoln disposal site be extended until the transfer system has been implemented, but not later than July 1, 1980.

Director Young said he had talked with representatives of the Oregon Sanitary Services Institute and they supported this request for variance.

Mr. Robert Gilbert, Northwest Region Manager, said there had been some confusion with regard to the Waldport site. He said they meant for the variance for Waldport to be open-ended to be considered for accepting garbage, and in the future as a demolition landfill.

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

AGENDA ITEM H(4) - REQUEST FOR VARIANCE FROM THE VOLATILE ORGANIC COMPOUNDS
RULE OAR 340-22-110 FOR CLARENCE STARK

This item is a request for variance from the Volatile Organic Compounds rule which requires installation of vapor recovery equipment on certain gasoline storage tanks.

Mr. Clarence Stark owns property which was formerly a service station, but which is now used for a used car sales lot. The lease provides for limited use of the gasoline storage tanks and pumps by the used car sales lot operator. The owner is going to remove all gasoline facilities when the lease expires on September 1, 1981. The vapor control equipment is required by April 1, 1981. A variance for this five-month period is required.

Summation

1. The lease between Mr. Stark and the automobile sales lot operator provides for retaining one set of gasoline pumps from the previous service station use of the property for use by the lessee.
2. The gasoline facilities are used for the automobile sales lot business and not for sales to the public.
3. The Volatile Organic Compounds Rule requires the installation of vapor control equipment in order to fill the gasoline storage tanks the last five months of the lease - June 1, 1981 to September 1, 1981.
4. The gasoline facilities will be removed when the lease expires on September 1, 1981.
5. The lessor is required to make an approximate \$700 capital improvement to provide lease conditions for a five month period.
6. Since the tanks will be filled no more than once or twice during this five month period, the impact of non-control on air quality is considered minor.

Director's Recommendation

Based on the findings in the Summation, it is recommended that a variance be granted to Mr. Stark from April 1, 1981 to September 1, 1981 from the installation of gasoline vapor control equipment required by OAR 340-22-110 in accordance with ORS 468.345(b), "special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause."

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

AGENDA ITEM G(1) - MOTOR VEHICLE EMISSION TESTING RULES - PROPOSED ADOPTION OF AMENDMENTS TO MOTOR VEHICLE EMISSION TESTING RULES INCLUDING THE ADDITION OF STANDARDS FOR LIGHT- AND HEAVY-DUTY 1979 MODEL YEAR MOTOR VEHICLES AND THE INCLUSION OF CLARIFICATION OF PROCEDURES FOR THE TAMPERING PORTION OF THE INSPECTION TEST (OAR 340-24-300 THROUGH 24-350)

The proposed revisions to the motor vehicle inspection program rules are part of an annual review of those operating rules. Changes incorporated in these proposed revisions include the 1979 standards for both light- and heavy-duty motor vehicles and the addition of the inlet fuel filler restrictor as a pollution control device.

Summation

Comments from the public were received at the public hearing. In general the comments supported the inspection program standards for light-duty vehicles. Comments from the hearing regarding the heavy-duty standards were reviewed and appropriate modifications were made. The changes proposed for the inspection program rules are reasonable and update the standards for the current technology vehicles. The changes in procedures for the inclusion of the fuel filler inlet restrictor is consistent with the program direction.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed rule amendments.

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

AGENDA ITEM G(2) - AIR CONTAMINANT DISCHARGE PERMIT RULES - PROPOSED ADOPTION OF AMENDMENT TO AIR CONTAMINANT DISCHARGE PERMIT FEE SCHEDULE OAR 340-20-155, TABLE A, AND AMENDMENT OF OAR 340-20-175 TO ALLOW EXEMPTION FROM NOTICE OF CONSTRUCTION REQUIREMENTS WHEN REQUIRED INFORMATION IS SUBMITTED WITHOUT PERMIT APPLICATION FOR NEW OR MODIFIED SOURCES

As a result of the budget process, the Department was directed to increase air permit fee revenues by about 16.5%. The matter before the Commission for adoption contains a revision of Table A in the Air Contaminant Discharge Permit regulation which increases the filing fee from \$25.00 to \$50.00 and increases the annual compliance determination fee by 14.5% across the board as recommended by the Air Contaminant Discharge Permit Task Force. These increases are projected to result in an additional \$85,000 for a total of \$625,000 during the forthcoming biennium.

In addition, this revision will exempt facilities filing permit applications from Notice of Construction requirements and procedures.

Summation

1. The Department was instructed by the Legislative Committee to increase permit fee revenues by the same inflation factor experienced by general fund programs.
2. The Air Permit Fees Task Force recommended an across the board increase in annual fees of 14.5% and an increase in the filing fee to \$50.00. This fee schedule would generate approximately \$625,000.
3. The Department proposed the Task Force's recommended changes at the public hearing and no adverse testimony was received.
4. By adding the Notice of Construction exemption proposed as 340-20-175, the Department can reduce the paperwork associated with the processing and evaluation of new or modified sources.

Director's Recommendation

Based upon the summation, it is recommended that OAR 340-20-155, 165, 175 and 180 as amended in the proposed regulation, be adopted.

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

AGENDA ITEM G(3) - OPEN BURNING RULES - PROPOSED ADOPTION OF AMENDMENTS TO RULES FOR OPEN BURNING (OAR 340-23-035 THROUGH 23-050)

This item proposes a rule adoption which would allow domestic backyard burning to continue in the Portland area until December 1980, and in the southern portion of the Valley until July 1982. Without the proposed extension, domestic open burning would be terminated July 1, 1979. During the interim, alternatives to domestic open burning are to be defined and developed with local advisory committees and the Solid Waste Division.

The staff anticipates, as a result of the alternative studies, the need for a further rule change before December 1980 which would limit the prohibition to those areas where identified alternatives are available.

Summation

1. Alternatives are not presently available for domestic open burning and a ban at this time will create a hardship. A development effort by the Department is underway to identify and develop practicable alternatives starting first in the Portland area. It is proposed to delay the ban for domestic open burning until December 31, 1980, in the Portland area and until July 1, 1982 in the rest of the Valley.
2. The present rules contain open burning control inconsistencies which need to be corrected. Some of the inconsistencies have led to misunderstandings and lack of public support. The proposed rule places urban and rural areas of the Valley under respectfully similar rules.
3. A definition of agricultural operations is necessary to clarify by which set of open burning rules certain of the public are controlled.
4. A longer period for spring and fall burning is proposed to access better burning weather. Both meteorological and air quality criteria will be used to determine which days open burning will be allowed.
5. A section is proposed which addresses the Department's intent to have burning conducted so as not to produce a nuisance or hazard.
6. Scappoose Rural Fire Protection District has requested to be placed in an open burning control category with the rest of Columbia County.

7. The coastal portion of Lane County has been excluded from the Willamette Valley Open Burning Control Area.

Director's Recommendation

Based upon the summation, it is recommended that the proposed rules for open burning (OAR 340-23-025 through 340-23-050 be adopted as presented in the staff report.

Mr. Doug Brannock of the Department's Air Quality Division, presented the following amendments to the Director's recommendation.

Amendments to Director's Recommendation

It is recommended that the rule proposed with the subject staff report be replaced by the proposed rule in Attachment A of the Addendum to the staff report dated June 25, 1979. Language has been corrected as follows:

1. Page 7 of the proposed rule, 340-23-030(16), definition of "Special Control Area" making it apply only to the Willamette Valley.
2. Page 14 of the proposed rule, 340-23-040(5) correcting the area in Multnomah and Washington Counties permitted to open burn construction and demolition waste.
3. Page 17 in 340-23-045(7) (a), correction of typographical error in spelling of "practicable."

Ms. Jeanne Roy, Portland AQMA Advisory Committee, said this is one area which individuals have a direct impact on air quality and if individuals are not required to quit burning they will not see air pollution as a serious problem. She said the Committee agreed that alternatives were not available to submit the public to completely quit burning. Ms. Roy said the Committee had prepared a letter to send to local entities regarding alternatives to open burning so that they may begin to analyze those alternatives. She asked for a clear statement from the Commission on whether or not they intended to ban backyard burning entirely.

Ms. Roy felt that something should be done to prepare the public in urban areas for a ban on backyard burning. They were concerned about the extension of time on the backyard burning seasons.

Ms. Melinda Renstrom, Oregon Environmental Council, said that OEC could not support an extension in backyard burning beyond 1980. Also, she said, they were not in agreement with the staff decision to extend the burning seasons in the spring and fall.

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock and carried with Commissioner Somers desenting that the Director's recommendation be approved and that the staff be instructed to return to the Commission with an improved, better understandable set of rules, and further alternatives to backyard burning by December 1979.

Commissioner Hallock requested that the staff keep track of the number of burning days during the extended fall burning period to determine if more days were used for burning than before the season was extended.

AGENDA ITEM G(4) - PROPOSED ADOPTION OF AMENDMENTS TO RULES GOVERNING CONTESTED CASE AND CIVIL PENALTY ASSESSMENT PROCEDURES (OAR 340-11-005(6), 11-116, 11-132 and 12-040)

The Hearings Section has undertaken a review of procedural rules and has proposed certain amendments.

Amendment of the civil penalty rule is needed to reflect a statutory change. Changes of the filing and subpoena rules are intended to increase clarity. The proposed amendment of the appeal procedure streamlines the appeal process by eliminating the present requirement of simultaneous filing of exceptions and arguments by the parties.

Summation

The proposed amendment to OAR 340-11-005(6) defines "filing" as "receipt in the Office of the Director."

The proposed amendments to OAR 340-11-116 are to clarify who may obtain and/or issue subpoenas and who may modify or withdraw one, how to serve it, and who pays the fees.

The proposed amendments to OAR 340-11-132 are intended to remove the present provision for simultaneous filing of exceptions and argument by all parties.

The proposed amendments to OAR 340-12-040 add intentional violations, unauthorized deposition of sewage or solid waste, and unauthorized installation of subsurface sewage disposal systems to the list of violations for which the imposition of a civil penalty does not have to be preceded by a five-day notice. The proposed rule reflects the amendment of ORS 468.125 by the Legislature in 1977.

Director's Recommendation

Based upon the Summation, it is recommended that the proposed rules be adopted.

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

FIELD BURNING RESEARCH AND DEVELOPMENT BUDGET FOR FISCAL YEAR 1980

For the last several months, field burning staff members have been working with the Advisory Committee on Field Burning, as well as its subcommittees, to develop the budget sent to you earlier. The budget development was subject to normal public participation processes and representatives of all interested parties participated.

Research projects address smoke management and air quality needs, the development of alternative field treatment, and health effects.

Since the draft budget was sent to the Commission, the Advisory Committee adopted the draft budget as final. Commission approval only was sought.

Director's Recommendation

It is recommended that the Commission concur in the budget development process followed by the Department and the Advisory Committee on Field Burning and approve the proposed budget.

Mr. Donald Haagenson, attorney representing Oregon Seed Council, said it was his understanding that this item was not something that traditionally had been submitted to the Commission for approval. Upon reading the statute, he said, it appeared that the Department had the sole responsibility for this matter. By submitting this budget to the Commission, Mr. Haagenson continued, the letting of contracts for getting the research done has been delayed.

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock and carried unanimously that the Commission concur with the Director's judgment in this matter.

AGENDA ITEM I - DEQ v. MR. AND MRS. E. W. MIGNOT - MOTION TO DISMISS REQUEST FOR COMMISSION REVIEW

Mr. E. W. Mignot appeared and maintained that there was no way of telling where the property line was in this case, and therefore no way of determining that the violation occurred on his property.

Chairman Richards told Mr. Mignot that the matter the Commission had before it dealt only with a motion to dismiss which had nothing to do with the merits of the case. As of this date, Chairman Richards said, Mr. Mignot had not filed any exceptions or arguments to the Hearing Officer's order and under the Commission's rules Mr. Mignot was considered to have abandoned his appeal.

Mr. Mignot said he believed his attorney had filed exceptions and arguments.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried with Chairman Richards dissenting that the motion to dismiss be overruled and that Mr. Mignot be granted an additional 60 days to file his exceptions in this matter.

AGENDA ITEM L - PROPOSED ADOPTION OF TEMPORARY RULES REGULATING OPEN FIELD BURNING, OAR CHAPTER 340, SECTION 26-005 AND SECTION 26-015

EPA, in reviewing various aspects of DEQ's SIP submittals, sought clarification of certain regulations. In response, the Department is proposing rule changes to:

1. Clarify certain rule language;
2. Reconcile inconsistencies between rule language and operating procedures;
3. Provide for the use of field burning techniques to meet "continuous emission control" requirements.

Any adopted revision would be submitted to EPA along with other materials in support of the Department's SIP revision request.

Summation

The Environmental Protection Agency (EPA) Region X, has reviewed the Department's proposed revision to Oregon's Clean Air Act State Implementation Plan (SIP) and has requested additional clarification and changes affecting field burning regulations and procedures. EPA requests and proposed Department responses are summarized as follows:

1. Provide justification for the change in relative humidity restrictions on field burning from 50% to 65% as adopted by the EQC in December 1978.

The Department would propose to submit further technical justification based upon and including the straw moisture content study conducted by the Department during the 1978 summer burning season.

2. Identify the Department's regulatory authority to burn more than one quota of acreage per day in a fire district.

The Department proposes, for EQC adoption, a revision to OAR 340-26-015(2), to redefine the term quota and specifically provide authority for issuance of single, multiple, or fractional quotas. The language of the proposed revisions would better reflect actual operating procedures.

3. Identify and incorporate the use of constant emission control techniques for field burning.

The Department proposes for EQC adoption a revision to OAR 340-26-005 and 26-015(4)(e)(A), to define a perimeter lighting technique and to require the use of either perimeter lighting or into-the-wind striplighting on all fields under all conditions. Due to the relatively low ground level smoke impact of perimeter lighting, as demonstrated by recent research, and the relatively lower emissions of into-the-wind striplighting, the use of either technique is proposed as continuous emission control.

4. Clarify the definition of "Prohibition Conditions."

The Department proposes for EQC adoption, a revision to OAR 340-26-015(1)(c) to clarify the current wording such that prohibition conditions are in effect whenever: (1) northerly winds exist and vertical mixing is less than or equal to 3500 feet; or (2) relative humidity exceeds 65%. The proposed rule reflects actual operating procedures.

The Department proposes rules changes for (2), (3) and (4) above in order to ensure maximum state control of field burning, to make the rules more compatible with actual operating procedures, and to clarify the rule language and meaning.

Staff believes the Commission should find that failure to act promptly would result in serious prejudice to the public interest and to the public interest of the parties involved for the specific reason that the 1979 field burning season is imminent and the burning of 50,000 acres during the first 30 days of the season is feasible. Thus, normal notice procedures for adoption of permanent rules would not allow, in a timely manner, resolution of EPA's concerns nor approval of the proposed SIP revision.

Director's Recommendation

Based upon the findings in the summation, it is recommended that the Commission take the following action:

1. Acknowledge as of record the consultation with and recommendations of Oregon State University and the Department and any other parties consulted pursuant to ORS 468.460(3).
2. Enter a finding that failure to act promptly will result in serious prejudice to the parties involved and to the public interest for the specific reasons cited above.
3. Subject to any changes found appropriate as a result of recommendations made to the Commission or findings reached at this June 29, 1979 meeting, adopt the proposed amendments to OAR Chapter 340, Sections 26-005 and 26-015 as temporary rules to become immediately upon filing with the Secretary of State.

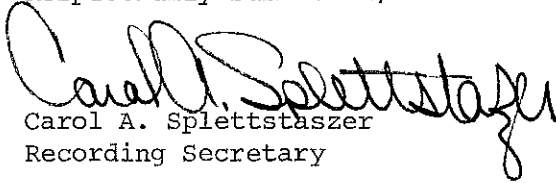
4. Instruct the Department to file promptly the adopted rules and findings with the Secretary of State as temporary rules to become effective immediately upon such filing and to remain effective for 120 days thereafter and to forward the rules and other pertinent information to EPA as a supplement to the previously submitted revision to Oregon's Clean Air Act State Implementation Plan.

Mr. Terry Smith, City of Eugene, submitted memorandums from the City of Eugene objecting to the timing and nature of the proposed action. He said the proposed moisture control and ignition technique rules did not reflect reasonably available control technologies. Further, the time and manner of notice of this hearing were contrary to federal law. Those two objections, he said, if not met would doom the proffered SIP as a matter of law. These memorandums are made a part of the Commission's record on this matter.

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

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

MINUTES OF THE SPECIAL MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

July 11, 1979

On July 11, 1979, the Oregon Environmental Quality Commission convened a special conference call meeting. Connected by conference telephone call were Commission members: Mr. Joe B. Richards, Chairman; Mr. Ronald M. Somers; Mr. Albert H. Densmore; and Mr. Fred J. Burgess. Present in the DEQ Headquarters Offices in Portland were Mr. William H. Young, Director, and several members of the Department staff.

FIELD BURNING

Director Young said a July 10, 1979 letter had been received from the City of Eugene reciting the current limit in the State Implementation Plan (SIP) of 50,000 acres; the state decision to burn 180,000 acres; and expressing the viewpoint that full approval of the SIP revision, if it occurred, would not occur until well into or after the burning season. He said the City specifically requested a meeting of the Commission to consider the appropriate level of burning until final action was taken on the SIP by EPA. The City urged in its letter that the Commission (1) "obey the law," which Mr. Young assumed meant both the state and federal law, to the extent possible; (2) instruct the Director to rescind all permits issued for over 50,000 acres; and also urged a reallocation of the acreage at the 50,000 level to those who had registered acreage. Mr. Young said the letter reaffirmed the intention of the City of Eugene to commence legal action by July 17, 1979 unless some decision of the Commission before that date obviated the need for that action.

Mr. E. J. Weathersbee, Administrator of the Department's Air Quality Division, said EPA had looked at the state's SIP submittal, identified some minor problems they wanted to resolve, and were aiming for a decision by Friday, July 13. He said EPA should have word to the Department by early in the coming week. It was not known at this time if the approval would be conditional or not. However, it was safe to assume that the decision would not be final because it would not have been published in the Federal Register.

Chairman Richards asked the Commission to decide if the Attorney General should be requested to advise the Commission as to the kind of approval that would be necessary from EPA to allow burning above 50,000 acres.

It was MOVED by Commissioner Somers that action on this matter be deferred until an opinion was received from the Attorney General on what the Commission's position should be depending on the type of approval received from EPA. The motion was seconded by Commissioner Densmore and passed unanimously.

Director Young said he assumed that unless the Commission instructed otherwise, the request would not go to the Attorney General until a response had been received from EPA.

Chairman Richards said it was possible that 50,000 acres could be burned before the Commission's next meeting. He asked if there should be any steps taken to authorize a pro rata issuance of burning permits up to the 50,000 acre limit. Mr. Scott Freeburn, of the Department's Field Burning staff, anticipated that approximately 30,000 acres would be burned by the first of August this year. If the Department would have to adhere to a 50,000 acre limit, he said, a moratorium on burning might have to be called so that the permit process could be revised.

The Director recommended that the Commission continue in the manner it was proceeding at this time until it was able to hold a meeting following EPA's decision and advise from the Attorney General to make a decision about the burning of 50,000 acres as opposed to 180,000 acres. If at that time the Commission determined that 50,000 acres was the operative limit, he continued, the Commission should recognize that that would trigger a prohibition on burning for approximately one week to allow the staff time to revise the permit process.

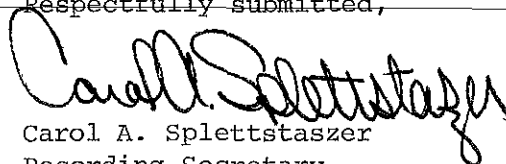
The Commission expressed concern in proceeding any further until an opinion from the Attorney General was received. Mr. Ray Underwood, Department of Justice, informed the Commission that he could not commit to a date when the Attorney General would have a ruling on this matter, but only that it would be as soon as possible.

The Director was instructed to advise the Commission when the Attorney General's opinion was ready and to call another special meeting of the Commission, if necessary, to act further on this matter.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess and carried unanimously that no further action be taken on the part of the Department to burn in excess of 50,000 acres without further action of the Commission at a regular or special meeting.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

MINUTES OF THE ONE HUNDRED ELEVENTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

July 27, 1979

On Friday, July 27, 1979, the one hundred eleventh meeting of the Oregon Environmental Quality Commission convened in Harris Hall of the Lane County Courthouse, 125 East Eighth Street, Eugene, Oregon.

Present were all Commission members: Mr. Joe B. Richards, Chairman; Mr. Ronald M. Somers; Mr. Albert H. Densmore; and Mr. Fred J. Burgess. It is noted that Commissioner Jacklyn Hallock resigned from the Commission as of July 2, 1979. Present on behalf of the Department were its Director, William Young and several members of the Department staff.

Staff reports presented at this meeting, which contain Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

BREAKFAST MEETING

The Commission met for breakfast at 7:30 a.m. in Conference Room A off the Harris Hall cafeteria, and discussed the following items without taking any action on them.

1. Status of Field Burning
2. River Road/Santa Clara Septic Tank Moratorium
3. Disposal Wells in Central Oregon
4. Content of EQC Minutes
5. ~~Date and Location of September and October EQC Meetings~~

At lunch, the Commission discussed particulate and ozone strategy development schedules and Prevention of Significant Deterioration policy issues.

FORMAL MEETING

Consent Agenda

The following items were approved unanimously without discussion:

Agenda Item A - Minutes of the June 8, 1979, EQC Meeting

Agenda Item B - Monthly Activity Report for June 1979

Agenda Item C - Tax Credit Applications

Public Forum

Mr. William V. Pye, General Manager of the Metropolitan Wastewater Management Commission, Eugene/Springfield/Lane County, appeared and requested Commission support for House Resolution 4113 and Senate Resolution 328 now before Congress regarding additional construction grant funding for water quality projects. He said passage of this bill would provide an additional \$20 million to states for water quality construction grants.

It was MOVED by Commissioner Densmore, seconded by Commissioner Somers and carried unanimously that the Commission send a Resolution to Congress in support of HR 4113 and SR 328 to provide additional funding for water quality construction grants.

