

1/27/1978

OREGON

ENVIRONMENTAL QUALITY

COMMISSION MEETING

MATERIALS



State of Oregon
**Department of
Environmental
Quality**

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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 GILBERT
- 9:30 am E. Subsurface Experimental System - Review of proposal for experimental subsurface sewage disposal system submitted by Mr. & Mrs. Steven Gunn, Lane County OSBORNE
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 GILBERT
G. City of Troutdale - Request by City of Troutdale to expand Troutdale Sewage Treatment Plant PATTERSON
H. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Orders for NPDES permittees not meeting July 1, 1977 compliance date BOLTON
- 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 (DELETED) 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 BOSSERMAN
L. Field Burning Regulations - Authorization for public hearing to consider amendments to field burning rules, OAR 340-26-005 to 26-025 FREEBURN
M. City of Bend Sewerage Project - Update on financial considerations of City of Bend Phase I Sewerage Project HILBRICK
N. Subsurface Sewage Disposal, Bend Area - Status report on discussions with Deschutes County Commission regarding sewage disposal problems within the Bend Urban Growth Boundary BOLTON
O. Rifle Range Road Area, Roseburg, Douglas County - Certification of plans for sewerage system as adequate to alleviate health hazard, ORS 222.898 HILBRICK
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 JACKMAN
Q. Clean Air Act Amendments of 1977 - An informational and resource impact report KOWALCZYK
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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 I - 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, DLCDC 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 DLCDC.

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 DLCDC. Director Young replied that SB 570 required the Department to submit a proposal for coordination to DLCDC by a time certain. He said the Department did that and DLCDC had a period of time to review the Department's submittal. Director Young said that DLCDC 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.

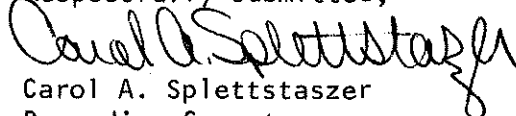
Commissioner Phinney asked, if in addition to the procedures the Department would follow to designate a nonattainment area, could EPA also designate one. Mr. Kowalczyk said that nonattainment areas were designated by what the air quality measurements showed. If the measurements showed that an area was 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. Spletstaszer
Recording Secretary

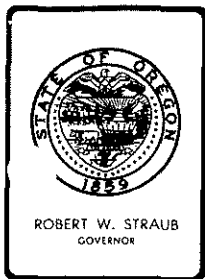
EQC BREAKFAST AGENDA

January 27, 1978

1. The EPA view of our State Implementation Plan on field burning
2. The Medford report on particulates and slash burning
3. The Legislative Committee slash burning report
4. The Medford Corporation compliance schedule
5. When rules on the Medford AQMA will be considered
6. Importation of wastes from Canada to Arlington
7. Policy on subpoena of DEQ personnel and documents
8. Date and location of March EQC Meeting

Proposal: March 31 in _____

9. Items of local concern



Department of Environmental Quality

Post Office Box 1760

PORTLAND, OREGON 97207 PHONE (503) 229- 5395

January 20, 1978

Mayor Albert Densmore
Medford City Hall
411 West 8th Street
Medford, Oregon 97501

Dear Mayor Densmore:

This is in reply to your letter of January 5, 1978 regarding your phone conversation with Ms. Eleanor Bradley. It appears that some misunderstanding has developed as neither the Seton, Johnson and Odell report or the material which Bob Gay of this Department has given Ms. Bradley, contain any estimate of the contribution of slash burning to the background Total Suspended Particulate (TSP) concentrations. It is most likely that the misunderstanding was caused by confusing emissions data with measured air quality levels.

It would probably help to clarify the situation by explaining the purpose and content of both the Seton, Johnson and Odell report and the study presently being prepared by Bob Gay.

Seton, Johnson and Odell Study

This report was prepared to provide the Department with information to be used in developing an Air Quality Maintenance Plan for TSP. The analysis made use of a mathematical dispersion model which used such input as particulate emission rates from known sources within the AQMA, wind direction and speed, atmospheric stability and mixing height to estimate TSP concentrations. All of these variables, not just the emission rate alone, determine how much a particular source will contribute to TSP air quality concentrations. In particular, if slash burning is estimated to constitute a certain percent of Jackson County's particulate emissions (33.8% in 1976), it is not accurate to state that it will account for the same percentage of the background TSP air quality concentrations in the AQMA.

The mathematical model used was the latest state-of-the-art model available. Even advanced models of this type are not adaptable to rugged, mountainous terrain such as that which surrounds the Medford AQMA. There is also a lack of meteorological data for areas outside the AQMA. For these reasons, the Seton, Johnson and Odell study contained no estimates on the effect of slash burning on air quality in the AQMA. In other words, emissions from slash burning were not used in the emission input to the model to estimate air quality impact. Slash burning TSP contribution is contained in the background value estimated by the report, but it is not known how much of the background is attributable to slash burning.

COPY

Mayor Albert Densmore
January 20, 1978
Page 2

Report by Bob Gay (DEQ)

Bob Gay is a member of the team responsible for preparing the Jackson County Carrying Capacity Study. The purpose of the study is to provide information about the County's resources and to develop a methodology for determining when those resources are being stressed. Mr. Gay has completed a draft of the air quality portion of the study. It contains existing information on air quality in Jackson County, including estimated 1976 emissions. It does not contain any new information on any source impact on air quality. In particular, it does not estimate the impact of slash burning on ambient air quality. It is of interest to note that the category of slash burning and forest fires, on page 9 of the appendix, accounts for about 38% of estimated 1976 Jackson County emissions. This may be where Ms. Bradley got her figure of 37%. Mr. Gay also sent Ms. Bradley some information illustrating how emissions from slash burning are estimated.

The Department is extremely interested in determining the actual air quality impact of slash burning. A study by the Department of field and slash burning impact on Willamette Valley air quality is expected to begin in May, 1978. Part of that study will be efforts to use chemical tracer and chemical element balance techniques to allow identification of slash burning impact on Willamette Valley TSP concentrations. If successful, these techniques would most likely be applicable to the Medford/Ashland AQMA, and it would be our intentions to so apply them. This study should be completed by March, 1979.

The Environmental Protection Agency, at the request of the states of Oregon and Washington, has begun a comprehensive study of existing information pertaining to many aspects of slash and other forestry burning. The study will include subjects such as existing practices, emission characteristics, air quality impact and methods for its reduction and alternative methods for disposal. The study will be completed by June, 1978 and it is hoped that this study will provide valuable information for immediate use and will include recommendations for further study, if necessary.

Also, the legislative Joint Interim Task Force on Forest Slash Utilization has completed its final report. One of the Task Force's recommendations duplicates one made by the Medford/Ashland AQMA Advisory Committee. Specifically, the Department of Forestry and the DEQ are to conduct a joint review of the Smoke Management Plan to examine the possibility of establishing separate smoke management plans and criteria for individual designated areas. This recommendation by the Advisory Committee was mentioned in the staff report at the Dec. 16, 1977 EQC meeting. It is our understanding that all affected state agencies, including the DEQ, will review the recommendations of the Task Force and propose plans of action and an implementation timetable by about April 1, 1978. We will keep you informed on this activity.

In conclusion, it is a very complex process to deduce from air quality measurements, the degree to which individual sources contribute to Total Suspended Particulate concentrations. Efforts will soon be made to do this for sources, including slash burning, in the Willamette Valley. The results should be usable in the Bear Creek Valley.

Mayor Albert Densmore
January 20, 1978
Page 3

Attention will be given in the immediate future to modifying the existing Smoke Management Plan. Finally, studies are being performed to investigate methods of slash burning which will emit less pollutants and also for alternative methods of disposing of the slash.

We have enclosed a copy of Mr. Gay's latest draft report. We will keep you and the other members of the EQC informed of any new significant information regarding slash burning air quality impacts.

Sincerely,

WILLIAM H. YOUNG
Director

DMB:h

cc: Environmental Quality Commission
Southwest Region Office
Medford Branch Office

Enclosure

BU- Juf
Edw
R.L.B.



State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

To: Medford-Ashland AQMA Advisory Committee Date: January 17, 1978
From: Bob Gay *Bob*
Subject: Requested Comment on Draft Report for Carrying Capacity Study

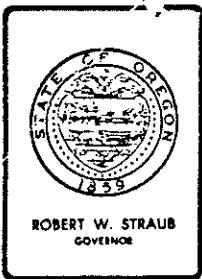
Please review and comment on the attached draft report on Medford-Ashland air quality by February 10th, if possible. The attached copy has some hand-written revisions suggested by DEQ and others.

I apologize for getting this report to only a few members of the Advisory Committee previously. I would be glad to meet with any of you on my next trip to Medford; or, please call me in Portland at 229-6408, if you wish.

Thanks in advance for your careful consideration of this draft.

ahc
Attachment

Ressees: Patricia Kuhn
Dr. James E. Dunn, II
Bruce Shaw
Doug Roach
Charlene Mitchell
Esther Jensen
Eleanor Bradley
Ben Neilson
Don Moody
Roger E. Wilkerson
Debra McFadden
Gary Grimes
Richard T. Howsley
Hugh Jennings
Dean Phelps
Kerry L. Lay
Kay Alsing
Lou Hannum
Eberhard Engelmann
Bob Lichlyter



1120
Correction's Copy
File Copy

Department of Environmental Quality

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

MEMORANDUM

To: DEQ Staff - *checked below*

From: Robert Gay

Subject: Requested Review of Jackson County Carrying Capacity Study - Draft Report

Attached is an initial, rough draft of a summary of the air and water situation in Jackson County, for use in the Jackson County Carrying Capacity Study (JCCCS) effort. Please scan it and forward any initial comments by December 9, 1977, to help me prepare for a trip to Medford the week of December 12th, during which I might have to respond to questions about air and water quality. I plan to revise this draft based on your comments and further research. *will be treated in a separate report.*

The stated objectives of the JCCCS are: 1) to provide accurate and comprehensive information about the county's natural, economic and human resources; and 2) to develop a methodology for use of that information which will be an alternative to historic trend projections by a) detecting stresses, or "over-loads," on resource systems in time to take appropriate action, b) determining the trade-offs involved in alleviating or avoiding such stresses.


The Carrying Capacity Study Team (see roster below) must eventually report to the 1979 Legislature as to the feasibility of carrying capacity analysis as a planning tool. A carrying capacity "model" may be built and tested. Whatever form our carrying capacity tool takes, will undoubtedly have air quality (AQ) and water quality (WQ) components, which will be based primarily upon DEQ data and interpretation.

This summary report is intended to acquaint the Study Team with the Jackson County AQ and WQ situation in sufficient detail that it can be integrated with other carrying capacity components, which might include water supply, energy, public services, key economic sectors (timber, agriculture), transportation, population and human resources, open space/recreation, housing, general land use, etc. I have tried to boil down the 1) extent and possible causes of AQ, WQ problems; 2) data limitations; 3) DEQ control requirements; 4) related roles of agencies other than DEQ (EPA, LCDC, Water Resources Department, etc.). I also want to reference all pertinent raw data sources, and to display key data in summary form, which best illustrates the text. Much remains to be done, and I need and welcome your comments.

Carbon Copies:

✓ Weathersbee, Kowalczyk, Core, Baker
✓ Sawyer, Lucas, Mullane
✓ Reiter, Hough
Housley, LaRiviere (RCVOG)
Vlastelicia (EPA)
Sexson (WRD)
Gary Gustafson (DLCD)

George Lee ✓

 Medford AQMA Advisory Committee (20)

Jackson County Carrying Capacity Study Team

✓ Jon Deason, Project Director, Medford
✓ Russell Beaton, Research Coordinator, Willamette U.
✓ Gregg Baldwin, EDI, Inc., Portland
✓ Dave Bella, OSU, Civil Engineering Department
✓ Robert Gay, DEQ, Portland
✓ Joe Nadal, DOE, Salem
✓ Phil Kreitner, Salem
✓ Tom Hibbard, Willamette University, Salem
Don Jones, Governor's Project Liaison, Director of Intergovernmental Relations Division, Salem

JACKSON COUNTY CARRYING CAPACITY STUDY

Air Quality Component

AIR QUALITY SUB-COMPONENTS DEFINED FOR KEY AIR POLLUTANTS

The Air Quality (AQ) Component of a Jackson County Carrying Capacity Study (JCCCS) must track changes in ambient air quality, as changes occur in other carrying capacity parameters. The approach suggested here is simply to utilize DEQ's system of tracking the ambient concentrations of designated air pollutants. Each pollutant would be a sub-component of the study's AQ Component.

"Over-load" Defined in Terms of AQ Standard Violations

The AQ Component would "over-load" whenever a pollutant exceeded one of the state/~~Federal~~ Ambient AQ Standards, which are summarized in the last column of Table I. The standards were adopted, as required by the federal Clean Air Act, to protect the public health and welfare from known adverse effects of air pollution.

POLLUTANT	AVERAGING TIME	FEDERAL STANDARDS		STATE OF OREGON STANDARDS
		PRIMARY (HEALTH)	SECONDARY (WELFARE)	
SUSPENDED PARTICULATE MATTER	ANNUAL GEOMETRIC MEAN	75 ug/m ³	60 ug/m ³	60 ug/m ³
	24 HOURS	260 ug/m ³ ①	150 ug/m ³ ①	150 ug/m ³ ①
	MONTHLY	-----	-----	100 ug/m ³ ②
CARBON MONOXIDE	8 HOUR ①	10 mg/m ³	10 mg/m ³	10 mg/m ³
	1 HOUR ①	40 mg/m ³	40 mg/m ³	40 mg/m ³
SULFUR DIOXIDE	ANNUAL ARITHMETIC AVERAGE	80 ug/m ³	NONE	60 ug/m ³
	24 HOUR	365 ug/m ³ ①	NONE	260 ug/m ³ ①
	3 HOUR	NONE	1300 ug/m ³ ①	1300 ug/m ³ ①
PHOTOCHEMICAL OXIDANTS	1 HOUR ①	160 ug/m ³	160 ug/m ³	160 ug/m ³
NITROGEN DIOXIDE	ANNUAL ARITHMETIC AVERAGE ①	100 ug/m ³	100 ug/m ³	100 ug/m ³
HYDROCARBONS (NON-METHANE)	3 HOUR ① (06-0900)	160 ug/m ³	160 ug/m ³	160 ug/m ³
LEAD	MONTHLY	----	----	3 ug/m ³

TABLE I.
AMBIENT AIR QUALITY
STANDARDS FOR OREGON

NOTES: ① NOT TO BE EXCEEDED MORE THAN ONCE PER YEAR.
② 24 HOUR AVERAGE NOT MORE THAN 15% OF THE TIME.
ug/m³ = MICROGRAMS PER CUBIC METER
mg/m³ = MILLIGRAMS PER CUBIC METER

DEQ can use this monitoring data in computer models to predict violations at any point within the air shed (for TSP) ~~placement of monitors reflect~~ ^{monitors} are placed in expected problem areas, based on modeling, emissions inventories, complaints, etc. If new problem areas are discovered, new monitoring can be de

Over-loads would be detected by measuring the ambient concentration of pollutants using standardized monitoring techniques--i.e., by relying on DEQ's monitoring network data. DEQ's air pollutant monitoring network for Jackson County is shown in Figure 1. Thus, overload would be detected only at a few locations within the county. This network is not necessarily adequate to detect all actual over-loads. It is simply the best available. Placement of the monitors reflect the fact that air pollution over-loads usually occur in or near centers of population and/or industrial activity.

The form in which the over-load would occur is dictated by the form of the standards themselves. For example, referring to Table 1, total suspended particulate (TSP) over-load would occur whenever any of the following three things would occur: 1) 24-hour TSP samples exceed 150 ug/m³ at any monitoring site, more than once per year; or 2) 24-hour samples exceed 100 ug/m³, more than 15% of the time; or 3) the annual geometric mean of 24-hour samples exceeds 60 ug/m³.

Significant Visibility reduction, caused by smoke or haze should also be recognized as an "over-load." It adversely affects public welfare by diminishing the aesthetic value associated with being able to see clearly the natural surroundings. DEQ hopes to develop visibility ^{or fine} standards in the future. However, present lack of such standards makes it impractical to include visibility reduction as an over-load indicator in this study. ^{Nothing would prevent local adoption of visibility standards.}

Extent to which Air Component is Subject to Over-Load

The extent to which any air pollutant may over-load, or violate its standards, depends primarily upon 1) the amount of the pollutant discharged into the air shed; 2) how close the emissions source is to a monitoring station; 3) the frequency and severity of stagnant weather conditions; and 4) geographical barriers to pollutant dispersal. The last two factors play an especially important role in Jackson County's AQ situation.

Jackson County has one of the highest potentials in the nation for air pollution build-up, because of its closed valley terrain, and prolonged periods of poor ventilation. This is reflected in the relatively high number of air stagnation advisories issued for the interior valleys of Southwest Oregon (Table II, column 1).

TABLE II.
NUMBER OF AIR STAGNATION
ADVISORIES BY YEAR
(1972-1976)

YEAR	SOUTHWEST INTERIOR VALLEYS	WILLAMETTE VALLEY (EXCEPT EUGENE)	EUGENE AREA	PORTLAND	EASTERN OREGON	Annual Totals
1972	2	6	6	6	6	26
1973	4	3	2	3	0	12
1974	11	16	16	16	0	59
1975	26	1	1	1	0	29
1976	44	20	26	17	0	107
5 YR. TOTAL	87	46	51	43	6	233

Table III also illustrates Jackson County's high air pollution potential. It compares Oregon's three main air pollution problem areas (Portland, Eugene, Medford) based on their total emissions, and total standard violations, for three air pollutants--total suspended particulate (TSP), carbon monoxide (CO), and photochemical oxidant (O_x).

Figure 1
MEDFORD-ASHLAND ---- AIR SURVEILLANCE NETWORK

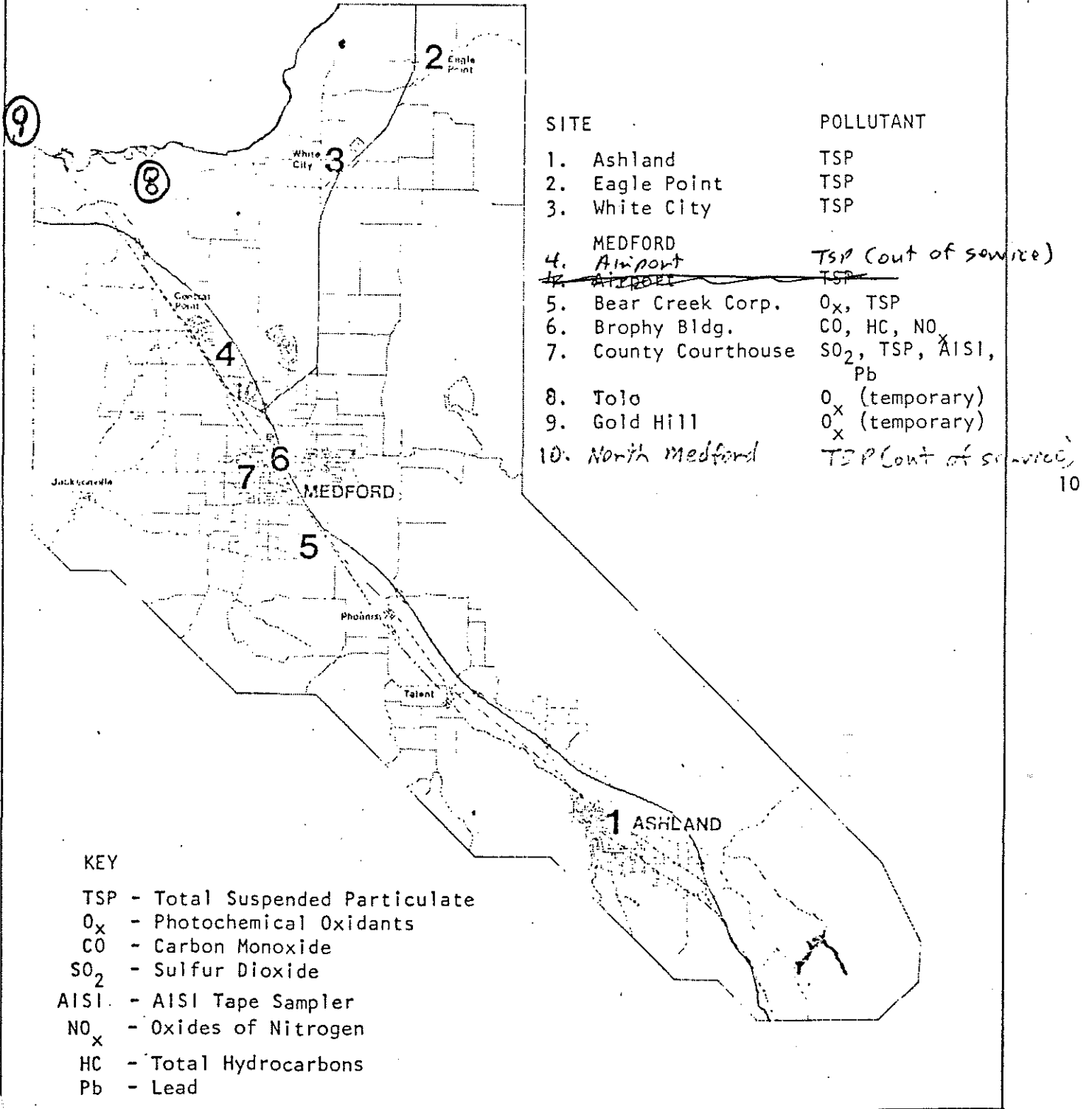


Table III shows that in 1976 the Medford area had more violations of TSP, O_x, and CO standards than either Portland or Eugene, despite the fact that the other air sheds received much more pollutant emissions. Clearly, the geography and meteorology of the Rogue River and Bear Creek valleys trap air pollutants, increasing their potential to violate standards. It should be noted that 1976-77 was a particularly poor ventilation year, associated with state-wide drought conditions.

Table III

COMPARISON OF EMISSIONS IN MEDFORD, EUGENE-SPRINGFIELD, & PORTLAND AREAS WITH FREQUENCY OF AQ STANDARD VIOLATIONS IN 1976 FOR THREE POLLUTANTS

Metro Area ¹⁾	TSP		CO		Hydrocarbons Oxidant	
	Tons/yr ³⁾	1976 Violations ²⁾	Tons/yr ⁴⁾	1976 Violations ²⁾	Tons/yr ⁵⁾	1976 Violations ²⁾
Medford-Ashland	8,999 ³⁾	25	66,430 ⁴⁾	30-29 ¹²⁾	10,913 ⁵⁾	21-30 ¹⁵⁾
Eugene-Springfield	15,750 ⁶⁾	5	183,218 ⁷⁾	0	28,930 ⁸⁾	9
Portland-Vancouver	18,481 ⁹⁾	11	432,000 ¹⁰⁾	32-17	53,700 ¹¹⁾	17-32

Table III Notes:

- 1) Refers to 1976 total emissions within designated Air Quality Maintenance Area (AQMA) unless otherwise stated.
- 2) From DEQ's Oregon Air Quality Report, 1976, Table IV-1, p. 20.
- 3) Medford-Ashland AQMA Analysis, Seton, Johnson & Odell, Inc., October 20, 1976, Table 7, p. 29. Total includes Odell estimate of road dust, a major source.
- 4) Jackson County total CO emissions from DEQ's Emission Inventory Data System-Source Registration Listing, November, 1977, p. 224
- 5) Total organics, from A Review and Survey of Hydrocarbon Emission Sources in the Medford AQMA, by Pacific Environmental Services, May, 1977, Table 6, pp 18-19
- 6) Eugene-Springfield AQMA Report by Seton, Johnson & Odell, Inc. soon to be published
- 7) Lane County total CO emissions from DEQ's EI Data System, November, 1977, p. _____
- 8) Lane County total organic emissions, *ibid*, p. _____
- 9) 1975 total TSP emission, revised from unpublished Seton, Johnson & Odell, Inc. AQMA Report
- 10) 1975 total CO emissions for the Portland Primary Abatement Area (PAA), from CO Profile and Evaluation for Portland PAA, unpublished report.
- 11) 1975 total hydrocarbon emissions for the Portland PAA, from Photochemical Oxidant Profile and Evaluation for Portland PAA, unpublished report, (127,000 kg/day)
- 12) All ³⁰29 violations occurred in December, 1976. Medford's CO monitor was installed in November, 1976; likelihood of undetected CO violations earlier in 1976 in Medford is _____
- 13) All 29 violations occurred after Jan in August-October 1976. Medford oxidant monitor was installed in later August, 1976. ~~Some extremely summer violations in 1976 were probably not occurred which went undetected.~~ ^{Probably} ~~Some~~ ^{extremely} ~~summer~~

.....

When DEQ prepared Oregon's first (1972) State Air Quality Implementation Plan under the Clean Air Act, only TSP and sulfur dioxide (SO₂) were monitored in Jackson County. Only TSP was concluded to be a serious problem requiring a control strategy. Other pollutants were assumed to be within standards, because standard violations for CO and O_x were normally associated with urban populations much greater than resided in Jackson County, according to EPA monitoring guidelines. Also, occasional CO sampling by DEQ in Medford previously indicated problems.

By 1976 DEQ had detected consistent violations of O_x standards in the greater Jackson County area, and violations of CO standards in Medford. DEQ immediately began continuous monitoring of both O_x and CO in 1976. In 1977, DEQ began monitoring hydrocarbons (HC) and oxides of nitrogen (NO_x), since both are constituents in the formation of oxidant. Ambient lead concentrations have been measured since before 1970 in Medford, but no violations have been recorded.

Table IV summarizes DEQ monitoring data for Jackson County, including any violations recorded since 1970. It indicates that portions of Jackson County already have air pollution "over-loads," because standards are exceeded for TSP, O_x, and CO. SO₂ standards are not presently exceeded. Monitoring data is as yet insufficient to confirm or deny consistent violations of HC or NO_x standards. However, any violations for these two pollutants would be addressed in an overall oxidant control strategy. Accordingly, it is suggested that this study confine itself to three pollutants--TSP, CO, and O_x--as primary air quality indicators for Jackson County.

DEQ has designated Medford-Ashland as one of three ~~Air Quality Maintenance Areas (AQMAs)~~ ^{non-attainment (of standards) areas} in Oregon, which will receive top priority in developing AQ protection strategies for the pollutants listed: 1) Medford-Ashland (TSP, CO, O_x); 2) Portland-Vancouver (TSP, SO₂, CO, O_x); 3) Eugene-Springfield (TSP). The over-load problems and prospects for each of the three Medford-Ashland area primary pollutants is discussed in more detail below.

TSP

TSP consists of airborne solid or liquid particles of smoke, dust, soot, haze, etc. It can include both directly emitted (primary) particles as well as (secondary) particles formed by reactions of gases or liquids in the atmosphere. Such particles range from 0.1 to 100 microns in diameter, averaging about 2 microns (1 micron = 1/2540 inches). TSP comes from combustion sources, cars, industry-process losses, fugitive dust, field and slash burning, and natural sources such as ocean spray and wind-raised dust. This pollutant aggravates chronic lung disease, heart and lung disease symptoms. It also causes material damage, soiling, and visibility reduction.

Table IV shows that since 1970, TSP standards have been exceeded chronically in Medford, and occasionally in Ashland. Central Medford (Courthouse monitor) has never complied

The TSP secondary
with TSP standards. TSP violations have also been recorded at Medford airport in 1976 and at White City in 1977, but not at Eagle Point in 1977. Central Medford and White City, the latter an industrial center, are considered Jackson County's TSP trouble spots. Ashland complied with TSP standards in 1970 and in 1972-76 before slipping slightly out of compliance in 1977—a year with unusually poor meteorological conditions.

DEQ's original (1972) TSP Control Strategy for Medford-Ashland resulted in a substantial (44%) reduction in known TSP emissions by 1975-76. Unfortunately, the resulting decrease in ambient TSP concentrations was not as great as anticipated, and standards are still violated. A recent review of Jackson County TSP problems concluded:

"According to the emission projections and modeling results of this study, whatever gains are currently being made by DEQ compliance programs will be lost once they are completed, due to continuing growth in area sources. Model projections show DEQ standards to be violated by increasing amounts in future years, in spite of minimal assumed growth in industrial emissions... . . . An overall reduction in emissions from inventoried point and area sources on the order of 40% is required to attain compliance (with TSP standards)."