Agenda Item F - Field Burning - Consideration of Action Necessary to Ensure Compliance with State and Federal Law Regarding Field Burning During 1979

Director Young informed the Commission that he was in receipt of a memorandum from Governor Atiyeh requesting that the Commission remove this item from their agenda. The Governor indicated in his memorandum that the City of Eugene and the Oregon Grass Seed Growers Association joined him in this request. Because of the sensitive nature of discussions between the Governor, the City of Eugene and the Grass Seed Growers, the Governor felt it was inappropriate for the Commission to take action at this time. The Governor assured the Commission that appropriate action would be taken prior to the time 50,000 acres were burned and requested that the Commission be available for a special meeting regarding this matter.

Chairman Richards indicated that contrary to the Notice of Violation issued by the Environmental Protection Agency to the Department, Federal law had not been violated by the Department issuing preliminary permits. These permits were not license to burn until confirmed and issued by the local fire district, and there was no intent to exceed or break Federal law by the issuance of those permits by the Department.

Agenda Item G - Request by Curry County for a Variance from Rules Prohibiting Open Burning Dumps, OAR 340-61-040(2) (c)

This item dealt with a request by Curry County to continue operation of the Brookings and Nesika Beach open burning dumps until October 1, 1979 because closure of the two sites would be impractical. A new site is proposed to open by no later than October 1, 1979 and redirecting the public and private haulers for two months would be disruptive.

Summation

1. Curry County was issued a variance to continue operation of the Brookings and Nesika Beach open burning dumps. This variance to OAR 340-61-040(2) (c) prohibiting open burning dumps is due to expire August 1, 1979.
2. Start of construction of a new regional facility was delayed because of difficulty in finding an acceptable site. Construction is well underway, and is expected to be completed by October 1, 1979.
3. Alternate disposal sites are available for the two month interim. Use of these sites is impractical, in the Department's opinion.
4. Under ORS 459.255, a variance to solid waste regulations can be granted by the Commission if the alternatives available are impractical.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that a variance be granted to Curry County to continue operation of the Brookings and Nesika Beach open burning dumps until October 1, 1979.

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

Agenda Item I - Informational Report: Status of Bend Sewerage Facility Project

At the Commission's meeting June 29, 1979, Mr. Gordon Friday and Mr. Paul Ramsey testified during Public Forum about using disposal wells for disposing treated effluent from the new Bend sewage treatment plant. As a result of that testimony, the Commission requested the Department to present a status report on the project. The Commission was presented status reports on the Bend project at the March and January 1978 meetings; and last significant action by the Commission relative to Bend occurred in November 1977 when interim use of disposal wells was approved.

Currently, about half of the sewage collection system had been completed with other portions under construction. Construction had begun on the sewage treatment plant. Preliminary engineering work had been started on evaluation of various means of interim subsurface disposal, i.e., evaporation/percolation beds, disposal wells, etc. Completion of the Environmental Impact Statement, previously scheduled for December 1978 has been delayed until December 1979. It is conceivable that the EIS will not be completed until sometime in 1980.

Mr. Richard Nichols, DEQ's Central Region Manager, proposed to come back to the Commission with a further status report in November or December 1979.

Mr. John Vlastelicia, EPA's Oregon Operations Office, indicated EPA would have a preliminary draft report by August 31 and proposed to go to public hearing in October with some minimal groundwater information.

Submitted for the record was a letter from the Deschutes Valley Water District dated July 23, 1979 regarding subsurface sewage disposal in the Bend area.

This report was for information only, no action of the Commission was necessary.

Agenda Item J - Informational Report: Review of Federal Grant Application for Air, Water and Solid Waste Programs

Each year the Department and the Environmental Protection Agency negotiate an agreement whereby EPA provides basic program grant support to the air, water and solid waste programs in return for commitments from the Department to perform planned work on environmental priorities of the state and federal government.

For Fiscal Year 1980, EPA required a formal State-EPA Agreement that included not only work plans for the three state programs, but also work plans for environmental problems that have significant cross-programmatic impact, such as sludge management. EPA also required greater public participation in the negotiation process than in previous years.

This item was on the agenda to provide opportunity for public comment and Commission input on the policy implications of the draft Agreement.

No one was present to testify on this matter.

The Commission indicated it would review the draft Agreement and submit any comments to the Director by the following week.

Agenda Item E - Quiet Area Recommendation: Willamette River between Eugene and Harrisburg

The Department received a request to recommend a section of the Willamette River be designated a quiet area under the noise control rules. The petitioners claim that motorboat noise disrupts the serenity of the river and believe the quiet area designation would control this noise. The concern about motorboat activity on this section of the river resulted from a commercial "jet boat" excursion service that operates from the Valley River Inn in Eugene to Harrisburg.

The noise control standards generally apply only to noise sources operating near residences, schools, churches and other noise sensitive property. However, the rules include a provision for Commission designation of open areas as "quiet areas". These designated quiet areas would be protected under the noise standards and special standards for motor vehicles and industrial activities could apply to sources impacting a quiet area.

Summation

1. The Department has been requested to recommend the Willamette River between Eugene and Harrisburg be designated a "quiet area" as provided for in the noise control regulations.
2. A presently operated commercial excursion boat is likely to comply with the quiet area noise standards with neither change in operation nor equipment.
3. Preemptive federal laws for "navigable" waters would probably prevent the prohibition on any commercial boat operations on this section of the river.
4. Recreational motorboats would probably exceed the "quite area" standards of the noise control regulations.
5. The State Marine Board could prohibit recreational motorboats from this river section; however, may be reluctant to place restriction on recreational use without identical controls on commercial use.
6. Portions of the river section near Eugene are not acceptable for "quiet area" designation due to high ambient noise levels caused by motor vehicles and industrial sources.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission not designate the Willamette River between Eugene and Harrisburg a quiet area as provided by the noise control regulations. However, if the Commission elects to consider designation of this river section as a quiet area, it is recommended that the Commission authorize public

hearings to take testimony on the proposed designation in order to include any quiet area designation within the adopted administrative noise control rules.

Mr. Steve Gilbert, Sierra Club, presented slides of the area in question. He maintained that the Willamette River area in Eugene was unique and should be designated as a quiet area to preserve it as such. He said that background noise was easily tuned out but that noise from motorized craft on the river presented a real disturbance. He asked the Commission to consider the type as well as the level of noise and to designate the quiet area.

Mr. Jim Hare, Eugene, said that the area in question was not a wilderness area but was quieter than the urban area around it. He maintained it was a place of retreat and should be preserved as such. Mr. Hare was in favor of the quiet area designation.

Mr. Larry Farris, Eugene, testified against the designation of a quiet area. He said he believed the majority didn't care if the river was noisy. As an owner of a jet boat, Mr. Farris stated he didn't want to be forced off what he considered to be the safest part of the river. He said there were other areas of the river which were more appropriate for the users of non-motorized craft.

Mr. Dan Kelso, Eugene, testified against the quiet area designation.

Mr. Mike Hume, Eugene, testified that the excursion jet boat made the river accessible to people who might not otherwise be able to view that part of the river. He was against designation of a quiet area.

Mr. Michael Piper, Greenpeace, said the petitioners were most concerned about the area between the Ferry Street and Belt Line bridges being designated as a quiet area. He also said they were concerned about all types of motorized traffic on that stretch of the river. Mr. Piper favored the quiet area designation.

Mr. Richard L. Hansen, Valley River Center, Eugene, said that the jet boat excursion service provides an opportunity for people to see the river. He was also concerned about those sources near the river being restricted as a result of the quiet area designation. Mr. Hansen was against the designation of a quiet area.

Mr. Dale Moon, Eugene, suggested that perhaps the Commission was not the proper body to help the situation. He felt that the area qualified as a quiet area and suggested that perhaps the Commission set up a criteria for on-the-water uses.

Mr. Richard LaCasse, Eugene, said that there was technology available to control noise from sources next to the river. He questioned the public service offered by the jet boat excursion service. Mr. LaCasse favored the quiet area designation.

In response to suggestions that the Commission request local jurisdictions to see what they could do about the matter, Mr. Tim Sercombe, Eugene City Attorney, replied that the City had pursued the matter and concluded that any city rule would be very difficult to enforce and deferred the matter to state agencies.

It was MOVED by Commissioner Densmore, seconded by Commissioner Burgess and carried unanimously that the Director's recommendation be approved and that the staff be instructed to look at EQC jurisdiction and possible additional changes to the noise regulations to cover this area and also instruct the staff the pursue what other jurisdictions could do. The Commission requested that the Department then report back to them.

Agenda Item H - Consideration of Petition from Deschutes County Commissioner and Interested Persons to Promulgate, Amend, or Repeal Rules on Subsurface Sewage Disposal (OAR 340-71-030(1) (c) (A&B) in the LaPine Area of Deschutes and Klamath Counties

The petition before the Commission concerned opposition to the Department's subsurface sewage disposal rules that pertain to the use of soil mottling as an indicator of the high ground-water table. Opposition primarily stems from a high amount of permit denials in the LaPine area, even though, in some instances, water levels as indicated by local well data show it much deeper to water.

Summation

1. The Department has received a petition from a Deschutes County Commissioner requesting that OAR 340-71-030(1) (c) (A&B) be repealed or amended.
2. OAR 340-71-030(1) (c) (A&B) allows the Department or its authorized representatives to use soil mottling as an indicator of high water table.
3. There has been a relatively high (60%) denial rate for subsurface sewage disposal systems in the LaPine area. Most of these denials have been due to high water table as indicated by soil mottles. Because of discrepancies between water levels observed in wells and high water levels predicted by soil mottles, use of mottles is highly disputed in LaPine.
4. Recent soil and groundwater investigations conducted by Dr. Robert Paeth have revealed that much of the soil mottling in the LaPine area can be attributed to a temporary, perched water table rather than a permanent table.
5. Allowable separation distances between the disposal trench and the water table is substantially less when the water table is temporary rather than permanent. Because of this, approval rates for subsurface systems would be significantly higher.

6. The Department believes soil mottling is a useful and necessary tool for determining high groundwater levels. While there have been discrepancies found, these have been and can continue to be resolved through soil investigations.

Director's Recommendation

It is recommended that the Environmental Quality Commission deny the petition. It is further recommended that the Commission direct the Department to continue its soil and groundwater investigations in the LaPine area to determine where soil mottling is an indication of temporary groundwater or permanent groundwater levels and report back to the Commission in September 1979.

Director Young indicated that the petitioners were satisfied with the staff report and the Director's recommendation.

There was no one present to testify on this matter.

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

Agenda Item K - Public Hearing as to Whether to Continue, Repeal or Modify Oregon Administrative Rule (OAR) 340-71-020(9) as it Relates to the Current Septic Tank Moratorium in Effect in the River Road-Santa Clara Area of Lane County

On April 28, 1978, the Environmental Quality Commission adopted a Rule and Order which established a septic tank moratorium in the River Road-Santa Clara Area of Lane County. The reason for enacting the moratorium was that preliminary studies indicated the ground waters underlying the area had elevated nitrate (NO₃-N) levels. The most likely source was the urbanized use of subsurface sewage disposal systems.

The moratorium affected approximately 8000 acres, of which about 3000 acres were developed. There are approximately 8500 developed lots in the area and approximately 950 undeveloped parcels. The 950 undeveloped parcels could create approximately 2000 additional building sites, assuming current zoning restrictions would not be altered.

Since the moratorium was enacted, considerable public and political sentiment was voiced to modify or terminate the moratorium. Based on these concerns, the Environmental Quality Commission ordered public rule making hearings to be held in July 1979 to determine if the moratorium should be continued, repealed, or modified.

Summation

1. Public testimony received at the informational hearings conducted in Eugene on March 28 and 29, 1979, mostly opposed the current moratorium.

2. The Lane County Board Commissioners passed a resolution on April 3, 1979 which called for ending the moratorium.
 3. The L-COG Interim Analysis Report for the River Road-Santa Clara ground water study being conducted by H. Randy Sweet does not provide definite answers at this time on the extent or severity of ground water contamination problems in the study area.
 4. The L-COG study to date has shown or indicated:
 - a. Regions downgradient from the study area will be dependent upon ground water for current and future domestic supplies.
 - b. The study area generally has elevated NO₃-N levels in the ground water, and some test sites exceed the 10 ppm USPHS drinking water standard.
 - c. Bacterial and NO₃-N mobility under saturated soil conditions is rapid.
 - d. There are over 300 residences in the study area which currently use individual wells as their supply for domestic water. Of this number, approximately 150 are located in the current moratorium area.
 5. The L-COG study is scheduled for completion in March, 1980. From that, Department and Lane County staff expect data interpretation will be available from which conclusive statements regarding the extent and severity of the ground water contamination problems in the study area and downgradient can be made.
 6. Three options are available to the Commission for consideration at this time. They are:
 - a. Continue the moratorium.
 - b. Repeal the moratorium (OAR 340-71-020 (9)).
 - c. Modify the moratorium (OAR 340-71-020 (9)).
-

Director's Recommendation

Based upon the Summation, it is recommended that the Commission act to modify the current moratorium by amending OAR 340-71-020 (9). It is also recommended that the ground water study continue to completion as proposed, and that the grantee make efforts to locate relevant domestic water supply wells inside the study area and downgradient from the study area.

Mr. Randy Newhouse, Eugene, testified in favor of lifting the moratorium.

Mr. Jeff Siegel, questioned the health hazard resulting from the use of septic tanks in the area. He said that the study did not address this question. Mr. Siegel presented some technical data to the Commission regarding nitrate levels in the wells in the area. He said that the data did not support that the nitrate levels were from septic tanks; it could be from other sources. Mr. Siegel testified that because of the nature of the area nitrates will be found anywhere, but it could not be determined from what source.

Ms. Vora Heintz, Eugene, testified that the data and interim study did not justify continuance of the moratorium. She said that no health hazard had been shown and no state statutes had been violated. Ms. Heintz suggested that if the moratorium was continued, an alternative study should be implemented.

Ms. Bonnie Lindsay, Eugene, is a landowner in the area who expressed her concern about possible health hazards. She suggested that the moratorium be lifted but the study be continued to insure that a health hazard does not develop. She said permits needed to be granted because of the rising cost of building and urged that proper testing be done before the permits were granted.

Mr. Richard Klanecky, Eugene, favored lifting of the moratorium because he owns nine acres in the area that cannot be rezoned to sell until the moratorium is lifted.

Mr. Don Williams, Eugene, also questioned whether a health hazard existed. If the moratorium was not lifted, Mr. Williams said more study into the use of experimental and alternative systems needed to be done.

Mr. Randy Sweet, consultant to Lane Council of Governments on the Interim Study, responded to testimony. He agreed that septic tanks were good technology but there are some nitrate problems in some areas. He said that nitrate levels were higher in the shallow aquifer and they were adding some deep wells to the study to determine the levels there. Once contaminated, Mr. Sweet said, it takes an enormous amount of time for an aquifer to clean itself.

Mr. Gordon Elliott, owns two-hundred acres in the area and needs another septic tank for rental buildings on his property. He believed this was more a political matter than one of a health hazard and unless the moratorium was lifted he would be unable to develop his property.

Mr. Hayden A. Haley, Irving Christian Church, Eugene, requested that the Commission lift the moratorium because no data had been presented to support continuing it. Mr. Haley's written statement is made a part of the Commission's record on this matter.

At this point in the Hearing, Chairman Richards notified those present that suspected infectious hepatitis had recently been found in five families in the River Road-Santa Clara Area on five shallow aquifer wells.

Commissioner Archie Weinstein, Lane County, opposed the continuation of the moratorium. He said the Lane County Commission passed a resolution supporting the repeal of the moratorium. Commissioner Weinstein stressed the need for more buildable lots in the area.

Mr. Russ Oleson, Eugene C & MA Church, testified that the Church owned property in the area they wished to develop. He favored repeal of the moratorium or modification to include allowing development of property because of hardship.

Mr. Thomas E. Heintz, urged repeal of the moratorium because a health hazard had not been proved.

This concluded testimony on this item.

It was MOVED by Commissioner Burgess, seconded by Commissioner Somers and carried unanimously that the Director's recommendation be approved and amended the proposed rule to read as follows:

OAR 340-71-020(9) (b):

- (b) Paragraph (a) of this subsection shall not prohibit the issuance of construction permits or favorable reports of evaluation of site suitability for:
 - A. One subsurface sewage disposal system on each existing tax lot which was of record on or before April 28, 1978, and upon which there is no structure which houses a toilet facility, provided:
 - 1. The lot and soil conditions meet the minimum standards of OAR 340-71-020 and 340-71-030 for standard system installation.
 - 2. The projected daily sewage flow shall not exceed 600 gallons.
 - 3. The system proposed is not for a variance, rural areas variance or experimental system.
 - B. An extension to an existing system which is required by the rules in this division in order to allow the addition of a bedroom or bedrooms to an existing residence.

- C. A repair to an existing system provided, however, if such permit or favorable report of evaluation of site suitability is not relied upon to a substantial financial extent by the recipient thereof by March 31, 1980, the Commission may by rule, prohibit after appropriate notice, the use of such permit or report if the Commission repeals or amends this paragraph (b) of this subsection.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol A. Splettstaszer
Recording Secretary

MINUTES OF THE SPECIAL MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

August 6, 1979

On Monday, August 6, 1979, the Oregon Environmental Quality Commission convened a special meeting in Room 50 of the State Capitol Building, Salem, Oregon.

Present were all Commission members: Chairman Joe B. Richards, Mr. Ronald M. Somers, Mr. Albert H. Densmore, and Mr. Fred J. Burgess. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

FIELD BURNING - EQC RESPONSE TO GOVERNOR'S EXECUTIVE ORDER

On July 31, 1979, Oregon Governor Victor Atiyeh issued an Executive Order which read in part:

"IT IS HEREBY ORDERED THAT:

The provisions governing open field burning, including the 50,000 acre burning limit in the present Oregon State Implementation Plan, be suspended on a temporary emergency basis, pursuant to Section 110(g) of the Federal Clean Air Act and under the authority of Oregon law. The Department of Environmental Quality is directed to implement smoke management controls using the most advanced techniques, including those proven successful during the 1978 burning season, and employing the best burning practices. The Department shall not authorize in excess of 180,000 acres for open field burning. The Department shall submit to me weekly reports with sufficient data so the Governor can determine whether this order should be continued.

This order shall terminate upon the order of the Governor, and in any event by the 120th day following the date hereof."

/s/ Victor Atiyeh
GOVERNOR

The Commission acknowledged the Governor's Executive Order that in 1979 the Department conform to administrative rules adopted by the Commission in December 1978, June 1979, and further rules adopted at this meeting.

After testimony was received from the City of Eugene, Oregon Grass Seed Grower's Association, and Legal Advocates, Inc., it was MOVED by Commissioner Somers, seconded by Commissioner Densmore, and carried unanimously that the following amended Director's Recommendation be approved.

DIRECTOR'S RECOMMENDATION

Based on the Summation in the staff report, it is recommended that the Environmental Quality Commission take the following action:

1. Acknowledge Executive Order 79-14 and direct the staff to comply with that part of the Oregon State Implementation Plan revision applying to field burning as submitted to date and as further modified as a result of this August 6, 1979 meeting.
2. Direct the staff to respond to the EPA to correct items 1 through 4 in the Summary.
3. Instruct the Department to evaluate the performance standard proposed by the City of Eugene for the 1979 field burning season, and to assess such performance standard or other performance standards as may be developed. Further instruct the Department to develop such a performance standard if found acceptable in light of state and federal law and the needs of the smoke management program.
4. Adopt the following rule amendments as temporary rules finding that failure to modify these rules would result in serious prejudice to the public interest or the interest of the parties involved.

340-26-015(1)(c) - Prohibition Conditions: Either (A) forecast northerly winds and a mixing depth of 3,500 feet or less; or (B) forecast northerly winds and a relative humidity greater than 50 percent, or forecast southerly winds and a relative humidity greater than 65 percent.

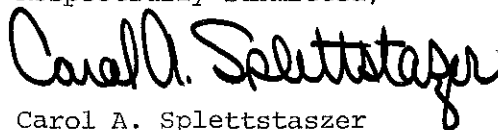
340-26-015(4)(e)(A) - Except when the mixing depth is 5,000 feet or greater, all annual grass seed crops and cereal crops shall be burned using into-the-wind striplighting; all perennial grass seed crops shall be burned using perimeter burning methods.

340-26-(4)(d)(B) - No south priority acreage shall be burned upwind of the Eugene-Springfield Nonattainment Area.

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5. Direct the staff to take necessary measures to include in the State Implementation Plan (SIP) the additional rules adopted by the Commission.
 6. Request a staff report on the progress being made to study public health effects of field burning smoke.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol A. Spletstaszer
Recording Secretary

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

August 31, 1979

Conference Room
Department of Fish and Wildlife
506 Southwest Mill Street
Portland, Oregon

REVISED TENTATIVE AGENDA

9:00 am CONSENT ITEMS

Items on the consent agenda are considered routine and generally will be acted on without public discussion. If a particular item is of specific interest to a Commission member, or sufficient public interest for public comment is indicated, the Chairman may hold any item over for discussion.

- A. Minutes of the July 27, 1979 meeting and the August 6, 1979 special meeting
- B. Monthly Activity Report for July 1979
- C. Tax Credit Applications

PUBLIC FORUM

- 9: am D. Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

ACTION ITEMS

The Commission will hear testimony on these items at the time designated but may reserve action until the Work Session later in the meeting.

- 9:15 am E. Variance Request - Request by Murphy Veneer Company at Myrtle Point for a variance from noise regulations (OAR 340-35-035(1)(a))

- 9:30 am F. Variance Request - Consideration for approval/disapproval of variance filed by Lane Regional Air Pollution Authority (LRAPA):

A variance from LRAPA Rules Title 22, Section 22-045(1) and Title 32, Section 32-005(B) for Allis-Chalmers Company and Lane County operators of the Lane County Resource Recovery Facility has been filed for EQC consideration pursuant to ORS 468.345(3).