The EQC
DEQ will soon adopt and *DEQ will* implement a new TSP Control Strategy, to bring ambient TSP concentrations to comply with standards. DEQ's inventory of Jackson County TSP emissions sources (see Appendix A) lists the largest sources as industrial processes and fuel consumption (especially wood processing industry), slash burning, and motor vehicles (road dust). However, the relative importance of TSP sources is better judged by the following estimated percentage contributions to TSP concentrations at the Medford (Courthouse) monitoring station:

55%	Background, Natural, Non-inventoried
20%	Major Wood Products Industry Sources (cyclones, veneer dryers, hogged fuel boilers)
10%	Other Industry
05% <i>9%</i>	Paved Road Dust
06%	Other Area Sources
<u>100%</u>	

The high percentage of background and non-inventoried sources will require 1) a substantial effort by DEQ to identify these sources and their control potential; 2) continued heavy reliance on further control of industrial point source emissions. Most of the 44% reduction in TSP emissions between 1972-76 was achieved by industrial point sources. Accordingly, increasing attention must be directed toward controlling significant "area" sources of TSP--such as road dust, *residential* space-heating, open burning, etc.

While further reductions in TSP emissions are presently projected for industrial sources,

1) Medford-Ashland Air Quality Maintenance Area Analysis, prepared for DEQ by Seton, Johnson & Odell, Inc. of Portland, Oregon, October 20, 1976, pp 1, 4, 5.

Table IV. Historical Summary of Ambient AQ Violations - Jackson County, Oregon

Pollutant 1) Monitor (City) Location DEQ Station No. Date Established	TSP/Lead 2) Ashland City Hall 1502105 11-01-69	TSP/Lead 2) Medford Courthouse 1520117 01-01-69	TSP Medford Airport 1520107 8/76 - 11/76	TSP Medford Bear Creek 1502118 08-05-77	TSP White City Floyd Res. 1509101 01-07-77	TSP Eagle Point H.S. 1511101 01-25-77
<u>YEAR</u>	NUMBER OF AMBIENT AQ-STANDARD VIOLATIONS 3)					
1969	-	11	-	-	-	-
1970	0	13	-	-	-	-
1971	3	5	-	-	-	-
1972	0	9	-	-	-	-
1973	0	3	-	-	-	-
1974	0	4	-	-	-	-
1975	0	8	-	-	-	-
1976	1	26	4	-	-	-
(1977)						7
J	2	4	Out of Service	1	3	0
F	0	2	Service	1	1	0
M	0	0	Not Run	1	0	0
A	0	0	Run	1	0	0
M	0	0	In-1977	1	0	0
J	0	0		1	0	0
J	0	0		1	0	0
A	0	0		0	1	0
S	0	0		0	0	0
O	0	0		0	0	0
N	0	0		0	0	0
D	0	0		0	0	0
1977 Total 4	2	6	-	0	5	0
<u>GRAND TOTAL</u>	6	85	4	0	5	0

- Notes:
- 1) TSP= Total Suspended Particulate; CO= carbon monoxide; SO₂= Sulfur Dioxide
 - 2) At these stations TSP filters are routinely analyzed for lead. No₃ violations found to date.
 - 3) For TSP violations listed the number of 24-hour samples $\geq 150 \text{ ug/m}^3$. For CO and Oxidant the number of days on which the hourly standard (see Table I) was violated are listed.
 - 4) 1977 total violations.

Table IV. Historical Summary of Ambient AQ Violations - Jackson County, Oregon

Pollutant 1) Monitor (City) Location DEQ Station No. Date Established	CO Medford Brophy Bldg 1520119 08-77	Oxidant Medford Bear Creek 1520118 08-76	Oxidant Medford Tolo (Temporary) 08/01/77-09/28/77	Oxidant Medford Gold Hill (Temporary) 09-30-77 →	Hydrocarbons Medford Brophy Bldg 1520119 08-77	Nitrogen Oxides Medford Brophy Bldg 1520119 10-77	Sulfur Dioxide Medford Courthouse 1520017 05-73 - Present
---	--	--	--	--	--	---	---

YEAR	NUMBER OF AMBIENT AQ-STANDARD VIOLATIONS ³⁾						
	CO	Oxidant	Oxidant	Oxidant	Hydrocarbons	Nitrogen Oxides	Sulfur Dioxide
1969	-	-	-	-	-	-	-
1970	-	-	-	-	-	-	-
1971	-	-	-	-	-	-	-
1972	-	-	-	-	-	-	-
1973	-	-	-	-	-	-	-
1974	-	-	-	-	-	-	0
1975	-	-	-	-	-	-	0
1976	-	30	-	-	-	-	0
(1977)							Na
J	20						0
F	15						0
M	7						0
A	5			No	No	No	0
M	5	0		Data	Data	Data	0
J	0	7		Yet	Yet	Yet	0
J	22	9					0
A	21	16	8				0
S	17	8	1				0
O							0
N							0
D							0
1977 Total ⁴⁾	112	40	9	0	0	0	0
GRAND TOTAL	112	70	9	0	0	0	0

Notes:

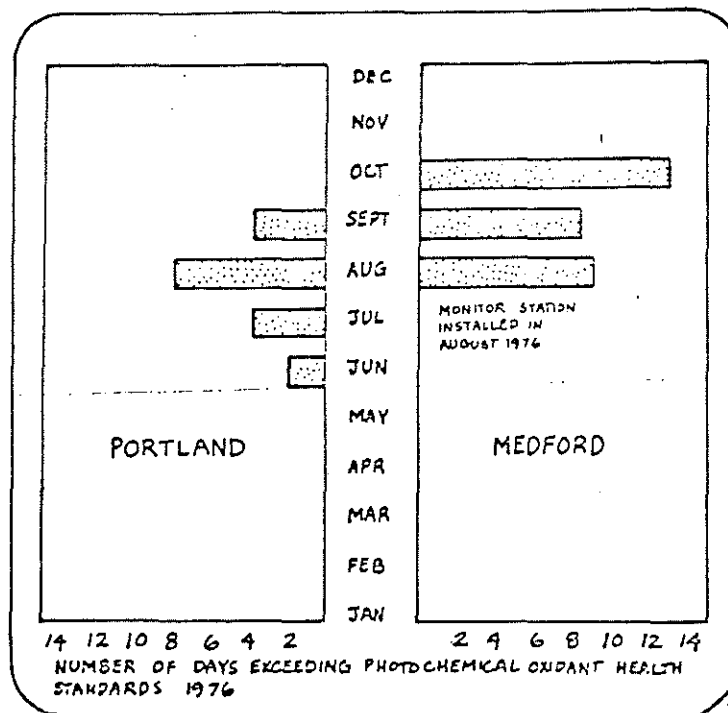
Photochemical Oxidant

Photochemical oxidant consists mostly of ozone, an odorless toxic gas, formed during reaction of hydrocarbons (HC) and oxides of nitrogen (NO_x) in the presence of sunlight. Oxidant is commonly a constituent of "smog" which causes eye irritation and reduces visibility.

Ideal oxidant formation conditions would include a clear, warm sunny day, with fairly constant wind direction and relatively low wind speeds (10 mph), and low inversion heights (2500 feet). Catalyzed by solar energy, trapped organic pollutants drift downwind, reacting to form ozone and photochemical aerosols (smog). Maximum oxidant concentrations typically occur ~~at least several hours~~ downwind--i.e., in a different area from where the original pollutants were generated.

A 1976 aircraft survey²⁾ discovered that Medford had photochemical oxidant problems at least as severe as Willamette Valley cities like Portland, Salem, and Eugene. This led to the installation of Medford's first oxidant monitoring station in August of 1976 (Bear Creek). Figure II compares oxidant data from this station with similar data from Portland for late 1976. It shows that the oxidant standard was exceeded on more days in Medford than in Portland during this period.

Figure II.
SEASONAL PHOTOCHEMICAL OXIDANT
VARIATIONS (PORTLAND AND MEDFORD)



Survey of Ozone and Light Scattering Particles in Western Oregon, prepared for DEQ by the Oregon Graduate Center, Beaverton, Oregon, published January 28, 1977.

The oxidant aircraft survey ²⁾ concluded:

"Ozone concentrations above the federal standard were . . . observed for a considerable fraction of the distance between Eugene and Medford along the Interstate Highway 5 and in Medford basin itself. The situation in Medford is exacerbated by the proximity of the inversion to the surface." (p iii)

"Ozone generation in the Medford basin is enhanced by the proximity of the inversion to the surface (generally less than 1,000 feet) and the narrowness of the basin. This situation minimizes the dispersion volume and accelerates the chemical reactions producing ozone. Ozone maximums were found near Eagle Point and south of Medford. The former may have resulted from pollutants blown into the area from either Grants Pass or White City. The sources of the ozone precursors for Medford and along Interstate 5 were not determined but probably involved contributions from automotive, industrial, and natural conditions." (p xix)

DEQ has designated Medford-Ashland as a ^{now a "designated area"} Primary Abatement Area (PAA) for photochemical oxidant. An Oxidant Control Strategy must be developed for EPA approval by July, 1978. It will probably concentrate on reducing emissions of reactive hydrocarbons ~~and oxides of nitrogen~~, which are ^{the raw materials} more important for oxidant formation.

Appendix A contains a recent DEQ inventory of known sources of "total organics" pollutant in Jackson County, plus a second inventory of sources of organic pollutants lying within the Medford-Ashland Air Quality Maintenance Area. The latter inventory was contained in a recent report ³⁾ which indicated that the following were the largest sources of moderate-highly reactive organic pollutants in the AQMA: motor vehicles, gas stations, and gasoline bulk plants; wood burning sources including hog fuel boilers, space heating, and slash burning; several chemical companies; natural forest emissions (terpenes, etc.); veneer and particle board dryers; and surface coating operations.

Carbon Monoxide

Carbon monoxide (CO) is a highly toxic, colorless/odorless gas, resulting from incomplete combustion. It interferes with the blood's ability to carry oxygen, aggravates heart difficulties, reduces lung capacity, and impairs mental abilities. The overwhelming emission source of CO in urban problem areas is invariably motor vehicles. Forest fires and slash burning are large inventoried sources of CO, but they occur remote from urban problem areas.

Jackson County's first CO monitoring station was established in December, 1976, in Medford (Brophy Building). Numerous violations of CO standards have been recorded since then. Figure III compares CO violations in Portland and Medford during the winter of 1976-77. The number of days exceeding the health standard in Medford is more than twice that which occurred in Portland. Again, as with oxidant and TSP, this testifies in large

³⁾ A Review and Survey of Hydrocarbon Emission Sources in the Medford AQMA, prepared for EPA and DEQ by Pacific Environmental Services, Inc., Santa Monica, California, May, 1977, Table 8, pp 23-24.

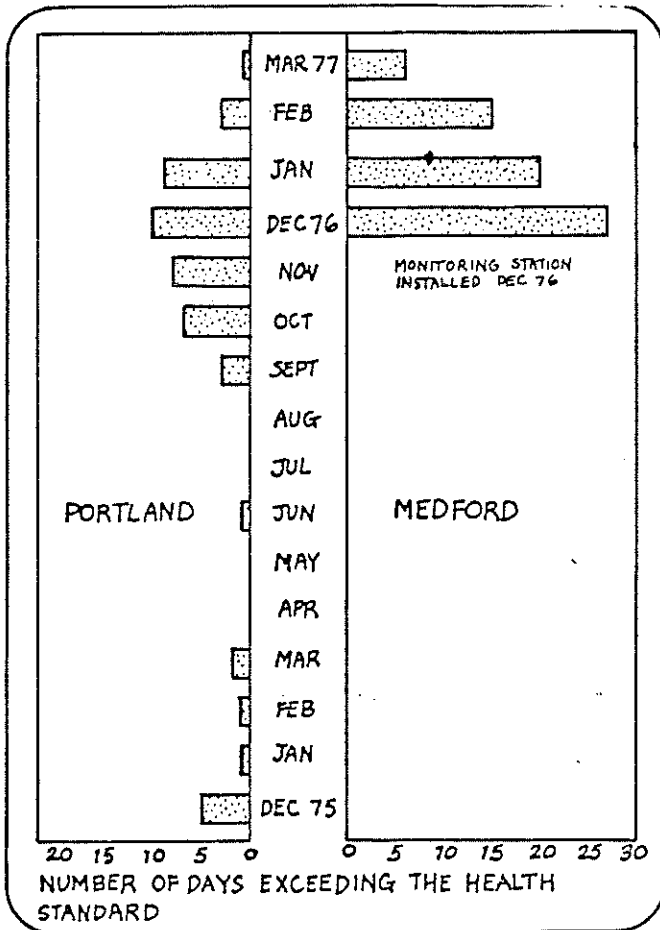


Figure III
SEASONAL CARBON MONOXIDE
VARIATIONS
(PORTLAND AND MEDFORD)

part to the severity of the Rogue River basin meteorology, especially in the 1976-77 drought year.

DEQ has also designated Medford-Ashland as a Primary Abatement Area (PAA) for CO. DEQ must adopt an EPA-approved CO Control Strategy for Medford-Ashland by July, 1978. DEQ is also preparing a CO Emergency Action Plan for Medford-Ashland which is designed to obtain voluntary reduction in motor vehicle use when CO levels exceed health standards, and to determine mandatory action when level rises further, exceeding Warning or Emergency level.

Since motor vehicles are the chief cause of CO problems, CO Control Strategies are usually referred to as a Transportation Control Strategy. If Medford's CO problem turns out to be limited to a few high-use streets, the Transportation Control Strategy (TCS) might consist of changes in traffic flow patterns achieved by rerouting traffic and improving signalization. However, if the problem is area-wide, the TCS might have to be a coordinated effort including such elements as 1) traffic flow improvements; 2) parking management strategies; 3) mass transit improvement; 4) a mandatory motor vehicle inspection program. DEQ plans additional studies to determine whether Medford's CO problem is localized or area-wide.

(Handwritten note) An interim (voluntary) plan has already been prepared by DEQ and approved by Medford City Council.

Institutional Considerations

DEQ is legally obligated under the federal Clean Air Act to enforce the standards and in Table 1. The U. S. Environmental Protection Agency (EPA) is legally obligated by the same law to see that DEQ carries out this responsibility. EPA primarily provides technical assistance, and takes independent enforcement action only if it considers DEQ's not stringent enough.

DEQ
EPA prepares and updates ^{CM} State (Air Quality) Implementation Plan ^(SIP) (AQIP) for EPA approval. The Plan identifies all areas in the state where difficulty is anticipated in attaining standards, or maintaining compliance for a 10-20 year period (such areas may be designated as Air Quality Maintenance Areas) ~~or Primary Abatement Areas~~. EPA must approve all DEQ control strategies for such problems areas. Once a control strategy is approved by EPA, it becomes a legally recognized element of the ~~AQIP~~ ^{SIP} DEQ must implement it, unless EPA approves a modification of the control strategy, via an ~~AQIP~~ ^{SIP} Amendment.

1977 Clean Air Act Amendments require states to (1) identify areas where federal air quality standards (see Table 1) are not attained, or where present attainment will be lost due to expected growth, and (2) by 1979, to submit SIP amendments for EPA approval, which describe strategies for achieving and maintaining compliance with all standards for the next 10-20 years. DEQ has identified the Medford-Ashland area shown in Figure 1 as a "non-attainment area" for TSP, CO and Ox.

One result is that an Emissions Offset Requirement established by the 1977 Amendments applies to (1) any new or modified facility which would emit 100 Tons/year of additional TSP, CO, or Ox, or to (2) sources located outside the area which would have a significant impact upon air quality within the non-attainment area. DEQ cannot issue such sources an air contaminant discharge permit unless their new emissions are offset by at least an equivalent reduction in emissions of that pollutant within the same affected area, such that there is a demonstrated net improvement in area air quality.

Emissions Offset Requirements continue to apply until either (1) an area is no longer considered a non-attainment area, by showing that it has achieved and can maintain compliance with all standards for the next 10-20 years, or (2) EPA approves an SIP amendment which identifies specific locations within the area which can accommodate such large new emissions sources without exceeding standards.

Thus, Emissions Offset Requirements represent a significant restraint to certain types of industrial growth in major air quality problem areas of Jackson County. This restraint is likely to continue for the foreseeable future for TSP sources in the Medford and White City areas, for example. Figure IV is a model of 1976 areawide TSP levels, showing how annual average TSP concentrations vary throughout the Medford-Ashland area. The applicable standard is 60 ug/m³.

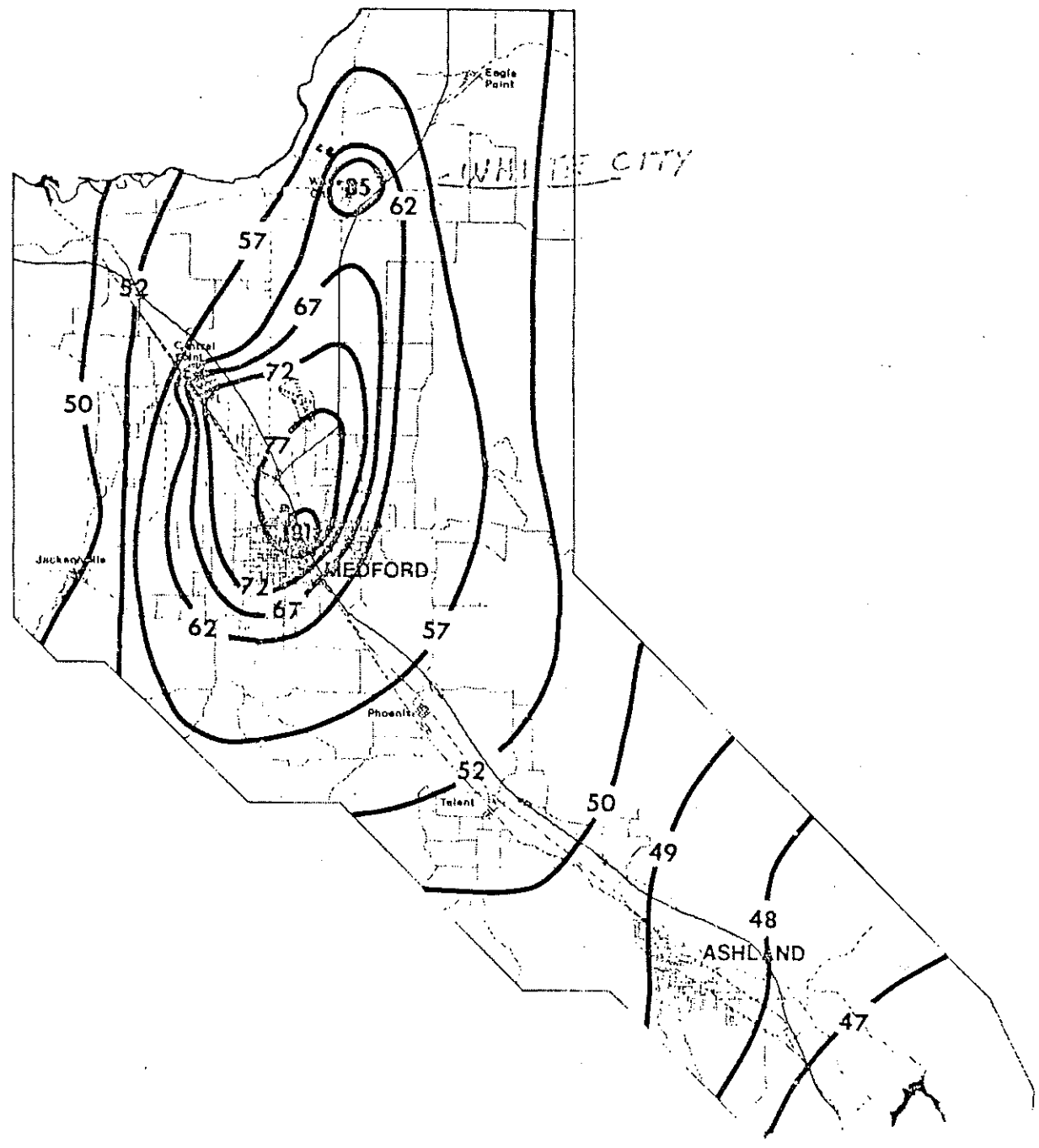


Figure 16 IV

COMPLIANCE ISOPLETHS
PREDICTED ANNUAL GEOMETRIC MEAN ($\mu\text{g}/\text{m}^3$)
for the Medford-Ashland Area.

Citizen Participation

The Clean Air Act of 1970 (Public Law 91-604) provided for citizen lawsuits, but did not specifically address participation in planning and implementing air quality control programs. EPA rules adopted pursuant to the 1970 Act required states to provide opportunity for public hearing before final adoption of any air quality regulation. 1977 Clean Air Act Amendments did not change this requirement. *EPA regulations for Air Quality Maintenance Areas require establishment of a Citizens Advisory Committee, consultation with other area planning agencies.*

LCDC Goal #2 requires state agencies to "coordinate their planning efforts with the affected governing bodies and make use of existing local citizen involvement programs established by counties and cities." ~~Acting on its own initiative, but in harmony with the spirit of LCDC Goal #2,~~ DEQ has implemented a precedent-setting citizen participation effort in Medford, which has resulted in precedent-setting action. *0*

DEQ organized a Citizens Air Quality Advisory Committee to help DEQ formulate its TSP Control Strategy. Citizens were presented with information on the cost, energy requirements, and effectiveness of a list of potential TSP control requirements aimed primarily at reducing industrial emissions. The level of emissions reductions considered by DEQ to be needed to achieve compliance of standards was explained. The citizens were then asked to advise DEQ on the mix of control programs which they felt the most appropriate. Local industrial representatives also addressed the citizens on these issues.

Citizens provided DEQ with a consensus recommendation. After considering this advice, DEQ decided to propose it ^{in rule form} as the Medford TSP Control Strategy. ~~The public hearing on this proposal is scheduled for Friday, December 16, 1977, before the Environmental Quality Commission (EQC) in Medford.~~ ^{DEQ} has recently been authorized by EQC.

Conclusions

Air Quality is a major carrying capacity factor in Jackson County, because 1) three major pollutant standards are presently exceeded (TSP, CO, O_x); and because 2) Jackson County's potential for air quality problems is so high, due to its geography and meteorology.

The air quality standards are fixed by federal law, and are essentially beyond the states' ability to change them. However, for any areas of Jackson County which violate standards, DEQ must develop and implement a strategy to 1) attain compliance as soon as practicable, and 2) maintain such compliance for 10-20 years. The strategy must consider expected levels of economic growth and development.

In short, whenever Jackson County's AQ carrying capacity is over-loaded, existing law requires development and implementation of an AQ control strategy, designed not only to correct the immediate violation, but also (hopefully) to prevent further violations for at least 10 years, taking into account expected growth and development.

INVENTORY OF EMISSIONS SOURCES — JACKSON COUNTY, OREGON

SUMMARY OF ESTIMATED ANNUAL EMISSIONS (TONS/YEAR) BY SOURCE CATEGORY

JACKSON COUNTY

TOTAL PARTICULATES

SOURCE CATEGORY TONS/YEAR

A. FUEL COMBUSTION SOURCES:

1. RESIDENTIAL FUEL COMBUSTION 12
2. COMMERCIAL FUEL COMBUSTION 55
3. INDUSTRIAL FUEL COMBUSTION 1,545

TOTAL FUEL COMBUSTION 1,612

B. PROCESS LOSS SOURCES:

1. CHEMICAL INDUSTRIES 6
2. FOOD/AGRICULTURE INDUSTRIES 15
3. METALLURGICAL INDUSTRIES 0
4. MINERAL PRODUCTS INDUSTRIES 32
5. PETROCHEMICAL INDUSTRIES 0
6. WOOD PROCESSING INDUSTRIES 1,562
7. OTHER INDUSTRIES 0

TOTAL PROCESS LOSS 1,617

C. TRANSPORTATION SOURCES:

1. MOTOR VEHICLES 581
2. OFF-HIGHWAY FUEL USE 23

TOTAL TRANSPORTATION 605

D. SOLID WASTE SOURCES:

1. INCINERATION 2
2. OPEN BURNING 0
3. WIGWAM WASTE BURNERS 273

TOTAL SOLID WASTE 275

E. MISCELLANEOUS AREA SOURCES:

1. FIELD BURNING 4
2. FOREST FIRES 165
3. SLASH BURNING 2,285
4. OTHER 175

TOTAL MISCELLANEOUS 2,651

SUMMARY BY SOURCE CLASS:

1. AREA SOURCES 3,326
2. POINT SOURCES 3,439

TOTAL OF ALL SOURCES

6,765

Total does not include "road dust" - a major source

Source: Emissions Inventory Data System - Source Registration Lists, compiled by DEQ, 1234 S.W. Morrison St., Portland, Oregon

SUMMARY OF ESTIMATED ANNUAL EMISSIONS (TONS/YEAR) BY SOURCE CATEGORY
 JACKSON COUNTY

TOTAL ORGANICS

SOURCE CATEGORY TONS/YEAR

A. FUEL COMBUSTION SOURCES:

1. RESIDENTIAL FUEL COMBUSTION	6
2. COMMERCIAL FUEL COMBUSTION	12
3. INDUSTRIAL FUEL COMBUSTION	554

TOTAL FUEL COMBUSTION 573

B. PROCESS LOSS SOURCES:

1. CHEMICAL INDUSTRIES	650
2. FOOD/AGRICULTURE INDUSTRIES	0
3. METALLURGICAL INDUSTRIES	0
4. MINERAL PRODUCTS INDUSTRIES	0
5. PETROCHEMICAL INDUSTRIES	0
6. WOOD PROCESSING INDUSTRIES	267
7. OTHER INDUSTRIES	2,049

TOTAL PROCESS LOSS 2,967

C. TRANSPORTATION SOURCES:

1. MOTOR VEHICLES	5,718
2. OFF-HIGHWAY FUEL USE	141

TOTAL TRANSPORTATION 5,860

D. SOLID WASTE SOURCES:

1. INCINERATION	1
2. OPEN BURNING	0
3. WIGWAM WASTE BURNERS	48

TOTAL SOLID WASTE 49

E. MISCELLANEOUS AREA SOURCES:

1. FIELD BURNING	3
2. FOREST FIRES	220
3. SLASH BURNING	3,047
4. OTHER	1,245

TOTAL MISCELLANEOUS 4,516

SUMMARY BY SOURCE CLASS:

1. AREA SOURCES	10,395
2. POINT SOURCES	3,570

TOTAL OF ALL SOURCES 13,966

SUMMARY OF ESTIMATED ANNUAL EMISSIONS (TONS/YEAR) BY SOURCE CATEGORY

JACKSON COUNTY

NITROGEN OXIDES

SOURCE CATEGORY TONS/YEAR

A. FUEL COMBUSTION SOURCES:

1. RESIDENTIAL FUEL COMBUSTION	104
2. COMMERCIAL FUEL COMBUSTION	185
3. INDUSTRIAL FUEL COMBUSTION	3,026

TOTAL FUEL COMBUSTION 3,316

B. PROCESS LOSS SOURCES:

1. CHEMICAL INDUSTRIES	0
2. FOOD/AGRICULTURE INDUSTRIES	0
3. METALLURGICAL INDUSTRIES	0
4. MINERAL PRODUCTS INDUSTRIES	0
5. PETROCHEMICAL INDUSTRIES	0
6. WOOD PROCESSING INDUSTRIES	80
7. OTHER INDUSTRIES	0

TOTAL PROCESS LOSS 80

C. TRANSPORTATION SOURCES:

1. MOTOR VEHICLES	5,433
2. OFF-HIGHWAY FUEL USE	282

TOTAL TRANSPORTATION 5,716

D. SOLID WASTE SOURCES:

1. INCINERATION	1
2. OPEN BURNING	0
3. WIGWAM WASTE BURNERS	48

TOTAL SOLID WASTE 49

E. MISCELLANEOUS AREA SOURCES:

1. FIELD BURNING	0
2. FOREST FIRES	36
3. SLASH BURNING	507
4. OTHER	0

TOTAL MISCELLANEOUS 543

SUMMARY BY SOURCE CLASS:

1. AREA SOURCES	6,546
2. POINT SOURCES	3,161

TOTAL OF ALL SOURCES 9,707

SUMMARY OF ESTIMATED ANNUAL EMISSIONS (TONS/YEAR) BY SOURCE CATEGORY

JACKSON COUNTY

CARBON MONOXIDE

SOURCE CATEGORY TONS/YEAR

A. FUEL COMBUSTION SOURCES:

1. RESIDENTIAL FUEL COMBUSTION	25
2. COMMERCIAL FUEL COMBUSTION	18
3. INDUSTRIAL FUEL COMBUSTION	521

TOTAL FUEL COMBUSTION 565

B. PROCESS LOSS SOURCES:

1. CHEMICAL INDUSTRIES	1,294
2. FOOD/AGRICULTURE INDUSTRIES	0
3. METALLURGICAL INDUSTRIES	0
4. MINERAL PRODUCTS INDUSTRIES	0
5. PETROCHEMICAL INDUSTRIES	0
6. WOOD PROCESSING INDUSTRIES	60
7. OTHER INDUSTRIES	0