- 9:45 am G. Variance Request - Request by Weyerhaeuser Company's lumber mill at Bly, Oregon for a variance from fuel burning equipment limitations (OAR 340-21-020(1)(b))

(MORE)

- 10:00 am H. Field Burning - Public Hearing to consider adoption as permanent rules amendments to OAR 340-26-005 and 26-015 adopted as temporary rules June 29, 1979 and August 6, 1979; and submission to EPA as a State Implementation Plan (SIP) revision
- ~~11:00 am I. Log Handling - Consideration of adoption of additional guidelines for log storage in Coos Bay~~ DEFERRED
- J. Water Quality Rule Adoption - Amendment of Water Quality Permit Fees (OAR 340-45-070, Table A) to increase revenues for the 79-81 biennium
- ~~K. Water Quality Rule Adoption - Proposed adoption of revisions to Oregon's Water Quality Standards (OAR Chapter 340, Division 4)~~ DEFERRED
- L. Proposed Fiscal Year 80 Sewerage Works Construction Grants Priority Criteria and Management System
- M. 208 Nonpoint Source Project - Approval of final reports and agreements to replace draft documents identified in the Water Quality Management Plan approved November 17, 1978
- N. Commission selection of a Vice-Chairman

WORK SESSION

The Commission reserves this time if needed to further consider proposed action on any item on the agenda.

Because of the uncertain time span involved, the Commission reserves the right to deal with any item at any time in the meeting except those items with a designated time certain. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) in Conference Room B off the Standard Plaza Building Cafeteria, 1100 Southwest Sixth Avenue, Portland. The Commission will lunch at the DEQ Laboratory, 1712 Southwest 11th Avenue, Portland.

MINUTES OF THE ONE HUNDRED TWELFTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

August 31, 1979

On Friday, August 31, 1979, the one hundred twelfth meeting of the Oregon Environmental Quality Commission convened in the Commission Room of the Oregon Department of Fish and Wildlife, 506 Southwest Mill Street, Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Mr. Albert H. Densmore and Mr. Fred J. Burgess. Commissioner Ronald M. Somers was absent. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

Staff reports presented at this meeting, which contain Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 Southwest Fifth Avenue, Portland, Oregon.

BREAKFAST MEETING

The Commission met for breakfast at 7:30 a.m. in Conference Room B off the Standard Plaza Building Cafeteria, 1100 Southwest Sixth Avenue, Portland, and discussed the following items without taking any action on them.

1. Introduction of Rodney Briggs, Chairman of the Department's Water Quality Policy Advisory Committee to the Commission.
2. Sunrise Village Status Report. Mr. Tim Ward of the Sunrise Village Development in Bend appeared and informed the Commission that the sewerage system was 95% complete. He said there were not any homes under construction yet, but some may be soon. Mr. Ward felt confident that the County was legally obligated to form a sanitary district for them. Mr. Young asked if the County didn't form a sanitary district at their meeting on September 11, 1979, should the staff move to halt further construction until the issue was resolved. He suggested the Commission might want to give the staff guidance at the formal meeting.

The Commission instructed the Department to take no action while the issue was before the County and to make a recommendation to the Commission at their September meeting.

3. Ford Motor Company request for relaxation of 75 dBA standard for 1982 automobiles. Mr. John Hector of the Department's Noise Control Section, passed out a similar letter received from General Motors. He proposed to request authorization for a rule-making hearing in November, holding hearings in January, and returning to the Commission for action in February.

4. Field Burning Status Report. Mr. Scott Freeburn, Air Quality Division, informed the Commission that approximately 138,000 acres had been burned so far. He also presented the weekly field burning report prepared for the Governor.

FORMAL MEETING

AGENDA ITEM A - MINUTES OF THE JULY 27, 1979 MEETING AND THE AUGUST 6, 1979 SPECIAL MEETING

It was MOVED by Commissioner Densmore, seconded by Commissioner Burgess and carried unanimously that the minutes of the July 27, 1979 meeting and the August 6, 1979 special meeting be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR JULY 1979

It was MOVED by Commissioner Burgess, seconded by Commissioner Densmore and carried unanimously that the Monthly Activity Report for July 1979 be approved as presented.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Densmore, seconded by Commissioner Burgess and carried unanimously that tax credit applications T-1071 (D & P Orchards), T-1084 (Thomsen Orchards, Inc.), T-1088 (Robert M. McIsaac), T-1091 (Glacier Ranch) and T-1094 (Paul H. Klindt), be approved.

AGENDA ITEM J - WATER QUALITY RULE ADOPTION - AMENDMENT OF WATER QUALITY PERMIT FEES (OAR 340-45-070, TABLE A) TO INCREASE REVENUES FOR THE 1979-81 BIENNIUM

The 1977 Legislature included a budget note requiring an increase in water permit fees for the 1979-81 budget biennium. This increase is to cover inflation proportional to general fund inflation using 1974-75 as the base year. Following the recommendations of the Water Quality Permit Task Force, a revision in the permit processing fees was made which should increase revenue from 22% to 25%. No change in the annual compliance determination was proposed.

Summation

1. An increase in Water Quality Permit Fee revenues of about 25% is necessary because of a request by the 1977 Legislature.
2. The Department proposes to raise this entire amount by increasing only the permit processing fees. This follows the recommendation of the Water Quality Permit Task Force.
3. The staff have been responsive to the limited amount of public input by making three recommended changes in the proposed schedule.

4. The fee schedule as modified should raise the necessary revenue in a fair and equitable manner.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the new fee schedule which modifies Table B of OAR 340-45-070.

It was MOVED by Commissioner Burgess, seconded by Commissioner Densmore and carried unanimously that the Director's Recommendation be approved.

AGENDA ITEM D - PUBLIC FORUM

No one wish to appear on any subject.

AGENDA ITEM N - COMMISSION SELECTION OF A VICE-CHAIRMAN

It was MOVED by Commissioner Burgess, seconded by Commissioner Densmore and carried unanimously that Commissioner Densmore be elected Vice-Chairman of the Commission.

AGENDA ITEM M - 208 NONPOINT SOURCE PROJECT - APPROVAL OF FINAL REPORTS AND AGREEMENTS TO REPLACE DRAFT DOCUMENTS IDENTIFIED IN THE WATER QUALITY MANAGEMENT PLAN APPROVED NOVEMBER 17, 1978

The initial 208 nonpoint source pollution control program was approved by Commission action on November 17, 1978. The program has been updated since that time. Several interagency agreements approved in draft form and draft reports have been finalized. In addition, there have been significant changes in the agricultural elements of the program. The State Soil and Water Conservation Commission is now the proposed management agency for control of agricultural nonpoint sources of pollution statewide. Several best management practices for control of agricultural nonpoint source pollution problems have been prepared. A 208 plan for erosion control along the South Fork John Day River has been completed. A 208 plan for control of nonpoint pollution sources along Bear Creek, a tributary of the Rogue River, has been completed. The Commission is requested to approve the finalized interagency agreements, final reports, the designation of the State Soil and Water Conservation Commission as the management agency for agricultural nonpoint source pollution control, completed best management practices for control of agricultural nonpoint sources of pollution, and the 208 plans on the South Fork John Day River and Bear Creek.

Summation

1. The Commission adopted initial elements of the Statewide Water Quality Management Plan in December 1976.
2. A project to develop initial nonpoint source plan elements was initiated in October 1976.

3. A substantial public involvement program was undertaken as a part of the project.
4. The State's Water Quality Management Plan, as well as any additions or modifications, must be submitted to EPA for approval.
5. The Commission must approve the plan prior to submittal to EPA.
6. The additions to the State's plan; Volume V (nonpoint source narrative summary), Volume VI (nonpoint source action program), and Volume VII (summary of public involvement) were approved November 1978.
7. The Department requests that the proposed changes to Volumes V and VI be approved.

Director's Recommendation

1. Approve proposed changes to Volumes V and VI of the Statewide Water Quality Management Plan.
2. Authorize the Director to transmit Volumes V and VI to EPA together with the certification that these volumes are an official replacement to Volumes V and VI, approved November 17, 1978.

Chairman Richards noted that the State Soil and Water Conservation Commission had been designated as the management agency for nonpoint sources on private agricultural lands. Mr. Tom Lucas of the Department's Water Quality Division, replied that the Governor had to designate a lead agency and the proposal was for the Commission to relinquish control over nonpoint sources on private agricultural lands. Chairman Richards indicated that was a good idea because he was unsure the Department had all the necessary information to manage such lands. He asked if at some later date the Commission could take back control. Mr. Lucas said that could be done, but it would take Governor action.

Mr. Charles D. Bailey, State Soil and Water Conservation Commission, testified in support of the 208 nonpoint source program. Mr. Bailey's written testimony is made a part of the Commission's record on this matter.

Commissioner Densmore expressed interest in contacting the State Department of Economic Development regarding this matter. The staff indicated it would do that.

It was MOVED by Commissioner Burgess, seconded by Commissioner Densmore and carried unanimously that the Director's Recommendation in this matter be approved.

AGENDA ITEM E - VARIANCE REQUEST - REQUEST BY MURPHY VENEER COMPANY
AT MYRTLE POINT FOR A VARIANCE FROM NOISE REGULATIONS (OAR 340-35-035(1)(a))

Murphy Veneer Company in Myrtle Point has requested a variance from the nighttime industrial noise standards. This veneer mill is currently in violation of daytime standards also, but has agreed to noise control methods to bring the mill into compliance with daytime standards.

Summation

1. The Murphy Company owns and operates a veneer mill within the city limits of Myrtle Point.
2. Noise violations were documented in 1976. Recommended noise abatement measures were largely completed by the end of 1977 and were effective in reducing noise levels.
3. The mill was expanded in 1977 with several new pieces of equipment being added. The company was notified that the expansion could result in further noise violations, but apparently chose to proceed without recommended noise abatement measures being incorporated into the expansion.
4. Noise violations were again recorded in February 1979. The new violation was largely the result of new equipment added during the mill expansion.
5. Murphy Company has proposed to reduce noise levels to meet the daytime standards, at an estimated cost of \$51,350 (\$58,050 DEQ).
6. Murphy Company has requested a variance to allow 2 1/2 hours per day operation in excess of nighttime noise standards (OAR 340-35-035(1)(a)). In their opinion, the added cost of \$15,800 is not justified considering they only operate the mill for 2 1/2 hours during the nighttime. In addition, the company cites the increased maintenance time that will result if the conveyors are enclosed as required to fully comply.
7. The Commission is authorized to grant variances from noise regulations under ORS 467.060, and OAR 340-35-100, provided that certain conditions are met. Murphy Company is applying for a variance based on financial hardship, and that the additional noise abatement measures will be impractical.
8. In the Department's opinion, Murphy Company has not met the conditions for a variance.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the request for a variance be denied.

Mr. F. Glen Odell, Seton, Johnson and Odell Consulting Engineers, testified they had been working on the problem since 1976. Noise at the residence of the main complainant was within standards, he said, however standards were exceeded elsewhere. Mr. Odell said the Company had spent much on noise abatement equipment and the main problem was with the debarker equipment. He said additional equipment had been installed on the debarker in an effort to control the noise. Therefore, he continued, the facility was modified and not expanded as the Department maintained.

Mr. Odell said the basis for the Company's request was not cost, but that strict compliance was unreasonable and burdensome.

Mr. Odell also took issue with the compliance schedule made by Department staff and requested that the Company be allowed to submit an alternate schedule. He said the schedule made by Department staff would only allow the mill three months to comply, and more time was needed.

Mr. Odell said that no other sawmill in the State had as stringent noise standards imposed. The Company has made a substantial effort to comply and was committed to more, he said. Mr. Odell also said the Company was committed to being good neighbors.

Mr. Kevin Murphy, Murphy Veneer Company, said they were receptive to complaints and were trying to comply. He said this was not an economical matter but a practical one.

It was MOVED by Commissioner Densmore, seconded by Commissioner Burgess and carried unanimously, finding that because special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause, a variance be granted Murphy Veneer Company through July 31, 1981. Such variance be conditioned that nighttime noise not exceed daytime standards and the hours of plant operation be limited to 6:00 a.m. to 12:30 a.m. Diesel log loaders must also comply with these variance conditions. The Commission instructed the staff and Company to arrive at a mutually agreeable time schedule and to report back to the Commission in September on the progress or exceptions to variance conditions.

AGENDA ITEM F - VARIANCE REQUEST - CONSIDERATION FOR APPROVAL/DISAPPROVAL OF A VARIANCE FILED BY LANE REGIONAL AIR POLLUTION AUTHORITY (LRAPA)

A variance from LRAPA Rules Title 22, Section 22-045(1) and Title 32, Section 32-005(B) for Allis-Chalmers Company and Lane County operators of the Lane County Resource Recovery Facility has been filed for EQC consideration pursuant to ORS 468.345(3).

The Board of Directors of the Lane Regional Air Pollution Authority granted a variance to operate the air classification system at the Lane County Resource Recovery Facility without highest and best practicable controls and without a compliance schedule. This variance is valid only until the source can be tested and control equipment installed. Department regulations provide for Commission review of variances granted by regional authorities and this variance is presented for the Commission's approval, denial or modification.

Summation

1. Allis-Chalmers Company and Lane County requested a variance from LRAPA rules (32-005-B and 22-045-1) to operate the Lane County Resource Recovery Facility air classification system without controls until testing can be done and controls designed and installed.
2. The Board of Directors of the Lane Regional Air Pollution Authority approved a conditional variance on July 11, 1979.
3. LRAPA submitted the variance to the Department on July 26, 1979 for consideration by the Commission.
4. The Commission is authorized by ORS 468.345(3) to approve, deny, or modify variances submitted by regional authorities.
5. Requiring installation of control equipment prior to operation and testing of the air classification system would constitute an unreasonable financial burden on the facility because of the potential for installation of an oversized and more expensive control system than would otherwise be required.

Director's Recommendation

Based upon the findings in the summation, it is recommended that the Commission approve the variance and conditions granted to the Lane County Resource Recovery Facility by the Lane Regional Air Pollution Authority Board of Directors.

It was MOVED by Commissioner Densmore, seconded by Commissioner Burgess and carried unanimously that the Director's Recommendation be approved.

AGENDA ITEM G - VARIANCE REQUEST - REQUEST BY WEYERHAEUSER COMPANY'S LUMBER MILL AT BLY, OREGON FOR A VARIANCE FROM FUEL BURNING EQUIPMENT LIMITATIONS (OAR 340-21-020(1)(b))

Weyerhaeuser has requested a variance to operate their hogged fuel boiler in excess of the grain loading limit for new sources. This boiler was built in 1947, moved to Bly in 1976 and therefore meets the Department's definition of new source. Weyerhaeuser had demonstrated that the boiler can comply with the grain loading limit for existing sources and the opacity limit for new sources. Weyerhaeuser has based their variance request on the excessive cost of control equipment necessary to meet the limits for new sources.

Summation

1. Weyerhaeuser Company has requested a variance from OAR 340-21-020(1)(B), Fuel Burning Equipment Limitations for the operation of the Sterling hogged fuel boiler at their Bly sawmill.
2. The Commission has the authority, under ORS 468.345, to grant a variance from a rule which it finds unreasonable, burdensome or impractical.

3. The boiler has been source tested and can operate at 0.13 gr/SCF. The limit for "new sources" is 0.1 gr/SCF. The limit for "existing sources" is 0.2 gr/SCF. Visible emission observations indicate that the boiler can comply with the "new source" opacity limit of 20 percent.
4. Weyerhaeuser has estimated and the Department concurs that the capital costs of controls to meet the 0.1 gr/SCF limit may be in excess of \$800,000 and operating costs may be in excess of \$100,000 per year.
5. Ambient sampling results indicate that the Bly airshed is well within the ambient air standard set by the State of Oregon and EPA.
6. The boiler has demonstrated an ability to comply with the proposed variance limits of 0.13 gr/SCF and 20 percent opacity and is not causing any fallout or similar air quality problems.
7. The Department has concluded that the operation of the boiler as tested, as observed since the test and in compliance with the proposed variance conditions, will not cause significant degradation of the airshed.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission grant a variance from OAR 340-21-020(1)(B), Fuel Burning Equipment Limitation, to Weyerhaeuser Company for the Sterling hogged fuel boiler at the sawmill in Bly, Oregon subject to the following conditions:

- A. Particulate emissions shall not exceed 0.13 gr/SCF corrected to 12 percent CO₂.
- ~~B. Visible emissions shall not exceed 20 percent opacity for more than three minutes in any one hour.~~
- C. If the Department determines that the boiler is causing an adverse environmental impact, this variance may be revoked.
- D. This variance is granted to the Sterling boiler for the operating life of the Sterling boiler at this location.

It was MOVED by Commissioner Burgess, seconded by Commissioner Densmore and carried unanimously that the Director's Recommendation be approved.

AGENDA ITEM H - FIELD BURNING - PUBLIC HEARING TO CONSIDER ADOPTION AS PERMANENT RULES AMENDMENTS TO OAR 340-26-005 and 26-015 ADOPTED AS TEMPORARY RULES JUNE 29, 1979 and AUGUST 6, 1979; AND SUBMISSION TO EPA AS A STATE IMPLEMENTATION PLAN (SIP) REVISION

This is the first of two proposed public hearings relating to modification of rules for open field burning. Permanent rules revision are proposed to respond to concerns of both the Environmental Protection Agency and the City of Eugene. Due to the nature of the rules revision, requests from these groups, and the limited scope of the notice for this public hearing, a second hearing is proposed for the September 21, 1979 meeting. This staff report identifies the changes proposed for each of these public hearings.

Summation

The Environmental Protection Agency (EPA) Region X, has reviewed the Department's proposed revision to Oregon's Clean Air Act State Implementation Plan (SIP) and has requested additional clarification and changes affecting field burning regulations and procedures. In addition, in view of the potential for burning 180,000 acres as a result of an executive order issued by Governor Atiyeh, the City of Eugene has asked for revisions to certain field burning regulations. Due to the limited scope of the public notice given regarding this August 31, 1979 public hearing, some of the requested rule revisions are proposed for public hearing at the Environmental Quality Commission's September 21, 1979 meeting.

At this August 31, 1979 public hearing, the Department proposes for EQC adoption:

1. A revision to OAR 340-26-015(2), as shown in Attachment II of the staff report, to redefine the term quota and specifically provide authority for issuance of single, multiple, or fractional quotas. The language of the proposed revisions would better reflect actual operating procedures.
2. A revision to OAR 340-26-005 and 26-015(4)(e)(A), as shown in Attachment II of the staff report, to define a perimeter lighting technique and to require the use of perimeter lighting on perennial grasses and into-the-wind striplighting on annual grasses and cereal grain crops.

The requirements may be waived in the event of a mixing depth of 5,000 feet or greater, due to the relatively lower amount of ground level smoke of perimeter lighting, the relatively lower emissions of into-the-wind striplighting, and the use of a form of perimeter lighting under good ventilation conditions, the rule revision is proposed as continuous emission control.

3. A revision to OAR 340-26-015(1)(c), as shown in Attachment II of the staff report, to clarify the current wording such that prohibition conditions are in effect whenever northerly winds exist and vertical mixing is less than or equal to 3,500 feet.

At the proposed September 21, 1979 public hearing, the Department would propose rule revisions as shown in Attachment III of the staff report to:

4. Modify OAR 340-26-005 to define "Unlimited Ventilation Conditions."
5. Modify OAR 340-26-013(6)(a) to allow up to 7,500 acres of experimental burning to be conducted each year.
6. Delete OAR 340-36-013(1)(c) and remove the Commission's authority to set annual acreage limitation under administrative rules.
7. Modify OAR 26-015(4)(f) to implement the 50/65 percent maximum relative humidity restrictions on burning under forecast northerly and southerly winds respectively. Such restrictions would be based upon the nearest measuring station.
8. Modify OAR 26-015(4)(d)(B) to prohibit the burning of South Valley priority acreages upwind of the Eugene/Springfield area.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission take the following action:

1. Acknowledge as of record the consultation with and recommendations of Oregon State University, as presented at the public hearing, and the Department and any other parties consulted pursuant to ORS 468.460(3).
2. ~~Subject to any changes found appropriate as a result of the August 31, 1979 public hearing, recommendations made to the Commission or findings reached at this meeting, adopt the proposed amendments to OAR Chapter 340, Sections 26-005 and 26-015, identified under items 1, 2 and 3 of the Summation, as rules to become effective immediately upon filing with the Secretary of State.~~
3. Instruct the Department to file promptly the adopted rules with the Secretary of State as permanent rules to become effective immediately upon such filing and to forward the rules and other pertinent information to the EPA as a supplement to the previously submitted revision to Oregon's Clean Air Act State Implementation Plan.

Mr. Terry Smith, City of Eugene, and Mr. Dave Nelson, Oregon Seed Growers Association, appeared and presented the following mutually-agreed upon amendment to the proposed rules. Mr. Scott Freeburn of the Department's Air Quality Division said the Department had no objections to the amendment.

Ignition Technique Rule Changes

1. OAR 340-26-005(18) is amended to read:

"Perimeter burning" means a method of burning fields in which all sides of the field are ignited as rapidly as practicable in order to maximize plume rise. Little or no preparatory backfire burning shall be done.

2. OAR 340-26-005(19) through 26-005(27) are renumbered to be OAR 340-26-005(20) through 26-005 (28) respectively, and a new OAR 340-26-005(19) is added to read:

"Regular headfire burning" means a method of burning fields in which substantial preparatory backfiring is done prior to ignition of the upwind side of the field.

3. OAR 340-26-015(4) (e) is amended to read:

(e) Restrictions on burning techniques.

(A) The Department shall require the use of into-the-wind striplighting on annual grass seed and cereal crop fields when fuel conditions or atmospheric conditions are such that use of into-the-wind striplighting would reduce smoke effects, and specifically the Department shall require such use when,

(i) Burning occurs shortly after restrictions on burning due to rainfall have been lifted or when the fields to be burned are wet; or

(ii) It is estimated that plume rise over 3500 feet will not occur.

(B) The Department shall require the use of perimeter burning on all dry fields where no severe fire hazard conditions exist and where striplighting is not required. "Severe fire hazards" for the purposes of this subsection means where adjacent and vulnerable timber, brush, or buildings exist next to the field to be burned.

(C) The Department shall require regular headfire burning on all fields where a severe fire hazard exists.

It was MOVED by Commissioner Densmore, seconded by Commissioner Burgess and carried unanimously that the Director's Recommendation as amended by Mr. Smith and Mr. Nelson be approved.

AGENDA ITEM L - PROPOSED FISCAL YEAR 80 SEWERAGE WORKS CONSTRUCTION GRANTS PRIORITY CRITERIA AND MANAGEMENT SYSTEM

The priority system includes an overall management strategy and a set of priority criteria for ranking of identified sewerage works construction needs throughout the State. The State's project priority list will be developed and managed in accordance with this priority system. Additionally, the priority list will be used to provide federal assistance to eligible projects which are within the fundable range of the State's FY 80 allotment and as determined by federal regulation.