TOTAL PROCESS LOSS 1,354

C. TRANSPORTATION SOURCES:

1. MOTOR VEHICLES	43,257
2. OFF-HIGHWAY FUEL USE	1,865

TOTAL TRANSPORTATION 45,122

D. SOLID WASTE SOURCES:

1. INCINERATION	3
2. OPEN BURNING	0
3. WIGWAM WASTE BURNERS	1,920

TOTAL SOLID WASTE 1,923

E. MISCELLANEOUS AREA SOURCES:

1. FIELD BURNING	26
2. FOREST FIRES	1,177
3. SLASH BURNING	16,254
4. OTHER	6

TOTAL MISCELLANEOUS 17,464

SUMMARY BY SOURCE CLASS:

1. AREA SOURCES	62,630
2. POINT SOURCES	3,799

TOTAL OF ALL SOURCES 66,429

AS OF 11/30/77

SUMMARY OF ESTIMATED ANNUAL EMISSIONS (TONS/YEAR) BY SOURCE CATEGORY

JACKSON COUNTY

SULFUR OXIDES

SOURCE CATEGORY TONS/YEAR

A. FUEL COMBUSTION SOURCES:

1. RESIDENTIAL FUEL COMBUSTION	136
2. COMMERCIAL FUEL COMBUSTION	432
3. INDUSTRIAL FUEL COMBUSTION	82

TOTAL FUEL COMBUSTION 651

B. PROCESS LOSS SOURCES:

1. CHEMICAL INDUSTRIES	0
2. FOOD/AGRICULTURE INDUSTRIES	0
3. METALLURGICAL INDUSTRIES	0
4. MINERAL PRODUCTS INDUSTRIES	0
5. PETROCHEMICAL INDUSTRIES	0
6. WOOD PROCESSING INDUSTRIES	0
7. OTHER INDUSTRIES	0

TOTAL PROCESS LOSS 0

C. TRANSPORTATION SOURCES:

1. MOTOR VEHICLES	230
2. OFF-HIGHWAY FUEL USE	35

TOTAL TRANSPORTATION 266

D. SOLID WASTE SOURCES:

1. INCINERATION	0
2. OPEN BURNING	0
3. WIGWAM WASTE BURNERS	4

TOTAL SOLID WASTE 5

E. MISCELLANEOUS AREA SOURCES:

1. FIELD BURNING	0
2. FOREST FIRES	0
3. SLASH BURNING	0
4. OTHER	51

TOTAL MISCELLANEOUS 51

SUMMARY BY SOURCE CLASS:

1. AREA SOURCES	911
2. POINT SOURCES	63

TOTAL OF ALL SOURCES 975

AS OF 11/30/77

Table 8. MEDFORD AQMA ORGANIC EMISSION INVENTORY
 BY REACTIVITY CATEGORY

A. Non-Reactive

<u>SOURCE</u>	<u>EMISSIONS, TONS/YEAR</u>
Commercial/Institutional Space Heating	7
Residential Space Heating, gas and oil	7
Industrial Combustion, fossil fuels	2
	<hr/>
SUBTOTAL	16

B. Low Reactivity

<u>SOURCE</u>	<u>EMISSIONS, TONS/YEAR</u>
3M Company - Acetone	1470
Methanol	259
Dry Cleaning	53
	<hr/>
SUBTOTAL	1782

C. Moderate Reactivity

<u>SOURCE</u>	<u>EMISSIONS, TONS/YEAR</u>
Motor Vehicles, Light Duty	3371
Residential Space Heating, wood	900
Slash Burning	600
Gasoline Service Stations	520
Veneer Dryers, condensibles	398
Motor Vehicles, Heavy Duty	335
Surface Coating	257
Gasoline Bulk Plants	146
Particleboard Dryers, condensibles	139
Orchard Heaters	64
Hog Fuel Boilers, condensibles	62
Forest Fires	44
Wigwam Burners	34

Table 8. MEDFORD AQMA ORGANIC EMISSION INVENTORY
BY REACTIVITY CATEGORY (Continued)

C. Moderate Reactivity (Continued)

<u>SOURCE</u>	<u>EMISSIONS, TONS/YEAR</u>
Off-Highway Fuel Use	28
Railroads	20
Incineration	1
Field and Orchard Pruning Burning	1
SUBTOTAL	<u>6920</u>

D. High Reactivity

<u>SOURCE</u>	<u>EMISSIONS, TONS/YEAR</u>
Hog Fuel Boilers, volatiles	817
Reichold Chemical	440
Forests, natural emissions	317
3M Company - Toluene	300
- MEK	20
Veneer Dryers, volatiles	249
Medford Airport	29
Particle Board Dryers, volatiles	23
SUBTOTAL	<u>2195</u>
GRAND TOTAL	<u>10,913</u>

Source: A Review and Survey of Hydrocarbon Emissions Sources in the Medford AQMA, prepared for EPA and DEQ by Pacific Environmental Services, Inc., Santa Monica, California, May, 1977, pages 23, 24.

Table A-2 (continued)

Entry	SIC No.	Fine Particulate	Total Particulate	Sulfur Oxides (SO ₂)	Nit. Oxides (NO _x)	Carbon Monoxide (CO)	Total Organic	Other Inorg.	No. of Sources
21.	8062 (hospital) (SAER) ²	0.4	0.6	0.3	5.2	0.5	0.1	0.0	2
22.	8211 (elementary & secondary schools) (SAER) ²	0.2	0.3	0.8	1.5	0.0	0.1	0.0	2
23.	8221 (colleges or universities) (SAER) ²	1.9	1.9	12.5	7.2	0.9	0.2	0.0	1
24.	9990 (transportation related area sources) (SAER) ²	605.7	605.7	266.1	5,716.6	45,122.1	6,670.9	0.0	7
25.	9991 (residential space heating) (SAER) ²	12.8	12.8	136.6	104.5	25.6	6.8	0.0	1
26.	9992 (commercial/industrial space heating) (SAER) ²	50.8	52.9	417.2	169.9	17.0	11.9	0.0	1
27.	9993 (industrial fuel combustion) (SAER) ²	2.7	2.9	39.4	9.6	0.8	0.1	0.0	1
28.	9994 (solvent evaporation) (SAER) ²	0.0	0.0	0.0	0.0	0.0	432.3	0.0	2
29.	9995 (open burning) (SAER) ²	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1
30.	9996 (slash burning, forest fires, field burning, and burning related to orchards) (SAER) ²	2,538.3	2,603.8	51.6	545.4	17,464.4	3,273.6	0.0	5
31.	9997 (agricultural tilling dust) (SAER) ²	5.0	48.0	0.0	0.0	0.0	0.0	0.0	1
<hr/>									
Total for 78 Sources in Jackson County									
	(SAER) ²	5,332.6	6,765.3 ^{1/2}	975.1	9,707.4	66,429.9	13,966.6	0.0	78

Footnotes:

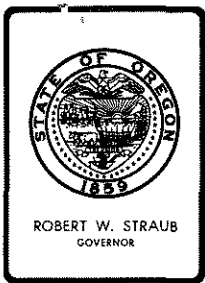
¹ From DEQ Emission Inventory of 11/28/77

² Summed Annual Emission Rates

3. Breakdown of SIC No 9996 for 1976 is as follows

Slash burning	2285.8
Forest fires	165.6
Field burning	4.2
Burning orchard prunings	1.7
Orchard heating	146.5
	<hr/>
	2603.8

4. This total TSP does not include "road dust" because EPA has not yet certified



Environmental Quality Commission

POST OFFICE BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission

From: Director

Subject: Agenda Item B, January 27, 1978, EQC Meeting
December Program Activity Report

Discussion

Attached is the December Program Activity Report.

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

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

Recommendation

It is the Director's recommendation that the Commission take notice of the reported program activities and give confirming approval to the Department's actions relative to air quality project plans and specifications as described on page 7 of the report.

Michael Downs
for
WILLIAM H. YOUNG

M. Downs:dh
229-6485
1-18-78



Contains
Recycled
Materials

Department of Environmental Quality
Technical Programs

Permit and Plan Actions

December 1977

Water Quality Division

	<u>Page</u>
61 . . Plan Actions Completed - Summary	1
Plan Actions Completed - Listing	2
55 . . Plan Actions Pending - Summary	1
17 . . Permit Actions Completed - Summary	4
Permit Actions Completed - Listing	5
130 . . Permit Actions Pending - Summary	4

Air Quality Division

15 . . Plan Actions Completed - Summary	1
Plan Actions Completed - Listing	7
41 . . Plan Actions Pending - Summary	1
40 . . Permit Actions Completed - Summary	9
Permit Actions Completed - Listing	10
119 . . Permit Actions Pending - Summary	9

Solid Waste Management Division

4 . . Plan Actions Completed - Summary	1
Plan Actions Completed - Listing	13
23 . . Plan Actions Pending - Summary	1
17 . . Permit Actions Completed - Summary	14
Permit Actions Completed - Listing	15
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DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Air, Water &
Solid Waste Divisions
(Reporting Unit)

December, 1977
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	Fis.Yr.	Month	Fis.Yr.	Month	Fis.Yr.	
<u>Air</u>							
Direct Sources	20	83	15	67		1	41
Total	20	83	15	67		1	41
<u>Water</u>							
Municipal	68	709	54	785			38
Industrial	12	60	7	49			17
Total	80	769	61	834			55
<u>Solid Waste</u>							
General Refuse		19	4	14			9
Demolition		5		2			3
Industrial		14		8			10
Sludge		2		1			1
Total		40	4	25			23
<u>Hazardous Wastes</u>							
<u>GRAND TOTAL</u>	100	892	80	926		1	119

DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Water Quality Division

December 1977

PLAN ACTIONS COMPLETED - 61

County	Name of Source/Project/Site and Type of Same	Rec'd	Action	Action	Complete Action
	<u>Municipal Sources - 54</u>				
22	HALSEY	K111477	120177	TO MWR	17
26	PORTLAND	J112377	120277	PROV APP	09
3	CCSD #1	J112577	120277	PROV APP	07
24	SALEM	J112577	120277	PROV APP	07
25	MULTNOMAH CO	K120177	120577	PROV APP	04
19	WINSTON	V111477	120577	LITR CMMTS	21
22	LEBANON	J113077	120677	PROV APP	06
24	JEFFERSON	J113077	120677	PROV APP	06
22	HARRISBURG	K113077	120777	PROV APP	07
18	ROSEBURG	J120577	120877	PROV APP	03
3	CCSD #1	J120577	120877	PROV APP	03
15	BCVSA	HYJ120277	120977	PROV APP	07
15	MEDFORD	J120577	120977	PROV APP	04
15	BCVSA	J120577	120977	PROV APP	04
26	GRESHAM	J120577	120977	PROV APP	04
26	GRESHAM	J120577	120977	PROV APP	04
21	LINCOLN C	K113077	120977	PROV APP	09
15	MEDFORD	K112977	120977	PROV APP	10
34	USA DURHAM	K112577	120977	PROV APP	14
34	USA DURHAM	K112577	120977	PROV APP	14
1	CHARLESTON SD	J120277	121277	PROV APP	10
34	USA DURHAM	J120877	121477	PROV APP	06
34	USA DURHAM	J120877	121477	PROV APP	06
2	CORVALLIS	K121277	121477	PROV APP	02
22	SWEET HOME	K112877	121577	PROV APP	17
27	DALLAS	K120277	121677	PROV APP	14
17	GRANTS PASS	K120577	121677	PROV APP	11
22	ALBANY	K120277	121977	PROV APP	17
15	ASHLAND	K120577	121977	PROV APP	14
24	SALEM	K120577	121977	PROV APP	14
27	DALLAS	J120677	121977	PROV APP	13
3	WEST LINN B	J120877	121977	PROV APP	11
26	GRESHAM	K120877	121977	PROV APP	11
24	SALEM-WILLOW	J121277	121977	PROV APP	07
26	PORTLAND	K121577	121977	PROV APP	04
4	ASTORIA	J121577	121977	PROV APP	04
34	USA ALOHA	J121577	121977	PROV APP	04
21	SILVETZ	J121577	121977	PROV APP	04
34	USA BANKS	J121577	121977	PROV APP	04
34	USA ALOHA	J121677	121977	PROV APP	03
34	USA ALOHA	J121677	121977	PROV APP	03
26	PORTLAND	V121977	121977	APPROVED	01
24	SALEM	K113077	121977	PROV APP	19
26	PORTLAND	J110977	121977	PROV APP	40
24	SALEM WALLACE	J121277	122077	PROV APP	08
34	USA ALOHA	K121977	122177	PROV APP	02
34	USA	K122077	122177	PROV APP	01
8	PORT ORFORD	K111877	122377	PROV APP	35
30	UMATILLA	K120877	122977	PROV APP	21
10	GREEN SD	K121977	122977	PROV APP	10
5	ST HELENS	K120577	123077	PROV APP	25
20	SPRINGFIELD	K120877	123077	PROV APP	22
2	CORVALLIS	K121277	123077	PROV APP	18
20	SPRINGFIELD	K121577	123077	PROV APP	15

DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

December 1977
(Month and Year)

PLAN ACTIONS COMPLETED (61)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
INDUSTRIAL WASTE SOURCES (7)			
Linn	Teledyne Wah Chang Albany 200,000 V2 Tank	11-25-77	Approved Plans Only
Linn	Teledyne Wah Chang Albany	11-25-77	Approved Plans Only
Coos	Bandon Fisheries - Bandon Solids Removal	11-28-77	Approved
Yamhill	Gray & Co. - Dayton, Prevent Storm Water Contamination, Covered Area	12-5-77	Approved
Linn	Teledyne Wah Chang Albany Ammonia Plant Heat Exchanger	12-20-77	Approved
Linn	Ron Miller Animal Waste	12-27-77	Approved
Clackamas	Omark Industries - Milwaukie Plating Modifications	12-28-77	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

December 1977
(Month and Year)

SUMMARY OF WATER PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending		Sources Under Permits		Sources Reqr'g Permits	
	Month	Fis. Yr.	Month	Fis. Yr.	Month	Fis. Yr.	* **	* **		
	* **	* **	* **	* **	* **	* **	* **	* **		
<u>Municipal</u>										
New	0 1	0 2	0 2	1 4	2 1					
Existing	0 0	0 2	0 0	0 3	0 1					
Renewals	1 1	15 1	1 0	51 3	48 3					
Modifications	1 0	8 0	4 1	12 1	3 0					
Total	2 2	23 5	5 3	64 11	53 5			300 74	302 76	
<u>Industrial</u>										
New	2 2	6 8	0 2	5 8	4 6					
Existing	0 2	0 8	0 0	1 4	0 8					
Renewals	2 1	23 6	0 3	35 8	44 3					
Modifications	1 0	8 1	4 0	15 1	5 0					
Total	5 5	37 23	4 5	56 21	53 17			437 102	441 16	
<u>Agricultural (Hatcheries, Dairies, etc.)</u>										
New	0 0	1 1	0 0	1 1	1 0					
Existing	0 0	0 0	0 0	0 0	0 0					
Renewals	0 0	0 0	0 0	0 0	0 0					
Modifications	0 0	0 0	0 0	0 0	1 0					
Total	0 0	1 1	0 0	1 1	2 0			66 10	67 10	
GRAND TOTALS	7 7	61 29	9 8	121 33	108 22			803 186	810 202	

* NPDES Permits

** State Permits

DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

December 1977
(Month and Year)

PERMIT ACTIONS COMPLETED (17)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Lane	City of Florence Sewage Disposal	12-12-77	NPDES Permit Modified
Klamath	Gilchrist Timber Co. Condenser Water	12-12-77	NPDES Permit Modified
Klamath	Klamath Falls Spring St.	12-12-77	NPDES Permit Modified
Klamath	Klamath Falls Kingsly Field	12-12-77	NPDES Permit Modified
Washington	Unified Sewerage Agency Durham STP	12-12-77	NPDES Permit Modified
Malheur	Farewell Bend Commorial Complex	12-12-77	State Permit Modified
Clatsop	Crown Zellerbach Wauna	12-16-77	NPDES Permit Modified
Jackson	City of Eagle Point Sewage Disposal	12-19-77	NPDES Permit Renewed
Marion	McKillip Bros Meat Co.	12-19-77	State Permit Renewed
Josephine	Josephine County School District North Valley High School	12-19-77	State Permit Issued
Marion	Mt. Jefferson Woolens Wool Processing	12-19-77	State Permit Renewed
Jackson	Reichhold Chemical White City	12-19-77	State Permit Renewed
Jackson	School Dist. #6 Sam's Valley Elementary School	12-19-77	State Permit Issued
Baker	Henry L. Williams Mining Operation	12-19-77	State Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

December 1977
(Month and Year)

PERMIT ACTIONS COMPLETED (17 cont.)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Polk	Norman Wiencz Slaughterhouse	12-19-77	State Permit Issued
Linn	Oregon Metalurgical Corp. Metal Processing	12-21-77	NPDES Permit Modified
Lincoln	Alaska Packers Assn. Newport	12-21-77	NPDES Permit Modified

DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Air Quality Division

December 1977

(Reporting Unit)

(Month and Year)

PLAN ACTIONS COMPLETED (17)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources</u> (17)			
Linn (NC915)	Teledyne Wah Chang Extrusion press control	11/29/77	Withdrawn
Douglas (NC966)	Mt. Mazama Plywood Energex burner on #3 dryer	10/27/77	Approved
Jackson (NC989)	Eugene F. Burrill Planner shaving cyclone	10/25/77	Approved
Linn (NC992)	Teledyne Wah Chang Albany Five new Zr distillation furnaces	11/30/77	Approved
Linn (NC993)	Teledyne Wah Chang Albany Four new Zr reduction furnaces	11/30/77	Approved
Linn (NC995)	Teledyne Wah Chang Albany Fugitive SiCl ₄ scrubber	11/14/77	Approved
Linn (NC1005)	Teledyne Wah Chang Albany Third carbon column, HfO ₂	12/2/77	Approved
Clatsop (NC1012)	Crown Zellerbach, Wauna Continuous stack monitors	12/2/77	Approved
Washington (NC1015)	Catlin Gabel Schools Incinerator	12/12/77	Approved conditionally
Yamhill (NC1020)	Boise Cascade Corporation, Willamina Hogged fuel boiler	12/9/77	Approved
Jackson (NC1022)	3M Company Drum dryer system	11/25/77	Approved
Marion (NC1023)	Wilco Farmers Addition to feed mill	12/1/77	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY
 TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Air Quality Division
 (Reporting Unit)

December 1977
 (Month and Year)

PLAN ACTIONS COMPLETED

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources (Continued)</u>			
Multnomah (NC1032)	Rhodia Inc. Venting of new storage vessels	12/20/77	Approved
Hood River (NC1033)	Bo-Nor Inc. Orchard fan	12/5/77	Approved (tax credit only)
Josephine (NC1034)	Tim-Ply Co. Burley scrubber on veneer dryer	12/13/77	Approved
Multnomah (NC1035)	Anodizing, Inc. Expansion of anodizing plant	12/1/77	Approved
Multnomah (NC1039)	Steel Guild Inc. Spray paint booth	12/13/77	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

December 1977
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources under Permits	Sources Reqr'g Permits
	Month	Fis.Yr.	Month	Fis.Yr.			
<u>Direct Sources</u>							
New	<u>2</u>	<u>29</u>	<u>3</u>	<u>17</u>	<u>12</u>		
Existing	<u>3</u>	<u>64</u>	<u>7*</u>	<u>35</u>	<u>29</u>		
Renewals	<u>2</u>	<u>62</u>	<u>3</u>	<u>23</u>	<u>39</u>		
Modifications	<u>24</u>	<u>817</u>	<u>24</u>	<u>799</u>	<u>18</u>		
Total	<u>31</u>	<u>972</u>	<u>36</u>	<u>874</u>	<u>98</u>	<u>1,778</u>	<u>1,819</u>
<u>Indirect Sources</u>							
New	<u>0</u>	<u>14</u>	<u>3</u>	<u>15</u>	<u>12</u>		
Existing							
Renewals							
Modifications	<u>0</u>	<u>3</u>	<u>1</u>	<u>3</u>	<u>0</u>		
Total	<u>0</u>	<u>17</u>	<u>4</u>	<u>18</u>	<u>12</u>	<u>66</u>	
<u>GRAND TOTALS</u>	<u>31</u>	<u>989</u>	<u>40</u>	<u>892</u>	<u>110</u>	<u>1844</u>	

* Includes one (1) application which was withdrawn.

DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

December 1977
(Month and Year)

PERMIT ACTIONS COMPLETED (40)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources</u> (36)			
Clackamas	Globe Concrete Products 03-2502, (Modification)	11/23/77	Permit issued
Columbia	Cascade Aggregates 05-2367, (Modification)	12/13/77	Permit issued
Columbia	Portland General Electric 05-2520, (Modification)	11/16/77	Addendum issued
Columbia	Turco Engineering (PGE) 05-2555, (New)	11/25/77	Permit issued
Columbia	Portland General Electric 05-2571, (New)	11/16/77	Permit issued
Coos	Roseburg Lumber 06-0010, (Modification)	12/20/77	Addendum issued
Douglas	Roseburg Lumber 10-0025, (Modification)	12/20/77	Addendum issued
Douglas	Champion Building Products 10-0037, (Modification)	12/20/77	Addendum issued
Douglas	Drain Plywood 10-0054, (Modification)	12/20/77	Addendum issued
Douglas	International Paper 10-0056, (Modification)	12/20/77	Addendum issued
Douglas	Roseburg Lumber Co. 10-0078, (Modification)	12/20/77	Addendum issued
Douglas	Roseburg Lumber Co. 10-0083, (Modification)	12/20/77	Addendum issued
Hood River	Champion Building Products 14-0002, (Modification)	12/13/77	Addendum issued
Josephine	Southern Oregon Plywood 17-0015, (Modification)	12/1/77	Addendum issued
Josephine	Tim-Ply Co. 17-0029, (Modification)	12/1/77	Addendum issued

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TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

December 1977
(Month and Year)

PERMIT ACTIONS COMPLETED (40 cont.)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Lincoln	Georgia Pacific 21-0004, (Modification)	12/20/77	Addendum issued
Linn	Clear Lumber Co. 22-7022, (Renewal)	12/13/77	Permit issued
Malheur	Ontario Rendering 23-0004, (Modification)	10/12/77	Permit issued
Marion	Oregon Highway Division 24-4155, (Renewal)	12/13/77	Permit issued
Marion	Agri-Lines 24-7045, (Existing)	12/13/77	Permit issued
Multnomah	Murrell & Gilbert Brothers 26-0040, (Modification)	12/19/77	Permit issued
Multnomah	Nob Hill Apartments 26-0093, (Modification)	11/23/77	Permit issued
Multnomah	22nd & Davis Oregon Ltd. 26-0512, (Modification)	12/12/77	Permit issued
Multnomah	Collier Carbon & Chemical 26-1889, (Existing)	12/13/77	Permit issued
Multnomah	Reimann & McKinney 26-2577, (Modification)	12/12/77	Permit issued
Multnomah	Orewash Theatres 26-2747, (Modification)	12/19/77	Permit issued
Polk	Valley Concrete & Gravel 27-4022, (Existing)	11/17/77	Permit issued
Tillamook	Louisiana Pacific 29-0019, (Modification)	12/13/77	Addendum issued
Yamhill	Osborne Rock Products 36-6025, (Existing)	12/13/77	Permit issued
<u>Portable Sources</u>			
Portable	Tillamook County Road Department 37-0034, (Modification)	12/20/77	Permit issued

DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

December 1977
(Month and Year)

PERMIT ACTIONS COMPLETED (40 cont.)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Portable	J. C. Compton 37-0078, (Renewal)	12/13/77	Permit issued
Portable	M. E. Kauffman Crushing 37-0147, (Existing)	12/13/77	Permit issued
Portable	M. E. Kauffman Crushing 37-0156, (Existing)	12/13/77	Permit issued
Portable	Tillamook County Road Department 37-0185, (Modification)	12/13/77	Permit issued
Portable	Acme & Central Premix Concrete 37-0186, (New)	12/13/77	Permit issued
Portable	Stadeli Pump & Construction 37-0170, (Modification)	12/20/77	Permit issued

Indirect Sources (4)

Washington	Valley West Shopping Center, Phase I - 1220 spaces File No. 34-7007	12/7/77	Final permit issued
Clackamas	Clackamas Fred Meyer Shopping Center, 600 spaces File No. 03-7011	12/19/77	Final permit issued
Multnomah	Project 1011, 530 spaces File No. 26-7019	12/16/77	Application withdrawn. Phase I will be constructed without a permit.
Marion	Hayesville K-Mart, 609 spaces	12/14/77	Modification issued

DEPARTMENT OF ENVIRONMENTAL QUALITY
 TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Solid Waste
 (Reporting Unit)

December 1977
 (Month and Year)

PLAN ACTIONS COMPLETED (4)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Coos	Bandon Incinerator New Facility Construction Specifications and Plans and Operational Plan	12/5/77	Conditional Approval.
Wasco	Shaniko Disposal Site New Site Operational Plan	12/7/77	Conditional Approval.
Lane	Lane County Resource Recovery Facility New Facility Interim Operational Plan	12/8/77	Conditional Approval.
Washington	Forest Grove Transfer Station	12/12/77	Conditional Approval.

DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

December 1977
(Month and Year)

SUMMARY OF SOLID AND HAZARDOUS WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Reqr'g Permits
	Month	Fis.Yr.	Month	Fis.Yr.			
<u>General Refuse</u>							
New	1	7	2	6	4		
Existing		3		5	19		
Renewals	2	23	2	17	16		
Modifications	1	5		5	4		
Total	4	38	4	33	43	184	189
<u>Demolition</u>							
New				1			
Existing				1			
Renewals							
Modifications							
Total	0	0	0	2	0	17	17
<u>Industrial</u>							
New	1	3	1	8	1		
Existing				2	5		
Renewals	1	4	2	7	3		
Modifications	1	2	1	2	2		
Total	3	9	4	19	11	96	98
<u>Sludge Disposal</u>							
New							
Existing							
Renewals		1		2			
Modifications							
Total	0	1	0	2	0	5	5
<u>Hazardous Waste</u>							
New							
Authorizations	9	78	9	99	7		
Renewals							
Modifications							
Total	9	78	9	99	7	1	1
<u>GRAND TOTALS</u>	16	126	17	155	61	303	310

DEPARTMENT OF ENVIRONMENTAL QUALITY
 TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Solid Waste
 (Reporting Unit)

December 1977
 (Month and Year)

PERMIT ACTIONS COMPLETED (17)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>General Refuse (Garbage) Facilities (4)</u>			
Lane	Lane County Resource Recovery Facility New Facility	12/8/77	Letter authorization issued.
Lincoln	Waldport Disposal Site Existing Facility	12/22/77	Permit issued. (renewal)
Lincoln	North Lincoln Disposal Site Existing Facility	12/22/77	Permit issued. (renewal)
Union	Union County Processing New Facility	12/22/77	Permit issued.
<u>Demolition Waste Facilities - none</u>			
<u>Sludge Disposal Facilities - none</u>			
<u>Industrial Waste Facilities (4)</u>			
Lincoln	Publishers Paper, Toledo Existing Facility	12/1/77	Letter authorization issued. (renewal)
Yamhill	Fort Hill Lumber Existing Facility	12/5/77	Permit issued. (renewal)
Linn	Fred Smith Landfill Existing Facility	12/7/77	Permit amended.
Lane	Palanuik Wood Waste Site Proposed New Facility	12/16/77	Permit denied

DEPARTMENT OF ENVIRONMENTAL QUALITY
 TECHNICAL PROGRAMS

MONTHLY ACTIVITY REPORT

Solid Waste
 (Reporting Unit)

December 1977
 (Month and Year)

PERMIT ACTIONS COMPLETED (continued)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Hazardous Waste Facilities (9)</u>			
Gilliam	Chem-Nuclear Systems Existing Facility	12/5/77	Six (6) verbal authorizations con- firmed in writing (small quantities of various hazardous wastes).
"	" "	"	Disposal authoriza- tions amended. (Acids and flamables).
"	" "	12/7/77	Disposal authoriza- tion amended (wood treating waste).
"	" "	1/13/77	Disposal authoriza- tion amended.