Summation

1. There is an identified need to increase the flexibility within the authority of the current federal regulations to cope with decreased levels of federal funding and soaring inflation in the Sewerage Works Construction Grant Program.
2. The Department offered to the public on June 25, 1979, several specific policy issues which could alter the criteria for ranking projects. Additionally, on August 3, 1979, a Public Hearing was conducted to take testimony on the proposed management system and priority criteria.
3. The proposed State Priority System for FY 80, Attachment C of the staff report, establishes the management system and priority criteria that will be used to develop the project priority list and regulate the certification of projects during FY 80.
4. The State Priority System for FY 80, reflects the public input as well as staff evaluation and analysis of the current priority criteria.

Director's Recommendation

Based on the Summation, the Director recommends:

1. That the State Priority System as presented in Attachment C of the staff report be adopted.
2. That the EQC authorize the Department to hold a public hearing early in October on a draft FY 80 priority list developed in accordance with the adopted priority system.

Mr. David J. Abraham, Clackamas County, appeared regarding the Tri-City Area Regional Program and the Mt. Hood Community Project. He said that opportunities for initiating a new direction in wastewater management in these two project areas would be lost if these programs were not implemented under the FY 80 grant program.

Mr. Abraham believed the priority ranking criteria should encompass a broader scope and that statewide land use planning goals must be addressed. He suggested that the criteria be modified to reinstate the utilization of a discretionary fund in the amount of five to ten percent of the available grant monies. This fund would provide the Director the flexibility to deal with the special circumstances that the rigidity of the proposed criteria was incapable of solving, he continued.

Mr. Abraham's written statement is made a part of the Commission's record on this matter.

Mr. Carl Bright, American Guaranty Life Insurance Company, testified that his Company was developing an area on Mt. Hood. He said the Wemme/Welches area could no longer truck its sewage to Sandy and they need their own treatment facility. He urged that the Mt. Hood projects be raised on the priority list to get funding in FY 80.

Ms. Anne Crockett, Hoodland Chamber of Commerce, also asked that the Mt. Hood projects be funded. She said the community could not grow without a sewage treatment facility.

Ms. Maryanne Hill Clackamas County Planning Commission, asked that Mr. Abraham's suggestions be considered and that the Mt. Hood projects be funded. She also stressed that the area needed a chance to grow.

Mr. William V. Pye, General Manager, Metropolitan Wastewater Management Commission, Eugene/Springfield, said he was uncomfortable with the proposed criteria and urged the Commission to consider other projects that were loosing their federal funds.

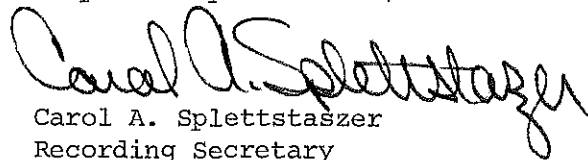
Mr. Denton Kent, Metropolitan Service District, urged revision of the criteria to include projects whose need was great. He asked that pollution control bond funds be used as a supplement to federal funds. Mr. Kent volunteered MSD to work with DEQ to find solutions to the funding problem.

~~Commissioner Densmore supported exploring the use of bond funds as supplemental funding. He asked that staff report be presented to the Commission in September regarding this possibility.~~

It was MOVED by Commissioner Densmore, seconded by Commissioner Burgess and carried unanimously that the Director's Recommendation be approved.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

September 21, 1979

Portland City Council Chambers
1220 Southwest Fifth Avenue
Portland, Oregon

A G E N D A

9:00 am CONSENT ITEMS

Items on the consent agenda are considered routine and generally will be acted on without public discussion. If a particular item is of specific interest to a Commission member, or sufficient public interest for public comment is indicated, the Chairman may hold any item over for discussion.

A. Minutes of the June 29, 1979, July 11, 1979, and August 31, 1979 Commission meetings

~~B. Monthly Activity Report for August 1979~~

POSTPONED

C. Tax Credit Applications

D. Request for Authorization for Public Hearing to consider modifying primary aluminum plant regulations pursuant to OAR 340-25-265(5)

PUBLIC FORUM

9:05 am E. Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

INFORMATIONAL ITEMS

~~9:15 am F. Rogue Valley Mall, Medford--Informational Report on Indirect Source Permit Application~~

G. Amendments to Tax Credit Statutes--Informational Report

ACTION ITEMS

The Commission will hear testimony on these items at the time designated, but may reserve action until the Work Session later in the meeting.

9:45 am H. Variance Request - Request by Lake County for continuation of a variance to allow open burning dumps at Summer Lake, Christmas Valley, Silver Lake, Fort Rock, Plush, Adel, and Paisley (OAR 340-61-040(2)(c))

(MORE)

- 10:00 am I. Field Burning - Public Hearing to consider adoption as permanent rules amendments to OAR 340-26-005, 26-013 and 26-015 adopted as temporary rules June 29, 1979 and August 6, 1979 and submission to EPA as a State Implementation Plan (SIP) revision
- 10:15 am J. DEQ v. Mr. and Mrs. E. W. Mignot - Request to present additional evidence
- 10:30 am K. Appeal of Subsurface Variance Decisions
1. Joel Boyce, Douglas County
 2. ~~Darlene M. Steigleder, Clackamas County~~ POSTPONED
 3. Clark Whitley, Josephine County
 4. Edwin Campbell - Clackamas County (appeal from two decisions)
- 11:00 am L. Log Handling - Consideration of adoption of additional guidelines for log storage in Coos Bay
- M. Water Quality Rule Adoption - Proposed adoption of revisions to Oregon's Water Quality Standards (OAR Chapter 340, Division 4)

WORK SESSION

The Commission reserves this time if needed to further consider proposed action on any item on the agenda.

Because of the uncertain time span involved, the Commission reserves the right to deal with any item at any time in the meeting except those items with a designated time certain. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) in Conference Room A off the Standard Plaza Building Cafeteria, 1100 Southwest Sixth Avenue, Portland. The Commission will lunch ~~in Room 511 off the DEQ Headquarters Offices, 522 Southwest Fifth Avenue, Portland.~~ in room 106 of the Portland City Hall.

MINUTES OF THE ONE HUNDRED THIRTEENTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

September 21, 1979

On Friday, September 21, 1979, the one hundred thirteenth meeting of the Oregon Environmental Quality Commission convened in the Portland City Council Chambers, 1220 Southwest Fifth Avenue, Portland, Oregon.

Present were Commission members: Mr. Albert H. Densmore, Vice-Chairman; Mr. Ronald M. Somers; and Mr. Fred J. Burgess. Chairman Joe Richards was absent. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

The staff reports presented at this meeting which contain Director's recommendations mentioned in these minutes, are on file in the Director's office of the Department of Environmental Quality, 522 Southwest Fifth Avenue, Portland, Oregon.

BREAKFAST MEETING

The Commission met for breakfast at 7:30 a.m. in Conference Room A of the Standard Plaza Building Cafeteria at 1100 Southwest Sixth Avenue, Portland, and discussed the following items without taking any action on them.

1. Subsurface sewage disposal status report for the LaPine area of Deschutes and Klamath counties. Mr. Richard Nichols, Central Region Manager, reported that corrections have been made that the residents seemed to be satisfied with. It was found, he continued, that what was thought to be a permanent high-water table was only temporary.
2. Report on potential use of Pollution Control Bond Fund to finance planning and construction of sewage treatment facilities. Mr. George Lee of the Department's Budget and Planning Section presented the report on this matter which is made part of the Commission's record. Commissioner Densmore requested the staff to follow up with a meeting with the Metropolitan Service District, Association of Oregon Counties, etc. and report back at the next Commission meeting.
3. Status Report on Murphy Veneer compliance schedule. The Commission was given a letter written to the company by the Noise Section outlining the negotiated compliance schedule.
4. Proposed reply to Governor Atiyeh's memorandum on 1979 amendments to the Administrative Procedures Act. Linda Zucker, the Commission's hearing officer, reviewed the Governor's memorandum of September 5 which is made part of the Commission's record. Ms. Zucker indicated there was some question about interpretation of the phrase "unless the hearings officer is authorized or required by law or agency rule to issue an order." She said discussions were in progress between the Attorney General's office and the Governor's office. Commission Somers indicated he did not favor changing the present appeal process.

Ms. Zucker said a response to the Governor would be prepared by October 15 and the Commission would have the opportunity to review and comment before it was sent to the Governor.

5. Status Report on Martin Marietta compliance with Stipulated Consent Order. The company has been instructed to reduce fluoride discharge into the Columbia River. A stipulated consent order has been issued for a schedule to install a Japanese system which reduces fluoride emissions. The company has had problems meeting this schedule due to delays in getting equipment delivered. The company has exceeded their discharge limits but DEQ will not fine them unless the Commission feels otherwise.

FORMAL MEETING

AGENDA ITEM A--MINUTES OF THE JUNE 29, 1979, JULY 11, 1979, AND AUGUST 31, 1979, EQC MEETINGS.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess, and carried unanimously that the minutes of the June 29, 1979, July 11, 1979, and August 31, 1979, meetings be approved as presented.

AGENDA ITEM C--TAX CREDIT APPLICATIONS.

Commissioner Somer's questioned the description of "miscellaneous equipment" in the review report of application T-1099, Bohemia, Inc. Mr. McCall, Bohemia, Inc., indicated a complete audit was submitted with the application. He showed this audit to Commissioner Somers and Commissioner Somers was satisfied with it.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess, and carried unanimously that tax credit applications T-1075 (Seneca Sawmill Company), T-1087 (Edward W. Earnest), and T-1099 (Bohemia, Inc.) be approved.

AGENDA ITEM D--REQUEST FOR AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER MODIFYING PRIMARY ALUMINUM PLANT REGULATIONS PURSUANT TO OAR 340-25-265(5).

The current aluminum plant regulation requires the Commission to review during calendar year 1979 the feasibility of applying "new plant" emission limits to "existing plants." Both Reynolds Metals and Martin Marietta have experienced problems which resulted in neither facility being able to adequately evaluate emissions from their new control system during normal conditions.

The Department is, therefore, requesting authorization to hold a public hearing to consider extending by two years, the date set forth in OAR 340-25-265(4)(b) and (5).

Summation

1. An adequate data base is not available at this time to conduct the required review regarding applying "new plant" emission limits to existing aluminum plants.

2. The Department estimates that two years additional time is needed to accumulate and analyze emission data obtained during normal operating conditions.
3. Subsequent to authorization by the Commission, the Department will hold a public hearing in late November or early December, 1979.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize the Department to hold a public hearing regarding proposed amendments to the primary aluminum plant regulations, OAR 340-25-265(4) (b) and 340-25-265(5).

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

AGENDA ITEM E--PUBLIC FORUM.

Mr. David J. Phillips, Clackamas County Department of Environmental Services, appeared regarding the proposed ban on backyard burning. He asked that this proposal be referred back to the Portland AQMA Committee for further discussion on the questions: (1) what would the result be of the ending of open burning, i.e., would it cause that much reduction in air contaminants; and (2) what would the extent of the ban be--only the metropolitan area? Mr. Phillips also asked how this ban would be applied to rural areas. He proposed that it should only apply completely to the Metropolitan Portland area and only to household waste in rural areas. Mr. Phillips said the solid waste system in Clackamas County had no room for the waste if backyard burning was completely banned.

AGENDA ITEM F--ROGUE VALLEY MALL, MEDFORD--INFORMATIONAL REPORT ON INDIRECT SOURCE PERMIT APPLICATION.

This item is an informational report concerning the indirect source construction permit application for the Rogue Valley Mall. The proposed project is a major regional shopping center which would be located in Medford in the area just south and west of the north interchange with I-5. The developer of the shopping center indicates that it will have a gross leasable area of 764,000 square feet with 3,820 parking spaces provided; five department stores in addition to other retail and commercial activity will be located on the site. The developer has requested consideration of their application by the Commission because the Department indicated that the issuance of a proposed permit based on the application was difficult to justify because of the substantial air quality impact. The Department must either issue the proposed permit or deny the application on or before October 4, 1979.

Mr. Howard Harris, Air Quality Division, presented an amendment to the staff report.

Director Young read into the record a resolution from the City/County Air Quality Liaison Committee of Jackson County stating that the indirect source permit on this project should be approved after one of the two following conditions is met:

1. It is demonstrated that an adequate air quality increment for increased concentration of carbon monoxide emissions can be accommodated without jeopardizing carbon monoxide attainment plans; or
2. The applicants meet the requirements of OAR 340-20-110(16)(k) and that they secure written agreements with the city of Medford as to their stated intent to contribute substantially to the transportation study currently being undertaken by city of Medford; and be further required to seek written agreements with the Rogue Valley Transportation District specifying the amount and type of service to be provided by the district and the financial contributions by the developer to the district as indicated on page 10 of the original application.

This Resolution is made a part of the Commission's record on this matter.

Mr. James Dixon, Northwest Commercial (one of the applicants on this project), testified that they felt the process they went through with the city of Medford for approval of their project was very comprehensive. They were meeting with the Rogue Valley Transportation District to work out service to the mall area. Mr. Dixon said they have made considerable effort to work out all problems and comply with all requirements.

In regard to the proposal that the applicant be required to provide full- or partial-startup funding for the implementation of a mandatory Inspections/Maintenance (I/M) Program in the Medford area, Commissioner Densmore responded that he felt that this was an unreasonable burden to place on an applicant especially when the city and county have not been asked to set up their own I/M Program. Director Young replied that it was probably beyond the developer's capability to set up this program alone but that perhaps partial funding from the developer could be required.

Mr. John Platt, Oregon Environmental Council, testified that the council were strong supporters of the Indirect Source Program and supported the recommendation of a mandatory I/M Program in the Medford area.

Mr. Young emphasized that this was being presented to the Commission on an informational basis and that it was the responsibility of the Director to make a judgment on the issuance of the proposed permit or the denial of one. He asked for guidance from the Commission on how best to approach this matter.

Mr. Young summarized the consensus of the Commission was that the Department move forward on issuing the permit after maximum mitigating efforts have been undertaken. The major mitigating capability of the Department had was to look at some way to bring the I/M Program on line in the Medford area. This might include requiring the developer to participate in some kind of prefunding of an impending mandatory program or the contribution of a like some of dollars to whatever the next best mitigative measure might be approached, assuming that the mandatory program did not come on line.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess and carried with the Commissioner Densmore dissenting that the Director be instructed to issue the permit and institute maximum mitigative measures which may include some prefunding toward a mandatory Inspection/Maintenance Program in the Medford, or some like funding devoted to the next best mitigative measures if the mandatory program did not materialize.

AGENDA ITEM H--REQUEST BY LAKE COUNTY FOR CONTINUATION OF A VARIANCE TO ALLOW OPEN BURNING DUMPS AT SUMMER LAKE, CHRISTMAS VALLEY, SILVER LAKE, FORT ROCK, PLUSH, ADEL, AND PAISLEY (OAR 340-61-040(2)(c))

Lake County has previously been granted a short-term variance from rules prohibiting open burning of solid wastes at disposal sites. The County has requested an extension to July 1, 1980. The staff report discusses the Lake County situation and makes a recommendation regarding the extension.

Summation

1. The Environmental Quality Commission on April 27, 1979, granted a variance to OAR 340-61-040(2)(c) to allow open burning of garbage at seven rural Lake County disposal sites. The Commission extended the variance on June 29, 1979, to expire October 1, 1979. This extension was granted to allow time for staff to negotiate with Lake County.
2. Department staff met with Lake County to determine a schedule for submission of cost and other related information.
3. Lake County has submitted a request for extension of variances to July 1, 1980. This coincides with the budget process for both the city of Paisley and Lake County. The request included some preliminary cost information.
4. The Department concurs with Lake County request. The extension of the variance will provide time for development of accurate cost estimates (for submission to the Department by March 1, 1980) and will allow for reasonable increases in budgets for solid waste disposal to start in a new budget year.
5. Strict compliance at this time would result in probable closure of those disposal sites with no alternative facility or method of solid waste disposal available.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Environmental Quality Commission grant an extension of variances to OAR 340-61-040(2)(c) until July 1, 1980, for Plush, Adel, Paisley, Summer Lake, Silver Lake, Fort Rock, and Christmas Valley subject to the following:

1. Prior to March 1, 1980, a schedule for upgrading the sites to landfills with no further burning or cost figures which justify continued variances be submitted to the Department for review.

2. Staff shall return to the June, 1980, Commission meeting with a recommendation regarding the Lake County solid waste program.

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

AGENDA ITEM I--PUBLIC HEARING TO CONSIDER ADOPTION OF PERMANENT RULES
AMENDMENTS TO OAR 340-26-005, 26-013, AND 26-015 ADOPTED AS TEMPORARY RULES
JUNE 29, 1979, AND AUGUST 6, 1979, AND SUBMISSION TO EPA AS A STATE
IMPLEMENTATION PLAN (SIP) REVISION.

The proposed field burning rule revisions are to be submitted to the Environmental Protection Agency supporting DEQ's field burning SIP package. It is believed these revisions will complete the field burning related portions of the SIP and are approvable by the EPA after the public comment process is complete. The proposed rule revisions are identical to those originally outlined in the August 31, 1979, staff report.

Summation

The Environmental Protection Agency (EPA) Region X has reviewed the Department's proposed revisions to Oregon's Clean Air Act State Implementation Plan (SIP) and has requested additional clarification and changes affecting field burning regulations and procedures. In addition, in view of the potential for burning 180,000 as a result of an Executive Order issued by Governor Atiyeh, the city of Eugene has asked for revisions to certain field burning regulations.

At this September 21, 1979, public hearing the Department hopes to address these requests through rule revisions as shown in Attachment II of the staff report.

1. Modify OAR 340-26-005 to clearly define "Unlimited Ventilation Condition" and delete its definition from OAR 340-26-015;

In combination with rule revisions regulating moisture content and lighting techniques, this clarifying revision is supposed to meet Clean Air Act requirements for continuous emission control of field burning.

2. Modify OAR 340-26-013(6)(a) to allow up to 7,500 acres of experimental burning to be conducted each year rather than for the specific year 1979;
3. Delete OAR 340-26-013(1)(c) removing the Commission's authority to set annual acreage limitation under administrative rules;

The change is proposed to preclude the possible preemption of the EPA Administrator in establishing annual acreage levels.

4. Modify OAR 340-26-015(4)(f) to implement the 50/65 percent maximum relative humidity restrictions on burning under forecast northerly and southerly winds respectively. Such restrictions would be based upon information from the nearest measuring station and be implemented through the daily smoke management burn releases;

5. Modify OAR 26-015(4)(d)(B) to prohibit the burning of South Valley priority acreages upwind of the Eugene/Springfield area and thereby reduce the potential for smoke impact from these acreages.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission take the following action:

1. Acknowledge as of record the consultation with and recommendations of Oregon State University, as presented at the public hearing, and the Department and any other parties consulted pursuant to ORS 468.460(3).
2. Subject to any changes found appropriate as a result of the September 21, 1979 public hearing, recommendations made to the Commission or findings reached after this public hearing, adopt the proposed amendments to OAR Chapter 340, Sections 26-005, 26-013, and 26-015 identified in the Summation as rules to become effective immediately upon filing the Secretary of State.
3. Instruct the Department to file promptly the adopted revised rules with the Secretary of State as permanent rules to become effective immediately upon such filing and forward the rules and pertinent information to the EPA as the supplement to the previously submitted revision to Oregon's Clean Air Act State Implementation Plan.

Mr. Jack Kondrasuk, Oregon Environmental Council testified that OEC was disappointed that agricultural field burning acreage were not reduced further. Also, he said they were concerned that the proposed regulations may tend to switch areas of pollution rather than reduce them. Mr. Kondrasuk expressed the opinion that those areas with greater political influence can have pollution reduced in their areas while those with less political influence have no reduction and bear the brunt of the change by having pollution increased in their areas. He said it would be preferable to have burning restrictions the same throughout the Valley. Mr. Kondrasuk's written statement is made a part of the Commission's record on this matter.

Mr. Terry Smith, city of Eugene, said the city's position had been made clear at past hearings and they supported the staff recommendations.

Mr. Dave Nelson, Oregon Seed Council, testified they had no problem with the majority of the proposed rules except the south priority burning rule. He said there were approximately 5,000 to 8,000 acres in this area that can be burned only under specific conditions. It is possible to these fields burn without impact on Eugene, Mr. Nelson said. He asked for some opportunity for these farmers to sanitize their fields.

Mr. Scott Freeburn, Air Quality Division, said for the record that the Department had conferred with Oregon State University on these proposed rules and they had no comment.

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

AGENDA ITEM I--DEQ vs. MR. AND MRS. E. W. MIGNOT--REQUEST TO PRESENT ADDITIONAL EVIDENCE.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess, and carried unanimously that the Department's Motion to Dismiss be granted, that the Hearing Officer's Findings be sustained, and that Mignot's September 14 request be denied.

AGENDA ITEM K(4)--APPEAL OF SUBSURFACE VARIANCE DECISIONS--EDWIN CAMPBELL, CLACKAMAS COUNTY

This agenda item concerns the appeal of a Variance Officer's decision to deny specific variances from Oregon Administrative Rules pertaining to subsurface sewage disposal systems.

Summation

1. The pertinent legal authorities are summarized in Attachment A of the staff report.
2. Mr. Campbell applied to Clackamas County for soil investigation on two parcels of land.
3. Mr. Polson visited the properties and evaluated the soil to determine if a standard subsurface sewage disposal system could be installed on each. Mr. Polson found an area on each parcel that contained soils meeting the Department's minimum standards except that on one parcel this area was located almost directly within the bounds of the BPA power line right-of-way. The area on the second parcel was located either within the BPA power line right of way or just north of the right-of-way on one of the three proposed lots, while the two remaining proposed lots were not approved.
4. Mr. Morgan requested that the denial and the reasons for the denial be reviewed by the Department's Northwest Regional Office.
5. Mr. Gray reviewed the denial and found the county's decision to be correct. He also concurred with their interpretation of the Department's rule (OAR 340-71-020(1)(k)).
6. Two variance applications were submitted to the Department in April and May, 1978, and were assigned to Mr. Olson.
7. Mr. Olson examined portions of each parcel both in and outside of the BPA right-of-way. He found those areas outside the right-of-way to contain soils with shallow depths to restrictive soil horizons and shallow depths to seasonally perched water tables. The areas within the right-of-way exhibited soil depths which complied with the Department's minimum requirements for drainfield placement.

8. A public information-type hearing was conducted by Mr. Olson so as to allow Mr. Campbell and others the opportunity to supply the facts and reasons in support of the variance request.
9. Mr. Olson reviewed the variance record and found that the testimony provided did not support a favorable decision for either parcel. Mr. Olson was unable to develop a modified subsurface system for either parcel that he believed could reasonably function in a satisfactory manner without creating a public health hazard. He was also unable to find that the Department's rule relating to drainfield placements within areas encumbered by easement to be unreasonable or impractical.
10. Mr. Olson notified Mr. Campbell by letter that his variance requests were denied.
11. Mr. Campbell's attorney filed for appeal of the decision by letter dated July 31, 1979.

Director's Recommendation

Based upon the findings in the Summation it is recommended that the Commission adopt the findings of the Variance Officer as the Commission's findings and uphold the decision to deny the variances.

Commissioner Somers stated that subsurface systems are being installed in Clackamas County within BPA easements without any problems. He said the BPA easement could not forbid a system under the ground beneath power lines, Director Young replied that the BPA easement allowed maintenance of the power lines, and the equipment necessary to do this maintenance might damage a system under the ground.

Mr. Ray Underwood, Department of Justice, summarized the legal issue. He said the rule provided that "before approval of any lot or parcel for subsurface sewage disposal was granted, it must be determined that the proposed drainfield site and the replacement site are free from encumbrances that might in the future prevent that site from being used for disposal or encumbrances that might in the future cause physical damage to occur to the system."

Mr. Underwood said the question was whether there could be a variance from that rule in view of those particular circumstances. He said the question was not whether or not the system could be installed pursuant to the BPA easement--it could be put in--but if by being put in, it was subject to damage in the future through BPA's exercise of its lawful rights under the easement.

Mr. Terry Morgan, attorney representing Edwin Campbell, testified that the property had no value without a variance for a subsurface system. He said all variance criteria had been met in this case. Commissioner Burgess said it seemed to be unreasonable, burdensome, and impractical to deny the use of the land within an easement if it otherwise meets all the requirements for a subsurface disposal field and if the risk is low

and there is some mechanism so that future property owners are fully aware of the fact that they are totally responsible for repairing, replacing, and improving the system, if it is damaged because of use within that easement.

It was MOVED by Commissioner Somers to overrule the Variance Officer's decision and grant the variance on condition that prior to the issuance of any permit there be evidence that there is recorded in the deed records of Clackamas County the conditions of the variance, an affidavit of the owner, and the copies of the two letters from BPA setting forth the conditions of the easement, so that any lender or future purchaser would have knowledge from the deed records. Commissioner Burgess seconded the motion with the understanding that the system meet all other requirements for a variance. The motion passed unanimously.

AGENDA ITEM K(1)--APPEAL OF SUBSURFACE VARIANCE DECISION--JOEL BOYCE, DOUGLAS COUNTY

This matter also deals with appeal of a Variance Officer's decision to deny specific variances from the Oregon Administrative Rules pertaining to subsurface sewage disposal systems.

Summation

1. The pertinent legal authorities are summarized in Attachment A of the staff report.
2. Mr. Boyce submitted an application for site evaluation to Douglas County.
3. Mr. Greg Farrell, visited the property and evaluated the soils to determine if the standard subsurface sewage disposal system could be installed. He observed that the proposed site had excessive ground slopes. He, therefore, found that the site was not approvable for installation of a standard subsurface sewage disposal system.
4. Mr. Boyce's variance application was found to be complete on January 26, 1979, and was assigned to Mr. Baker.
5. On the morning of March 12, 1979, Mr. Baker examined Mr. Boyce's proposed drainfield site and found that it was located within an area of potential land movement and limited useable area.
6. On the afternoon of March 12, 1979, Mr. Baker conducted a public information-type hearing to allow Mr. Boyce and others the opportunity to supply the facts and reasons to support the variance request.
7. Mr. Baker reviewed the variance record and found that the testimony provided did not support a favorable decision. He further determined that he was not able to modify the variance proposal to overcome the site limitations.

8. Mr. Baker notified Mr. Boyce by letter dated May 11, 1979, that his variance request was denied.
9. Mr. Boyce filed for appeal of the decision by letter dated May 29, 1979.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the findings of the Variance Officer as the Commission's findings and uphold the decision to deny the variance.

No one was present to testify on this matter.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess, and carried unanimously that the Variance Officer's decision be sustained.

AGENDA ITEM K(3)--APPEAL OF SUBSURFACE VARIANCE DECISION--CLARK WHITLEY, JOSEPHINE COUNTY

No one was present to testify on this matter.

Summation

1. The pertinent legal authorities are summarized in Attachment A to the staff report.
2. Mr. Whitley submitted an application for a domestic sewage disposal permit on September 19, 1973.
3. Mr. John Skyles approved the domestic sewage disposal permit which was issued on September 25, 1973. The expiration date on the permit was March 25, 1974.
4. Mr. Whitley applied for both the site evaluation and subsurface sewage disposal permit on June 21, 1978.
5. Mr. Hollis Gunther visited the site on two occasions and evaluated the site for subsurface sewage disposal suitability. He observed a permanent water table to be present at a depth of 5 1/2 feet from the ground surface. The site was found to be unapprovable for a standard subsurface sewage disposal system. The permit application fee was refunded to Mr. Whitley on August 3, 1978.
6. Mr. Whitley submitted an incomplete variance application to the Department on September 13, 1978.
7. Mr. Whitley's application was found to be complete on April 10, 1979, and assigned to Mr. David Couch on April 11, 1979.
8. On May 10, 1979, Mr. Couch examined Mr. Whitley's proposed drainfield site and found that a permanent water table could be expected to rise within 30 inches of the ground surface.

9. Mr. Couch conducted a public information-type hearing on May 10, 1979, so as to allow Mr. Whitley and others the opportunity to supply the facts and reasons to support the variance request.
10. Mr. Couch reviewed the variance record and found that the testimony provided did not support a favorable decision. He determined that he was not able to modify the proposal to overcome the site limitations.
11. Mr. Couch notified Mr. Whitley by letter dated June 11, 1979, that his variance request was denied.
12. Mr. Whitley filed for an appeal of the decision by letter dated June 23, 1979.

Director's Recommendation

Based upon the findings in the Summation it is recommended that the Commission adopt the findings of the Variance Officer as the Commission's findings and uphold the decision to deny the variance.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess, and carried unanimously that the Variance Officer's decision be sustained.

AGENDA ITEM L--CONSIDERATION OF ADOPTION OF ADDITIONAL GUIDELINES FOR LOG STORAGE IN COOS BAY

The Department has completed a biological study in the Coos Bay on the affect of intertidal log storage of organisms living in the tideflats. Based on the work done, the Department proposed revisions to the log handling policy dealing with the location and manner of storing logs.

Summation

1. In October 1975, the EQC adopted a statement of policy regarding log handling in Oregon's public waters. Section 4 of this policy statement required phaseout of tideland log storage (where logs go aground on tide change) if more than nominal damage to aquatic life and/or water quality result. Section 7 required that storage times in water be minimized but established no firm time limit.
2. The Department completed the study in Coos Bay in December, 1978, which demonstrated significant damage to aquatic life in the areas where stored logs go aground. Fishery agencies support a conclusion of significant damage to aquatic life.
3. Industry views the damage as insignificant when compared to the productivity of unaffected tideland in the Coos Bay Estuary.
4. The Department has investigated apparent alternatives to tideland storage and believes options are available to reduce, but not eliminate tideland storage in the near future. However, futher site specific evaluation is necessary to develop the details and determine the practicability of alternatives.

5. The Department has identified three alternative management strategies for Commission consideration based on the desirable, long-range goal of protecting and enhancing estuary aquatic productivity.

Director's Recommendation

Based on the summation, the Director recommends that Sections 4 and 7 of the Statement of General Policy of the October 1975, EQC-adopted program, and Policy on Log Handling on Oregon's Public Waters be amended to read as follows to establish a systematic long-range approach for minimizing tideland storage of logs in public waters:

4. Establishment of new log storage areas where logs go aground on tidal or low flow cycles will not be approved by the Department without specific authorization of the Environmental Quality Commission.
[Where there is evidence that such areas result in more than nominal damages to aquatic life and/or water quality, phased-out in accordance with approved schedule unless specific authorization for continuance is granted by the Commission in consideration of environmental trade-offs. Any phase-out program taking more than five years shall be subject to approval by the EQC.]

In order to protect and enhance aquatic productivity, existing storage areas where logs go aground on tidal changes or low flow cycles shall be minimized in an orderly fashion as follows: (a) within 120 days affected industries shall submit to the Department for approval a proposed program and time tables for minimizing the tideland areas impacted by loose log storage. Any program taking longer than two years to implement shall be approved by the EQC. (b) Prior to the EQC sign-off on each application to the Corps of Engineers and/or Division of State Lands for a permit to place or replace piling for log-raft mooring, the applicant shall provide evidence to DEQ that storage where logs go aground will be minimized. No approval for replacement of pilings in areas where logs go aground will be granted without substantial evidence that no other alternative exists. Any adverse decision of the Department may be appealed to the Commission.

7. The inventory of logs in public waters for any purpose shall be kept to the lowest practicable number for the shortest practicable time considering market conditions and the quality of the water at the storage site. Storage for longer than 12 months shall be approved by the Department. Prior to Department approval, the applicant must submit information demonstrating the need for such storage, the location and anticipated duration of storage, the alternatives investigated to minimize tideland storage, and the demonstration that no other practicable alternative is available.

In addition to the above proposed amendments to the policy, it is recommended that the staff work with industry to determine the economic and physical feasibility and environmental benefits of further reductions in tideland storage through bundling of logs. A report shall be submitted to the EQC within one year.

Commissioner Somers noted for the record that the Commission had received letters from Southwest Oregon Central Labor Trades Council, Weyerhaeuser, Georgia Pacific, Knutson Towboat Company, Coos Head Timber Company, and those letters are made a part of the Commission's record on this matter.

Ms. Marrie Buel, Governmental Affairs Coordinator for Oregon Environmental Council, requested stronger control measures than those outlined in the staff report. She said they realized that the economic burden which immediate elimination of water storage of logs would impose, but the cost of elimination of the damaging practice would not make it right. Ms. Buel's statement is made part of the record on this matter. Ms. Buel also read into the record a letter from The Association of Northwest Steel-headers which also asked for stronger measures.

Mr. Harold Hartman, Industrial Forestry Association, testified that all means of transporting and storage of logs need to remain available to industry. He said the Director's commitment to not eliminate log storage seemed to be contradicted by the staff report. There is no evidence that the impact of removal of logs would be significant. Mr. Hartman also presented a letter from the Menasha Corporation expressing their belief that the present policy provides sufficient latitude in which to regulate existing mills and their log storage operations. This letter is made a part of the Commission's record on this matter.

Mr. Michael Houck, Audubon Society of Portland, urged the Department to place more stringent restrictions on the storage of log rafts in the estuarine ecosystems. Mr. Houck's written statement is made a part of the Commission's record on this matter.

Mr. Al Mick, International Paper Company, testified that although the staff report said these guidelines would affect only Coos Bay, they would have impact statewide. He said he had not had adequate time to review the staff report and requested a delay until others in the state concerned with these guidelines could be notified.

Ms. Nancy Hoover, League of Women Voters, testified in support of the amendments to the Log Handling Policy. Her written statement is made a part of the Commission's record on this matter.

Mr. Howard B. Mellors, Crown Zellerbach, expressed concern that a local matter in Coos Bay might require a statewide policy amendment. He also stated that they did not have adequate time to prepare for this meeting. Mr. Mellors said they believed a change in the statewide guidelines at this time was inappropriate.

A statement was submitted from the Oregon Department of Fish and Wildlife which supported the staff recommendation on this matter. This statement is made a part of the Commission's record.

Mr. George Grove, Director, Port of Astoria, assumed these guidelines would affect Astoria. He said the proposed amendments would have an adverse impact on the Port of Astoria and urged delay until the impact could be fully assessed.

Mr. Don O. Corkill, Clatsop County Commissioner, appeared on behalf of the Oregon Coastal Zone Management Association. He presented the following recommendations of the Association:

1. That the EQC delay action on the proposed amendments regarding log handling.
2. That the Oregon Coastal Zone Management Association be given an opportunity to work with DEQ personnel toward resolution of concerns with the proposed amendments.
3. That the EQC give attention to the relationship of the proposed policy amendments to the on-going comprehensive planning efforts.
4. That an opportunity be provided for affected parties (exclusive of the Coos Bay area) to review and provide input on the proposed policy amendments.
5. That DEQ staff meet with CREST to develop coordination of the Oregon Log Storage Policy and CREST log storage problem.

Mr. Corkill's written statement is made part of the Commission record.

Mr. John McGhehey, Georgia Pacific, testified in opposition to the proposed amendments and recommended that the only action that the Commission take would be to affirm the adequacy of the existing log handling practices established in 1975 and let the Fish and Wildlife Commission pursue the question of whether or not log storage is adversely affecting the total productivity of estuaries in Oregon. Mr. McGhehey's written statement is made a part of the Commission record.

Ms. Sandra Diedrich, Director of Coos/Curry Council of Government, urged the Commission to hold further consideration of revisions to its policies until the issue has been properly addressed and the Coos Bay Estuary Management Planning Process. Ms. Diedrich's written statement is made a part of the Commission's record.

Mr. R. B. Herrmann, Weyerhaeuser, presented technical testimony on the impact of log storage in Coos Bay. He determined that the grounding of logs was not significant in fish population. Mr. Herrmann's written statement is made a part of the Commission's record.

Mr. John Knutson, Knutson Towboat Company, Coos Bay, presented an aerial photograph of the Coos River log handling system. He testified that the EQC's current policy provided DEQ with sufficient regulatory authority and opposed the new amendments. Mr. Knutson's written statement is made a part of the Commission's record.

Mr. C. Wylie Smith, Coos Head Timber Company, testified in opposition to the proposed amendments to the guidelines. Mr. Smith's written statement is made a part of the Commission's record.

Mr. Bob Howry, Weyerhaeuser, said the aquatic productivity in the Coos Bay estuary was adequately protected by the existing policy and permit process and areas where logs go aground have already been minimized. He said Weyerhaeuser would support deep water storage providing adequate

protection was afforded. He said no policy change should be considered until alternative deep water storage areas which afforded adequate protection could specifically be identified. Mr. Howry's written statement is made a part of the Commission's record.

Mr. Douglas Keim, Southwest Oregon Central Labor Council, testified in opposition to the proposed amendments and expressed concern that if adopted, the proposed amendments to the log storage guidelines would put people out of jobs. Mr. Keim's written statement is made a part of the Commission's record.

Mr. John Foss, Al Peirce Lumber Company, testified in opposition to the proposed amendments to the log storage guidelines.

Mr. Harold L. Walton, International Woodworkers of America, expressed concern that proposed amendments would put people in the area out of jobs. He was opposed to the adoption of the proposed amendments. Mr. Walton's written statement is made a part of the Commission's record.

Mr. Jeff F. Kaspar, Port of Coos Bay, testified that they recognized the efforts of DEQ to protect the states waters, but felt that in view of resultant economic hardships and the existence of adequate restrictions, no change in the current log storage areas or methods should be allowed. Mr. Kaspar's written statement is made a part of the Commission's record.

Mr. Milo Summerville, International Woodworkers of America, opposed adoption of the amendments to the log storage guidelines and expressed concern that if adopted, it would mean a loss of jobs in the area.

Mr. Greg Baker, Oregon Department of Economic Development, said they were concerned that the proposed guidelines would have an inordinate economic impact on the Coos Bay area while achieving only small benefits to the enhancement of the Coos Bay estuary. They opposed adoption of the guidelines. Mr. Baker's written statement is made a part of the Commission's record.

Mr. Jeff Campbell, Coos Bay Log Patrol, testified in opposition to the proposed guidelines. He said there was a possibility of public liability if the logs were moved to unsafe deep water storage. He asked if this was a policy or a rule. He maintained that the present policy was being implemented as a rule. Mr. Campbell also stated that notice of this meeting was not in conformance with the Administrative Procedures Act because inadequate notice was given to other areas of the state which would be effected by the guidelines.

Ms. Barbara Burton, DEQ Southwest Region, said there was no chance that the proposed amendments to the log storage guidelines would result in mill closure. She said that the Department was sympathetic to the economic hardship to sawmills and the proposed guidelines take that into account.

Commissioner Somers said that the Commission was sympathetic to the testimony received on this matter but that these guidelines would not result in mill closure. He suggested that perhaps some rulemaking might need to be undertaken on this matter.

It was MOVED by Commission Somers that the Director's recommendation be approved, and realizing the specific uniqueness of the report and studies to the Coos Bay area, have it apply at this time only to the Coos Bay area because of the notice. Further, the Department be directed to meet with other concerned areas of the state to promulgate similar policies or rules or further amendments to the guidelines and report back to the Commission as soon as possible. It was also moved to make the following wording change in the proposed amendment to 4 as follows:

In order to protect [and enhance aquatic productivity] beneficial uses of estuarine waters and water quality existing storage areas...

No approval for replacement piling in areas where the logs go aground will be granted without substantial evidence that no other reasonable alternative exists.

The motion was seconded by Commissioner Burgess who specified that the DEQ policy was an interim policy until such time as comprehensive plans, in which DEQ and all other agencies and interested parties participate, concerning the activities within the estuaries as to specific activities in specific places are adopted.

The motion was passed unanimously.

AGENDA ITEM M-PROPOSED ADOPTIONS OR REVISIONS TO OREGON'S WATER QUALITY STANDARDS (OAR Chapter 340, Division 4).

The U.S. Environmental Protection Agency (EPA) disapproved and requested revision of some of the standards adopted by the Commission in December 1976, by letter to the Governor dated July 18, 1977. EPA requested changes in three areas to permit their full approval of Oregon standards: (1) anti-degradation expansion and clarification, (2) clarification of procedures for granting variances in temperature and turbidity standards to accommodate essential instream construction or elimination of such variances, and (3) relaxation of total dissolved gas standard to be consistent with adjacent states. EPA also, by separate communication, urged the Department to consider more specific standards relative to toxics and consider substitution of fecal coliform standards for the present coliform standards. The Department has employed the public participation process to make the revisions necessary for EPA approval of these standards which are proposed to the Commission for adoption at this meeting.

Summation

1. For EPA approval of Oregon standards, the revisions are necessary for six water quality standards as follows:
 - a. Antidegradation policy expansion and clarification.
 - b. Clarification of procedures for granting variances for the:
 - (1) Temperature Standard
 - (2) Turbidity Standard

- c. Relaxation of the total dissolved gas standard to be consistent with adjacent states.
 - d. Substitution of a Fecal Coliform Standard for the Total Coliform Standard.
 - e. Consideration of more specific standards for Toxic substances.
2. The Department employed the following public participation process in revising the standards.
- a. Issue papers and possible alternatives were developed and circulated to governmental agencies and the public for review.
 - b. Comments received were evaluated and further revisions to the standards were proposed.
 - c. The second set of draft proposals were circulated for review and comment in April, 1979. Also included in this mailing was a public notice announcing the scheduled public hearings in June, 1979.
 - d. Four public hearings were held in Portland, Roseburg, Bend, and Pendleton between June 4 and 7, 1979, and the record was left open through June 18, 1979, to receive additional testimony.
 - e. Evaluation of hearing testimony and development of recommended standards revisions are consistent with input from the interested public and governmental agencies.

Director's Recommendation

Based upon the summation, it is recommended that the Commission approve the revisions as proposed for each of the six Water Quality Standards.

Ms. Llewellyn Matthews, Northwest Pulp and Paper Association, presented some concerns regarding the proposed rules. In regard to background, Ms. Matthews said that where background is greater than standard, it is standard. They were concerned that any industry on that body of water would not be able to discharge at all because any discharge would result in conditions worse than background. She referenced EPA's quality criteria for water and said EPA did not recommend that its criteria be used as standard as the rules propose.

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

AGENDA ITEM G - INFORMATION REPORT ON AMENDMENTS TO TAX CREDIT STATUTES

The 1979 Legislature made several changes to the Pollution Control Facilities Tax Credit Statutes. The purpose of this report was to inform the Commission of those changes and to determine what improvements to the tax credit program, if any, the Commission would like the Department to initiate to aid in its administration.

Commissioner Somers was concerned that no rules had ever been adopted to administer the tax credit program. So far, he said, there had been no problems. He asked for a Department of Justice opinion on the need for rules.

Mr. Ray Underwood, Department of Justice, responded that no rules were necessary because it would be impossible to improve on the specificity of the statutory authority. However, he did indicate it would be a good idea to document past decisions.

No action of the Commission was necessary on this item.

There being no further business, the meeting was adjourned.

Respectfully Submitted,



Carol A. Splettstaszer
Recording Secretary

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

October 19, 1979

Portland City Council Chambers
1220 Southwest Fifth Avenue
Portland, Oregon

A G E N D A

9:00 am CONSENT ITEMS

Items on the consent agenda are considered routine and generally will be acted on without public discussion. If a particular item is of specific interest to a Commission member, or sufficient public interest for public comment is indicated, the Chairman may hold any item over for discussion.

- A. Minutes of September 21, 1979, Commission meeting
- B. Monthly Activity Report for August 1979
- C. Tax Credit Applications
- D. Request for authorization to conduct a public hearing on proposed changes to OAR 340-12-050, Air Quality Schedule of Civil Penalties.
- E. Request for authorization to conduct a public hearing on proposed amendments to exempt forestry operators from Noise Control Regulations for Industry and Commerce, OAR 340-35-035.
- F. Request for authorization to conduct a public hearing on proposed amendments to rules governing construction and use of waste disposal wells, OAR 340-44-005 through 44-045.
- G. Request for authorization to conduct a public hearing on the question of amending rules governing Subsurface and Alternative Sewage Disposal by adding a new section for sand filter systems, OAR 340-71-037(4).