TOTALS

last this

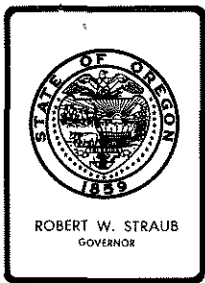
DEQ CONTESTED CASE LOG

1/11/78

Settlement Action	5	7
Preliminary Issues	5	4
Discovery	5	5
To be Scheduled	16	23
To be Rescheduled	4	4
Set for Hearing	4	3
Briefing Due	4	3
Decision Due	6	8
Decision Out	3	0
Appeal to Comm.	5	7
Appeal to Ct.	0	0
Resolved	1	1
Totals	<u>58</u>	<u>65</u>

Key: ACD Air Contaminant Discharge Permit
 AQ Air Quality
 AQ-SNCR-76-178 A violation involving air quality occurring in the Salem/North Coast Region in the year 1976 - the 178th enforcement action in that region for the year
 Cor Cordes
 CR Central Region
 Dec Date The date of either a proposed decision of a hearing officer or a decision by the Commission
 \$ Civil penalty amount
 ER Eastern Region
 Fld Brn Field burning incident
 Hrngs The hearings section
 Hrng Rfrri The date when the enforcement and compliance unit request the hearings unit to schedule a hearing
 Hrng Rqst The date the agency receives a request for a hearing
 Italics Different status or new case since last contested case log
 LQ Land Quality
 McS McSwain
 NP Noise Pollution
 NPDES National Pollution Discharge Elimination System wastewater discharge permit
 PR Portland Region
 Prtys All parties involved
 Rem Order Remedial Action Order
 Resp Code The source of the next expected activity on the case
 SNCR Salem/Northcoast Region
 S.S.D. Subsurface sewage disposal
 SWR Southwest Region
 WQ Water Quality

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	DEQ or Atty	Hrng Offcr	Hrng Date	Resp Code	Doc Date	Case Type & #	Case Status
Davis et al	5/75	5/75	Atty	McS	5/76	Hrng		12 SSD Permits	Decision Due
Faydrex, Inc.	5/75	5/75	Atty	McS	11/77	Transc		64 SSD Permits	Briefing Due
Johns et al	5/75	5/75	Atty	McS		All		3 SSD Permits	Settlement Action
Hengsteler	6/75	6/75	Atty	Lmb	8/76	Comm	9/77	1 SSD Permit	Appeal to Comm
Faydrex (Lt 116)	8/75	5/75	Atty	McS	5/77	Hrng		1 SSD Permit	Decision Due
Laharty	1/76	1/76	Atty	McS	9/76	Comm	1/77	Rem Order SSD	Appeal to Comm
PGE (Harborton)	2/76	2/76	Atty	McS		Prtys		ACD Permit Denial	Preliminary Issues
Allen	3/76	4/76	DEQ	McS		Hrngs		SSD Permit	To be Scheduled
Melquist	8/76	8/76	DEQ	McS	3/77	Comm	9/77	\$500 SS-MWR-76-156	Appeal to Comm
Taylor, R.	9/76	9/76	Atty	Lmb	12/76	Resp	12/77	\$500 LQ-MWR-76-91	Appeal to Comm
Ellsworth	10/76	10/76	Atty	McS		Prtys		\$10,000 WQ-PR-76-48	Discovery
Jensen	11/76	11/76	DEQ	Cor	12/77	Hrngs		\$1500 Fld Brn AQ-SNCR-76-232	Decision Due
Mignot	11/76	11/76	Atty	McS	2/77	Dept	2/77	\$400 SW-SWR-288-76	Settlement Action
Hudspeth	12/76	12/76	Atty	McS	3/77	Hrngs		\$500 WQ-CR-76-250	Decision Due
Perry	12/76	12/76	DEQ	Cor	1/78	Hrngs		Rem Order SS-SWR-253-76	Set for Hearing
Knight	12/76	6/77	DEQ	Cor		Resp		Rem Order	To be Rescheduled
Melquist	1/77	1/77	Atty	McS	3/77	Comm	9/77	\$2000 SS-MWR-76-281	Appeal to Comm
Alexander	2/77	6/77	DEQ			Hrngs		Rem Order SS-SWR-77-23	To be Scheduled
Elving	2/77	3/77	Atty	McS	6/77	Resp	12/77	\$100 AQ-SWR-76-224	Decision Out
Wilson	2/77	3/77	Atty	Cor		Prtys		Rem Order SS-CR-77-18	Settlement Action
Grande	3/77	3/77	DEQ	Lmb	10/77	Resp	12/77	\$100 AQ-PR-77-45	Appeal to Comm
McCollum	3/77	3/77	Atty	McS	8/77	Hrngs		SSD Permit App	Decision Due
Rossier	3/77	3/77	Atty	McS		Dept		SS Variance Request	To be Scheduled
Jones	4/77	7/77	DEQ	Cor		Resp		SSD Permit SS-SWR-77-57	To be Rescheduled
Beaver State et al	5/77	5/77	Atty	Cor	10/77	Hrngs		\$150 AQ-SNCR-77-84	Decision Due
Middleton	5/77		DEQ			Dept		Rem Order SS-PR-77-66	Discovery
Sundown et al	5/77	6/77	Atty	McS		Hrngs		\$20,000 Total SS Viol SNCR	To be Scheduled
Wallace	5/77	6/77	DEQ	Cor		Resp		1 SSD Permit Denial	To be Rescheduled
Wright	5/77	5/77	Atty	McS		Resp		\$250 SS-MWR-77-99	Preliminary Issues
Delaino	6/77		DEQ			Dept		\$250 SS-PR-77-128	Discovery
Henderson	6/77	7/77	Atty	Cor	1/77	Hrngs		Rem Order SS-CR-77-136	Briefing Due
Exton	6/77	8/77	DEQ	Cor	1/78	Hrngs		Rem Order SS-PR-76-268	Set for Hearing
Lowe	7/77	7/77	DEQ	Cor		Resp		\$1500 SW-PR-77-103	To be Rescheduled
Magness	7/77	7/77	DEQ	Cor	11/77	Resp		\$1150 Total SS-SWR-77-142	Briefing Due
Southern Pacific Trans	7/77	7/77	Atty	Cor		Prtys		\$500 NP-SNCR-77-173	Preliminary Issues
Suniga	7/77	7/77	DEQ	Lmb	10/77	Resp		\$500 AQ-SNCR-77-143	Decision Due
Georgia Pacific	8/77		DEQ			Dept		\$1000 WQ-SNCR-77-	Settlement Action
International Paper	8/77	8/77	Atty	McS		Prtys		NPDES (Gardiner)	Settlement Action
Sun Studs	8/77	9/77	DEQ			Hrngs		\$300 WQ-SWR-77-152	To be Scheduled
Taylor, D.	8/77	10/77	DEQ			Hrngs		\$250 SS-PR-77-188	Discovery
Brookshire	9/77	9/77	Atty	McS	10/77	Comm	11/77	\$1000 AQ-SNCR-76-178 Fld Brn	Appeal to Comm
Grants Pass Irrig	9/77	9/77	Atty	McS		Prtys		\$10,000 WQ-SWR-77-195	Discovery
Pohll	9/77	12/77	Atty			Dept		SSD Permit App	To be Scheduled
Trussel et al	9/77	9/77	DEQ	Cor	10/77	Resp		\$150 AQ-SNCR-77-185	Decision Due
Califf	10/77	10/77	DEQ			Hrngs		Rem Order SS-PR-77-225	To be Scheduled
Mc Clincy	10/77	12/77	DEQ			Hrngs		SSD Permit Denial	To be Scheduled
Silbernagel	10/77	10/77	DEQ	Cor		Hrngs		AQ-MWR-76-202 \$400	To be Scheduled
Zorich	10/77	10/77	DEQ			Hrngs		\$100 AQ-SNCR-77-173	To be Scheduled
Clay	11/77	12/77	DEQ			Hrngs		\$200 SS-MWR-77-254	To be Scheduled
Hayes	11/77		RFQ			Dept		\$1500 AQ-MWR-77-240	To be Scheduled
Jenks	11/77	12/77	DEQ			Hrngs		\$1000 Fld Brn AQ-MWR-77-284	To be Scheduled
Keen	11/77		DEQ			Dept		\$3000 Fld Brn	To be Scheduled
Knos	11/77	12/77	DEQ			Hrngs		\$120 Assmt Fld Brn	To be Scheduled
Oak Creek Farms	11/77	12/77	DEQ			Dept		\$4000 AQ-MWR-77-242 Fld Brn	To be Scheduled
Fimm	11/77	11/77	DEQ	Cor	1/78	Hrngs		\$4000 AQ-MWR-77-242 Fld Brn	Set for Hearing
Powell	11/77	11/77	DEQ	Cor		Hrngs		\$10,000 Fld Brn AQ-MWR-77-241	To be Scheduled
Wah Chang	12/77	12/77	Atty	McS		Hrngs		ACD Permit Conditions	Preliminary Issues
Barnett & Sons, Inc.	12/77		DEQ			Dept		\$500 WQ-PR-77-307	Settlement Action
Helms et al	12/77	12/77	DEQ			Hrng		Unseawared Houseboat Moorage	To be Scheduled
Carl F. Jensen								\$200 AQ-SNCR-77-306 Fld Brn	To be Scheduled
Carl F. Jensen/Elmer Klopfenstein	1/78		Atty			Dept		\$18,000 AQ-MWR-77-321 Fld Brn	To be Scheduled
Schrock, D.	12/77		DEQ			Dept		\$1800 AQ-SNCR-77-320 Fld Brn	To be Scheduled
Schrock Farms, Inc.	12/77		DEQ			Dept		\$300 AQ-MWR-77-324 Fld Brn	To be Scheduled
								\$200 AQ-MWR-77-300 Fld Brn	To be Scheduled
Steckley	12/77	12/77	DEQ			Hrng		\$200 AQ-MWR-77-298 Fld Brn	To be Scheduled
Van Loon	12/77		RFQ			Dept		\$300 AQ-MWR-77-295 Fld Brn	Settlement Action



Environmental Quality Commission

POST OFFICE BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. C, January 27, 1978, EQC Meeting

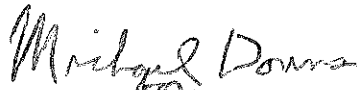
Tax Credit Applications

Attached are three requests for tax credit action. Review reports and recommendations of the Director are summarized on the attached table.

Director's Recommendation

It is recommended that the Commission act on the tax credit requests as follows:

1. Issue Pollution Control Facility Certificates for two applications: T-920 and T-944.
2. Deny Preliminary Certification request for Champion International Corporation, Rifle Range Road Plant, Roseburg because the Department does not consider the substantial purpose of this project to be for pollution control.


WILLIAM H. YOUNG

MJDowns:cs
229-6485
1/20/78

Attachments

1. Tax Credit Summary
2. Tax Credit Application Table
3. 3 review reports



Contains
Recycled
Materials

Attachment 1

Proposed January 1978 Totals

Air Quality	\$ -0-
Water Quality	79,081
Solid Waste	-0-
	<u>\$79,081</u>

Calendar Year Totals to Date
(Excluding January 1978 Totals)

Air Quality	\$ -0-
Water Quality	-0-
Solid Waste	-0-
	<u>-0-</u>

Total Certificates Awarded (Monetary Values)
Since Beginning of Program (Excluding
January 1978 Totals):

Air Quality	\$112,187,115
Water Quality	80,305,752
Solid Waste	14,628,629
	<u>\$207,121,496</u>

TAX CREDIT APPLICATIONS SUMMARY

Applicant/ Plant Location	Appl. No.	Facility	Claimed Cost	% Allocable to Pollution Control	Director's Recommendation
Sunny 70 Farms, Inc. Independence	T-920	Waste control facility	\$16,457.80	80% or more	Issue Certificate
Champion International Gold Beach	T-944	Veneer dryer washdown water recycling facility	62,624.00	80% or more	Issue Certificate
Champion International Roseburg		Construction of new oil house for storage of 20-55 gallon drums			Deny Preliminary Certification

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

Appl. No. T-920

Date _____

1. Applicant

Sunny 70 Farms, Inc.
Route 1, Box 79
Independence, OR 97351

The applicant owns and operates a dairy farm. The product is milk.

Application was made for tax credit for water pollution control facility.

2. Description of Claimed Facility

The claimed facilities consist of:

- A. Concrete solid waste area (10 ft. by 55 ft.)
- B. Concrete collection slabs in barn (70 cu. yds. concrete)
- C. Concrete drain slab (32 ft. x 60 ft.)
- D. Spreaders, 1 Lely LMS 1000 GAC and 1 International No. 103 manure spreader.
- E. Diesel tractor - International No. 424.

Notice of Intent to Construct and Preliminary Certification for Tax Credit was not required.

Construction was initiated on the claimed facility in January '67, completed in August 1976, and placed into operation in February 1977.

Facility cost \$16,457.80 (Statements were provided)

Work progress over approximately 10 years. DEQ (Salem Office) letter of 2/19/76 summarized and approved the total project and stated that it would substantially reduce water pollution from the operation.

3. Evaluation

The facility is used to control all animal wastes from barns, parlor and milkhouse. The application states that the claimed facility controls 100% of the solids and liquid wastes. Sunny 70 Farms states that the operating cost of applying wastes to their own fields exceeds value of the fertilizer and that the claimed facility is performing as intended. The applicant claims that 90% of the use of the tractor is for manure handling and spreading.

4. Summation

- A. Facility was not required to have prior approval to construct or preliminary certification.
- B. Facility was constructed on or after January 1, 1967, as required by ORS Chapter 468.165 (1)(a).
- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling or reducing water pollution.
- D. The facility is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- E. Applicant claims 100% or more of facility costs are allocable to pollution control and that there is no return on investment, increased production, improved product quality, fuel savings or byproduct resulting from the installation of this facility.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facility claimed in Application T-920, such certificate to bear the actual cost of \$16,457.80 with 80% or more of the cost applicable to Pollution Control.

Charles K. Ashbaker:aes
229-5309
1/13/78

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

Appl. No. T-944

Date 12/27/77

1. Applicant

Champion International Corporation
Champion Building Products Division
P. O. Box 10228
Eugene, OR 97401

Gold Beach Plant

The applicant owns and operates a plant to manufacture plywood from raw log to finished panel.

Application was made for tax credit for water pollution control facility.

2. Description of Claimed Facility

The claimed facility recycles the veneer dryer washdown water and consists of the following:

- A. New 500 gallon collection sump - 500 gal.
- B. Equipment foundation - concrete (19 ft. by 24 ft.).
- C. Chopper pump - Vaughn Model 330.
- D. Hydrasieve 60 inch by 54 inch screen - Model 2-60, chute and tote box.
- E. Storage tank, steel, 12 ft. diameter by 9 ft. 6 in. high. with mixer and transfer pump (crane Deming 25 hp.).
- F. Wash water recycle piping to all 4 veneer dryers.
- G. Piping, fittings, electrical and mechanical equipment, miscellaneous supplies, and labor.

Request for Preliminary Certification for Tax Credit was made 12/30/76 and approved 1/25/77. Construction was initiated on the claimed facility on 1/31/77, completed on 4/1/77, and placed into operation on 4/1/77.

Facility cost: \$62,624 (Certified Public Accountant's statement was provided.)

3. Evaluation

The applicant states that the claimed facility is a closed system with no discharge to the log pond or the Rogue River. This is in compliance with condition S1 of their NPDES permit. Veneer dryer washdown water is high in solids and soluble pollutants. Its removal from discharge to the Rogue is creditable pollution control. Recycle of wash water represents only a means of eliminating its discharge, not the recovery of materials of value. Thus, the only benefits derived from the facility are in pollution control.

4. Summation

- A. Facility was constructed after receiving approval to construct and Preliminary Certification issued pursuant to ORS 468.175.
- B. Facility was constructed on or after January 1, 1967, as required by ORS 468.165 (1)(a).
- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling or reducing water pollution.
- D. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- E. Applicant claims 100% of costs allocable to pollution control.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facility claimed in Application T-944, such Certificate to bear the actual cost of \$62,624.00 with 80% or more allocable to pollution control.

Charles K. Ashbaker:aes
229-5325
12/27/77

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Preliminary Certification for Tax Relief Review Report Denial

1. Applicant

Champion International Corporation
Champion Building Products
Rifle Range Road Plant - Roseburg
P. O. Box 10228
Eugene, Oregon 97401

The applicant owns and operates a sawmill, veneer and plywood plant at Roseburg, Oregon.

2. Description of Claimed Facility

The facility described in this application is for the construction of a new oil house for the storage of approximately twenty (20)-55 gallon drums.

It is estimated the facility will be placed in operation on February 1, 1978.

The estimated cost of the facility is \$5,000.

3. Evaluation of Application

The proposed oil house to be located north of the log conditioning vats will replace a storage shed located near the log pond. The new structure is of wood construction with a roof, concrete floor and concrete risers at the edge of the floor with a small oil (spill) collection sump.

The Department does not consider the substantial purpose of this project to be primarily for pollution control. However, the concrete wall risers and oil collection sump part of the facility could serve to prevent water pollution if oil were spilled through normal use.

4. Summation

The Department has determined that the erection, construction or installation does not comply with the applicable provisions of ORS Chapter 454, 459, 467 or 468 and the applicable rules or standards adopted pursuant thereto.

5. Director's Recommendation

It is recommended that the Commission issue an order denying the applicant's request for preliminary certification as submitted. However, the Company may exercise an option to apply for Preliminary Certification for Tax Relief for a lesser portion of the project which was described above (see 3) as considered eligible.

Richard P. Reiter, Regional Manager-Southwest Region:pk
Telephone Number: 672-8204
Report Typed on January 10, 1978

Kirk/Griff/Bart

11-21-77

*Please process or
forward to Portland
for processing*

Champion International Corporation

P.O. Box 10228
Eugene, Oregon 97401
Telephone 503 687 4611

November 30, 1977

I W - Douglas County

Department of Environmental Quality
Southwest Region
1937 W. Harvard Blvd.
Roseburg, Oregon 97470

Attention: Mr. Donald K. Neff, Field Engineer

Subject: Champion International Corporation
Champion Building Products - Roseburg-Rifle Range
Road Complex Construction Sawmill Oil House.

Dear Mr. Neff:

Attached are the following items pertinent to the proposed construction of a new 14-20 drum capacity oil storage house.

1. DEQ Form TC-1-1/76 "Notice of Intent to Construct."
2. Drawing - RO-128.B-15-1.

This project is a continuation of Champion International's efforts to construct additional facilities to prevent the spillage of oil, chemicals and other hazardous materials and subsequent discharge to state waters.

Presently we have a small wooden shed next to the sawmill and log pond, where we store miscellaneous 55 gallon oil drums. There is no flooring in the shed. We are proposing to build a new oil house away from the log pond with a cement floor and retaining wall. The oil house will be able to handle up to 20-55 gallon drums.

Should you have any questions, please give me a call at 503/687-4643.

Sincerely,

Jack Payne

Jack Payne
Environmental Coordinator

JP/gr

- cc: H. Bartels/File
V. Daniels/Eugene
L. Kostur/Roseburg
J. Bratton/Roseburg

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

NOTICE OF INTENT TO CONSTRUCT
and
REQUEST FOR PRELIMINARY CERTIFICATION FOR TAX CREDIT
(Check Type of Request - one or both)

- Request for Construction
Approval

- Request for Preliminary
Certification for Tax Credit

Check type of contaminant or pollution source or site, and/or pollution control facility of the proposed project. Submit a separate request for each project.

- Air

- Water

- Solid Waste

Business Name: Champion Building Products Phone: 503/672-3331

Address of Premises: 556 NE Rifle Range Rd. City & Zip: Roseburg, OR 97470

Mailing Address: P.O. Box 1328 City & Zip: Roseburg, OR 97470

Nature of Business: Plywood, Lumber Manufacturing

Responsible Person to Contact: Jack A. Payne Title: Environmental Coord.

- Corporation - Partnership - Individual - Gov't Agency

Name of Legal Owner of Business: Champion International Corporation

Legal Owner's Address: P.O. Box 10228 City & Zip: Eugene, Oregon 97401

Description of proposed construction & or facility: Miscellaneous 55 gallon drum oil house

Describe pollution control equipment to be incorporated and/or utilized:
concrete, steel, lumber, plywood

Describe pollution which will be discharged, produced, reduced, and/or utilized:
oil

Describe present method(s) of pollution disposal, control or utilization:

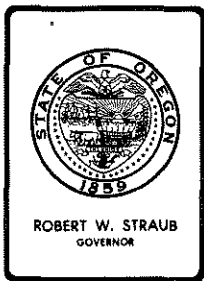
Describe any usable source of power produced by pollution or solid waste and the economic value: None

Est. cost of construction \$5,000 & of pollution control facility \$5,000

Est. construction starting date: 1/2/78 & Completion date: 2/1/78

Signature Jack A. Payne Title Environmental Coordinator Date 11/30/77

NOTE: Enclose plans and specifications and any other pertinent information such as process flow diagrams, process equipment operating parameters, control equipment specifications, source test results, etc., which will demonstrate the compliance of the project with applicable statutes and administrative rules.



Environmental Quality Commission

P.O. Box 1760, Portland, Oregon 97207

PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission

FROM: Portland Regional Manager

SUBJECT: Agenda Item No. D, January 27, 1978

Report of Portland Region Manager on Significant On-going Activities in the Portland Region

The Portland Region is responsible for the Department activities in Clackamas, Columbia, Multnomah and Washington counties. The staff consists of 16 technical-professional employees with 3 support personnel. There is a branch office in St. Helens where direct service for Columbia County in the subsurface sewage disposal program is provided.

Significant on-going activities or accomplishments within the four-county area include:

Air Quality

Air quality is the most critical environmental concern in this region. The Environmental Quality Commission recognized the critical and unique air quality control needs when in 1975 it established the Portland Metropolitan Special Air Quality Maintenance Area (AQMA) which included an interim allocation of the airshed to assure that air quality standards can be achieved and maintained without major disruptions to the orderly growth and development of the area.

Since 1975 the Department has geared up to develop an AQM plan for the area. In 1976 the following activities were accomplished by the Air Quality Division's planning staff:

- Emission growth projection through 1990 completed for particulates and sulfur dioxide
- Conducted aircraft survey of the AQMA to identify the extent of oxidant air quality violations
- Completed revisions in the airshed model to improve performance and accuracy
- Developed and secured funding for the \$600,000 Portland Data Base Improvement Project (DBIP)



Contains
Recycled

Activities scheduled for completion include:

- | | |
|--|----------------|
| - Complete projections of future air quality | January 1978 |
| - Complete Data Base project | November 1978 |
| - Adjust future projection with DBIP results | March 1979 |
| - Adopt maintenance strategy for: | |
| Particulates | September 1979 |
| CO and Oxidants | July 1978 |
| SO ₂ (if needed) | July 1978 |

Insofar as the Data Base Improvement Project is concerned, 50% of the ambient sampling has been completed and the project is now entering the chemical characterization phase. Data management procedures, an element balance program and a visibility assessment program are being developed. Fifty percent of the source testing program has been completed (home heating, industry, soils, etc.), with field and slash burning plumes being analyzed using tracer elements.

A citizens advisory committee will be set up by June 1, 1978 to assist in the development of the AQM plan. The Department is presently working with CRAG to coordinate planning air quality activities for land use and transportation strategies.

Related to the above studies are the following projects:

1. Hydrocarbon Inventory

During the first quarter of 1978 Pacific Environmental Services (PES) will be conducting a hydrocarbon inventory in the Portland Region. This project will include a mass mailing of questionnaires to hydrocarbon emitters and two days of plant site inspection of the major oil tank farms and solvent users. Regional staff will conduct the inspections with the assistance of PES. The results of the study will improve the data base and provide a tool in developing photochemical oxidant control strategies.

2. Feasibility of Controlling Emissions From Grain Elevators

One of the important control strategies of the 1972 State Implementation Plan (SIP) required the control of particulate emissions from terminal grain elevators in Portland. In 1972 three elevators (Cargill, Bunge and Dreyfus) were emitting approximately 1500 T/yr.,

or more than 20% of the region's rollback emissions.

Today all emission points excluding the ship loading phase have been controlled with baghouse collectors and considered in compliance. At Cargill, Inc. this required the elimination of more than 50 cyclones and resulted in an estimated emission reduction of 1275 T/yr. Despite these improvements none of the terminals have been able to load ships in total compliance with opacity limits. Several factors cause this problem: 1) "topping off" - in the final loading phase the collection equipment can't be used; 2) loading "tween deckers" - ships which require men to work in the hold and prevent covering of the hatch and use of control equipment; 3) loading of deep-bottomed ships, which reduces collection efficiency of some equipment.

The Environmental Protection Agency (EPA) funded study will hopefully identify control methods and/or operational practices which will result in compliance; determine Best Practicable Treatment and Control (BPTC); and if necessary, supply documentation which will allow the development of an appropriate standard. The project is proposed to be completed by the spring of 1978.

In addition to the above projects the following sources are of significance:

1. Reynolds Aluminum - has now completed the control system for the pot lines and carbon bake plant. The cost of this project was in excess of 27 million dollars.
2. Reichhold Chemicals, Columbia County - has received several variances from the EQC in order to evaluate the emissions from their urea prill tower and how to control these emissions. The Company has now submitted a compliance schedule for the installation of control equipment.
3. Pennwalt - recently advised the Department of its intention to move ahead with the proposed expansion.
4. Oregon Portland Cement - In spite of the fact that OPC's air pollution control efforts have resulted in compliance with the Department's emission standards, public complaints have continued regarding

particulate fallout, odor and noise. Within the last 18 months OPC's consultant, Oregon Graduate Center (OGC), completed a comprehensive air quality evaluation of the plant, its operation, emissions, meteorology, etc., in an attempt to define further problems which could eliminate or reduce the complaints. The results of the study identified fugitive emissions within the plant boundaries, such as wind-entrained dust from buildings, roads, conveyors, etc. as the primary source of complaints. In response to these findings OPC has covered open conveyors which handle dry material, installed a plant road washdown system and new collection equipment on the railcar load-out. Due to the close proximity to commercial and residential areas the Department maintains regular surveillance of the plant.

Noise problems have been identified and suppression equipment is being installed.

Odors have become a significant source of complaint. Continuous monitoring of the lime kiln has been conducted and the results are currently being evaluated. Upon completion of the evaluation, OPC will be advised of the findings and any necessary corrective action.

Solid Waste Management

Presently household garbage is disposed in three sanitary landfills: City of Portland - St. Johns Landfill, Rossman's Landfill in Oregon City and Santosh Landfill in Scappoose. Seven demolition landfills are located throughout the four-county area. These landfills accept individual backyard trimmings, building demolition wastes and other such wastes.

Of particular concern is the fact that the St. Johns and Rossman's landfills will be filled to their presently approved final grade by late 1980 and mid-1980, respectively. The Metropolitan Service District (MSD), as the responsible solid waste management planning agency for the metropolitan area, is presently studying whether to expand one or both of these landfills or to designate a new landfill site. A decision on this matter should be forthcoming in March 1978.

The MSD's resource recovery plan is moving ahead. Publishers Paper Company has reached a tentative agreement with the MSD to build and operate a refuse derived fuel (RDF) boiler which would generate steam and electricity for use at their Oregon City mill. The boiler would be fired by the combustible portion of the municipal solid waste generated in the Portland metropolitan area. The MSD would build and operate the solid waste collection facility and guarantee the delivery of solid waste.

Presently, air quality modeling is being performed to determine the expected impact which emissions from the boiler will have on the Portland area airshed. This information will be used in setting permit discharge standards and in determining applicability of certain other federal and state clean air regulations.

This project is tentatively scheduled to be completed in 1982.

Water Quality

The Columbia Region Association of Governments (CRAG) 208 planning program, "Project Clean Water", is nearing completion with the final report and recommendations due July 1978. Areas of particular significance are the Urban Stormwater Runoff and Combined Sewer Overflow Abatement issues. The Department may wish to consider adopting standards for treatment and control of combined sewer overflows in the near future.

Projects the Department has underway that may be of interest include:

1. Durham Mixing Zone Survey - The USA Durham Advanced Wastewater Treatment (AWT) plant started operation in July 1976. The 20

MGD (million gallons/day) tertiary plant discharges into the Tualatin River replaced a number of smaller treatment plants that provided varying degrees of treatment and which had for many years discharged into and degraded several small streams, including Fanno Creek in Washington County. During August 1976 and August 1977 a series of in-the-river bioassay and effluent static bioassay tests were conducted in the vicinity of the plant outfall to determine the impact with respect to the resident fish population. Of particular interest was the residual chlorine concentration entering the river as a result of the plant's disinfection process. The results to date have caused the Department to set a maximum residual chlorine level not to exceed 1.0 mg/liter for the Durham effluent.

2. Multnomah County Groundwater Study - An area in central Multnomah County, east of the City of Portland city limits to the city limits of Gresham, is currently unsewered. Subsurface sewage systems, predominantly cesspools, are utilized to dispose of approximately 10 MGD of sewage into an underlying porous gravel strata.

Preliminary sampling has indicated nitrate-nitrogen concentrations are increasing in the shallow groundwater aquifer. Alternatives to prevent further degradation of the groundwater aquifer are being considered. Alteration of the present subsurface regulations and/or a master sewerage implementation plan could be proposed. It is expected that such recommendations will be presented to the EQC this year.

In addition to the above projects the following sources are of significance:

1. USA - Master Plan Status - The Unified Sewerage Agency of Washington County was formed in 1970 in response to an EQC order which effectively restricted new construction in the county. Since that time the Agency has vigorously implemented a Master Plan for the cleanup of the Tualatin River Basin.

Three major treatment facilities have now been completed at Forest Grove, Durham and Hillsboro. The USA has phased out 16 obsolete treatment plants and expects to phase out the remaining 7 within two years with the completion of several interceptor sewer lines.

The new facilities have greatly improved water quality within the Tualatin system and all are meeting permit discharge limits. The USA has experienced considerable operating difficulty at the Durham plant since its start-up in July 1976. We have received numerous complaints from the neighborhood regarding noise and odor. The Agency is working in good faith to reduce or eliminate these problems and has made some progress. It is expected the plant will be in compliance with Department noise standards early this year.

2. Tektronix - Tektronix, Inc. has recently completed Phase I of its three-part water pollution control program at its Beaverton, Oregon industrial complex.

Improvements included a major reconstruction of existing treatment facilities which were already meeting EPA proposed electroplating Best Practicable Control Technology (BPCT) performance standards.

Despite Tektronix's compliance with federal effluent standards the Department has required a further upgrading because of the severe pollution conditions in Beaverton Creek. The creek has been abused for many years and has had to carry the effluent from four sewage treatment plants as well as the treated industrial wastewaters. Urban stormwater runoff has aggravated the problem by carrying many other pollutants into the stream. As a result, only the most tolerant organisms such as red sludgeworms and bloodworms could survive.

The new effluent standards were based on expected water quality in Beaverton Creek after the sewage treatment plants were abandoned. In addition, the actual limits on the industrial wastes, mostly heavy metals, cyanide and ammonia, were set in conjunction with capabilities of low technology and low energy treatment alternatives. Reliance on complex, high energy "end of pipe" treatment alternatives was not deemed desirable for many reasons, including: high energy consumption; high capitalization costs; higher operating and maintenance costs; reduced operational flexibility; less control over pollutant generation; loss of in-house control over treatment systems; and reliance on outside vendors for replacement and repair parts.

Tektronix directed its control efforts at the cause of the problem and developed a three-part control program which includes: reducing and controlling generation of pollutants at their sources; segregation and optimum treatment of pollutants

at the Industrial Waste treatment facility; and waste sludge/waste chemical reclamation and reuse.

Tektronix's environmental control staff have identified individual point sources with the use of portable samplers and required improvements be made such as the installation of multiple countercurrent rinse tanks, conductivity meters to control rinse water flow rates, segregated wastewater plumbing for various metals or other pollutants. Sometimes entire processes have been changed or eliminated when certain contaminants cannot be effectively treated using low technology/low energy methods.

Reclamation/regeneration of waste sludges and chemicals will prove beneficial to the Company, not only in financial savings, but by bringing them into compliance with recent federal and state hazardous and toxic waste regulations. Tektronix has recognized that waste control is good business and can sometimes be done profitably if well thought out and implemented.

3. Rhodia, Inc. - A herbicide manufacturing plant once associated with the tainting of salmon with a phenol taste in the Willamette River has completed a major water pollution control facility. At a cost of approximately \$1,746,000 Rhodia has installed a system to treat all process water with carbon, neutralize and pump to holding tanks for analysis. If the water meets City of Portland sewer code, the holding tanks will be pumped to the sewer. If the water is off spec, it will be recycled to the treatment plant. In addition, all plant rainwater runoff will be collected and stored for analysis. If the water meets the conditions of Rhodia's National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit, it will be drained to the Willamette. If off spec, it will be treated in a rainwater treatment system prior to discharge.
4. Over the last year the following STP's have either been built or are under construction:
 - a. Government Camp Sanitary District (completed)
 - b. Clatskanie (completed)
 - c. Molalla
 - d. City of Portland - Tryon Creek

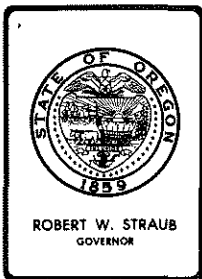
Municipal projects that need to be implemented as soon as practicable include:

- a. USA - Interceptors
 Sherwood - King City - Southwood Park
- b. Hillsboro - Irrigation
- c. Portland - Sludge
- d. Tri-City Sewer District - Oregon City, West Linn,
 Gladstone
- e. Clackamas County - Rhododendron-Welches
- f. Clackamas County - Sludge
- g. USA - Sludge
- h. Troutdale - Gresham - Multnomah County

Noise

The Portland Region staff has actively handled the industrial and commercial noise complaints and followup with technical assistance for the Noise Pollution Control Section over the past two years. In most cases prompt resolution of the noise problems has been accomplished. Two significant noise sources include the USA-Durham AWT plant, which has already been described, and the BPA-McLoughlin Substation in Clackamas County. Discussions with BPA regarding various alternatives to noise abatement have been held. Due to the length of time that may be necessary to permanently abate the noise problems, this particular compliance schedule may be brought before the EQC for review and approval.

Robert E. Gilbert
229-5292
January 11, 1978



Environmental Quality Commission

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 PHONE (503) 229-5696
P.O. Box 1760, Portland, OR 97207

MEMORANDUM

TO: Environmental Quality Commission
FROM: Director
SUBJECT: Agenda Item No. E, January 27, 1978, EQC Meeting

Subsurface Experimental System - Review of Proposal
for Experimental Subsurface Sewage Disposal System
Submitted by Mr. & Mrs. Steven Gunn, Lane County

Background

Mr. & Mrs. Steven Gunn appeared before the Commission at its meeting in Medford on December 16, 1977 at which time the Commission reviewed the Gunn's installed experimental sewage disposal system. The staff had concluded that the system as installed would reveal no useful information for the experimental program. In addition, this system is in violation of the subsurface rules. The Gunns requested and were granted permission to submit a new proposal to the Department. It was agreed that the proposal would be submitted, reviewed, and a report prepared for the January Commission meeting. Plans (Attachment "B") were submitted by the Gunns and received by the Department on December 29, 1977.

Evaluation

The plans were reviewed by staff and a report prepared. The report, Attachment "A", reveals the proposal to be deficient in a number of areas. Further, the proposal will reveal no useful information for the experimental systems program. The report lists three alternatives that may be pursued by the Gunns at this point; (1) install a conventional gray water system and withdraw from the experimental systems program; (2) install an experimental gray water system consisting of a reduced sized septic tank and reduced sized drainfield, and (3) install an experimental gray water system consisting of a trickle filter sized at 185 gallons per bedroom with a reduced sized disposal field. Either (2) or (3) above will require hardware necessary for monitoring.



Contains
Recycled

Summation

1. The present system installed on the Gunn site will provide no useful information for the experimental systems program. In addition, this system is in violation of the subsurface rules.
2. The new proposal by the Gunns will not reveal useful information for the experimental systems program.
3. The Gunns should either withdraw from the experimental program or agree to install an experimental system that will provide useful information.

Director's Recommendation

It is the Director's recommendation that the Commission solicit a decision from the Gunns at this meeting to either install a conventional gray water system and withdraw from the experimental systems program or agree to install and cooperate in monitoring one of the two experimental gray water systems shown on Page 3 of Attachment "A".

Bill
WILLIAM H. YOUNG

Jack Osborne:em
229-6218

January 13, 1978

Attachments: "A" - Staff report - Review of Gunn's proposed
gray water system

"B" Gray water system plan submitted by the Gunns

DEPARTMENT OF ENVIRONMENTAL QUALITY
EXPERIMENTAL SEWAGE SYSTEMS PROGRAM

STAFF REPORT

January 10, 1978

December 29, 1977 the Department received, from the Gunn's, revised gray waste water system plans accompanied by correspondence on gravel filters and gray water disposal through seepage pits.

Technical staff reviewed the revised proposal finding it unacceptable as submitted. The information which follows relates staffs viewpoint.

I. Gravel Filter Treatment System

- A. Gray waste water must receive sufficient pretreatment to protect the soil absorption system.
- B. The septic tank provides an acceptable level of gray waste water pretreatment.
 - 1. Approval for a standard sized septic tank for gray waste water pretreatment can be obtained without participation in the experimental program.
 - 2. A tank of reduced volume can be considered for evaluation on an experimental basis.
- C. Staffs concern with the "trickling filter" shown on the Gunn's revised plans stems from the absence of some device to remove grease ahead of the "trickling filter" and means of removing and containing solids sloughed from the filter ahead of the absorption system.
 - 1. Early absorption system failure would probably result without adequate solids removal.
 - 2. Recognizing these risks, staff would be willing to examine a gravel filter system sized on the minimum basis of approximately 185 gallons working capacity per bedroom. This appears to be the minimum volume that stands a remote chance of working. The trickling filter shown in the revised proposal does not specify size but appears to be a 55 gallon drum.

II. Soil Absorption Treatment System

- A. The Gunn site appears to be suitable for the construction of a standard soil absorption system. No formal site evaluation for standard system has been made by Lane County.

- B. The site's deep, well drained soils, do not represent the dominant shallow soil-high winter groundwater table conditions where alternative waste water disposal means are needed.
- C. The only benefit to be gained from studying disposal field performance on the Gunn site would be drawn from information gathered to determine adequate disposal field sizing.
- D. Seepage pits do not provide an acceptable method of sewage treatment.
 - 1. Organisms responsible for waste water treatment are located in aerated upper soil horizons. Seepage pits allow the delivery of waste water well below natural soil organism habitat resulting in little or no treatment.
 - 2. Where soil is not relied upon as a treatment medium, a high level of artificial treatment with nutrient control based on local groundwater protection needs, which would produce an effluent suitable for direct discharge into a receiving water would become necessary. A seepage pit fails to meet the need.

III. Monitoring Device

For meaningful data to be derived from the study of any experimental waste water treatment process and soil absorption system, basic monitoring devices are necessary. Experimental applicants supply water meters used to measure the volume of waste water produced and a sampling device to provide for sample collection after waste water has undergone some level of pretreatment. The Department provides pipes for measuring water levels in soil absorbing systems.

- A. The Gunn's revised plan does not indicate flow metering equipment or a device for collecting waste water outfalling from the "trickling filter."
- B. Mrs. Gunn has verbally expressed reluctance to provide the essential water meter.

IV. Alternatives

Staff suggests three alternatives are open to the Gunn's. These are:

- A. Install a conventional gray waste water disposal system provided for under Oregon Administrative Rules, Chapter 340, 71-030(5)(g). This rule requires a full sized septic tank, 2/3 sized drainfield and sufficient area for the development of one full sized disposal field and an equivalent sized replacement system. (This would effectively remove the Gunn property from further Experimental Program Consideration.)
- 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.

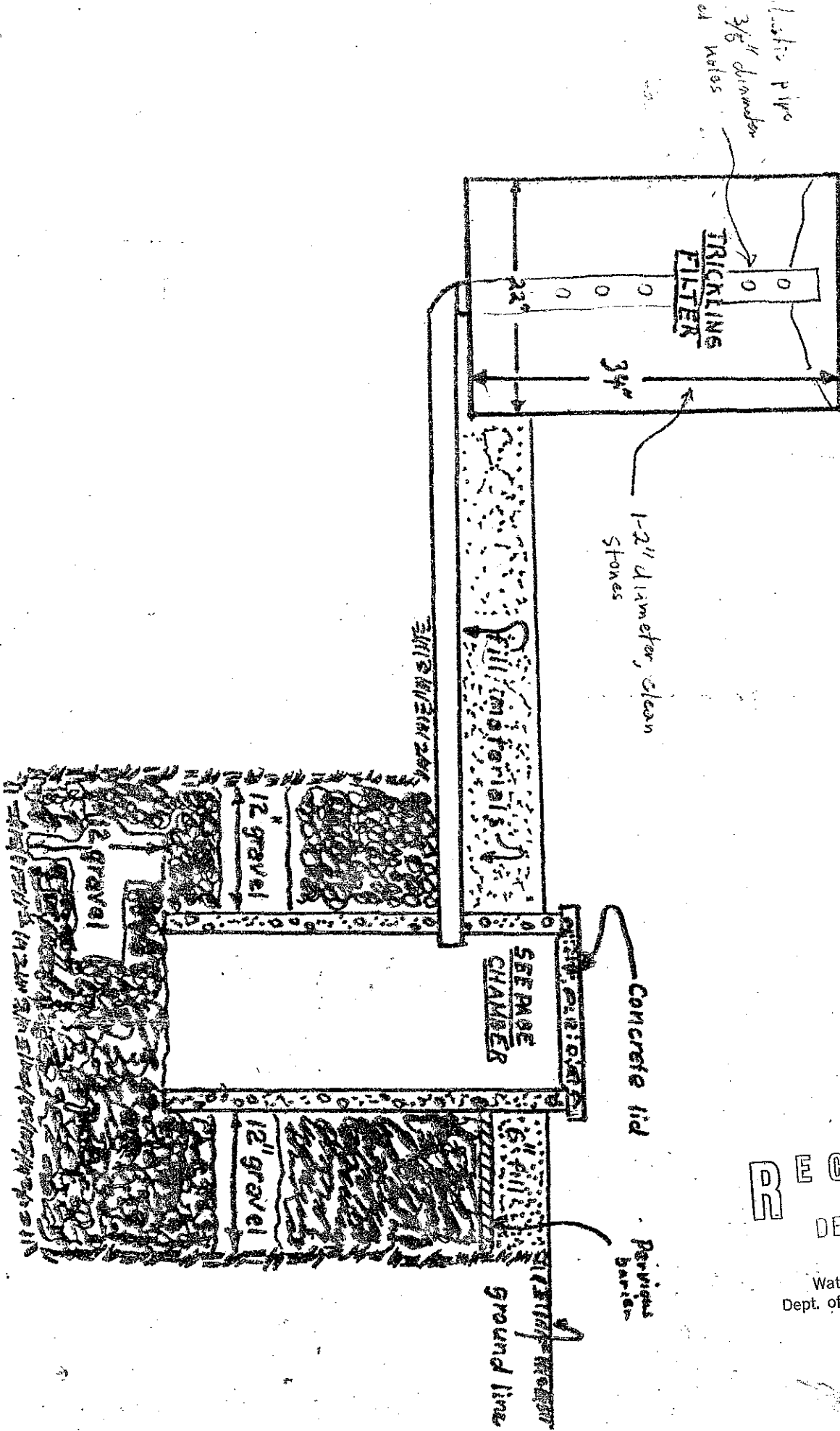
V. Summary Evaluation

Staff is concerned that the sequence of events to date may impede future cooperation essential for successful experimentation. Thus, they favor alternative 1.

However, if the Gunn's wish to pursue either alternatives 2 or 3, experimental staff will do its best to make the experimental project a success. Both alternatives 2 and 3 would require an amended permit from the Department.

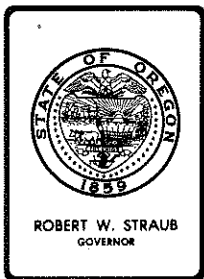
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GRAY WATER WASTE DISPOSAL SUMP



RECEIVED
DEC 29 1977

Water Quality Division
Dept. of Environmental Quality



Environmental Quality Commission

~~1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205~~ PHONE (503) 229-5696
P.O. Box 1760, Portland, Oregon 97207

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. F, January 27, 1978, EQC Meeting

Amendments to the City of Happy Valley Consent and Order
on Sewage Disposal Systems

Background

At the May 27, 1977 EQC meeting in Albany, the staff presented a report on the City of Happy Valley - Sewage Disposal Program. The EQC instructed the staff in cooperation with the City of Happy Valley to develop an agreement in the form of a consent order requiring the City to alleviate their sewage disposal problem as soon as practicable but by no later than the following time schedule:

1. Submit final Facilities Plan and a completed Step II Grant Application by no later than six (6) months after CRAG land-use designation decision.
2. Submit final Engineering Plans and Specifications and a completed Step III Grant Application six (6) months after award of Step II Grant.
3. Complete construction of sewerage facilities twelve (12) months after award of Step III Grant.

As a result the "Consent and Order in the Matter of Sewage Disposal for the City of Happy Valley" (Attachment 1) was agreed upon by the City of Happy Valley and the EQC. The Consent and Order required 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 November 30, 1977.

By letter (Attachment 2) dated December 6, 1977, Mayor James J. Robnett of the City of Happy Valley has requested a time extension to June 1, 1978 for completion of the sewerage facilities plan. The primary reason for not completing the plan on the agreed upon schedule was the unresolved land-use density issue. This density problem was resolved at the Happy Valley November City Council meeting. Sewage disposal alternatives can therefore now be developed utilizing the land-use density of 1.5 acres per dwelling unit.



Contains
Recycled

Summation

1. There is a serious, widespread sewage disposal problem in the City of Happy Valley and the surrounding area.
2. No substantial progress has been made toward completion of a Facilities Plan to study the alternatives to alleviate the sewage disposal problem. The land development density for the City is a critical item in preparing the Facilities Plan. As a result of the delay in establishing a density, the major portion of the Facilities Plan work has also been delayed.
3. While Happy Valley could have proceeded more expeditiously, the City has now resolved its land-use density issue. The Facilities Plan should, therefore, be able to be completed in a timely manner.

Director's Recommendation

It is the Director's recommendation that the EQC 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 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.



WILLIAM H. YOUNG

R. E. Gilbert:mef
229-5292
January 10, 1978
Attachment 1
Attachment 2

HCN JAMES J. ROBNETT

Mayor

DICK R. CANNARD

SANDRA COATS

JACK S. KATO

DON F. STUCK

City Recorder

MRS. SHARON V. FRENTRESS

City of Happy Valley



TELEPHONE (503) 760-3325
10602 S. E. 129th AVENUE
PORTLAND, OREGON 97236

December 6, 1977

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
DEC - 7 1977

Mr. William Young
Director
Department of Environmental Quality
1234 SW Morrison Street
Portland, Oregon 97205

OFFICE OF THE DIRECTOR

Dear Mr. Young:

Our City Engineer, Mr. Michael Bye, has asked that we contact your agency and ask for a time extension for completion of our sewerage facilities plan. The enclosed letter from Mr. Bye to the Happy Valley City Council explains why an extension is required.

May we meet with you or your staff at an early date to discuss this matter and arrange an extension for our facilities plan study. Thank you very much.

Sincerely,

JAMES J. ROBNETT
MAYOR

JJR/sf

Enc.

cc: Robert E. Gilbert, DEQ
Jennifer Sims, CRAG
Happy Valley City Council
James Grady, Planning Comm. Chmn.

Dept. of Environmental Quality

RECEIVED
DEC 9 1977

PORTLAND REGION

ENGINEERED CONCEPTS, INC.

9301 S.E. Stanley Ave.
Portland, Oregon 97222
(503) 775-6775

November 23, 1977

Honorable Mayor and Council
City of Happy Valley
10602 S.E. 129th
Portland, Oregon 97236

Re: Sewerage Facilities Plan

Dear Mayor Robnett and Council:

At the November City Council Meeting, we were informed of the new land use density of 1.5 acres per dwelling unit to be used in planning for the City of Happy Valley. Also, the Council requested we prepare a new schedule for completion of the Facilities Plan and assist the City Attorney in gaining approval of a new schedule from the Oregon Environmental Quality Commission.

As you are aware, the land development density for the City is a critical item in preparing the Facilities Plan and as a result, we have delayed the major portion of the Facilities Plan work until a density could be determined. Our primary work on the Plan to date has been preliminary design and cost estimates for use by the City Planners in preparing their Planning Scenarios and the presentation of preliminary information on sewage collection and disposal costs for the various Planning Scenarios at the Public Hearing on September 20, 1977. Some work has also been done on those portions of the Study unaffected by the land development density.

Due to the wide range of preliminary planning work being done for the City and resulting needs for sewage collection and disposal costs, we have expended a great deal of time which will not be applicable to the final Facilities Plan. The 1.5 acres per dwelling unit density is different from the development densities proposed in the original planning scenarios by Steffanoff, Horning and Associates, for which we made preliminary cost estimates on sewage collection and disposal. As a result we have recently tried to keep our time to a minimum on any Facilities Plan work which we felt could change due to the land use decisions. We advised the City in August that we could not proceed with the Facilities Plan until the critical land use decisions were made. Some important decisions still remain such as development patterns and open space requirements, etc. We understand that this information will be forth coming as the Land Use Plan progresses.

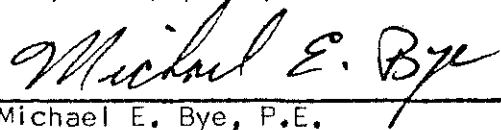
Our work has been further complicated by the proposed amendments to the C.R.A.C. Regional Plan and Land Use Framework Rules relating to sewerage systems in rural and natural resource areas. The proposed amendments are scheduled to be voted on during the week of November 28, 1977.

There are a number of steps in preparing the Facilities Plan which require specific periods of time. Also, close coordination will continue to be necessary between the Land Use Plan and the Facilities Plan. Two Public Hearings will be necessary, one of which may be combined with a Public Hearing on the Land Use Plan. If the remaining Land Use Plans critical to the Facilities Plan can be made in a timely manner, we can complete the Facilities Plan by June 1, 1978.

It will be necessary for the City to meet with the Oregon Department of Environmental Quality and possibly the Environmental Quality Commission to gain acceptance of a new time schedule for completion of the Facilities Plan, the Step II Planning and the Construction Grant. This should be done as soon as possible in view of the present schedule for completion of Step I by November 30, 1977.

If you have any questions, please call me.

Very truly yours,


Michael E. Bye, P.E.

MEB:jb
cc: City Attorney
James Carskadon

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

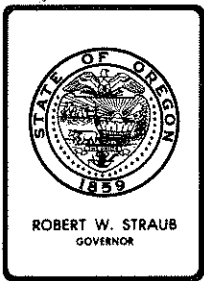
3 IN THE MATTER OF SEWAGE DISPOSAL)
4 FOR THE CITY OF HAPPY VALLEY) CONSENT AND ORDER

5 WHEREAS the City of Happy Valley stipulates to and finds the facts to be
6 as follow:

- 7 1) The septic tank and drainfield disposal systems serving some residences
8 in the City of Happy Valley are failing and present hazards to the public
9 health and waters of the State,
10 2) The City of Happy Valley should proceed in an orderly, timely fashion to
11 bring about the complete cessation of discharge of untreated or inade-
12 quately treated sewage to the waters of the State,
13 3) The Department of Environmental Quality is charged with enforcement of
14 the laws prohibiting unpermitted discharges into the waters of the State
15 and the operation of septic tank and drainfield systems in a manner which
16 causes degradation of the waters or hazards to the health of the public,
17 4) The Department and the City of Happy Valley wish to resolve, settle and
18 correct the violations cited above by presently stipulating to a final
19 consent order pursuant to ORS 183.415 (4).

20 THEREFORE the City of Happy Valley consents to the entry of an Order by
21 the Commission as against the City of Happy Valley requiring the City to
22 adhere to the following schedule of progress:

- 23 1) The submission to the Department by the City of Happy Valley of a
24 final Facilities Plan and a completed Step II Grant Application
25 not later than November 30, 1977.



Environmental Quality Commission

~~1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205~~ PHONE (503) 229-5696
P.O. Box 1760, Portland, Oregon 97207

MEMORANDUM

TO: Environmental Quality Commission
FROM: Director
SUBJECT: Agenda Item No. G, January 27, 1978, EQC Meeting

City of Troutdale Sewage Treatment Plant Expansion

Background

In 1970 the City of Troutdale completed construction and began operation of a 500,000 gallon per day (gpd) sewage treatment plant. The existing sewage flow is approximately 400,000 gpd and the flow has been increasing due to new sewer connections at a rate of approximately 10,000 gpd each month. With this rate of construction, the capacity (500,000 gpd) of the existing sewage treatment plant will be reached in late 1978.

Because of the anticipated development, the City of Troutdale held public hearings to discuss the alternatives to the expected growth rate problem. As a result an ordinance was adopted establishing a sewer reservation program which provided that land developers and the citizens of Troutdale could make reservations for sewer hookups by committing to fund an interim sewage treatment plant to be constructed by the City of Troutdale totally with local funds.

Under normal circumstances such a project would be eligible for federal funding; however, in order to assure that growth can continue and to prevent a building moratorium, the City of Troutdale by letter of December 19, 1977 (Attachment 1) proposes to expand its present treatment facility as follows:

1. Increase capacity by 800,000 gpd to a total of 1.3 million gallons per day (MGD).
2. The sewage treatment facility will produce an effluent BOD and SS not to exceed 20 mg/l between June 1 and October 31, and an effluent BOD and SS not to exceed 30 mg/l between November 1 and May 31.

Summation

1. The City of Troutdale has grown rapidly over the past several years. Since passage of its sewer reservation ordinance on April 12, 1977, 2100 single-family dwelling connections have been reserved and deposits of \$75 each made to the City of Troutdale. The \$75 deposit further commits the holder of the sewer connection permit to finance the STP expansion during 1978.



Contains
Recycled

2. This interim facility is to provide sewage treatment capacity until a regional sewage treatment alternative can be agreed upon and implemented or the City of Troutdale STP can be further expanded. Troutdale expects that additional capacity will be needed in 1982.
3. The proposed expansion is not in conformance with the State-Wide Water Quality Management Plan. Specifically, the Sandy River Basin's Minimum Design Criteria for Treatment and Control of Wastes requires that treatment efficiency be improved upon expansion such that during periods of low stream flows (June 1 to October 1) the effluent BOD and SS concentrations shall not exceed 10 mg/l. An outfall to the Columbia could be constructed, in which case a 20/20 standard would govern.
4. The proposed CRAG Area-Wide 208 Plan recommends approval of the interim expansion to 1.3 MGD on the condition that a consortium be formed and a lead agency for facilities planning be identified. This condition was necessary as the 208 study showed that regionalization of Troutdale, Gresham and the Multnomah County Inverness STP's is one of the most cost-effective alternatives.
5. On December 1, 1977 Troutdale, Gresham and Multnomah County entered into an agreement (Attachment 2), forming a consortium and designating Multnomah County as the lead agency to develop a Facilities Plan for the three governmental entities. The Gresham and Inverness STP's are also in need of expansion by 1982.
6. To construct an interim facility to meet an effluent BOD and SS of 10 mg/l or an outfall to the Columbia River at this time does not appear desirable, since a regional plan may dictate abandonment of these facilities.

Director's Recommendations

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.

Bill

WILLIAM H. YOUNG

R. E. Gilbert:mef
229-5292
January 10, 1978
Attachment 1
Attachment 2

REC
LDP

LEE **E**NGINEERING **E**NTERPRISES

708 MAIN STREET SUITE 202
OREGON CITY, OREGON 97045
ph (503) 655-1342

December 19, 1977

Dept. of Environmental Quality

R E C E I V E D

DEC 21 1977

Bob Gilbert
Department of Environmental
Quality
1234 S. W. Morrison St.
Portland, Oregon 97205

PORTLAND REGION

Re: Modification of the City of Troutdale NPDES Permit

Dear Mr. Gilbert:

On behalf of the City of Troutdale, we request that the City of Troutdale NPDES Permit OR-002052-4 (Expiration Date: March 31, 1979) be modified to permit an increase in the allowable discharge from .5 mgd to 1.3 mgd and that the expiration date of the permit be changed to December 31, 1982. These changes are requested so that the City may undertake an interim expansion of the plant to meet anticipated flows in 1982. The justification for the request and specific changes desired in the existing permit are described below.