PUBLIC FORUM

- 9:15 am H. Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

ACTION ITEMS

The Commission will hear testimony on these items at the time designated but may reserve action until the Work Session later in the meeting.

- I. Request for approval of fiscal year 1980 Sewerage Works Construction Grants Priority List.

(MORE)

- 10:00 am J. Proposed adoption of Noise Control Regulations for Airports, OAR 340-35-045; Amended Definitions, OAR 340-35-015; and Airport Noise Control Procedure Manual, NCPS-37.
- 11:00 am K. DEQ vs. Howard Jones -- contested case review.

INFORMATIONAL ITEMS

- L. Informational Report: Status of research on the public health effects of field burning smoke.

WORK SESSION

The Commission reserves this time if needed to further consider proposed action on any item on the agenda.

Because of the uncertain time span involved, the Commission reserves the right to deal with any item at any time in the meeting except those items with a designated time certain. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) in Conference Room A off the Standard Plaza Building Cafeteria, 1100 Southwest Sixth Avenue, Portland. The Commission will lunch in Room 321 of the Portland City Hall.

MINUTES OF THE ONE HUNDRED FOURTEENTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

October 19, 1979

On Friday, October 19, 1979, the one hundred fourteenth meeting of the Oregon Environmental Quality Commission convened in the Portland City Council Chambers, 1220 Southwest Fifth Avenue, Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Mr. Albert H. Densmore, Vice-Chairman; Mr. Ronald M. Somers; and Mr. Fred J. Burgess. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

The staff reports presented at this meeting which contain Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 Southwest Fifth Avenue, Portland Oregon.

BREAKFAST MEETING

The Commission met for breakfast at 7:30 a.m. in Conference Room A off the Standard Plaza Building Cafeteria at 1100 Southwest Sixth Avenue, Portland, and discussed the following items, taking action as indicated.

1. Report on meeting with MSD and League of Oregon Cities regarding Pollution Control Bond Fund. Mr. George Lee of the Department's Budget and Management Section, presented a report to the Commission regarding this meeting which offered some suggestions about the use of the Pollution Control Bond Fund.
2. Letter permit to PGE for operation of Bethel Plant. The Department had received a request from Portland General Electric Company to operate their Bethel plant while natural gas supply was plentiful and oil in short supply in lieu of operating its Beaver plant, and while the Trojan Nuclear Plant was shut down for maintenance. The Commission was informed that PGE planned to appear at the Public Forum section of the formal meeting to present this request.
3. Status report on population projections used for the sewerage works construction grants program. Mr. Tom Lucas of the Department's Water Quality Division presented a report to the Commission regarding this item. The Commission commented that a state agency responsible for official population projects was needed. It was indicated this item would probably appear as part of the formal agenda in November.
4. Executive Session. The Commission met briefly in Executive Session to discuss a lawsuit regarding the Sewerage Works Construction Grants Priority List.

5. Schedule for updating field burning rules for the 1980 burning season. Mr. Scott Freeburn of the Department's Air Quality Division, told the Commission they wanted to have this scheduled before the Commission for adoption in January or February, 1980, and would be asking for authorization to hold a public hearing at the November 1979 meeting.
6. Status report on Sunrise Village's attempt to form a sanitary district. The Commission was informed that on October 1, 1979, the Deschutes County Commission gave approval for Sunrise Village to form a sanitary district.
7. Date and location of the January and February EQC Meetings. It was decided that the Commission would meet January 25, 1980, and February 29, 1980, in Portland.
8. Request to Governor for Program Evaluation Study. It was the consensus of the Commission that this request proceed to the Governor.

FORMAL MEETING

AGENDA ITEM A - MINUTES OF THE SEPTEMBER 21, 1979, COMMISSION MEETING

It was MOVED by Commissioner Densmore, seconded by Commissioner Burgess and carried unanimously that the minutes of the September 21, 1979, Commission meeting be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR AUGUST 1979

It was MOVED by Commissioner Densmore, seconded by Commissioner Burgess, and carried unanimously that the Monthly Activity Report for August 1979 be approved.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Burgess, seconded by Commissioner Densmore and carried unanimously that the following actions regarding tax credit applications be approved.

1. Pollution Control Facility Certificates be issued to the following applicants:

T-1080	Union Oil Company of California
T-1082	Weyerhaeuser Company
T-1086	Willamette Industries, Inc.
T-1110	Jeld-Wen, Inc.
T-1115	Oregon Metallurgical Corporation
2. Pollution Control Facility Certificate numbers 662 and 856 be reissued to reflect a change in company name from Hilton Fuel to Hilton Fuel and Supply Company.

AGENDA ITEM D - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON PROPOSED CHANGES TO OAR 340-12-050, AIR QUALITY SCHEDULE OF CIVIL PENALTIES

AGENDA ITEM E - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON PROPOSED AMENDMENTS TO EXEMPT FORESTRY OPERATORS FROM NOISE CONTROL REGULATIONS FOR INDUSTRY AND COMMERCE, OAR 340-35-035

AGENDA ITEM F - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON PROPOSED AMENDMENTS TO RULES GOVERNING CONSTRUCTION AND USE OF WASTE DISPOSAL WELLS, OAR 340-44-005 THROUGH 44-045

AGENDA ITEM G - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON THE QUESTION OF AMENDING RULES GOVERNING SUBSURFACE AND ALTERNATIVE SEWAGE DISPOSAL BY ADDING A NEW SECTION FOR SAND FILTER SYSTEMS, OAR 340-71-037(4)

Mr. George Ward appeared in favor of holding the above public hearings.

It was MOVED by Commissioner Densmore, seconded by Commissioner Burgess, and carried unanimously that the above-proposed public hearings be authorized.

AGENDA ITEM H - PUBLIC FORUM

Mr. James Durham, Portland General Electric Company, appeared before the Commission to request that PGE be allowed to operate their Bethel Plant contrary to Condition 9 of their permit, in lieu of operating the Beaver Plant while the Trojan Nuclear Plant was shut down for maintenance. He said the reason for this request was that the Beaver Plant could only be run on oil and they had no guarantee that after their present oil reserve was used they could obtain more. However, he said the Bethel Plant could be operated on natural gas, which at the present time was more plentiful than oil.

During the work session later in the meeting, the Director asked for guidance from the Commission on how they would like to handle this matter. He said the Department had received information from the Department of Energy that they were alarmed about the possibility of the lack of availability of oil in the coming winter.

Ms. Merrie Buel, Oregon Environmental Council, said they recognized the energy situation, however, requested that if PGE were allowed to operate Bethel, it only be operated during daytime hours. Representatives of PGE replied that in any event, only one turbine would operate at night.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess, and carried unanimously that the Director be authorized to issue a special 60-day letter permit to PGE to operate the Bethel Plant giving relief from Condition 9.a. of their permit.

AGENDA ITEM I - REQUEST FOR APPROVAL OF FISCAL YEAR 1980 SEWERAGE WORKS
CONSTRUCTION GRANTS PRIORITY LIST

Based on the fiscal year 1980 State Priority System approved by the EQC on August 31, 1979, a draft priority list was developed and distributed to concerned and interested parties. A public hearing on the draft list was conducted October 8, 1979. From the oral and written testimony received at the hearing and staff input, the proposed list was developed.

If Congress approves \$3.4 billion nationwide for fiscal year 1980, Oregon's share would be about \$43.5 million. After the setasides were deducted from this amount, \$32.19 million would be available for the fundable portion of the list. The FY 80 priority list identified about \$296 million of need for 144 projects over the five-year planning period. Of these 144 projects, 16 would be on the fundable portion. It was anticipated that seven of these projects would continue to need a substantial share of the general allotment for the foreseeable future. The balance of 128 projects would receive only measured assistance from the remaining \$6 million available for initiating steps 1, 2, or 3.

Mr. William V. Pye, Mr. Bob Adams, Mr. Larry Thorp, and Mr. Mark Westling, appeared representing the Metropolitan Wastewater Management Commission in Eugene. They testified regarding the funding for projects in Lane County. They stressed that the projects might have to be aborted if funding was not available during FY 80. They also suggested that the Commission reevaluate their method of determining priorities and examine whether it complied with the spirit and intent of the pertinent federal regulations. A letter was submitted from Gary W. Wright, President of Wastewater Management Commission stating their position. This letter is made a part of the Commission's record on this matter.

Mr. David Abraham, Clackamas County, reiterated his testimony at previous meetings that the County could not go forward on much-needed projects in the Tri-Cities and Mt. Hood areas until they had a commitment for funding. Without these projects he said, growth in those areas was being retarded.

Mr. L. P. Gray, City of Hermiston, appeared in support of the staff recommendation on the priority list.

Mr. Rick Gustafson, Metropolitan Service District, congratulated the staff on their work on this priority list but said that revisions still needed to be made. He said the EQC did not have the ability at their level to deal with this problem. Mr. Gustafson suggested that the system for assigning priorities be reevaluated and that there be a push for self-supporting systems at the local level.

Mr. Oliver J. Domreis, Multnomah County, testified in support of the staff recommendation.

This matter was deferred to the work session later in the meeting. At that time Mr. Ray Underwood, Department of Justice, informed the Commission that there was nothing in the federal regulations to prohibit them from adopting the priority criteria and list that was before them.

Summation

1. A state priority list has been developed based on the best available data and upon the priority system approved by the EQC on August 31, 1979.
2. The priority list has been developed in accordance with the federal requirements for public participation.
3. Oral and written testimony received at the public hearing was considered in developing the list. Changes have been made in accordance with the prioritizing criteria.

Director's Recommendation

Based on the summation, it is recommended that the FY 80 sewerage works construction grants priority list be approved.

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

AGENDA ITEM J - PROPOSED ADOPTION OF THE NOISE CONTROL REGULATIONS FOR AIRPORTS, OAR 340-35-045; AMENDED DEFINITIONS, OAR 340-35-015; AND AIRPORT NOISE CONTROL PROCEDURE MANUAL, NCPS-37

The Department has been aware of the noise impacts caused by aircraft and airports since the beginning of the noise control program. Public attitude toward this source of noise indicates those impacted believe this to be a major problem affecting their neighborhoods.

One year ago a petition was submitted by Oregon Environmental Council requesting that aircraft and airport noise be regulated by Commission rules. Staff was directed to draft rules that were then discussed at informational hearings and other meetings.

Draft rules used for discussion purposes were then refined and formal rulemaking hearings were held in August. This final proposed rule reflects DEQ's best effort to control this complex source in a reasonable manner.

The seven air carrier airports in Oregon would be required to develop a noise impact boundary within 12 months of rule adoption. If a problem were shown to exist at a nonair carrier airport, the proprietor would be required to provide data to the Department, so that Department staff could calculate the airport noise impact boundary.

Before either type of airport would be required to do further work, an informal negotiation process would be utilized to attempt to resolve the problem. If this failed, a public hearing would be held to determine the need for a formal noise abatement program at the affected airport. Any formal abatement plan would contain an airport operational element and a land-use control and development element. It would be prepared by the proprietor and presented to the Commission for approval.

Although the proprietor is probably not a land-use expert, both federal and state guidelines recognize that the proprietor should have the lead role in development of a recommended land-use plan for airport impacted areas. The Department would use its ability to review local comprehensive land-use plans to ensure appropriate actions are taken by local government to support the airport proprietor's efforts to protect the public from excessive noise.

Summation

1. The airport/aircraft noise impacted public is frustrated with the response that federal, state, and local government has taken toward its complaints.
2. The claim that aircraft noise is decreasing due to Federal aircraft noise emission controls may not be valid as pending Congressional action would provide open-ended waivers and exemptions to the present schedule.
3. There is no indication that any federal regulation, or other federal action to reduce airport/aircraft noise, is forthcoming.
4. Although many Oregon airports have completed airport master plans, this process does not adequately address noise impacts nor provide meaningful solutions.
5. The proposed rule has the following significant features:
 - a) An informal resolution process for noise problems at an airport or heliport of any size is provided. Airports with minimal operations would not be regulated under the substantive portions of the rule;
 - b) All seven air carrier airports must prepare a noise impact boundary analysis within 12 months of rule adoption. Cost for this development has been estimated between \$500 and \$10,000.
 - c) If unresolved problems exist at any nonair carrier airport, Department staff would prepare the Noise Impact Boundary, with assistance from the proprietor in developing needed information.
 - d) If an impact boundary analysis verifies that a noise problem exists, and if, after a public hearing the need for an abatement program is shown, an airport noise program must be developed for Commission approval within 12 months.
 - e) An abatement program would include projected noise contours, an airport operational plan to reduce noise impacts, and a recommended land-use and development plan.

6. The airport proprietor has been legally held responsible for noise impacts to the surrounding community.
7. The airport proprietor is the entity with the knowledge and understanding requisite for developing an operational noise abatement plan.
8. Federal and state guidelines agree that the airport proprietor is best able to develop and recommend a land-use and development plan for the area surrounding the airport.
9. An airport noise criteria of an annual average Ldn 55 decibels is consistent with federal and state guidelines and with other Commission standards.
10. Any criteria in excess of Ldn 55 would render the proposed rule useless for airport noise abatement, noncompatible land-use mitigation, and preventative development control purposes.
11. Although many small airports will not produce noise levels in excess of the Ldn 55 criteria, the proposed informal resolution procedures warrant the inclusion of all airports within the scope of the rule.
12. Any soundproofing plan proposed in a specific noise abatement program would be evaluated by the Commission on a case-by-case basis for consistency with acceptable guidelines.
13. Soundproofing costs have been estimated at a minimum of \$0.21 to a maximum of \$0.60 per square foot per decibel of reduction. Although these costs may appear to be excessive, such mitigation is optional and should only be proposed in an abatement program when benefits exceed costs and funding mechanisms are identified.
14. The loss to market value of homes exposed to airport noise was estimated at 0.5 percent per decibel above Ldn 55. Typical Portland residences exposed to Ldn 65 would thus have a market-value reduction of \$3500 per home.
15. Costs attributed to public health impacts and those resulting from civil nuisance litigation have not been assessed.

Director's Recommendation

Based on the Summation, it is recommended that the Commission take action as follows:

1. Adopt the Final Statement of Need for Rulemaking.
2. Adopt the following as permanent rules to become effective upon prompt filing, along with the Statement of Need, with the Secretary of State:

- a) Amended Definitions, OAR 340-35-15
- b) Noise Control Regulations for Airports, OAR 340-35-045
- c) Airport Noise Control Procedure Manual, NPCS-37

Mr. John Hector of the Department's Noise Section, presented for the record some additional written testimony received from the FAA, United Airlines, ALPA, and some general aviation manufacturers opposing the adoption of the rules. This written testimony is made a part of the Commission's record on this matter.

Ms. Helen Baer, Environmental Protect Agency, testified in favor of adopting the proposed rules. She stressed that these rules should allow for public participation in the preparation of airport master plans.

Mr. Lloyd Anderson, Port of Portland, said the Port favored the reduction of noise in and around Portland International Airport, however, the proposed rules would not reduce noise at its source which is the aircraft. He testified that due to the ever-increasing controls on aircraft noise, there would be less noise in the future from aircraft. Mr. Anderson stressed that the airport proprietor did not always have control over the sources of noise around the airport. Mr. Anderson filed specific changes to the rule with the EQC for their information and his written comments are made a part of the Commission's record on this matter.

Mr. Mike Randolph, City of Corvallis, testified in opposition to the proposed rules. He said that the noise problem was with the aircraft and must be federally controlled.

Mr. C. Gilbert Sperry, Oregon Pilots Association, testified in opposition to the proposed rules. He said the problem was primarily in and around Portland International Airport and that regulations were unnecessary for the remainder of the state. Mr. Sperry testified that any changes in operating procedures of aircraft should be done by experts in the field with the concurrence of the FAA.

Ms. Lorna Vander Zanden, Hillsboro, testified about a noise problem from the Hillsboro Airport. She was in favor of the rule adoption.

Ms. Merrie Buel, Oregon Environmental Council, said they appreciated the staff work in addressing OEC's concerns about airport noise. They were in favor of the rule adoption.

Ms. Jean Baker, Oregon Environmental Council, testified in favor of the rules. However, she said the rules were very mild and may need to be tightened in the future.

Mr. Gary Gregory, Parkrose Citizens Association, testified in favor of the rule adoption. He said that prior to 1977 the area did not have a noise problem from Portland International Airport. Since that time, he

continued, operation changes have caused a severe noise problem in the area. Mr. Gregory presented a letter from Representative Sandy Richards expressing her support for the proposed rules. This letter is made a part of the Commission's record on this matter.

Mr. Paul E. Burket, State Aeronautics Division, submitted to the Commission his Division's recommended guidelines for airport planning and zoning. Mr. Burket asked for a delay in adoption of the rules. They were in favor of the rules, he said, but felt they needed more work. Mr. Burket said it was becoming evident that the federal government was not going to promulgate noise regulations for airports in the near future. Mr. Burket's written statement is made a part of the Commission's record on this matter.

Mr. Terry Smith, City of Eugene, testified in opposition to the proposed rules stating they felt the rules were seriously deficient. Mr. Smith submitted some specific recommendations for revisions to the proposed rules which are made a part of the Commission's record along with his written testimony.

Mr. Dave Wiley, U.S. Seaplane Pilots Association, testified in opposition to the proposed rules.

Chairman Richards commented that he was unsure the airport proprietor could accomplish what was intended in the proposed rule and suggested that perhaps the rule needed modification. He said he was not prepared to act on this matter yet.

It was MOVED by Commissioner Burgess, seconded by Commissioner Somers, and carried unanimously to defer action on this item until the November meeting. The staff was instructed to respond to testimony received at this meeting in November.

AGENDA ITEM K - DEQ v. HOWARD JONES - CONTESTED CASE REVIEW

Mr. Howard Jones requested that the Commission review the Hearing Officer's decision affirming the Department's revocation of a permit for a subsurface system on Mr. Jones' property. Also before the Commission was Mr. Jones' request to present additional evidence.

Mr. Michael Henderson, Attorney for Howard Jones, presented a Motion for Order allowing respondent to submit further evidence of the approval of the subdivision in which his lot was located.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore, and carried unanimously that the Motion to Submit Additional Evidence be denied.

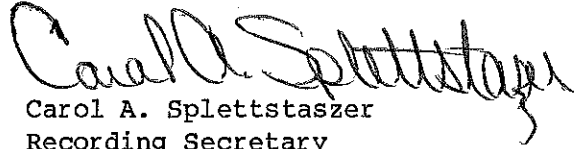
It was MOVED by Commissioner Somers, seconded by Commissioner Burgess, and carried unanimously that the Hearing Officer's Order and Findings be affirmed.

AGENDA ITEM L - INFORMATIONAL REPORT: STATUS OF RESEARCH ON THE PUBLIC
HEALTH EFFECTS OF FIELD BURNING SMOKE

This item was postponed until the November Commission meeting.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

November 16, 1979

Portland City Council Chambers
1220 Southwest Fifth Avenue
Portland, Oregon

A G E N D A

9:00 am CONSENT ITEMS

Items on the consent agenda are considered routine and generally will be acted on without public discussion. If a particular item is of specific interest to a Commission member, or sufficient public interest for public comment is indicated, the Chairman may hold any item over for discussion.

- A. Minutes of October 19, 1979 Commission meeting.
- B. Monthly Activity Report for September 1979.
- C. Tax Credit Applications
- D. Request for authorization to conduct a public hearing to consider amendments to the motor vehicle emission testing rules to provide for housekeeping changes including the clarification of allowable engine changes (OAR 340-24-300 through 350).
- E. Request for authorization to conduct a public hearing on proposed amendments to noise control regulations for the sale of new passenger cars and light trucks (OAR 340-35-025).
- F. Request for authorization to conduct a public hearing to consider proposed permanent rule revision to agricultural burning rules (OAR 340-26-005 through 26-030) and amendment to the Oregon State Implementation Plan.

9:15 am PUBLIC FORUM

- G. Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

INFORMATIONAL ITEM

- H. Progress being made toward identifying the health effects of open field burning.

ACTION ITEMS

The Commission may hear testimony on these items at the time designated but may reserve action until the Work Session later in the meeting.

- I. Proposed adoption of noise control regulations for airports (OAR 340-35-045), amended definitions (OAR 340-35-015), and Airport Noise Control Procedures Manual.

(MORE)

- J. Proposed adoption of temporary rules as permanent rules - Fees for subsurface permits, licenses, services and variances (OAR 340-72-005 to 72-020 and OAR 340-75-040).
- K. Proposed adoption as temporary rules clarifications of the emission limits for veneer dryers in the Medford Air Quality Maintenance Area (OAR 340-30-010 and 340-30-020) and request for authorization to conduct a public hearing for permanent rule making.
- 10:30 am L. Request for variance from noise regulations (OAR 340-35-035) by Murphy Veneer Company, Myrtle Point.
- 11:15 am M. Request for variance from rules prohibiting open burning dumps (OAR 340-61-040(2)(c)) for solid waste disposal sites at Brookings and Nesika Beach.
- 11:30 am N. Request for variance from rules prohibiting open burning dumps (OAR 340-61-040(2)(c)) for solid waste disposal sites at Tillamook, Manzanita and Pacific City.
- 1:30 pm O. Appeals from subsurface variance denials:

(1) Patrick Johnston, Marion County

~~(2) Paul Steigleder, Clackamas County~~

POSTPONED

- P. Proposed adoption of population projection and disaggregations for use in the Federal Sewerage Works Construction Grants Program for Fiscal Year 1980.

WORK SESSION

The Commission reserves this time if needed to further consider proposed action on any item on the agenda.

Because of the uncertain time span involved, the Commission reserves the right to deal with any item at any time in the meeting except those items with a designated time certain. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) in the Columbia Room of the Portland Motor Hotel, 1414 Southwest Sixth Avenue, Portland; and lunch in Room 106 of the Portland City Hall.

MINUTES OF THE ONE HUNDRED FIFTEENTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

November 16, 1979

On Friday, November 16, 1979, the one hundred fifteenth meeting of the Oregon Environmental Quality Commission convened in the Portland City Council Chambers, 1220 Southwest Fifth Avenue, Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Mr. Fred J. Burgess and Ms. Mary V. Bishop. Commission members Albert Densmore and Ronald Somers were absent. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

The staff reports presented at this meeting which contain Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 Southwest Fifth Avenue, Portland, Oregon.