JUSTIFICATION FOR REQUEST

In 1970, the City of Troutdale completed construction and began operation of their existing sewage treatment plant. The plant is located on 17-1/2 acres of City owned property zoned light industrial and lies immediately north of the downtown area and west of the Sandy River between the Union Pacific Railroad tracks and I 80-N. The treatment unit is sized for a hydraulic capacity of approximately 500,000 gallons per day. The plant is a package unit manufactured and supplied by Walker Process Equipment, a division of Chicago Bridge and Iron Company. It is a conventional activated sludge plant designed in a circular configuration and installed at ground level.

As of September, 1977, the existing sewage flows at the sewage treatment plant were approximately 400,000 gallons per day. Flows have been increasing due to new sewer connections at a rate of approximately 10,000 gallons per day each month. On this basis, the existing sewage treatment plant will have reached its 1/2 million gallon per day capacity by mid to late 1978.

For the most part, the operation of the existing sewage treatment plant has produced an effluent quality within the limits established by the Department of Environmental Quality. There have been short periods of time when the plant operation has been upset for unknown reasons which have caused effluent quality to exceed the limits established by

CONSULTING ENGINEERS / PLANNERS
CIVIL SANITARY STRUCTURAL

the regulatory agency. However, this has not been a serious problem to date and the existing treatment plant is operating satisfactorily.

In mid 1976, the Public Works Director and City Engineer pointed out to the council that the existing sewage treatment plant would soon become overloaded as a result of the growth being experienced in Troutdale at that time. Throughout 1976 and 1977, the growth in Troutdale has equaled or exceeded earlier projections. Therefore, apprehension about the existing sewage treatment plant's capacity has been substantiated. As a result, the City Council has on numerous occasions discussed alternatives to the expected growth rate problem. Discussions have included, but were not necessarily limited to, a "do nothing policy," allocations of remaining sewer hookups, slowing growth so that the plant could be expanded within criteria established by federal and state programs, or undertaking interim expansion of the sewage treatment plant to accommodate expected growth.

As a result of public hearings, discussions with private developers, input from local citizens, and discussions with regulatory agencies, Troutdale Ordinance No. 244 was drawn and adopted on April 12, 1977. This Ordinance established a sewer reservation program which provided that land developers and the citizens of Troutdale could make reservations for sewer hookups by committing to fund an interim sewage treatment plant to be constructed by the City of Troutdale totally with local funds.

Normal procedures involved in expanding sewage treatment facilities under provisions of federal law generally require approximately 4 to 5 years to complete. Since the needs of Troutdale dictate sewage treatment plant expansion within the next 12 to 18 months, it appeared that growth would have to be curtailed if the normal processes were followed in compliance with federal regulations. The City Ordinance passed on April 12 provides that an interim sewage treatment plant will be constructed so that growth can continue. The interim facility is to provide sewage treatment capacity until a regional sewage treatment alternative can be agreed upon or implemented or additional expansions to the Troutdale facilities can be undertaken under the guidelines of federal regulations to meet year 2000 projected flows.

The Ordinance called for an advance payment of \$75 by May 2, 1977, for each single family dwelling which planned to connect to the sewer between May, 1977, and July, 1982. 1982 is the anticipated completion date for the sewage treatment facilities under commission of EPA guidelines. As of May 2, 1977, 2100 single family dwelling connections have been reserved and deposits of \$75 each made to the City of Troutdale. The \$75 deposit further commits the holder of the sewer connection permit to finance the sewage treatment plant expansion anticipated during 1978. This process adopted by Troutdale is intended to prevent a building moratorium.

Because 1982 is the anticipated completion date for any sewage treatment facilities constructed regionally or in Troutdale under EPA requirements, the proposed interim facilities must be designed to accommodate flows projected for that date.

On the basis of prepayment for sewer connections, between 2100 and 2200 single family equivalent dwelling units with associated support facilities such as schools, churches, shops, offices, and public facilities will be constructed in Troutdale prior to the beginning of 1982. Assuming an average dwelling unit occupancy rate of 3.1 persons and a flow of 125 gallons/capita/day which reflects total residential and support facility flow plus an infiltration/inflow allowance, it is estimated that .9 mgd of sewage will be added to the present .4 mgd flow prior to 1982. Thus, the interim expansion must be designed for 1.3 mgd which is .8 mgd more than the present sewage treatment plant design capacity.

The proposed interim treatment plant expansion will satisfy all of the requirements of the existing NPDES permit except for that of quantity of flow, BOD, and SS to be discharged. Therefore, the modifications to the permit as outlined below are requested.

REQUESTED MODIFICATIONS TO EXISTING NPDES PERMIT

We hereby request that the City of Troutdale NPDES permit be amended as follows:

1. Change the expiration date from March 31, 1979, to December 31, 1982.
2. Delete the following special conditions and substitute new language as follows:
 - S4. The quantity and quality of effluent discharged directly or indirectly to the Sandy River shall be limited as follows:
 - a. During the period between June 1 and October 31:
 - 1) The monthly average quantity of effluent discharged shall not exceed 1.3 million gallons per day (MGD).
 - 2) The monthly average 5-day 20°C. Biochemical Oxygen Demand (BOD) shall not exceed a concentration of 20 mg/l or 216.8 pounds per day with a daily maximum of 40 mg/l or 434 pounds.
 - 3) The monthly average Suspended Solids shall not exceed a concentration of 20 mg/l or 216.8 pounds per day with a daily maximum of 40 mg/l or 434 pounds.

- b. During the period between November 1 and May 31:
- 1) The monthly average quantity of effluent discharged shall be kept as low as practicable.
 - 2) The monthly average BOD shall not exceed a concentration of 30 mg/l or 325 pounds per day with a weekly average not to exceed 45 mg/l or 489 pounds per day and with a daily maximum of 60 mg/l or 650 pounds.
 - 3) The monthly average Suspended Solids shall not exceed a concentration of 30 mg/l or 325 pounds per day with a weekly average not to exceed 45 mg/l or 489 pounds per day and with a daily maximum of 60 mg/l or 650 pounds.

The City of Troutdale is willing to condition the approval of these amendments to the NPDES permit upon its compliance with recommendations of the study of regional sewage treatment alternatives being conducted by the consortium of Troutdale, Gresham, and Multnomah County, provided unanimous agreement on the recommendations among the three parties is obtained.

We sincerely appreciate your prompt attention to this matter so that design and construction of the proposed Troutdale interim sewage treatment facilities will not be delayed.

Sincerely yours,

LEE ENGINEERING ENTERPRISES



F. Duane Lee, P.E.

FDL:mmp
cc: City of Troutdale

A G R E E M E N T

December

This agreement is entered into this 1st day of ~~November~~, 1977, by and between the Cities of Troutdale, Gresham, both municipal corporations of the State of Oregon, and Multnomah County, Oregon.

WHEREAS, the purpose of this agreement is to facilitate application for financial grant assistance to partially cover the costs of completion of a sewage treatment feasibility study of the existing and anticipated sewage service areas of all three parties of this agreement.

WHEREAS, the objectives of this agreement are:

1. To develop an in-depth study of:
 - a) Continuation, improvements and expansion of the existing sewerage systems of Troutdale, Gresham, and Multnomah County;
 - b) Consolidation and reorganization of the three systems.
2. To select the most cost effective, energy efficient, environmentally sound and politically acceptable alternative and develop a Facilities Plan. The Plan is to be prepared by a consultant selected by consensus of the three parties to this agreement.
3. To complete the study or parts of the study in sufficient time to accommodate the construction of adequate sewerage capacity and delivery system of each jurisdiction to satisfy the needs they have identified, and to insure continuity and completion of the continuing planning efforts of the local governments involved.
4. To meet the standards and requirements of the Department of Environmental Quality of the State of Oregon and the U.S. Environmental Protection Agency for the treatment of sewage, protection of public health, and maintenance of water quality. All parties agree to comply with E.P.A. Grant Rules and Regulations.
5. To identify the ultimate service area boundaries of the jurisdictions involved;
6. To provide the basis for a Continued Management Program for the area, utilizing Best Management Practices as an integral part of the CRAG 208 Planning Program;

7. To provide a forum for management decisions concerning the implementation of this agreement by consensus of a representative from each agency signatory to this agreement.

WHEREAS, it is necessary that one of the parties act as applicant for all three agencies for the purpose of obtaining such financial assistance, and

WHEREAS, the City Councils of both cities and the Board of County Commissioners for Multnomah County have agreed that Multnomah County should act to apply for such funds. On behalf of both cities and the County, it is

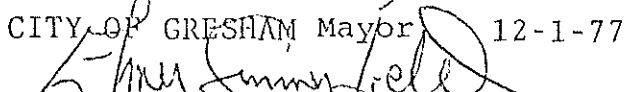
AGREED: Multnomah County shall act for the prospective management agencies, to wit: the Cities of Troutdale, Gresham and the County in such application, and the Director of the Department of Environmental Services for Multnomah County shall have authority to execute such documents for all three parties as may be required for the purpose of applying for and obtaining such financial grant assistance.

AGREED: that the Cities of Troutdale, Gresham, and Multnomah County will participate in the local share of costs associated with the study based on the relative geographic size of their respective projected service areas. (Attachment A, Exhibit "B" - Treatment System Planning Areas Adopted by CRAG Board, January 27, 1977). The local share will include cash payments or in-kind manpower services that may be necessary and appropriate for completion of the study and it's application process.

DONE by the authority of the city councils of the aforesaid cities, and the Board of County Commissioners of Multnomah County.

CITY OF TROUTDALE 11-8-77


CITY OF GRESHAM Mayor 12-1-77



CITY OF GRESHAM

Mayor

MULTNOMAH COUNTY 11-15-77


Chairman

EXHIBIT "B"

TREATMENT SYSTEM PLANNING AREA

ADOPTED BY CRAG BOARD

1-27-77

TREATMENT SYSTEM
AREA BOUNDARY

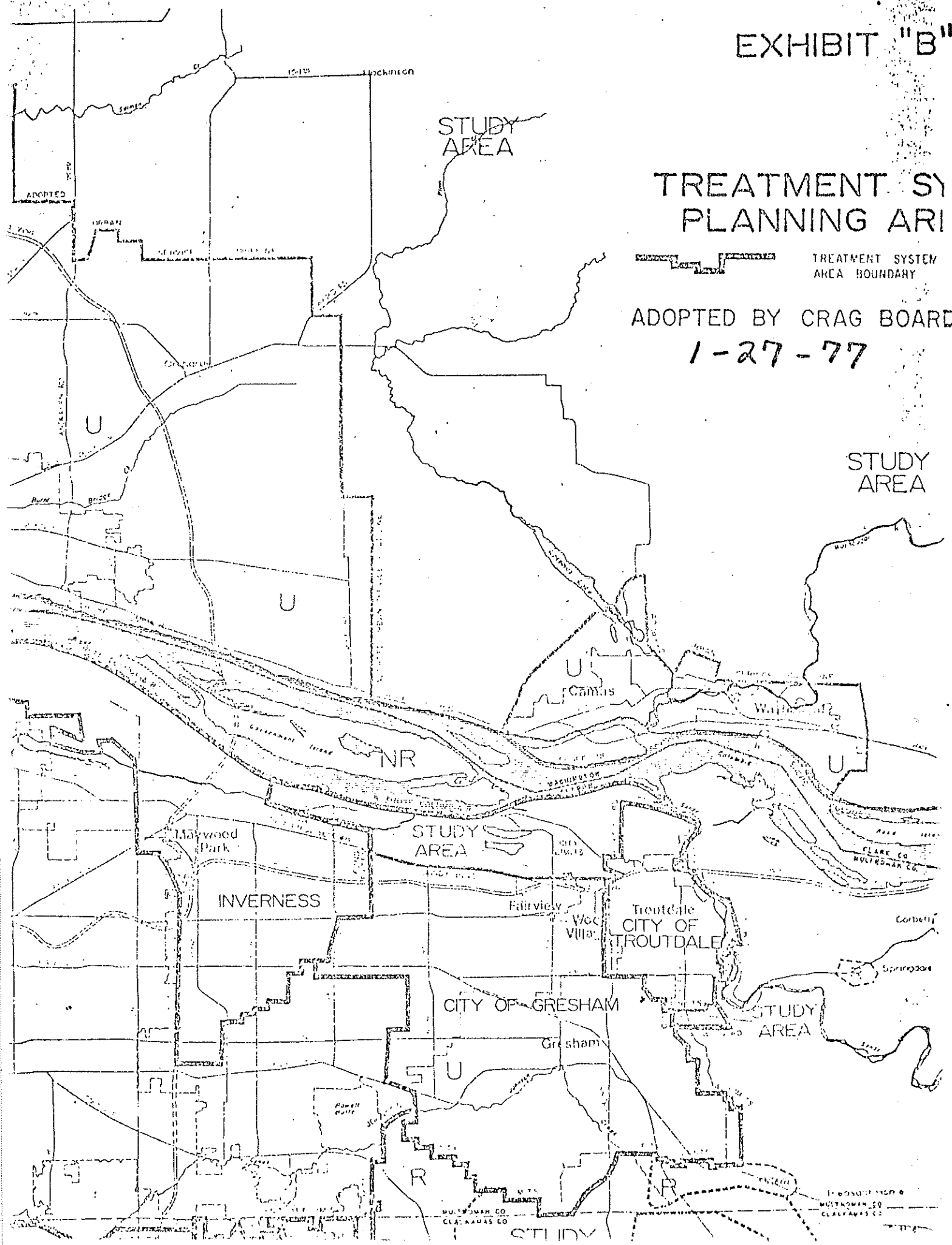
STUDY
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RESOLUTION NO. 165

A RESOLUTION AUTHORIZING THE CITY OF TROUTDALE TO ENTER INTO AN AGREEMENT WITH MULTNOMAH COUNTY AND THE CITY OF GRESHAM FOR THE PURPOSE OF FORMING A CONSORTIUM FOR A SEWAGE TREATMENT FEASIBILITY STUDY, AND TO APPLY FOR GRANT FUNDS.

WHEREAS, the City of Troutdale desires to participate fully and responsibly in a study of sewage treatment alternatives and to implement the results of that study in a way to best serve the citizens of our region, and

WHEREAS, the Agreement attached hereto as a part of this Resolution as Attachment "A" clearly states the terms of the agreement, and

WHEREAS, the City has identified as its major concern that the Consortium strive to achieve an orderly means of continuing sewage treatment available to the growing needs of the City of Troutdale on or before January 1, 1982, now,

THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE, THAT,


1. The City Administrator is to continue to negotiate any other administrative or financial details necessary to implement the agreement consistent with the intent of this Resolution, and that
2. The Mayor is hereby authorized to enter the City into the agreement shown as Attachment "A", and to sign on behalf of the City for any associated subsidiary agreements.

Passed by the Common Council of the City of Troutdale, this 8th day of November, 1977

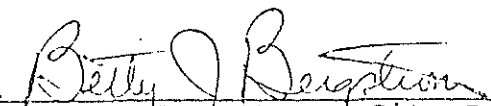
YEAS 5

NAYS 0

Signed by the Mayor this 8th day of November, 1977


Robert M. Sturges, Mayor

ATTEST


Betty J. Bergstrom, City Recorder



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
PORTLAND, OREGON 97204
(503) 248-3304

COUNTY COMMISSIONERS
DON CLARK, Chairman
DAN MOSEE
ALICE CORBETT
DENNIS BUCHANAN
MEL GORDON

November 15, 1977

Ms. Rena Cusma, Director
Dept. of Environmental Services
2115 SE Morrison Street
Portland, Oregon

Finance Division
426 SW Stark Street
Portland, Oregon

Mr. Martin Cramton, Director
Division of Planning & Development
2115 SE Morrison Street
Portland, Oregon
Attn: Mr. Paul DeBonny

Dear Madam & Sir:

Be it remembered, that at a meeting of the Board of County Commissioners held November 15, 1977, the following action was taken:

Form of Order in the matter of the execution of an)
Agreement with Cities of Gresham and Troutdale pro-)
viding for facilitation of application for financial)
grant assistance to partially cover costs of completion)
of a sewage treatment feasibility study of the existing)
and anticipated sewage service areas)

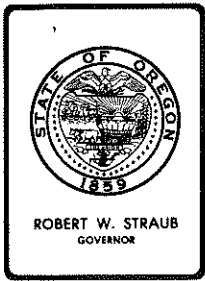
The above-entitled matter having come before the Board and full consideration having been given thereto, upon motion of Commissioner Gordon, duly seconded by Commissioner Corbett, it is unanimously

ORDERED that Multnomah County, Oregon, enter into the above-entitled Agreement tendered to and before the Board this date, and that the Chairman of the Board be and he is hereby authorized and directed to execute said Agreement for and on behalf of Multnomah County, Oregon.

Yours very truly,

BOARD OF COUNTY COMMISSIONERS

By *Diane Linds*
Clerk of Board



Environmental Quality Commission

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. H, January 27, 1978 EQC Meeting

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

Background

The Department is continuing its enforcement actions against NPDES Permittees in violation of the July 1, 1977 deadline for secondary treatment through stipulated consent orders which impose a new, reasonably achievable and enforceable construction schedule.

Summation

The City of Eugene is unable to consistently treat sewage to the required level of secondary treatment at its two municipal treatment facilities. The Department has reached agreement with the City on consent orders which provide for an orderly construction/modification of the existing facilities and interim treatment limitations.

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.


WILLIAM H. YOUNG

FMB/gcd
229-5372
January 9, 1978
Attachments: Two (2) City of Eugene Final Orders



Contains
Recycled

1 3. Respondent proposes to comply with all the above effluent limitations of
2 its Permit by constructing and operating a new or modified waste water treatment
3 facility. Respondent has not completed construction and has not commenced operation
4 thereof.

5 4. Respondent presently is capable of treating its effluent so as to meet the
6 following effluent limitations, measured as specified in the Permit:

Parameter	Average Effluent Concentrations		Effluent Loadings		
	Monthly	Weekly	Monthly Average kg/day (lb/day)	Weekly Average kg/day (lb/day)	Daily Maximum kg (lbs)
Jun 1 - Oct 31: NO DISCHARGE TO PUBLIC WATERS WITHOUT WRITTEN PERMISSION FROM THE DEPARTMENT.					
Nov 1 - May 31:					
BOD	55mg/l	60 mg/l	3.1 (6.9)	3.4 (7.5)	6.2 (13.8)
TSS	110mg/l	110mg/l	6.2 (13.8)	6.2 (13.8)	12.4 (27.6)

12 5. The Department and Respondent recognize and admit that:
13 a. Until the proposed new or modified waste water treatment facility
14 is completed and put into full operation, Respondent will violate
15 the effluent limitations set forth in Paragraph 2 above the vast
16 majority, if not all, of the time that any effluent is discharged.
17 b. Respondent has committed violations of its NPDES Permit No. 1570-J
18 and related statutes and regulations. Those violations have been
19 disclosed in Respondent's waste discharge monitoring reports to the
20 Department, covering the period from March 22, 1975 through the
21 date which the order below is issued by the Environmental Quality
22 Commission.

23 6. The Department and Respondent also recognize that the Environmental Quality
24 Commission has the power to impose a civil penalty and to issue an abatement order
25 for any such violation. Therefore, pursuant to ORS 183.415(4), the Department and
26 Respondent wish to resolve those violations in advance by stipulated final order

1 requiring certain action, and waiving certain legal rights to notices, answers,
2 hearings and judicial review on these matters.

3 7. The Department and Respondent intend to limit the violations which this
4 stipulated final order will settle to all those violations specified in Paragraph
5 5 above, occurring through (a) the date that compliance with all effluent limita-
6 tions is required, as specified in Paragraph A(1) below, or (b) the date upon which
7 the Permit is presently scheduled to expire, whichever first occurs.

8 8. This stipulated final order is not intended to settle any violation of any
9 effluent limitations set forth in Paragraph 4 above. Furthermore, this stipulated
10 final order is not intended to limit, in any way, the Department's right to proceed
11 against Respondent in any forum for any past or future violation not expressly
12 settled herein.

13 NOW THEREFORE, it is stipulated and agreed that:

14 A. The Environmental Quality Commission shall issue a final order:

15 (1) Requiring Respondent to comply with the following schedule:

16 a. Submit and complete and proper Step III grant
17 application by December 31, 1977.

18 b. Begin construction within four (4) months of Step
19 III grant offer.

20 c. Complete construction and end discharge to public
21 waters within ten (10) months of Step III grant offer.

22 (2) Requiring Respondent to meet the interim effluent limitations set forth
23 in Paragraph 4 above until the date set in the schedule in Paragraph A(1) above for
24 achieving compliance with the final effluent limitations.

25 (3) Requiring Respondent to comply with all the terms, schedules and conditions
26 of the Permit, except those modified by Paragraphs A(1) and (2) above.

1 B. Regarding the violations set forth in Paragraph 5 above, which are expressly
2 settled herein, the parties hereby waive any and all of their rights under United
3 States and Oregon Constitutions, statutes and administrative rules and regulations
4 to any and all notices, hearings, judicial review, and to service of a copy of the
5 final order herein.

6 C. Respondent acknowledges that it has actual notice of the contents and
7 requirements of this stipulated and final order and that failure to fulfill any of
8 the requirements hereof would constitute a violation of this stipulated final order,
9 Therefore, should Respondent commit any violation of this stipulated final order,
10 Respondent hereby waives any rights it might then have to any and all ORS 468.125(1)
11 advance notices prior to the assessment of civil penalties for any and all such
12 violations. However, Respondent does not waive its rights to any and all ORS 468.135
13 (1) notices of assessment of civil penalty for any and all violations of this stipulated
14 final order.

15 DEPARTMENT OF ENVIRONMENTAL QUALITY

16
17 Date: _____

By William H. Young
WILLIAM H. YOUNG
Director

19 RESPONDENT

20
21 Date: 12/15/77

By Small P. Allen
Name _____
Title Director of Public Works

23 FINAL ORDER

24 IT IS SO ORDERED:

25 ENVIRONMENTAL QUALITY COMMISSION

26 Date: _____

By _____
WILLIAM H. YOUNG, Director
Department of Environmental Quality
Pursuant to OAR 340-11-136(1)

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
 2 OF THE STATE OF OREGON

3 DEPARTMENT OF ENVIRONMENTAL QUALITY,)
 of the STATE OF OREGON,)
 4 Department,)
 5 v.)
 6 CITY OF EUGENE,)
 7 Respondent.)

STIPULATION AND
 FINAL ORDER
 WQ-MWR-77-309
 LANE COUNTY

8 WHEREAS

9 1. The Department of Environmental Quality ("Department") will soon issue
 10 National Pollutant Discharge Elimination System Waste Discharge Permit ("Permit")
 11 Number _____ (to be assigned upon issuance of the Permit) to CITY OF EUGENE
 12 ("Respondent") pursuant to Oregon Revised Statutes ("ORS") 468.740 and the Federal
 13 Water Pollution Control Act Amendments of 1972, P.L. 92-500. The Permit authorizes
 14 the Respondent to construct, install, modify or operate waste water treatment, control
 15 and disposal facilities and discharge adequately treated waste waters into waters of
 16 the State in conformance with the requirements, limitations and conditions set forth
 17 in the Permit. The Permit expires on August 31, 1982.

18 2. Condition I of Schedule A of the Permit does not allow Respondent to exceed
 19 the following waste discharge limitations after the Permit issuance date:

Parameter	Effluent Loadings							
	Average Effluent Concentrations		Monthly Average		Weekly Average		Daily Maximum	
	Monthly	Weekly	kg/day	(lb/day)	kg/day	(lb/day)	kg	(lbs)
WHEN CANNERY IS LESS THAN 10% OF TOTAL PLANT LOADING:								
BOD	30mg/1	45mg/1	1950	(4300)	2900	(6400)	3900	(8600)
TSS	30mg/1	45mg/1	1950	(4300)	2900	(6400)	3900	(8600)
WHEN CANNERY EXCEEDS 10% OF THE TOTAL PLANT LOADING:								
BOD	40mg/1	60mg/1	2645	(5820)	3900	(8580)	5195	(11430)
TSS	55mg/1	77mg/1	3565	(7845)	5000	(11000)	6465	(14223)

1 3. Respondent proposes to comply with all the above effluent limitations of
 2 its Permit by constructing and operating a new or modified waste water treatment
 3 facility. Respondent has not completed construction and has not commenced operation
 4 thereof.

5 4. Respondent presently is capable of treating its effluent so as to meet the
 6 following effluent limitations, measured as specified in the Permit:

Parameter	Average Effluent Concentrations		Effluent Loadings					
	Monthly	Weekly	Monthly Average		Weekly Average		Daily Maximum	
	kg/day	kg/day	kg/day	(lb/day)	kg/day	(lb/day)	kg	(lbs)
Jun 1 - Oct 31:	WHEN CANNERY IS LESS THAN 10% OF TOTAL PLANT LOADING:							
BOD	35mg/l	55mg/l	2265	(4990)	3560	(7845)	4530	(9980)
TSS	35mg/l	55mg/l	2265	(4990)	3560	(7845)	4530	(9980)
Nov 1 - May 31:	WHEN CANNERY IS LESS THAN 10% OF TOTAL PLANT LOADING:							
BOD	45mg/l	70mg/l	2900	(6400)	4530	(9980)	5800	(12800)
TSS	35mg/l	55mg/l	2265	(4990)	3560	(7845)	4530	(9980)
	WHEN THE CANNERY EXCEEDS 10% OF THE TOTAL PLANT LOADING:							
BOD	60mg/l	70mg/l	3885	(8556)	4530	(9980)	7770	(17112)
TSS	55mg/l	77mg/l	3565	(7845)	5000	(11000)	6465	(14223)

16 5. The Department and Respondent recognize and admit that:

17 a. Until the proposed new or modified waste water treatment

18 facility is completed and put into full operation, Respondent

19 will violate the effluent limitations set forth in Paragraph 2

20 above the vast majority, if not all, of the time that any

21 effluent is discharged.

22 b. Respondent has committed violations of its NPDES Waste Discharge

23 Permit No. 1941-J and related statutes and regulations. Those

24 violations have been disclosed in Respondent's waste discharge

25 monitoring reports to the Department, covering the period from

26 March 7, 1975 through the date which the order below is signed

1 by the Environmental Quality Commission.

2 6. The Department and Respondent also recognize that the Environmental
3 Quality Commission has the power to impose a civil penalty and to issue an
4 abatement order for any such violation. Therefore, pursuant to ORS 183.415(4),
5 the Department and Respondent wish to resolve those violations in advance by
6 stipulated final order requiring certain action, and waiving certain legal rights
7 to notices, answers, hearings and judicial review on these matters.

8 7. The Department and Respondent intend to limit the violations which this
9 stipulated final order will settle to all those violations specified in Paragraph
10 5 above, occurring through (a) the date that compliance with all effluent limita-
11 tions is required, as specified in Paragraph A(1) below, or (b) the date upon which
12 the Permit is presently scheduled to expire, whichever first occurs.

13 8. This stipulated final order is not intended to settle any violation of
14 any effluent limitations set forth in Paragraph 4 above. Furthermore, this stipulated
15 final order is not intended to limit, in any way, the Department's right to proceed
16 against Respondent in any forum for any past or future violation not expressly
17 settled herein.

18 NOW THEREFORE, it is stipulated and agreed that:

19 A. The Environmental Quality Commission shall issue a final order:

20 (1) Requiring Respondent to comply with the following schedule:

21 (a) Submit complete and biddable final plans and specifi-
22 cations by April 1, 1979.

23 (b) Submit a proper and complete Step III grant application
24 by April 1, 1979.

25 (c) Start construction within four (4) months of Step III
26 grant offer.

- 1 (d) Submit a progress report within nineteen (19) months
2 of Step I/II grant offer.
- 3 (e) Complete construction within thirty-four (34) months
4 of Step III grant offer.
- 5 (f) Attain operational level within thirty-six (36) months
6 of Step III grant offer.

7 (2) Requiring Respondent to meet the interim effluent limitations set forth
8 in Paragraph 4 above until the date set in the schedule in Paragraph A(1) above for
9 achieving compliance with the final effluent limitations.

10 (3) Requiring Respondent to comply with all the terms, schedules and conditions
11 of the Permit, except those modified by Paragraphs A(1) and (2) above.

12 B. Regarding the violations set forth in Paragraph 5 above, which are expressly
13 settled herein, the parties hereby waive any and all of their rights under United
14 States and Oregon Constitutions, statutes and administrative rules and regulations
15 to any and all notices, hearings, judicial review, and to service of a copy of the
16 final order herein.

17 C. Respondent acknowledges that it has actual notice of the contents and
18 requirements of this stipulated and final order and that failure to fulfill any of
19 the requirements hereof would constitute a violation of this stipulated final order,
20 Therefore, should Respondent commit any violation of this stipulated final order,
21 Respondent hereby waives any rights it might then have to any and all ORS 468.125(1)
22 advance notices prior to the assessment of civil penalties for any and all such
23 violations. However, Respondent does not waive its rights to any and all ORS 468.135
24 (1) notices of assessment of civil penalty for any and all violations of this stipulated
25 final order.

1 Date: _____

2

3

4

5 Date: 12/15/77

6

7

FINAL ORDER

8 IT IS SO ORDERED:

9

10

11 Date: _____

12

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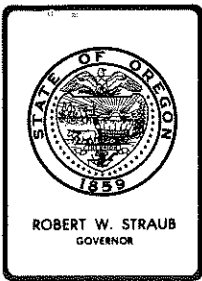
By William H. Young
WILLIAM H. YOUNG
Director

RESPONDENT

By Donald P. Allen
Name
Title Director of Public Works

ENVIRONMENTAL QUALITY COMMISSION

By _____
WILLIAM H. YOUNG, Director
Department of Environmental Quality
Pursuant to OAR 340-11-136(1)



Environmental Quality Commission

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 PHONE (503) 229-5696
522 S.W. 5th Avenue 97204

January 6, 1978

MEMORANDUM

To: Environmental Quality Commission
From: Hearing Officer
Subject: Agenda item 1, January 27, 1978 EQC Meeting Contested Case
Review (AQ-SNCR-76-178)

Please find enclosed the record on review in the above captioned matter. The enclosed materials are deemed self-explanatory.

Should additional documents be needed, they will be made available at the Commission meeting.

Sincerely,

Peter W. McSwain
Hearing Officer

PWM:vt
Enc.
cc: Kenneth Brookshire
Robert Haskins
Mike Downs



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Recycled
Materials

December 2, 1977

Mr. Kenneth F. Brookshire
Route 1 Box 91A
St. Paul, Oregon 97137

Re: Department of Environmental
Quality v. Kenneth Brookshire
AQ-SNCR-76-178

Dear Mr. Brookshire:

Thank you for your letter of November 28, 1977. While your letter is not addressed to the Environmental Quality Commission, it appears to be a request that the hearing officer's Proposed Order upon default be rejected and the matter be rescheduled for a hearing before May.

While your letter conveys new information to be considered, it is now up to our Commission to decide on the matter of possible rescheduling.

I will arrange to have this matter placed on the agenda of a Commission meeting and notify you of the time and place. At that time and place both you and the Department may be heard orally on the matter if you so desire.

Sincerely,

Peter W. McSwain
Hearing Officer

PWM:ks

Encl Robert Haskins (w/encl)
Mike Downs (w/encl)
Fred Bolton (w/encl)
John Borden (w/encl)

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
R E C E I V E D
NOV 29 1977

OFFICE OF THE DIRECTOR

St. Paul, Oregon
November 28, 1977

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

Re: AQ-SNCR-76-178

Att: Peter W. McSwain:

It may be great fun to be a Dictator but its not much fun being Dictated to. Somewhere along the line I thought this was a DEMOCRACY.

The Government should be spending time and money to find out who does vandalising on peoples private property instead of trying to fine the one vandalised.


There was a hearing scheduled for November 23, 1976. I received a letter by regular mail on November 22 at 5:00 P.M. stating this hearing was not to be held. I was prepared for this hearing. Spent the evening of the 22nd and morning of 23rd notifying people who were to be there. This took my time and money.

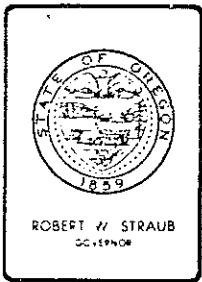
Hearing was re-scheduled for August 9, 1977. I wrote you that this was a farmers busy season. My busy season if from May until November each year. You have the time to schedule in a non-busy season.

I agree to appear in a non-busy season. I must make a living.

I refuse to pay a fine of \$1,000.00 or any amount assessed for someone doing vandalism on my property.

If you have the right you say you do, then you have the right to fine a property owner for someone stealing his livestock, vandalising his property, and dumping garbage on his private property.


Kenneth F. Brookshire
Route 1 Box 91A
St. Paul, Oregon 97137



Environmental Quality Commission

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 PHONE (503) 229-5696

November 14, 1977

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Kenneth F. Brookshire
2521 N.E. Hancock Street
Portland, Oregon 97212

Re: Department of Environmental Quality
v. Kenneth Brookshire AQ-SNCR-76-178

Dear Mr. Brookshire:

Enclosed please find the Proposed Findings of Fact, Conclusions of Law and Final Order in the above entitled matter. We are serving the Commission Chairman and the Department's Counsel with these materials this day.

Please be reminded that unless the Commission, the Department, or Mr. Cobb seeks review of this Proposed Final Order within fourteen days hereof, the Proposed Order will become a final order by operation of law (OAR 340-11-132).

Review may be sought by mailing a request for such to the Commission at this address and serving a copy of such request upon the Department.

If Commission review is invoked, the parties have thirty days from today in which to file with the Commission and serve on the other party written exceptions and arguments regarding the Proposed Order. This argument is to include such alternative Findings, Conclusions or Order as may be desired by the party filing the argument.

Sincerely,

Peter W. McSwain
Hearing Officer

PWM:ks

Enclosure

cc: Environmental Quality Commission Members (w/encl.)
Robert Haskins (w/encl.)
Frederick Bolton (w/encl.)
John Borden (w/encl.)



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BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL)
QUALITY, of the STATE OF OREGON,)
)
Department,)
)
)
v.)
)
KENNETH BROOKSHIRE,)
)
Respondent.)

PROPOSED FINDINGS OF FACT,
AND CONCLUSIONS OF LAW
No. AQ-SNCR-76-178

SUMMARY

This is in the matter of a \$1,000 civil penalty assessed against the Respondent for an alleged, unlawful open field burning incident on August 11, 1976. For reasons set forth below, we are proposing an order adverse to Respondent based on his failure to appear and Department's motion that he be held in default. In addition to finding as fact each of Department's material allegations, we have entered supplemental findings regarding the hearings procedure to date.

FINDINGS OF FACT

Respondent is deemed by operation of law to admit each and every material allegation of fact contained in Department's Notice of Assessment of Civil Penalty AQ-SNCR-76-178, Marion County. He is further deemed to consent to an order entering such allegations as findings of fact which is hereby done. A true correct copy of said Notice of Assessment of Civil Penalty AQ-SNCR-76-178, Marion County is Attached as Exhibit A hereto and incorporated herein by this reference.

SUPPLEMENTAL FINDINGS OF FACT

1) On September 1, 1976, Respondent received Department's Notice of Assessment of Civil Penalty in this matter. The Notice assessed a civil penalty of \$1,000. for the alleged open field burning incident here in issue. The seventh paragraph of said Notice informed Respondent of his opportunity for a hearing upon the filing of a request for such and upon the filing of an answer.

2) The Notice of Assessment of Civil Penalty alleged that the Director had considered some nine aggravating or mitigating circumstances in determining the precise amount of the assessed penalty.

3) On September 13, 1976, Respondent filed an Application for a Contested Case Hearing and an Answer in this matter.

4) Past each other in the mails went the Hearing Officer's letter of September 30, 1976 scheduling the hearing for November 23, 1976 and Department's September 29, 1976 motions to strike and/or make more definite and certain portions of Respondent's Answer.

5) On October 15, 1976 the Respondent's attorney terminated his representation in this matter.

6) On October 25, 1976 Respondent sent the Department a letter - informing of his election to proceed without benefit of counsel.

7) On November 2, 1976 the Hearing Officer wrote Respondent to inform that Department's motions to strike and/or make more definite and certain would go unattended so Respondent, apparently not himself an attorney, would not be required to argue the motions or amend his answer, tasks normally requiring an attorney's skills.

8) On November 17, 1976 Department moved for a continuance based upon the unavailability of evidence.

9) On November 19, 1976 Respondent was contacted by telephone to see if he had resistance to the Department's motion. Respondent resisted vigorously. He resisted on grounds including his contention the Department was engaged in harassment, his contention that the Department had burned him out and other grounds. He did not recite, however, any particular inconveniences the granting of a continuance would cause in this specific instance.

10) On November 20, 1976 the Hearing Officer Granted Department's motion for a continuance based on the understanding the Department would soon make known to the record the amount of additional time required to prepare its case.

11) On December 29, 1976 the Hearing Officer requested the Department to make known promptly the amount of time felt necessary to prepare its case.

12) On January 4, 1976 the Department, by letter, stated itself ready to proceed upon such notice as would afford time for subpoenaing of witnesses. The hearing officer did not receive the letter.

13) On June 3, 1977 the Department restated its readiness in a letter received by the Hearing Officer.

14) On June 29, 1977, the hearing officer gave notice the hearing was to commence on August 9, 1977.

15) On August 3, 1977, Respondent informed the Hearing Officer that, due to its being the busy season for farmers, Respondent would be unavailable for a hearing on August 9.

16) On August 11, 1977 the Hearing Officer rescheduled the matter to commence on October 25, 1977. The letter rescheduling the hearing called upon the parties to make known promptly any questions, objections or conflicts regarding the schedule. Respondent received this letter on August 19.

17) On October 25, 1977, by official notice, we find that Respondent neither appeared between 10:00 a.m. and 10:30 a.m. at the place of hearing set forth in the above said August 11 letter nor had contacted the Hearing Officer prior to or at that time to request postponement.

18) We further find by official notice that telephone contact with one apparently Respondent's wife resulted in the information that Respondent was on the morning of October 25, 1977 plowing a field in St. Paul Oregon and under the erroneous impression that the hearing was scheduled for the following week.

19) Finally, official notice is used to find that at the scheduled time and place of hearing Department's counsel, one member of Department's enforcement staff, and no fewer than four persons to be called as witnesses were in attendance and, Respondent not appearing, Department moved for and was granted our commitment to propose this order upon default.

CONCLUSIONS OF LAW

1. Respondent's failure to appear or to enter a timely request for postponement in this matter places within the Commission's discretion the granting of Department's motion for an order upon default and assessment against Respondent in the sum of \$1,000.

2. OAR 340-11-120(2) is invoked by Respondent's failure to appear at his scheduled hearing without showing good cause. Merely forgetting the time of hearing without more, is not deemed a showing of good cause.

3. The administrative rule above-mentioned provides where applicable that failure to appear may be deemed Respondent's withdrawal of his answer, admission of all of Department's allegations, and consent to the entry of a default order and judgement for the relief sought. In this context we construe "where applicable" to mean where there has been an answer filed in response to allegations made and where the allegations, if proven to be true would support assessment of a civil penalty. Such is the case here.

4. Respondent is deemed to have withdrawn his answer. Therefore, we need not deal with new matter raised therein.

5. Respondent is deemed to have admitted each and every allegation of the Department. See both OAR 340-11-120 and OAR 340-11-107.

6. Respondent is deemed to have consented to an order wherein such allegations are found to be true.

7. The provision of ORS 468.140 (5) at the time of violation and since then has been that notwithstanding the \$500 daily ceiling on pollution violations set forth in ORS 468.130, a penalty of from \$20 to \$40 per acre is authorized. This amount is in addition to any other penalty and, therefore, in addition to the \$500 maximum possible under ORS 468.130 and OAR 340-12-050 (2). We are within the limits of the former provision however and need not dwell on the authority given by the latter.

8. OAR 340-12-045 provides that the Director, in establishing the amount of a civil penalty may consider a number of factors which may be found aggravating or mitigating. ORS 468.130 makes it mandatory for the Commission to consider the following:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations of statutes, rules, orders and permits pertaining to water or air pollution or air contamination or solid waste disposal.

(c) The economic and financial conditions of the person incurring a penalty.

These are fairly embodied in the matters allegedly considered by the Director. While it is not apparent from Department's Notice of Assessment whether the Director found aggravating or mitigating circumstances relative to the subject areas the Commission must consider, Respondent is deemed neither to deny that the Director considered the pertinent subject matter nor to raise the affirmative claim that the Director's consideration was inadequate. Further, Respondent has made no motion to make the allegations more precise. Based on the above, we conclude that the agreement of the parties on the issues of aggravation and/or mitigation is sufficient for the Commission to consider. Since these issues are not joined, the Commission may consider them as adequately addressed.

9. The Pleading of the Department, and coupled with inferences that may be drawn by the absence of an answer constitute a prima facie case sufficient to sustain a ruling adverse to Respondent; when coupled with the officially noticed fact that he was given notice.

10. From the conclusions set forth above, we draw the ultimate conclusion that Respondent is liable to the State of Oregon in the sum of \$1,000. for the open field burning incident found above.

OPINION

We make no recommendation with regard to any request Respondent may make to the Commission that the matter be remanded for the rescheduling of a hearing. Our position is simply that such request, if any there is to be, should be taken up with the Commission before the Department is called upon, at public expense, to once again summon counsel, staff assistance, and several witnesses to appear with the risk of Respondent's continuing to absent himself from these proceedings.

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BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL)
QUALITY, of the STATE OF OREGON,)
Department,)
v.)
KENNETH BROOKSHIRE,)
Respondent.)

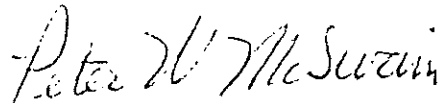
ORDER No. AQ-SNCR-76-178

The Commission hereby orders, as proposed by the hearing officer, that Respondent, Mr. Kenneth Brookshire is liable in the sum of \$1,000. pursuant to his default in the matter of his requested hearing on an assessment of a civil penalty by the Director of the Department on August 26, 1976 and that the State of Oregon have judgement for and recover the same.

The Commission hereby further orders that if neither a party nor the Commission requests review of this order within 14 days of its service upon them, the order shall become a final order of the Environmental Quality Commission of the State of Oregon which shall have added to the caption the words "NOW FINAL" and, if unsatisfied for more than ten days after becoming final, may be filed with the clerk of any county and executions may be issued upon it as provided by ORS 468.135.

Dated this 14 day of November, 19 77.

Respectfully submitted,



Peter W. McSwain
Hearing Officer

The Commission hereby orders, as proposed by the hearing officer, that Respondent, Mr. Kenneth Brookshire is liable in the sum of \$1,000. pursuant to his default in the matter of his requested hearing on an assessment of a civil penalty by the Director of the Department on August 26, 1976 and that the State of Oregon have judgement for and recover the same.

The Commission hereby further orders that if neither a party nor the Commission requests review of this order within 14 days of its service upon them, the order shall become a final order of the Environmental Quality Commission of the State of Oregon which shall have added to the caption the words "NOW FINAL" and, if unsatisfied for more than ten days after becoming final, may be filed with the clerk of any county and executions may be issued upon it as provided by ORS 468.135.

Dated this 14 day of November, 19 77.

Respectfully submitted,

Peter W. McSwain

Peter W. McSwain
Hearing Officer

EXHIBIT A to PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,
of the STATE OF OREGON,

Department,

v.

KENNETH BROOKSHIRE,

Respondent.

) NOTICE OF ASSESSMENT
) OF CIVIL PENALTY
) AQ-SNCR-76-178
) MARION COUNTY

I.

KENNETH BROOKSHIRE hereinafter will be referred to as "Respondent." The Department of Environmental Quality is hereinafter referred to as "Department." The Director of the Department is hereinafter referred to as "Director."

II.

A. On or about August 11, 1976, without first registering Respondent's wheat (a cereal grain) field located in Township 4 South, Range 2 West, Willamette Meridian, in Marion County, Oregon, Respondent allowed to be open field burned, thirty five (35) acres thereof in violation of Oregon Revised Statutes (hereinafter referred to as "ORS") 468.480(1)(a).

B. On or about August 11, 1976, without first obtaining a valid open field burning permit, Respondent allowed to be open field burned thirty five (35) acres of the field described in Paragraph A above, in violation of ORS 468.458(1), 468.475(1) and Oregon Administrative Rules (hereinafter referred to as "OAR") section 340-26-010(2)(a).

III.

Pursuant to ORS 468.125 through 468.140, ORS chapter 183, and Oregon Administrative Rules (hereinafter referred to as "OAR") chapter 340, divisions 11 and 12, and in particular, section 340-26-025(1) and 340-12-050(2), the Director hereby imposes upon Respondent a civil penalty of \$1,000.00 for the one or more

1 violations cited in Paragraph II above.

2 IV.

3 In determining the precise amount of Respondent's penalty, the Director
4 has considered OAR, section 340-12-045(1)(a) through (i) as follows:

- 5 A. Whether Respondent committed any prior violation,
6 regardless of whether or not any administrative,
7 civil, or criminal proceeding was commenced there-
8 for;
- 9 B. Respondent's history in taking all feasible steps
10 or procedures necessary or appropriate to correct
11 any violation;
- 12 C. Respondent's economic and financial condition;
- 13 D. The gravity and magnitude of the violation;
- 14 E. Whether the violation was repeated or continuous;
- 15 F. Whether the cause of the violation was an avoidable
16 accident, or Respondent's negligence or intentional
17 act;
- 18 G. The opportunity and degree of difficulty to correct
19 the violation;
- 20 H. Respondent's cooperativeness and efforts to correct
21 the violation; and
- 22 I. The cost to the Department of investigation and cor-
23 rection of the cited violation.

24 V.

25 This penalty is being imposed without prior notice pursuant to ORS
26 468.125(2) and OAR, section 340-12-040(3)(b) because the above-described

1 pollution source would normally not be in existence for five (5) days.

2 VI.

3 This penalty is due and payable immediately upon receipt of this
4 notice. Respondent's check in the above amount should be made out in the
5 name of "State Treasurer, State of Oregon" and returned to the Director.

6 VII.

7 Respondent has the right, if Respondent so requests, to have a
8 formal contested case hearing before the Environmental Quality Commission
9 or its hearing officer regarding the matters set out above pursuant to
10 ORS, chapter 183, ORS 468.135(2) and (3), and OAR, chapter 340, division
11 11, at which time Respondent may be represented by an attorney and subpoena
12 and cross-examine witnesses. That request must be made in writing to the
13 Director, must be received by the Director within twenty (20) days from
14 the date of mailing of this notice (or if not mailed, the date of personal
15 service), and must be accompanied by a written "Answer" to the charges
16 contained in this notice. In the written "Answer," Respondent shall admit
17 or deny each allegation of fact contained in this notice and Respondent
18 shall affirmatively allege any and all affirmative defenses to the assessment
19 of this civil penalty that Respondent may have and the reasoning in support
20 thereof. Except for good cause shown:

21 A. Factual matters not controverted shall be presumed
22 admitted;

23 B. Failure to raise a defense shall be presumed to be
24 a waiver of such defense;

25 C. New matters alleged in the "Answer" shall be pre-
26 sumed to be denied; and

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D. Evidence shall not be taken on any issue not raised
in the notice and the "Answer."

If Respondent fails to file a timely "Answer" or request for hearing, or
fails to appear at a scheduled hearing, the Director on behalf of the
Environmental Quality Commission may issue a default order and judgment
based upon a prima facie case made on the record, for the relief sought in
this notice. Following receipt of a request for hearing and an "Answer,"
Respondent will be notified of the date, time and place of the hearing.

August 26, 1976
Date



LOREN KRAMER, Director
Department of Environmental Quality

No. 484422

ddf

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO Mr. Kenneth Brookshire		POSTMARK OR DATE NOA
STREET AND NO. Route 1, Box 91-A		
P.O., STATE AND ZIP CODE Aurora, Oregon 97002		Marion Co.
OPTIONAL SERVICES FOR ADDITIONAL FEES		
RETURN RECEIPT SERVICES	1. Shows to whom and date delivered With delivery to addressee only	15¢ 05¢
	2. Shows to whom, date and where delivered With delivery to addressee only	35¢ 65¢
	DELIVER TO ADDRESSEE ONLY	50¢
SPECIAL DELIVERY (extra fee required)		

PS Form 3800 NO INSURANCE COVERAGE PROVIDED— (See other side)
Apr. 1971 NOT FOR INTERNATIONAL MAIL GPO: 1974 O - 551-454

PS Form 3811, Jan. 1975

SENDER: Complete items 1 through 4. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one):

- Show to whom and date delivered..... 15¢
- Show to whom, date, & address of delivery.. 35¢
- RESTRICTED DELIVERY
Show to whom and date delivered..... 65¢
- RESTRICTED DELIVERY
Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

Mr. Kenneth Brookshire
Route 1, Box 91-A
Aurora, Oregon 97002

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	484422	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE Addressee Authorized agent

4. DATE OF DELIVERY POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE CLERK'S INITIALS

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

CERTIFICATE OF SERVICE

(Mail)

STATE OF OREGON)
COUNTY OF MULTNOMAH) ss

I, Gloria C. Davis, being a competent person over the age of eighteen (18) years, do hereby certify that I served Mr. Kenneth Brookshire by mailing by certified mail to Same as above Certified Mail #484422
Name of Party
(Name of Person to whom Document Addressed)

(and if not the party, their relationship)

Notice of Assessment of Civil Penalty - AQ-SHCR-76-178- Marion County
(Identify Document Mailed)

I hereby further certify that said document was placed in a sealed envelope addressed to said person at _____

Route 1, Box 91-A, Aurora, Oregon 97002

his last known address, and deposited in the Post Office at Portland, Oregon, on the 26th day of August, 19 76, and that the postage thereon was prepaid.

Gloria C. Davis
Signature

CERTIFICATE OF SERVICE

I, Peter W. McSwain, hereby certify that on November 14,
19 77, I served the foregoing Proposed Findings of Fact Conclusions of
Law and Final Order (AQ-SNCR-76-178)

on Kenneth Brookshire, Respondent; Robert Haskins, Department's Counsel;
and Joe B. Richards, Commission Chairman

by mailing each of them a true and correct copy thereof.

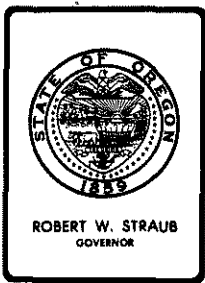
I further certify that said mailings were by depositing in the United States Post Office at Portland, Oregon, each said copy, under cover, postage prepaid and correctly addressed at the last known addresses listed below.

Peter W. McSwain

Mr. Kenneth F. Brookshire
2521 N.E. Hancock Street
Portland, Oregon 97212

Robert Haskins
Legal Counsel
Department of Justice
500 Pacific Bldg.
520 S.W. Yamhill
Portland, Oregon 97204

Joe B. Richards, Chairman
Environmental Quality Commission
777 High Street
P.O. Box 10747
Eugene, Oregon 97401



Department of Environmental Quality

Post Office Box 1760

PORTLAND, OREGON 97207 Telephone (503) 229- 5395

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item K, January 26, 1978 EQC Meeting
Crude Oil Tanker Rules - Authorization for Public Hearing

Background

GATX Terminals Corporation applied October 11, 1977 for an Air Contaminant Discharge Permit to operate a crude oil transfer terminal on the Columbia River at Port Westward near Clatskanie. The terminal would transfer up to 17,625,000 barrels of crude oil per year, probably from Alaska's North Slope, via tanker from Valdez, then load it aboard 90 car unit trains. The trains would carry the oil over the Burlington Northern track, east, probably to Cut Bank, Montana. Probably two tankers would call on the Port per month and one unit train would leave the terminal every 40 hours. The terminal is proposed to begin operation October 1, 1978.

The Department has estimated most probable and worst case air emissions from the proposed GATX oil transfer terminal and associated operations. The Department has determined that air quality impact would be insignificant if emissions are at most probable levels. If emissions rise toward worst case projection, then air quality may be significantly deteriorated or even air quality standards could be violated.

The Department has prepared a proposed permit to control emissions from the stationary sources at the GATX facility. Vessels serving the terminal facility however are not under GATX jurisdiction. Further the Department has no rule clearly applicable to such vessels.

Evaluation

The Department's estimates of probable air contaminant emissions from the entire proposed operation are:

	<u>Tons Pollutant Per Year</u>			
	<u>NO_x</u>	<u>HC</u>	<u>CO</u>	<u>SO_x</u>
GATX Terminal	2	7	negl.	negl.
Tankers, tugs, locomotives at the Terminal	25	69	5	34
Tankers on the Lower Columbia River	5	70	negl.	12
Unit trains along the Upper Columbia River	229	20	112	12



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Evaluation - SO_x

These estimates assume that crude oil tankers will burn residual fuel oil with a sulfur content of only 1.5% by weight. Some tankers are rumored to burn up to 5% sulfur oil; one oil products tanker, which calls regularly at Portland, burns 3.5% sulfur oil. If high sulfur oil is burned for fuel, rather than the 1.5% assumed, emissions of sulfur oxides at Port Westward could increase to 60 tons/yr.

If emissions of SO_x from vessels at Port Westward are to remain minimal, the Department needs to limit the % sulfur in fuel oil being burned.

Ports in California are limiting the % sulfur in fuel oil burned by vessels. The most stringent rule is the Port of Ventura's, which limits vessels to fuel oil of about 0.5% sulfur.

The Oregon State Attorney General's Office is of the opinion that the State of Oregon can limit the sulfur oxide emissions of vessels calling at Oregon ports, by limiting the % sulfur in the oil burned.

A reasonable and logical % sulfur limit would be 1.75%, which is the present limit imposed by OAR Chapter 340 - 22 on residual oil burned by stationary sources in Oregon.

Some tankers have several fuel oil tanks, one of which can be dedicated to low sulfur fuel oil, which can be burned when calling at ports with low sulfur fuel oil rules. These tankers should not find a 1.75% sulfur rule difficult to meet.

Evaluation - HC

While the most probable HC emissions from tankers calling at Port Westward would be 67 tons/yr, there are several possibilities that could raise that number ten fold or more. Because of the hazardous navigation in the lower Columbia and crossing the bar, out-going tankers could ballast to 100% of capacity, rather than the 35% assumed in the most probable computation. Or the tankers could inert the cargo tanks, which also expels 100% of the HC vapor. Either of these actions could increase HC emissions ten fold or more. These HC emissions are not spread out evenly over the year, but occur in the 24 hours that the tanker is in port. The next tanker would not call until 11 days later, on the average.

These large emissions of HC, combined with NO_x from the tankers and trains and the nearby PGE Beaver turbine power plant, could drift downwind, be acted upon by sunlight, and cause photochemical oxidant standards to be exceeded.

On the other hand, both ballasting and inerting are operations controlled by tanker captains, and regulated by the Coast Guard; both are operations that can increase tanker safety. The State of California believes the benefit for air pollution control reasons is predominant and they are in the process of adopting comprehensive tanker transfer regulations. The Department feels likewise.

Evaluation - Tanker Rules

The Department has drafted a crude oil tanker rule which would ensure emissions from a facility such as proposed by GATX are kept at a minimal level (Attachment 1). The rule would limit sulfur content of fuels burned in the ships power plants to a maximum 1.75% sulfur content, restrict ballasting to 25% of deadweight tonnage and prohibit inerting of tanks. Total throughput of oil would be limited to 17,625,000 barrels per year in the GATX permit. Such a rule must be adopted before construction of the GATX terminal is authorized. A proposed GATX air permit has been drafted with such a condition.

A Water Pollution Control Facilities Permit will have to be issued to GATX before construction can begin. The GATX application is currently under review by the Department.

Summation

GATX has proposed to build a crude oil transfer facility at Port Westward. Air emissions and impact could be significant from the facility and associated tanker operations unless specific rules limit emissions to the most probable estimates.

A crude oil tanker rule has been drafted which would limit sulfur content of fuel burned in the ships power plants to a maximum 1.75%, limiting ballasting to 25% of deadweight tons and prohibit inerting of tanks.

The Department believes adoption of the proposed rule is a necessary requirement before authorizing construction of the GATX project.

Director's Recommendation

It is the Director's recommendation that the Commission authorize a public hearing to take testimony on the attached proposed rules regulating tankers; and that the Commission consider the adoption of these rules as soon as possible thereafter.

Bill

WILLIAM H. YOUNG

J.F.Kowalczyk:h
January 11, 1978
Attachment 1 - Proposed Rule

ADDITION TO DIVISION 22
CRUDE OIL TANKERS

Definitions - 340-22-075 As used in these rules unless otherwise required by context:

- (1) "Crude Oil Tanker" means any vessel, which is carrying crude oil, exceeding 10,000 deadweight tons. It includes large barges and lighters, exceeding 10,000 deadweight tons, which carry crude oil.

Fuel Oil Sulfur Content - 340-22-080

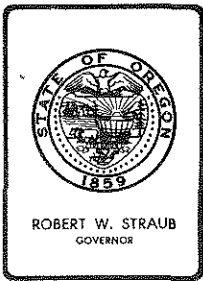
- (1) After October 1, 1978, no crude oil tanker within the jurisdiction of Oregon for a purpose of discharging or taking on crude oil, or of leaving such jurisdiction thereafter, shall burn fuel oil containing more than 1.75 percent sulfur by weight.