BREAKFAST MEETING

1. Bethel/Harborton Status Report - The Commission was informed that Portland General Electric Company (PGE) wanted to operate its Harborton turbine generating facility while the Trojan Nuclear Plant was shut down for repairs. PGE will be requesting a short-term operating permit on the basis of an emergency due to power shortages in the Northwest.

The Commission was told that PGE was having problems with the 750 hour operating limit in their letter permit for their Bethel Turbine generating facility in Salem. The Director issued PGE a waiver through December 15, 1979, and it was expected that this matter would be before the Commission at their December meeting. A survey conducted by the regional office in Salem indicated that neighbors of the plant were not unhappy with its recent operation.

2. Update on Rogue Valley Mall Indirect Source Permit - The Commission was informed that the indirect source permit for the Rogue Valley Mall in Medford had been drafted and public comment on it had been received. The Director planned to issue the permit the week of November 19.
3. Backyard burning program revisions. The staff will bring analysis of this issue to the Commission in February for their consideration.

4. Revised draft noise rules on airports. The public comment received on proposed revisions to the airport rules were reviewed for the Commission.

FORMAL MEETING

At the beginning of the formal meeting Chairman Richards conducted the swearing in of new Commission member, Mary V. Bishop, and welcomed her to the Commission.

AGENDA ITEM A--MINUTES OF THE OCTOBER 19, 1979 EQC MEETING

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the Minutes of the October 19, 1979, EQC meeting be approved as presented.

AGENDA ITEM B--MONTHLY ACTIVITY REPORT FOR SEPTEMBER 1979

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the Monthly Activity Report for September 1979 be approved as presented.

AGENDA ITEM C--TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that Pollution Control Facility Tax Credits be granted to the following applicants: T-1105, T-1106, T-1107, T-1108, T-1128 (Willamette Industries, Inc.), T-1118 (Stayton Canning Company), T-1120, T-1121, T-1122, T-1123, T-1124, T-1126, T-1127 (Champion International Corporation) and T-1129 (Martin Marietta Aluminum, Inc.). Also included in the motion was the issuance of an Order denying a request for preliminary Certification for Tax Credit to North Pacific Grain Growers, Inc., for their car pooling operation; which according to an Attorney General's opinion does not qualify for tax relief.

AGENDA ITEM D--REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE MOTOR VEHICLE EMISSION TESTING RULES TO PROVIDE FOR HOUSEKEEPING CHANGES INCLUDING THE CLARIFICATION OF ALLOWABLE ENGINE CHANGES (OAR 340-24-300 THROUGH 350)

AGENDA ITEM E--REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON PROPOSED AMENDMENTS TO NOISE CONTROL REGULATIONS FOR THE SALE OF NEW PASSENGER CARS AND LIGHT TRUCKS (OAR 340-35-025)

AGENDA ITEM F--REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING TO CONSIDER PROPOSED PERMANENT RULE REVISION TO AGRICULTURAL BURNING RULES (OAR 340-26-005 THROUGH 26-030) AND AMENDMENT TO THE OREGON STATE IMPLEMENTATION PLAN

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the above public hearings be authorized.

AGENDA ITEM G--PUBLIC FORUM

No one wished to appear on any subject.

AGENDA ITEM H--INFORMATIONAL REPORT ON PROGRESS BEING MADE TOWARD IDENTIFYING THE HEALTH EFFECTS OF OPEN FIELD BURNING

At a special meeting on August 6, 1979, the Commission instructed staff to report on progress being made toward a study of the health effects of open field burning. Staff work to date was preliminary in nature leading to a better assessment of the need for and type of expanded health research. Reports regarding results and planning activities will be presented at a later date.

Commissioner Burgess asked if ultimately the study would be broad enough to include all types of vegetative burning. Mr. Scott Freeburn, Air Quality Division, replied that it eventually would because the health effects of field burning could not be determined without considering other sources and types of emissions.

AGENDA ITEM I--PROPOSED ADOPTION OF NOISE CONTROL REGULATIONS FOR AIRPORTS (OAR 340-35-045), AMENDED DEFINITIONS (OAR 340-35-015), AND AIRPORT NOISE CONTROL PROCEDURES MANUAL

This item was considered at the Commission's October 19, 1979 meeting, at which time staff was directed to evaluate new testimony that had been submitted.

The proposal before the Commission at this meeting incorporated a number of changes resulting from new testimony and direction of the Commission. The most significant change would shift the responsibility to direct the preparation of a Noise Abatement Program from the Director to the Commission. The Commission would require a Program be developed after "reasonable cause" criteria were demonstrated. Other changes provided additional clarity and specificity to the proposal.

Mr. Gary Gregory, Parkrose Citizens Association, testified in support of the proposed rules, however expressed concerns over the added provisions on land use.

Representative Sandy Richards expressed concern that property owners were being asked to bear the brunt of the cost of noise control under sections vi through x on page 16 of the proposed rules. She also suggested that funding for property owners to soundproof be provided by the airport proprietor.

Ms. Jan Shearer, assistant to Multnomah County Commissioner Gordon Shadburn, said they had observed that present rules were not being enforced and that the present problem needed to be addressed first. She was also concerned that items viii and x on page 16 of the proposed rules would have the effect of devaluating property in certain areas surrounding airports.

Director Young replied that it was important to read that section of the rule in its entirety. He said that all of those provisions could be implemented but nothing in the rule said they would. Mr. Young also said that ultimately the local jurisdiction that has responsibility for the land use plan would decide on which provisions of this section of the rule to implement.

Mr. Paul Burket, Oregon Aeronautics Division, testified that their major concern with the proposed rules were in the areas of noise monitoring and field verification. He submitted suggested wording to change the last line of paragraph (c) on page 15 of the proposed rules. Mr. Burket's written comments are made a part of the Commission's record on this matter.

Mr. R. Stohr, asked the Commission if these proposed rules would control noise from military aircraft such as helicopters. Mr. Stohr was instructed that if he had a specific complaint he could contact the Department's Noise Control Section and that these proposed rules dealt specifically with proposed controls for airport proprietors and not aircraft.

Ms. Annette Farmer testified that she supported the position expressed earlier by Mr. Gregory and Representative Richards.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the following amendments be made to the proposed rules:

35-045((4) (C)--the last sentence be amended to read "The plan may include but not be limited to the following actions within the specified noise impact zones:"

35-045(7)--the present wording be eliminated and the following inserted:

- (7) Airport Noise Monitoring. The Department may request certification of the airport noise impact boundary by actual noise monitoring, where it is deemed necessary to approve the boundary pursuant to 35-045(3) (e).

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the proposed regulations as amended be adopted.

AGENDA ITEM J--PROPOSED ADOPTION OF TEMPORARY RULES AS PERMANENT RULES--FEES FOR SUBSURFACE PERMITS, LICENSES, SERVICES AND VARIANCES (OAR 340-72-005 to 72-020 and OAR 340-75-040)

This item proposed to adopt as permanent rules, temporary rules governing fees to be charged for variances, permits, site evaluations and services in the Subsurface Sewage Disposal Program, as provided for in Chapter 591, Oregon Laws 1979 (HB 2111). These temporary rules will expire November 22, 1979, unless made permanent at this meeting.

Summation

1. OAR 454.625 requires the Commission to adopt such rules as it considers necessary for the purpose of carrying out ORS 454.605 to 454.745.
2. Chapter 591, Oregon Laws 1979 (House Bill 2111), contains provisions that require adoption of new rules pertaining to subsurface fee schedules.
3. The Commission adopted temporary rules, effective July 25, 1979, which established new fee schedules. These temporary rules will expire on November 22, 1979, unless made permanent before that date.
4. The Department's budget is predicated on the new fee schedule.
5. A public hearing was conducted on October 16, 1979, without adverse comment.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission adopt as permanent rules the proposed rules, OAR 340-72-005 through 72-020 and 340-75-040.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the Director's Recommendation be approved.

AGENDA ITEM K--PROPOSED ADOPTION AS TEMPORARY RULES CLARIFICATIONS OF THE EMISSION LIMITS FOR VENEER DRYERS IN THE MEDFORD AIR QUALITY MAINTENANCE AREA (OAR 340-30-010 and 340-30-020) AND REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING FOR PERMANENT RULE MAKING

The department's proposal for modification of the regulations for veneer dryers in Medford is a housekeeping measure. There are no proposed changes in emission limits, compliance dates or definitions from those in the original regulation.

The Department inadvertently changed the Medford regulations by making changes to the non-AQMA veneer dryer rules. This proposal would reverse those changes and make the AQMA and non-AQMA rules independent of each other.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission authorize a public hearing to take testimony on the proposed changes to the rules for veneer dryers in the Medford/Ashland AQMA (OAR 340-30-010 and 30-020. It is recommended that the Commission make a finding that failure to adopt these proposed rules as temporary rules may result in serious prejudice against the operators of veneer dryers in the Medford area and the Department's control program. Based upon these findings, it is recommended that the proposed rules be adopted as temporary rules.

It was MOVED by Commissioner Bishop, seconded by Commissioner Burgess and carried unanimously that the Director's Recommendation be approved.

AGENDA ITEM L--REQUEST FOR VARIANCE FROM NOISE REGULATIONS (OAR 340-35-035) BY MURPHY VENEER COMPANY, MYRTLE POINT

The Murphy Veneer Company in Myrtle Point requested a variance from the daytime industrial noise pollution standards. This veneer mill was currently operating under a variance for extended daytime noise limits granted by the Commission August 31, 1979. Murphy Company has agreed to a noise control program to bring the mill into compliance with daytime standards by March 1, 1980, with the exception of the two existing diesel log loaders.

Summation

1. The Murphy Company owns and operates a mill in Myrtle Point that exceeds Commission noise standards during the daytime (7:00 a.m. to 10:00 p.m.) and nighttime.
2. Two diesel powered mobile log loaders contribute to daytime and nighttime noise violations.
3. A variance granted on August 31, 1979, exempted portions of the nighttime (6:00 a.m. to 7:00 a.m. and 10:00 p.m. to 12:30 a.m.) from nighttime standards.
4. The log loaders were specifically excluded by the Commission and given no special consideration under the granted variance, thus daytime compliance was required.
5. A local consulting company designs, fabricates and installs noise retrofit modifications for diesel equipment including log loaders. These kits were proposed in the Company's original compliance plan. By September 18, 1979, the Company withdrew this proposal by the local noise reduction firm. Murphy Company

claims the equipment manufacturer does not recommend noise reduction modifications; however, the Department found that this manufacturer consults with local noise reduction firms to assist their modification efforts.

6. Murphy Company does not believe that full compliance will be attained using new equipment from their current manufacturer source.
7. Log loader operations are a major source of noise complaints from this mill.
8. Since the Commission approved the variance from the nighttime noise standards for the Murphy Veneer Company on August 31, 1979, the Department has continued to receive noise complaints. In response to complaints about noise outside the 6:00 a.m. to 12:30 a.m. hours, Department staff visited nearby noise sensitive property at 5:00 a.m., on October 3, 1979, and recorded a noise violation. The primary cause of this violation was mill operation, not diesel log loaders.
9. The Commission is authorized to grant variances from noise regulations under ORS 467.060, and OAR 340-35-100, provided that certain conditions are met. The Murphy Company is applying for a time-limited variance. The basis is that strict compliance is unreasonable, unduly burdensome or impractical.
10. The purpose of the requested variance is to determine if it is feasible to meet the noise standards by modifying the existing equipment or by purchasing new equipment.
11. In the Department's opinion, Murphy Company should be granted a time limited variance to determine whether technology exists to attain strict compliance with the standards.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Murphy Company, Myrtle Point facility, be granted a variance from strict compliance with the noise standards between 6:00 a.m. to 12:30 a.m. the following morning due to operations of two diesel log loaders, until July 1, 1980. A feasibility study for compliance achievement is required by April 1, 1980. Operation of the loaders shall be limited as specified in the Company's letter of September 25, 1979, between the hours of 8:00 p.m to 12:30 a.m. and 6:00 a.m. to 8:00 a.m.

Ms. Barbara Burton, Southwest Region Office, informed the Commission that a noise survey had been conducted among 15 neighbors of the plant. She said that seven of nine of those neighbors were not disturbed at all and

in general the neighbors were in support of the mill. Ms. Burton said that Murphy Company was making progress toward compliance with the agreed-upon plan.

Representatives of the Murphy Company indicated they were in support of the Director's Recommendation.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the Director's Recommendation be approved.

AGENDA ITEM P--PROPOSED ADOPTION OF POPULATION PROJECTION AND DISAGGREGATIONS FOR USE IN THE FEDERAL SEWERAGE WORKS CONSTRUCTION GRANTS PROGRAM FOR FISCAL YEAR 1980

Mr. Tom Lucas of the Department's Water Quality Division, reviewed the staff report for the Commission and indicated that this was the first time that population projections had been done by DEQ.

Mr. John R. Russell, Mid Willamette Valley Council of Governments, indicated support of the staff recommendation and said they appreciated the work the staff did on this project. Mr. Russell offered the assistance of the COG staff to work with DEQ in the further development of this project.

Summation

1. Federal regulations require that the EQC approve a state population projection and disaggregations to 208 areawide agencies where designated and to counties in the remainder of the state.
2. EQC approval of the projection and disaggregations is necessary for continued eligibility for federal waste water construction grants.
3. DEQ prepared a projection and disaggregations based on earlier work done by the Center for Population Research and Census, and on earlier projections prepared by 208 areawide agencies.
4. The DEQ projection and disaggregations are strongly opposed by one 208 areawide agency and several counties. A number of local governments have proposed higher projections.
5. The Department of Economic Development (DED) has recently prepared a statewide population projection. This projection has not been disaggregated to the county level.

6. Several alternatives were proposed for EQC consideration:
 - a. Approve the original Department of Environmental Quality projection and disaggregations (Alternative 1).
 - b. Approve the Department of Economic Development projection (Alternative 2).
 - c. Approve the Department of Environmental Quality Projection and disaggregations adjusted by responses from local governments (Alternative 3).
 - d. Approve a base projection consisting of LCDC acknowledged plan figures where they exist and modified CPRC middle-range figures for the remaining counties; approve local government increase requests as variances; authorize the Department to submit to EPA a projection consisting of the base as adjusted by approved variances, and authorize a fall back proposal in the event EPA rejects the initial submittal. (Alternative 4).
7. The Policy Advisory Committee recommended that the EQC approve the DEQ projection and disaggregations on an interim basis and for limited use only.

Director's Recommendation

Based on the Summation, it is recommended that the EQC approve Alternative 4 as follows:

1. Approve a base projection consisting of LCDC acknowledged plan figures where they exist and the CPRC middle-range projection (adjusted for 208 areas) for all other counties (Column 5 of Table A).
2. Approve Column 4 of Table A as variances to the base subject to assurance from counties that such variances are the most appropriate projection based on their ongoing comprehensive planning process.
3. Authorize DEQ to submit to EPA a revised projection (Column 6 of Table A) with adjustments resulting from approval of variances in 2. above (Column 4 of Table A) and using justification provided in the testimony.
4. In the event EPA rejects the submittal, authorize DEQ to then immediately submit the base (Column 5 of Table A), together with individual variances (Column 4 of Table A) and request immediate approval of the base and approval of each county variance.

5. Direct DEQ to approve and submit to EPA for approval future variance requests submitted by counties, provided such requests are properly justified and certified by the county to be the population projections to be used in the county's comprehensive plan.

It is further recommended that EQC approval of population projections for Oregon be conditioned by the following statement:

The sole purpose of EQC approval of these projections is for determination of the extent of grant eligibility for FY 1980 federal Sewerage Works Construction Grants. An EQC approved projection is not intended in any way to mandate or limit the size or capacity of sewerage facilities to be constructed. Such size and capacity should be based on local comprehensive plans and good engineering judgment as displayed in facility plans. The EQC acknowledges and supports the role of local governments to develop and adopt population projections through the local comprehensive planning process and the responsibility of DEQ and other agencies to utilize such projections once the local comprehensive plan is acknowledged.

It was MOVED by Commissioner Bishop, seconded by Commissioner Burgess and carried unanimously that the Director's Recommendation be approved.

AGENDA ITEM M--REQUEST FOR VARIANCE FROM RULES PROHIBITING OPEN BURNING DUMPS (OAR 340-61-040(2) (c)) FOR SOLID WASTE DISPOSAL SITES AT BROOKINGS AND NESIKA BEACH

Solid waste disposal sites at Brookings and Nesika Beach in Curry County are scheduled to close as soon as a new incinerator is opened in Brookings. Due to construction delays the incinerator will not be available until at least December 1, 1979. The County is requesting a variance to allow continued open burning of garbage at the two disposal sites during the interim period.

Summation

1. Curry County was issued a variance in July 1979 to continue operating open burning dumps at Brookings and Nesika Beach until a new incinerator was constructd. The variances expired October 1, 1979.
2. Construction of the incinerator was delayed and is not yet completed. The facility is now expected to be operational about December 1, 1979.
3. Strict compliance would result in closure of the two disposal sites and would be unreasonable in the Department's opinion.
4. Under ORS 458.255, a variance can be granted by the Commission.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that a variance be granted to Curry County to allow continued operation of open burning dumps at Brookings and Nesika Beach until an alternative is available, but not later than December 31, 1979.

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

AGENDA ITEM N--REQUEST FOR VARIANCE FROM RULES PROHIBITING OPEN BURNING DUMPS (OAR 340-61-040(2) (c)) FOR SOLID WASTE DISPOSAL SITES AT TILLAMOOK, MANZANITA AND PACIFIC CITY

Tillamook County has requested an extension of variances to continue open burning at the Manzanita, Tillamook and Pacific City disposal sites. The regional landfill site has been selected and construction was to have been completed this year. However, because of time lost resecuring timber rights and delay due to litigation, construction of the regional landfill did not proceed. The County expects to start construction in the Spring of 1980.

Summation

1. Because of time lost resecuring timber rights to the regional landfill site and delay due to litigation, previously adopted schedules to phase out existing open burning disposal sites have not been met.
2. Winter and spring weather conditions in Tillamook County limit construction to complete the landfill conversion as approved.
3. It is the opinion of the staff that approval of the variance requested is necessary to facilitate transition to an acceptable solid waste disposal program.
4. Strict compliance with the rules would result in closing of the existing facilities with no alternative facility or method yet available.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Environmental Quality Commission grant a variance to OAR 340-61-040(2) (c) for the Manzanita, Pacific City and Tillamook disposal sites until October 1, 1980, subject to the following condition:

Open burning at the disposal sites is to be discontinued prior to the expiration date of the variance if a practical alternative method of disposal becomes available.

It was MOVED by Commissioner Bishop, seconded by Commissioner Burgess and carried unanimously that the Director's Recommendation be approved.

AGENDA ITEM O (1)--APPEAL FROM SUBSURFACE VARIANCE DENIAL: PATRICK JOHNSTON, MARION COUNTY

This matter concerned the appeal of a variance officer's decision to deny a specific variance from the Oregon Administrative Rules pertaining to subsurface sewage disposal systems.

Summation

1. The pertinent legal authorities were summarized in the staff report.
2. Mr. Lawrence Jensen submitted an application for a statement of feasibility for proposed subsurface sewage disposal to Marion County.
3. Mr. Robert Foster evaluated the property to determine if a standard subsurface sewage disposal system could be installed. Temporarily perched water levels were observed at or above the ground surface in the low areas of the property, and at seven to nine inches below the ground surface on higher ground. The property was denied for subsurface sewage disposal because a temporarily perched water table was expected (and observed) to rise closer than twenty-four inches from the ground surface, and because of a suspected restrictive soil horizon being closer than thirty inches from the ground surface.
4. Mr. Patrick Johnston submitted a variance application to the Department which was assigned to Mr. Gary Messer on May 24, 1979.
5. On June 6, 1979, Mr. Messer examined the proposed drainfield site and determined the property to be nearly level. He found the soils to be distinctly mottled beginning at depths ranging from fourteen to twenty inches from the ground surface.
6. On June 21, 1979, Mr. Messer conducted a public information type hearing so as to allow Mr. Johnston and others the opportunity to supply the facts and reasons to support the variance request.
7. Mr. Messer reviewed the variance record and found that the testimony provided did not support a favorable decision. He was unable to modify the variance proposal to overcome the site limitations.
8. Mr. Messer notified Mr. Johnston by letter dated July 5, 1979, that his variance request was denied.

9. A letter appealing the variance officer's decision was received by the Department on July 13, 1979.

Director's Recommendation

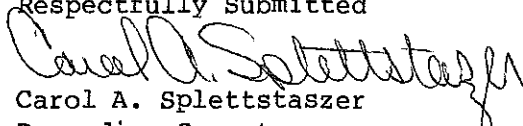
Based upon the findings in the Summation, it is recommended that the Commission adopt the findings of the variance officer as the Commission's findings and uphold the decision to deny the variance.

Mr. M. Chapin Milbank appeared representing Mr. Johnston and reiterated their request for a variance. Mr. Gary Messer appeared representing the Department in this matter and responded to points raised by Mr. Milbank in his letter to the Department of July 12, 1979.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the Director's Recommendation be approved.

There being no further business, the meeting was adjourned.

Respectfully Submitted


Carol A. Spletstaszer
Recording Secretary

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

December 14, 1979

Portland City Council Chambers
1220 Southwest Fifth Avenue
Portland, Oregon

A G E N D A

9:00 am CONSENT ITEMS

Items on the consent agenda are considered routine and generally will be acted on without public discussion. If a particular item is of specific interest to a Commission member, or sufficient public interest for public comment is indicated, the Chairman may hold any item over for discussion.

- A. Minutes of the November 16, 1979 Commission meeting.
- B. Monthly Activity Report for October 1979.
- C. Tax Credit Applications.

9:10 am PUBLIC FORUM

- D. Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

10:00 am PUBLIC HEARINGS

The Commission may hear testimony on these items at the time designated but may reserve action until the work session later in the meeting.

- E. Public hearing on renewal of Air Contaminant Discharge Permit for Portland General Electric's Bethel Combustion Turbine facility.
- F. Public hearing to consider adoption of proposed open field burning regulations, OAR 340-26-005 through 26-030, and amendment to the Oregon State Implementation Plan.

OTHER ACTION ITEMS

The Commission may hear testimony on these items at the time designated but may reserve action until the work session later in the meeting.

- G. Proposed adoption of rules governing sand filter sewage treatment systems (OAR 340-71-037(4)).
- H. Proposed adoption of rules governing construction and use of waste disposal wells (OAR 340-44-005 through 44-045).

(MORE)

I. Variance Requests - Requests for a variance from air quality compliance schedules:

1. Kogap Manufacturing Company, Medford, veneer dryers (OAR 340-30-045(b))
2. Southwest Forest Industries, Medford, veneer dryers (OAR 340-30-045(b))
3. Medply, Medford, veneer dryers (OAR 340-30-045(b))
4. Medford Corporation, Medford, boilers (OAR 340-30-045(a))

~~J. Clarification of OAR 340-30-060 regarding establishing total plant site emission limits in the Medford/Ashland Air Quality Maintenance Area.~~ POSTPONED

INFORMATIONAL ITEM

- K. Review of tax credit program forms, instructions, Attorney General opinions and precedents.

WORK SESSION

The Commission reserves this time if needed to further consider proposed action on any item on the agenda.

Because of the uncertain time span involved, the Commission reserves the right to deal with any item at any time in the meeting except those items with a designated time certain. Anyone wishing to be heard on an agenda item that doesn't have a designated time on the agenda should be at the meeting when it commences to be certain they don't miss the agenda item.

The Commission will breakfast (7:30 am) at the Portland Motor Hotel, 1414 Southwest Sixth Avenue, Portland; and lunch at Portland City Hall.

MINUTES OF THE ONE HUNDRED SIXTEENTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

December 14, 1979

On Friday, December 14, 1979, the one hundred sixteenth meeting of the Oregon Environmental Quality Commission convened in the Portland City Council Chambers, 1220 Southwest Fifth Avenue, Portland, Oregon.

Present were all Commission members: Mr. Joe B. Richards, Chairman; Mr. Albert H. Densmore, Vice Chairman; Mr. Ronald M. Somers; Mr. Fred J. Burgess; and Mrs. Mary V. Bishop. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

The staff reports presented at this meeting, which contain Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 Southwest Fifth Avenue, Portland, Oregon.

BREAKFAST MEETING

Commissioner Densmore was the only member not present at the breakfast meeting.

1. Civil Penalties for Field Burning - The Commission asked for a report on how mitigation of civil penalties was determined; in how many cases is the penalty reduced; and is the reduction consistent from case to case. The staff responded to these questions during the breakfast meeting.
2. Transfer of funds from Field Burning Research & Development to Smoke Management - Mr. Scott Freeburn of the Department's Air Quality Division reported that the staff was proposing to transfer \$130,000, as suggested by the Field Burning Advisory Committee, to increase Seed Council involvement in the daily operation of the program. Commissioner Burgess commented that it was not appropriate for DEQ to be responsible for research on solutions to the field burning problem. He said it was the industry's problem and they should perform the research and find the solution to their problem just as other industries are required to do.
3. Discussion of proposed rules for sand filters - At the Commission's request, Mr. Mark Ronayne of the Department's Subsurface Systems Section, briefly explained how sand filters work. He also reviewed the comparison of site criteria standards for conventional subsurface systems versus sand filter systems.

4. PGE Bethel Air Contaminant Discharge Permit - The Commission was informed that there would be several persons opposed to the operation of the plant appearing at the formal meeting.
5. Evans Products Air Contaminant Discharge Permit - Mr. John Borden, Mid Willamette Valley Region Manager, told the Commission that Friends of Benton County wanted permit issuance held up for a period of time. At the Commission's request, Mr. Borden responded to the comment that 95% of TCE leaving the plant was fugitive emissions and not controlled by permit. He said that the measured ambient levels were significantly below the levels considered to be dangerous to public health. Mr. Borden said his staff would be prepared at the January meeting to present a staff analysis of testimony and written comments before final issuance of the permit.
6. Date and location of future EQC meetings - The Commission stated they would prefer to hold meetings the third Friday of the month starting in January, if possible. They also proposed to hold meetings in Portland through March and requested a report at the next breakfast meeting on possible locations for the April, May, June and July meetings.
7. The Commission was informed that Associated Oregon Industries would request during the Public Forum section of the formal meeting that the Commission send a letter to the Water Policy Review Board supporting their recent policy decision to set minimum stream flows in the Willamette River for water quality and recreation.
8. The Commission requested staff to indicate at the January meeting what policy decisions were coming up for the EQC over the next six months.
9. The Commission also requested a report at the January meeting on the eligibility of propane conversions for tax credit certification.

FORMAL MEETING

All Commission members were present for the formal meeting.

AGENDA ITEM A - MINUTES OF THE NOVEMBER 16, 1979 EQC MEETING

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR OCTOBER 1979

AGENDA ITEM C - TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess and carried unanimously that the following be approved as presented:

Minutes of the November 16, 1979 EQC meeting.

The Monthly Activity Report for October 1979.

Tax Credit Applications:

T-1101	Medford Corporation
T-1102	Publishers Paper Company
T-1103	Bickford Orchards, Inc.
T-1104	Rough & Ready Lumber Company
T-1111	Publishers Paper Company
T-1112	Publishers Paper Company
T-1113	Publishers Paper Company
T-1114	Lyle S. McAlexander
T-1119	Champion International Corp.
T-1125	Champion International Corp.
T-1130	Anodizing, Inc.
T-1133	Weyerhaeuser Company

AGENDA ITEM H - PROPOSED ADOPTION OF RULES GOVERNING CONSTRUCTION AND USE OF WASTE DISPOSAL WELLS (OAR 340-44-005 THROUGH 44-045)

In 1969 the Commission adopted a program for Central Oregon to phase out the use of waste disposal wells for sewage and other liquid waste by January 1, 1980. Through efforts of local governments many wells have been or will be eliminated.

Faced with an ending date for use of those wells, the Department held an informational hearing in September 1979 in order to seek alternatives for the use of the remaining wells. Based on this information and existing knowledge of the Department, amendments to the regulations were proposed which deleted the January 1 date, provided encouragement for eliminating existing wells, and prohibited new wells except under a control situation of a regional sewerage system.

Summation

1. Current regulations (OAR 340-44-045) prohibit the use of waste disposal wells after January 1, 1980.
2. This date cannot possibly be achieved and there will be waste disposal wells operating after January 1, 1980.
3. The proposed amendments to OAR 340-44 will delete the January 1, 1980 date but will still promote eventual elimination of waste disposal wells except for those that dispose of non-contact cooling water.
4. The proposed amendments to OAR 340-44 would allow the Director to issue a letter permit for new interim waste disposal wells in specific cases where it would help assure the proper extension and utilization of a regional sewerage facility. It could also be considered where it would preclude isolation of areas with improper sewage disposal.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the amendments to OAR 340-44 as proposed.

Mr. Richard Nichols, Central Region Manager, presented the following further amendments to the rule:

340-44-015(5)(d) Except for waste disposal wells that dispose of non-contact cooling water, no permit shall be issued for construction and use of a waste disposal well unless the owner of the property to be using the disposal well agrees in writing not to remonstrate against connection to sewer and abandonment of the waste disposal well when notified that a sewer is available. The agreement shall be recorded in county deed records and shall run as a covenant with the land.

No one was present to testify on this matter.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess and carried unanimously that proposed amendments to OAR Chapter 340, Section 44 be adopted.

PUBLIC FORUM

Mr. Richard Brownstein appeared representing Columbia Sand & Gravel Company regarding their proposal for a demolition landfill site at 122 Avenue and San Rafael in Portland. He wanted to inform the Commission that he was filing an appeal for his clients regarding the denial of their request for a demolition landfill. Chairman Richards told Mr. Brownstein that it would be inappropriate for him to present his case at this time if this matter was going to come before the Commission in the future. Mr. Brownstein agreed to wait until the matter came before the Commission formally.

Ms. Inge C. McNeese appeared regarding the proposed issuance of an Air Contaminant Discharge Permit to the Evans Products Company in Corvallis. She stated that the proposed permit was not acceptable and asked the Commission to pursue alternatives other than issuing a permit at this time. Ms. McNeese said there was local concern that DEQ was not trying to protect the public health.

Chairman Richards replied that the proposed permit would not be issued until further staff research was done. He said it was the Director's job to issue the permit, but that the Commission may want to be further advised of this matter at their January meeting.

Mr. Charles A. Boyle presented written testimony from the Friends of Benton County asking a delay in the issuance of an Air Contaminant Discharge Permit for the Evans Products Plant. This written testimony is made a part of the Commission's record on this matter.

Mr. Marvin J. Marcotte, Friends of Benton County, presented questionnaires concerning health problems which had been filled out by residents around the Evans Products Plant. This material will be made a part of the Commission's record on this matter.

Mr. Tom Donaca, Associated Oregon Industries, informed the Commission that the Water Policy Review Board had asked the Corps of Engineers to initiate studies to determine how Willamette River stream flows could be maintained at levels adequate to protect water quality. He requested that the EQC join with the Water Board in its request to the Corps of Engineers.

The Commission requested that a letter be prepared and sent to the Corps in support of the Water Board's request. This letter was prepared and signed by all Commission members later in the meeting.

STATUS OF OPERATION OF PGE'S HARBORTON TURBINE GENERATING FACILITY

Mr. E. J. Weathersbee, of the Department's Air Quality Division, reviewed this matter for the Commission. He said the power situation was still serious and PGE was uncertain when the Trojan Nuclear Power Plant would be back in operation. If the Trojan shutdown continued, he said, there would continue to be a power emergency in the Northwest. Mr. Weathersbee reminded the Commission that both PGE's Bethel and Harborton plants were under special permits to operate during this emergency for a limited time. He said a public hearing would be held later in the month regarding Harborton's operation and that during this emergency the plant could be authorized to operate for up to 120 days.

Commissioner Somers complimented the Director and Mr. Weathersbee on their handling of this matter in the best way possible.

Mr. Weathersbee said the Department was primarily concerned with the health effects of operating the plant. In response to Commissioner Somers, Mr. Weathersbee said the operation of the Harborton plant under a special permit would not cause the shutdown of any other industry in the area.

AGENDA ITEM E - PUBLIC HEARING ON RENEWAL OF AIR CONTAMINANT DISCHARGE PERMIT FOR PORTLAND GENERAL ELECTRIC'S BETHEL COMBUSTION TURBINE FACILITY

This item pertained to the renewal of Portland General Electric's Air Contaminant Discharge Permit for the Bethel turbine plant located in Salem. Historically, because of the noise aspects of the plant, the Department has held a public hearing prior to permit renewal. For this upcoming renewal, PGE projected increased usage of the plant.

Mr. David St. Louis, Willamette Valley Region, summarized changes in the permit and said that PGE anticipated the plant operation would probably not exceed 2000 hours. Mr. St. Louis said the plant was in compliance with existing noise limits for both daytime and night. He said the plant had been operating within noise limits under a special permit since October 19, 1979.

Mr. J. Engen, Salem, testified that the operation of the Bethel plant had caused his wife to have headaches and also did some damage to his house. He suggested that aluminum plants be shut down to save electricity and then the Bethel plant would not have to be operated.

Mr. LeRoy Kuper, Salem, testified in opposition to the plant operation. He is a dairy farmer and stated that the plant operation seemed to affect production. He said the high frequency noise and vibration had affected his dog and the breeding of his cattle.

Ms. Marlene Frady, Salem, submitted for the record a letter from Mrs. Gordon Backe opposing the operation of the Bethel Plant. This letter is made a part of the Commission's record on this matter.

Mrs. Frady described health problems her family had experienced and damage to the house as a result of the operation of the plant. She said DEQ was not protecting the public health and welfare. Mrs. Frady testified that the power was not needed and requested that the plant be shut down at least at night.

Commissioner Somers said that the Commission could not violate their legislative authority by regulating vibration. He said that the Commission was not given the jurisdiction to regulate infrasound. He said the neighbors of the plant could seek relief in court.

Mr. R. F. Lockhart, Salem, testified that he had to move out of his house during the current operation of the plant. He maintained that attending this hearing would do no good because the plant would operate anyway.

Ms. Geneieve Larson, Salem, testified in opposition to the issuance of a permit to the Bethel plant. She said she was not involved in the lawsuit against PGE because her husband worked for the Bonneville Power Administration. Mrs. Larson protested not being informed of the potential issuance of a special permit to run Bethel. She said her family was affected by audible noise and also vibration from the plant. She also said the plumes from the plant occasionally exceeded standards and said the plant should not be run on foggy days when the plumes would not dissipate.

Mrs. Larson suggested that DEQ did not have enough help to check violations of standards. She protested that there was no one available on weekends to complain to, and that noise regulations were being violated. She asked that either the plant or the people living around it be moved.

Mr. Charles H. Frady, Salem, presented letters from Mr. and Mrs. Ralph Delany which opposed the operation of the plant and outlined health problems they had experienced since the plant had operated. These letters are made a part of the Commission's record on this matter.

Mr. Frady opposed the operation of the plant. He said that citizen complaints had not been addressed. Mr. Frady testified that the plant was portable and should be moved. He also outlined health problems experienced by his family.

Commissioner Somers added the following new condition to the permit:

11. d. Under no circumstances shall the permit at any time violate standards set forth in OAR 340-35-035.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess and carried unanimously that the Director's Recommendation to issue the modified permit with Commissioner Somers added condition, be approved.

AGENDA ITEM F - PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED OPEN FIELD BURNING REGULATIONS, OAR 340-26-005 THROUGH 26-030, AND AMENDMENT TO THE OREGON STATE IMPLEMENTATION PLAN

The Department developed proposed rule revisions regulating open field burning with significant input from the City of Eugene and the Oregon Seed Council. In addition, staff met with EPA to discuss pertinent concepts embodied in the proposed rules. The rules have been developed to prevent significant contributions by field burning to violations of federal air quality standards in the Eugene-Springfield area and to avoid exceedences of Prevention of Significant Deterioration increments in other areas of the state. Also, the Smoke Management Program would continue intact under the proposed rules to provide protection from smoke intrusions in populated areas in general. Finally, the ground work would be laid for a larger role by the seed industry in the management program. After this public hearing it was proposed to allow additional public testimony and comment to be submitted through December 31, 1979 with rule adoption tentatively scheduled for the January EQC meeting.

Summation

The Department proposes for adoption, after public hearing, revisions to rules regulating open field burning in the Willamette Valley. The proposed rule would:

1. Update the regulations to reflect the requirements of the 1979 field burning law (Chapter 181, Oregon Laws 1979).
2. Provide for the establishment of a "performance standard" method of limiting field burning smoke impacts in the Eugene-Springfield Air Quality Maintenance Area (AQMA). Specifically, the meteorological conditions under which burning would be allowed would become more restrictive as the cumulative hours of smoke intrusion in the Eugene-Springfield AQMA increase.
3. Prohibit burning activity under northerly winds if a violation of the federal, secondary 24-hour total suspended particulate standard is predicted using continuous particulate monitoring methods.
4. Restrict daily burning in the south valley to 1978 levels to ensure federal 24-hour Prevention of Significant Deterioration increments are not exceeded.

5. Clarify and reorganize certain portions of the existing rules. Detailed regulations regarding approval and use of mobile field sanitizers would be eliminated and replaced by more general rules regarding approval of alternatives to open field burning. Section 26-015, summer burning season regulations, would be reorganized.

The Department, through operational and budgetary changes, proposed to increase the Oregon Seed Council role in the daily smoke management program decisions. Better organization of growers and fire districts and increased meteorological analysis is proposed through additional Seed Council staff.

The Department of Environmental Quality and other affected parties conducted, through operational procedures, a program to reduce smoke problems in the Lebanon-Sweet Home area. Though some improvements were made, heavy smoke intrusions still occur under southerly wind burning conditions. The Department and others involved will assess and implement additional methods to mitigate the Lebanon-Sweet Home smoke problem.

Director's Recommendation

Based on the summation, it is recommended that the Environmental Quality Commission conduct a public hearing on the proposed rules leaving the record open through December 31, 1979, for such additional testimony as may be submitted. The Commission will be asked to adopt rules on field burning at its January 1980 meeting.

Mr. Dave Nelson, Oregon Seed Council, testified in support of the proposed rules.

Mr. Tim Sercombe, City of Eugene, testified in support of the proposed regulations.

It was MOVED and seconded that the Director's Recommendation in this matter be approved with the exception that the record only be held open for 10 days from the date of this meeting.

AGENDA ITEM G - PROPOSED ADOPTION OF RULES GOVERNING SAND FILTER SEWAGE TREATMENT SYSTEMS (OAR 340-71-037(4))

This item presents the proposed administrative rules for sand filter sewage treatment and disposal systems. Chapter 189, Oregon Laws 1979 required rules for sand filters be adopted by January 1, 1980.

Summation

1. The Legislature mandated rules for sand filter sewage systems not later than January 1, 1980 (Chapter 189, Oregon Laws 1979).
2. A task force developed the proposed rules.
3. The proposed rules, after proper notice, were taken to public hearings at four locations around the state.
4. Testimony from the public hearings was reviewed and evaluated and rule changes were made as appropriate.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt as permanent rules the proposed rules OAR Chapter 340-71-037(4) to be effective January 1, 1980.

Mr. T. Jack Osborne of the Department's Subsurface Sewage Section, presented some further housekeeping amendments to the rules which were made a part of the rules proposed for adoption.

Representative Bill Rogers, District 44, testified about some concerns that systems may be authorized under the rules that would fail. He pointed out some problems he had with the proposed rules and indicated that he felt not enough public input went into the formulating of these rules.

Representative Rogers asked that the staff be instructed to get information from other states where sand filter systems were installed and then return with amendments to the proposed rules as appropriate.

Chairman Richards thanked Representative Rogers for his interest in this matter.

Mr. George Ward, consulting engineer, testified in support of the proposed rules. He asked that staff be sure the proposed rules did not conflict with land use planning goals.

Mr. Jerry Marshall, Clackamas County, testified in support of the proposed rules and presented some further amendments for clarification.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess and carried unanimously that the Director's Recommendation to approve the proposed rules be adopted with the amendments submitted by Mr. Osborne and Mr. Marshall.

AGENDA ITEM 1 - REQUESTS FOR VARIANCE FROM AIR QUALITY COMPLIANCE SCHEDULES

Four sources in Medford requested variances from the January 1, 1980 compliance deadline. Medford Corporation, Kogap Manufacturing, and Southwest Forest Industries have been unable to obtain the necessary equipment from the manufacturers. Medply based their request on the poor financial status of the company. All of these companies took all possible actions to complete the installation as soon as practicable.

Director's Recommendation - Kogap Manufacturing Company

Based upon the findings in the summation in the staff report, it is recommended that the Commission grant a variance from OAR 340-30-045(b), Compliance Schedules, and the portion of the permit plant site emission limit applicable to the veneer dryers, to Kogap Manufacturing Company for the operation of its veneer dryers in Medford, Oregon, subject to the following conditions:

1. On-site construction of the control equipment shall begin by not later than March 1, 1980.
2. The veneer dryer emission control equipment shall be installed and in operation and compliance demonstrated by June 1, 1980.
3. From January 1 to June 1, 1980, Kogap shall limit the amount of Douglas Fir and pine dried in the veneer dryers as much as practicable.
4. If the Department determines that the veneer dryers' emissions cause significant adverse impact on the community or airshed, this variance may be revoked.
5. The portion of the plant site emission limit allocated to the veneer dryers will not be applicable until June 1, 1980. It will be prorated for the remainder of the calendar year.
6. This variance will expire June 1, 1980.

Director's Recommendation - Southwest Forest Industries

Based upon the findings in the summation in the staff report, it is recommended that a variance from OAR 340-30-045(b) and the plant site emission limit contained in the permit be granted to Southwest Forest Industries for operation of the veneer dryers at their plant numbers 5 and 6. This variance will be subject to the following conditions:

1. On-site construction of the control equipment shall begin by no later than February 1, 1980.
2. Construction of the control equipment shall be completed by no later than May 1, 1980.
3. The compliance of all veneer dryers at plant numbers 5 and 6 shall be demonstrated by no later than July 1, 1980.

4. Southwest Forest Industries shall continue to utilize the low salt content glues and any other equipment or procedures which will minimize emissions during the period of this variance.
5. The portions of the plant site emission limits allocated to the veneer dryers will not be applicable until July 1, 1980. They will be prorated for the remainder of the calendar year.
6. If the Department determines that the veneer dryer emissions cause significant adverse impact on the community or airshed, this variance may be revoked.
7. This variance expires July 1, 1980.

Director's Recommendation - Medply Corporation

Based upon the findings in the summation of the staff report, it is recommended that the Commission grant a variance from OAR 340-30-045(b), Compliance Schedule, to Lang and Gangnes Corporation dba Medply for the operation of its veneer dryer #3 in White City, Oregon, subject to the following conditions:

1. By no later than March 1, 1980, the company shall submit a control strategy, including plans and specifications and compliance schedule for control of veneer dryer #3.
2. The veneer dryer emission control equipment shall be installed and in operation by January 1, 1981.
3. Veneer dryers #1 and #2 shall only dry White Fir veneer.
4. If the Department determines that the veneer dryers' emissions cause a significant adverse impact on the community airshed, this variance may be revoked.
5. This variance expires January 1, 1981.

Director's Recommendation - Medford Corporation

Based upon the findings in the summation in the staff report, it is recommended that the Commission grant a variance from OAR 340-30-045(a), Compliance Schedules, to Medford Corporation for the operation of its Riley boiler subject to the following conditions:

1. On-site construction of the control equipment shall be completed by April 1, 1980.
2. The results of the particulate emission source test shall be submitted by no later than June 1, 1980.

3. The portion of the plant site emission limit allocated to the Riley boiler will not be applicable until April 1, 1980. It will be prorated for the remainder of the calendar year.
4. If the Department determines that the Riley boiler emissions cause significant adverse impacts on the community or airshed, this variance may be revoked.
5. This variance shall expire on April 1, 1980.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the above Director's Recommendations be approved.

AGENDA ITEM K - INFORMATIONAL ITEM - REVIEW OF TAX CREDIT PROGRAM FORMS, INSTRUCTIONS, ATTORNEY GENERAL OPINIONS AND PRECEDENTS

This item was discussed at the Commission's lunch meeting. The Commission requested that the staff return with this item at a later date when more complete information was available.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Splettstaszer
Recording Secretary