Tanker Ballasting - 340-22-085

After October 1, 1978, no crude oil tanker within the jurisdiction of Oregon for a purpose of discharging or taking on crude oil, or of leaving such jurisdiction thereafter, shall take on unsegregated ballast exceeding 25 percent of its dead weight tonnage when such action emits hydrocarbon vapors.

Tanker Inerting - 340-22-090

After October 1, 1978 no crude oil tanker within the jurisdiction of Oregon, for a purpose of discharging or taking on crude oil, or of leaving such jurisdiction thereafter, shall inert or purge its cargo tanks when such action emits hydrocarbon vapors.



Environmental Quality Commission

P. O. Box 1760 PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. L, January 27, 1978, EQC Meeting

Field Burning Regulations - Authorization for Public Hearing to Consider Amendments to Field Burning Rules, ORS 340, Sections 26-005 to 26-030

Background

The 1977 Oregon State Legislative Assembly passed HB 2196 which effected the following major changes to the Field Burning Law:

1. Abolished the Oregon Field Sanitation Committee.
2. Transferred duties, functions and powers of the Oregon Field Sanitation Committee to the Department of Environmental Quality.
3. Changed the maximum number of acres to be open burned to 195,000 in 1977; 180,000 in 1978; and established a schedule by which the Commission shall determine this number in the future.
4. Established a five-member Field Burning Advisory Committee to advise and assist the Department in research and development of alternatives to open field burning.
5. Charged the Department with monitoring and research to determine the air quality and health effects of field burning smoke.
6. Defined "smoke management" and "smoke management program."

The Environmental Quality Commission responded to the changes imposed by the 1977 Oregon Laws, Chapter 650, (HB 2196) by adopting temporary Agricultural Burning Rules, OAR, Chapter 340, Sections 26-005 to 26-030 at the EQC meeting of July 15, 1977. At that time only rule changes were made as required by the revised Law. Other rule changes desired by staff to effect an improved smoke management program were not included in the temporary rules. These temporary rules were filed and became effective July 27, 1977, and expired November 25, 1977, under the 120 day limitation for temporary rules.



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The Department now requests a public hearing to: 1) incorporate applicable portions of the temporary rule changes into permanent rules (Attachment 1); 2) consider for adoption other changes considered necessary to improve the smoke management program (Attachment 2); 3) set maximum acreage limitations; 4) consider allocation procedures; and 5) consider adoption of permanent rules which are consistent with present law and which will be submitted to the EPA as a revision to the State Implementation Plan (Attachment 3).

These changes are proposed at this time to: 1) allow growers time to obtain radio communication equipment that would be required under the proposed rule changes; 2) provide time for the Department, fire districts and growers to make operational adjustments precipitated by the adopted rules prior to the 1978 burning season; and 3) provide current permanent rules which reflect 1977 Oregon Law, Chapter 650(HB 2196) to replace the now expired temporary rules.

The most significant changes contained in the proposed rule revisions may be summarized as follows:

1. Growers would be required to monitor the Department's field burning advisory radio broadcasts while they are burning their fields. This requirement would aid smoke management by providing more complete and rapid dissemination of burning advisory releases.
2. Establish a maximum of 180,000 acres to be open burned during the 1978 season and a new schedule for Commission determination of that maximum in the future.
3. Growers would be required to pay a \$1.00 per acre nonrefundable registration fee for open burning.
4. Growers requesting emergency field burning would be required to furnish an itemized statement of their net worth to assist in determining economic hardship.
5. The Department would be given explicit permission to alter burning hours when necessary to attain or maintain air quality.
6. The Department would be authorized to act on behalf of the Commission on any application to open burn within 60 days.
7. Burning hours would be changed to require all fires out by one-half hour after sunset. Present fires out time is one and one-half hours after sunset. This change would reduce the amount of smoke produced in late evening when atmospheric ventilation conditions are generally poor.

The burning of priority fields especially in mid-valley fire districts, has been thought to be a significant source contributing to reduced visibility in the Eugene-Springfield area. Treatment of this problem by rule is difficult. The Department proposes to approach the problem by developing, with the fire districts, strategies to burn individual priority acreage

fields or groups of fields under pre-planned meteorological conditions. Special attention given to the burning of priority acreage could result in better management of priority burning locally and could reduce total transport of smoke to the Eugene-Springfield area.

The maximum acreage proposed to be open burned (180,000 acres) and proposed acreage allocations to growers are based on the 1978 season maximum acreage allocations contained in Chapter 650, 1977 Oregon Laws and recent past burning season allocation procedures.

The Commission may wish to consider reduction of the maximum acreage limitation and changes in acreage allocation procedures in the event that reasonable and economical alternatives to field burning are found prior to the 1978 burning season.

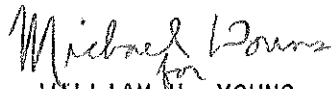
Summation

The Department requests a public hearing to consider:

1. Adoption as permanent that portion of the temporary rules adopted July 15, 1977, applicable to the 1978 and future field burning seasons. The temporary rules adopted July 15, 1977, were required for operation of the 1977 field burning season by 1977 Oregon Laws, Chapter 650 (HB 2196).
2. The maximum acreage limitation for 1978 as specified in 1977 Oregon Laws, Chapter 650 (HB 2196).
3. The acreage allocation procedure.
4. Adoption of other rule changes to improve the smoke management program.
5. Adoption, as permanent, rules which are consistent with 1977 Oregon Laws, Chapter 650 (HB 2196). Permanent rules will be submitted to the Environmental Protection Agency for amendment to the Oregon State Implementation Plan.

Director's Recommendation

It is the Director's recommendation that a public hearing before the Environmental Quality Commission on February 24, 1978, be authorized to consider changes in Agricultural Burning Rules, OAR, Chapter 340, Sections 26-005 through 26-030. The hearing is scheduled for 10 a.m. in the Salem City Council Chambers, 555 Liberty Street S.E., in Salem.


WILLIAM H. YOUNG
Director

David Wilkinson/kz
229-5753
1/9/78

Attachments:

- Attachment 1
- Attachment 2
- Attachment 3

Attachment I

The following are proposed permanent rule changes reflecting new requirements imposed by Oregon Law 1977, Chapter 650 (HB 2196). Some of these were adopted at the Commission meeting July 15, 1977. The remainder of the changes in this attachment are further revisions of the temporarily adopted rules.

26-005 DEFINITIONS

(11) "Open Field Burning Permit" means a permit issued by the Department pursuant to [~~Section 2 of SB 311~~] ORS 468.458.

(15) "Approved Field Sanitizer" means any field burning device that has been approved by [~~the Field Sanitation Committee and~~] the Department as an feasible alternative to open field burning.

(16) "Approved Experimental Field Sanitizer" means any field burning device that has been approved by [~~the Field Sanitation Committee and~~] the Department for trial as a potential [~~ty-feasible~~] alternative to open burning or as a source of information useful to further development of field sanitizers.

~~[(19) "Committee" means Oregon Field Sanitation Committee.]~~

(19) [~~(20)~~] "Approved Pilot Field Sanitizer" means any field burning device that has been observed and endorsed by [~~the Committee and~~] the Department as an acceptable but improvable alternative to open field burning, the operation of which is expected to contribute information useful to further development and improved performance of field sanitizers.

(20) [~~(21)~~] "Approved Alternative Method(s)" means any method approved by [~~the Committee and~~] the Department to be a satisfactory alternative method to open field burning.

(21) [~~(22)~~] "Approved Interim Alternative Method" means any interim method approved by [~~the Committee and~~] the Department as an effective method to reduce or otherwise minimize the impact of smoke from open field burning.

(22) [~~(23)~~] "Approved Alternative Facilities" means any land, structure, building, installation, excavation, machinery, equipment or device approved by [~~the-Committee-and~~] the Department for use in conjunction with an Approved Alternative Method or an Approved Interim Alternative Method for field sanitation.

26-010 GENERAL PROVISIONS

(1) Priority for Burning. On any marginal day, priorities for agricultural open burning shall follow those set forth in ORS 468.450 which give perennial grass seed fields used for grass seed production first priority, annual grass seed fields used for grass seed production second priority, grain fields third priority and all other burning fourth priority.

26-011 CERTIFIED ALTERNATIVES TO OPEN FIELD BURNING

(2)(a)

~~[(v)--Letter-of-approval-from-the-Field-Sanitation-Committee.]~~

(2)(b)

(B) The Department shall certify in writing to [~~the-Field-Sanitation Committee-and~~] the manufacturer, the approval of the pilot field sanitizer within thirty (30) days of the receipt of a complete application and successful compliance demonstration with the emission standards of 2(b)(A). Such approval shall apply to all machines built to the specifications of the Department certified field sanitation machine.

(3) Experimental field sanitizers [~~identified-in-writing-as-experimental units-by-the-Committee-and~~] not meeting the emission criteria specified in 2(b)(A) above, may receive Department authorization for experimental use for not more than one season at a time, provided:

(a) The [~~Committee~~] operator of the field sanitizers shall report to the Department [~~field-burning-(manager)~~] the locations of operation of experimental field sanitizers.

~~[(b)--The-Committee-shall-provide-the-Department-an-end-of-season report-of-experimental-field-sanitizer-operations.]~~

26-012 REGISTRATION AND AUTHORIZATION OF ACREAGE TO BE OPEN BURNED.

(1) On or before April 1 of each year, all acreages to be open burned under this rule shall be registered with the local fire permit issuing agency or its authorized representative[~~:-~~] on forms provided by the Department. A nonrefundable \$1.00 per acre registration fee shall be paid at the time of registration.

26-013 LIMITATION AND ALLOCATION OF ACREAGE TO BE OPEN BURNED.

(1)

(a) [~~During 1977, not more than 95,000 acres:~~]

During 1978, shall not exceed 180,000 acres.

(b) [~~In 1978 and each year thereafter, the Commission, after taking into consideration the factors listed in subsection (2) of ORS 468.460, may by order issue permits for the burning of not more than 50,000 acres.~~]

During 1979 and each year thereafter shall be established by the Commission by January 1 of 1979 and by January 1 of each odd year thereafter. This determination shall be made after taking into consideration the factors listed in subsection (2) of ORS 468.460, shall by order indicate the number of acres for which permits may be issued for the burning of such acreage as it considers appropriate and necessary, upon finding that open burning of such acreage will not substantially impair public health and safety and will not substantially interfere with compliance with relevant state and federal laws regarding air quality.

(2) [~~Each year, the Commission shall seek certification from the Field Sanitation Committee of the number of acres that can be sanitized by feasible alternative methods and the Committee's recommendations as to the general location and types of fields to be sanitized utilizing feasible alternative methods.~~]

Any revisions to the maximum acreage to be burned, allocation procedures, permit issuing procedures or any other substantive changes to these rules affecting the open field burning program for any year shall be made prior to June 1 of that year. In making these rule changes the Commission shall consult with Oregon State University (OSU) and may consult with other interested agencies.

~~[(3) On or before June 1 of each year, the Commission shall, after public hearing, establish an allocation of registered acres that can be open burned that year. In establishing said acreage allocation, the Commission shall consult with OSU and the Oregon Field Sanitation Committee and may consult with other interested agencies and shall, pursuant to ORS 468.460(2) and ORS 468.475(4) consider means of more rapid reduction of acres burned each year than provided by ORS 468.475(2).]~~

(3) ~~[(4)]~~ Acres burned on any day by approved field sanitizers and approved experimental field sanitizers and propane flammers shall not be applied to open field burning acreage allocations or quotas, and such [sanitizers] equipment may be operated under either marginal or prohibition conditions.

(4) In the event that total registration is less than or equal to the acreage allowed to be open burned under section 26-013(1) all registrants shall be allocated 100 percent of their registered acres.

~~(5) [For the 1977 burning season, in the event that more than 95,000 acres are registered to be burned, the Department may issue acreage allocations to growers totaling not more than 95,000 acres plus ten (10) percent or 104,500 acres. The Department shall monitor burning and shall cease to issue burning quotas when a total of 95,000 acres have been reported burned.]~~

In the event that total registration exceeds the acreage allowed to be open burned under 26-013(1) the Department may issue acreage allocations to growers totaling not more than 110 percent of the acreage allowed under Section 26-013(1). The Department shall monitor burning and shall cease to issue burning quotas when the total acreage reported burned equals the maximum acreage allowed under section 26-013(1).

(a) Each year [T] the Department shall suballocate 110 percent of the [104,500] total acre allocation established by the Commission, as specified in Section 26-013(1), to the respective growers on [the] a pro rata share basis of the individual acreage registered as of April 1[, 1977] to the total acreage registered as of April 1[, 1977].

(b) Each year [T] the Department shall suballocate the [95,000] total acre allocation established by the Commission, as specified in Section 26-013(1), to the respective fire permit issuing agencies on [the] a pro rata share basis of the acreage registered within each fire permit issuing agency's jurisdiction as of April 1[, 1977] to the total acreage registered as of April 1[, 1977].

(c) In an effort to insure that permits are available in areas of greatest need, to coordinate completion of burning, and to achieve the greatest possible permit utilization, the Department may adjust, in cooperation with the fire districts, allocations of the ~~[95,000-burnable-acres-made-to-those-fire-districts]~~ maximum acreage allowed in Section 26-013(1).

(d) Transfer of allocations for farm management purposes may be made within and between fire districts on a one-in/one-out basis under the supervision of the Department. Transfer of allocations between growers are not permitted after ~~[95,000-acres]~~ the maximum acres specified in Section 26-013(1) have been burned within the Valley.

(e) Except for additional acreage allowed to be burned by the Commission as provided for in (7) and (8) of this subsection ~~[Governor pursuant to ORS-468-475(5)]~~ no fire district shall allow acreage to be burned in excess of their allocations assigned pursuant to (b), (c) and (d) above.

~~(6) [(f)-in-1977-the-Department-may-supervise-wide-area-energy-concentrated-convective-ventilation-experiments-to-investigate-the-possible-use-of-the-techniques-as-an-alternative-to-open-burning---The-total-acreage-involved-with-such-experimentation-shall-be-deducted-from-the-total-acreage-allocations-prior-to-making-the-sub-allocations-of-(a)-and-(b)-, shall not exceed that amount specifically authorized in writing by the Department and shall not exceed 10,000-acres.]~~ Acreage burned in test fires to determine atmospheric ventilation conditions shall be counted in open field burning acreage allocations.

~~(7) [(5)]~~ Notwithstanding the acreage limitations under 26-013(1), the Department may allow experimental open burning pursuant to Section 9 of the 1977 Oregon Laws, Chapter 650, (HB 2196).

(a) Such experimental burning shall be only as specifically authorized by the Department.

(b) Experimental open burning, exclusive of that acreage burned by experimental open field sanitizers, shall not exceed 7500 acres during 1978.

(8) Pursuant to ORS 468.475(6) and (7) the Commission may permit the emergency open burning under the following procedures:

(a) A grower must submit to the Department an application form for emergency field burning requesting emergency burning for one of the following reasons:

(A) Extreme hardship documented by:

An analysis and signed statement from a CPA, public accountant, or other recognized financial expert which establishes that failure to allow emergency open burning as requested will result in extreme financial hardship above and beyond mere loss of revenue that would ordinarily accrue due to inability to open burn the particular acreage for which emergency open burning is requested. The analysis shall include an itemized statement of the applicant's net worth and include a discussion of potential alternatives and probable related consequences of not burning.

(B) Disease outbreak, documented by:

An affidavit or signed statement from the County Agent, State Department of Agriculture or other public agricultural expert authority that, based on his personal investigation, a true emergency exists due to a disease outbreak that can only be dealt with effectively and practically by open burning.

The statement must also include at least the following:

- i) time field investigation was made,
- ii) location and description of field,
- iii) crop,
- iv) infesting disease,
- v) extent of infestation (compared to normal),
- vi) necessity and urgency to control,
- vii) availability, efficacy and practicability of alternative control procedures,
- viii) probable damages or consequences of non-control.

(C) Insect infestation, documented by:

Affidavit or signed statement from the County Agent, State Department of Agriculture or other public agricultural expert authority that, based on his personal investigation, a true emergency exists due to an insect infestation that can only be dealt with effectively and practicably by open burning. The statement must also include at least the following:

- i) time field investigation was made,
- ii) location and description of field,

- iii) crop,
- iv) infesting insect,
- v) extent of infestation (compared to normal),
- vi) necessity and urgency to control,
- vii) availability, efficacy, and practicability of
alternative control procedures,
- viii) probable damages or consequences of non-control.

(D) Irreparable damage to the land documented by an:

An affidavit or signed statement from the County Agent, State Department of Agriculture, or other public agricultural expert authority that, based on his personal investigation, a true emergency exists which threatens irreparable damage to the land and which can only be dealt with effectively and practicably by open burning. The statement must also include at least the following:

- i) time of field investigation,
- ii) location and description of field,
- iii) crop,
- iv) type and characteristics of soil,
- v) slope and drainage characteristics of field,
- vi) necessity and urgency to control,
- vii) availability, efficacy and practicability of
alternative control procedures,
- viii) probable damages or consequences of non-control.

(b) Upon receipt of a properly completed application form and supporting documentation the Commission shall within 10 days, return to the grower its decision.

(c) An open field burning permit, to be validated upon payment of the required fees, shall be promptly issued by the Department for that portion of the requested acreage which the Commission has approved.

(d) Application forms for emergency open field burning provided by the Department must be used and may be obtained from the Department either in person, by letter or by telephone request.

(9) The Department shall act, pursuant to this section, on any application for a permit to open burn under these rules within 60 days of registration and receipt of the fee provided in ORS 468.480.

(10) [~~(6)~~] The Department may [~~authorize-burning-on-an-experimental basis;-and-may-also;~~] on a fire district by fire district basis, issue limitations more restrictive than those contained in these regulations when in their judgment it is necessary to attain and maintain air quality.

Attachment 2

The following are proposed rule changes for the improvement of the smoke management program.

26-005 DEFINITIONS

(14) "Open Field Burning" means burning of any perennial grass seed field, annual grass seed field or cereal grain field in such manner that combustion air and combustion products are not effectively controlled. [~~Field-burning-utilizing-a-device-other-than-an-approved-field-sanitizer shall-constitute-open-field-burning.~~]

(18) "Leakage" means any smoke resulting from the use of a field sanitizer which is not vented through a stack and is not classified as after-smoke [~~;-and-is-produced-as-a-result-of-using-a-field-sanitizer~~].

26-010 GENERAL PROVISIONS

(2)

(e) Any person open burning or preparing to open burn fields under these rules shall maintain radio contact with the Department's field burning advisory broadcasts.

(f) [(e)] Any person granted an open field burning permit under these rules shall maintain a copy of said permit at the burn site at all times during the burning operation and said permit shall be made available for at least one year after [~~issuance~~] expiration for inspection upon request by appropriate authorities.

(g) [(f)] At all times proper and accurate records of permit transactions and copies of all permits shall be maintained by each agency or person involved in the issuance of permits, for inspection by the [~~proper~~] appropriate authority.

~~[(g) Permit agencies or persons authorized to participate in the issuance of permits shall submit to the Department, on forms provided, weekly summaries of field burning permit data, during the period of July 1 to October 15.]~~

(h) Open field burning permit issuing agencies shall submit to the Department, on forms provided, weekly summaries of field burning activities in their permit jurisdiction during the period July 1 to October 15. Weekly summaries shall be mailed and postmarked no later than the first working day of the following week.

(j) [(i)] No substance or material which normally emits dense smoke or [ob]noxious odors may be used for auxiliary fuel in the igniting of debris, cutting or prunings.

26-011 CERTIFIED ALTERNATIVES TO OPEN FIELD BURNING

(2)(a)

(iv) Operational instructions[;].

2(b)

(A) Approved pilot field sanitizers shall be required to demonstrate the capability of sanitizing a representative [and] harvested grass [field] or cereal grain [stubble] field with an accumulative straw and stubble fuel load of not less than 1.0 tons/acre, dry weight basis, and which has an average moisture content not less than 10%, at a rate of not less than 85% of rated maximum capacity for a period of 30 continuous minutes without exceeding emission standards as follows:

(i) Main stack: 20% average opacity [out-of-main-stacks];

(ii) Leakage: not to exceed 20% of the total emissions.

(iii) After-smoke: No significant [after-smoke] amounts originating more than 25 yards behind the operating machine.

(3)

(c) Adequate water supply shall be available to extinguish open fires resulting from the operation of field sanitizers.

(4) Propane Flamers. [~~Open-propane~~] Propane flaming is an approved alternative to open field burning provided that all of the following conditions are met:

26-012 REGISTRATION AND AUTHORIZATION OF ACREAGE TO BE OPEN BURNED.

(3) Copies of all Registration/Application forms shall be forwarded to the Department and the Executive Department promptly by the local fire permit issuing agency.

26-013 LIMITATION AND ALLOCATION OF ACREAGE TO BE OPEN BURNED.

(1) Except for acreage to be burned under 26-013(5) and (6), the [M]maximum acreage to be open burned under these rules [~~shall not exceed the following~~]:

(3) [~~(4)~~] Acres burned on any day by approved and approved experimental field sanitizers and propane flamers shall not be applied to open field burning acreage allocations or quotas, and such [sanitizers] equipment may be operated under either marginal or prohibition conditions.

26-015 WILLAMETTE VALLEY SUMMER BURNING SEASON REGULATIONS

(1)

(a) Marginal Class N conditions: Forecast northerly winds and a a [maximum] mixing depth greater than 3500 feet.

(c) Prohibition conditions: Forecast northerly winds and [maximum] mixing depth of 3500 feet or less.

~~[(3)--Burning-Hours-may-begin-at-9:30-a.m.-PDT,-under-marginal-conditions but-no-open-field-burning-may-be-started-later-than-one-half-hour-before sunset-nor-be-allowed-to-continue-burning-later-than-one-half-hour-after sunset.--Burning-hours-may-be-reduced-by-the-fire-chief-or-his-deputy-when necessary-to-protect-from-danger-by-fire.]~~

(3) Burning Hours.

(a) Burning hours may begin at 9:30 a.m. PDT, under marginal conditions but no open field burning may be started later than one-half hours before sunset or be allowed to continue burning later than one-half hour after sunset.

(b) The Department may alter burning hours according to atmospheric ventilation conditions when necessary to attain air quality.

(c) Burning hours may be reduced by the fire chief or his deputy when necessary to protect from danger by fire.

TABLE 1
FIELD BURNING ACREAGE QUOTAS
NORTH VALLEY AREAS

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>North Valley Counties</u>		
<u>Clackamas County</u>		
Canby RFPD	50	[50] <u>0</u>
Total	<u>375</u>	[50] <u>0</u>
<u>Marion County</u>		
St. Paul RFPD	125	[50] <u>0</u>
Total	<u>1675</u>	[350] <u>200</u>
<u>Washington County</u>		
Cornelius RFPD	50	[50] <u>0</u>
Total	<u>300</u>	[200] <u>150</u>
<u>Yamhill County</u>		
Carlton RFPD	50	[50] <u>0</u>
Newberg RFPD	50	[0] <u>50</u>
Yamhill RFPD	<u>50</u>	[0] <u>50</u>
Total	<u>600</u>	[375] <u>325</u>
<u>North Valley Total</u>	<u>3575</u>	[975] <u>725</u>
<u>South Valley Counties</u>		
<u>Lane County</u>		
Lane County RFPD #1	350	[50] <u>150</u>
Total	<u>1225</u>	[450] <u>550</u>

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>South Valley Counties</u>		
<u>Linn County</u>		
Brownsville RFPD	750	[50] <u>100</u>
Scio RFPD	175	[0] <u>50</u>
Total	<u>6250</u>	[1125] <u>1225</u>
<u>South Valley Total</u>	<u>8550</u>	[2175] <u>2275</u>

26-025 CIVIL PENALTIES

(1) Any person who intentionally or negligently causes or permits open field burning contrary to the provisions of ORS 468.450, 468.455 to 468.48[5](0), 476.380 and 478.960 shall be assessed by the Department a civil penalty of at least \$20, but not more than \$40 for each acre so burned.

26-030 TAX CREDITS FOR APPROVED ALTERNATIVE METHODS, APPROVED INTERIM ALTERNATIVE METHODS OR APPROVED ALTERNATIVE FACILITIES.

(1) As provided in [~~Oregon Laws 1975 Chapter 559 and~~] ORS [~~Chapter 468~~] 468.150, approved alternative methods[~~;-approved-interim-alternative-methods~~] or approved alternative facilities are eligible for tax credit as pollution control facilities as described in ORS 468.155 through 468.190.

DEPARTMENT OF ENVIRONMENTAL QUALITY
Chapter 340

Subdivision 6
Agricultural Operations
AGRICULTURAL BURNING

26-005 DEFINITIONS. As used in this general order, regulation and schedule, unless otherwise required by context:

- (1) Burning seasons:
 - (a) "Summer Burning Season" means the four month period from July 1 through October 31.
 - (b) "Winter Burning Season" means the eight month period from November 1 through June 30.
- (2) "Department" means the Department of Environmental Quality.
- (3) "Marginal Conditions" means conditions defined in ORS 468.450(1) under which permits for agricultural open burning may be issued in accordance with this regulation and schedule.
- (4) "Northerly Winds" means winds coming from directions in the north half of the compass, at the surface and aloft.
- (5) "Priority Areas" means the following areas of the Willamette Valley:
 - (a) Areas in or within 3 miles of the city limits of incorporated cities having populations of 10,000 or greater.
 - (b) Areas within 1 mile of airports serving regularly scheduled airline flights.
 - (c) Areas in Lane County south of the line formed by U. S. Highway 126 and Oregon Highway 126.
 - (d) Areas in or within 3 miles of the city limits of the City of Lebanon.
 - (e) Areas on the west side of and within 1/4 mile of these highways; U. S. Interstate 5, 99, 99E, and 99W. Areas on the south side of and within 1/4 mile of U. S. Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.
- (6) "Prohibition Conditions" means atmospheric conditions under which all agricultural open burning is prohibited (except where an auxiliary fuel is used such that combustion is nearly complete, or an approved sanitizer is used).

(7) "Southerly Winds" means winds coming from directions in the south half of the compass, at the surface and aloft.

(8) "Willamette Valley" means the areas of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties lying between the crest of the Coast Range and the crest of the Cascade Mountains, and includes the following:

(a) "South Valley," the areas of jurisdiction of all fire permit issuing agents or agencies in the Willamette Valley portions of the Counties of Benton, Lane or Linn.

(b) "North Valley," the areas of jurisdiction of all other fire permit issuing agents or agencies in the Willamette Valley.

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

(10) "Local Fire Permit Issuing Agency" means the County Court or Board of County Commissioners or Fire Chief of a Rural Fire Protection District or other person authorized to issue fire permits pursuant to ORS 477.515, 477.530, 476.380 or 478.960.

(11) "Open Field Burning Permit" means a permit issued by the Department pursuant to ~~[Section 2 of SB 311]~~ ORS 468.458.

(12) "Fire Permit" means a permit issued by a local fire permit issuing agency pursuant to ORS 477.515, 477.530, 476.380 or 478.960.

(13) "Validation Number" means a unique three-part number issued by a local fire permit issuing agency which validates a specific open field burning permit for a specific acreage of a specific day. The first part of the validation number shall indicate the number of the month and the day of issuance, the second part the hour of authorized burning based on a 24 hour clock and the third part shall indicate the size of acreage to be burned (e.g., a validation number issued August 26 at 2:30 p.m. for a 70 acre burn would be 0826-1430-070).

(14) "Open Field Burning" means burning of any perennial grass seed field, annual grass seed field or cereal grain field in such manner that combustion air and combustion products are not effectively controlled. ~~[Field-burning-utilizing-a-device-other-than-an-approved-field-sanitizer shall constitute open field burning:]~~

(15) "Approved Field Sanitizer" means any field burning device that has been approved by ~~[the Field Sanitation Committee and]~~ the Department as an an ~~[feasible]~~ alternative to open field burning.

(16) "Approved Experimental Field Sanitizer" means any field burning device that has been approved by ~~[the Field Sanitation Committee and]~~ the Department for trial as a potential ~~[hy-feasible]~~ alternative to open burning or as a source of information useful to further development of field sanitizers.

(17) "After-Smoke" means persistent smoke resulting from the burning of a grass seed or cereal grain field with a field sanitizer, and emanating from the grass seed or cereal grain stubble or accumulated straw residue at a point 10 feet or more behind a field sanitizer.

(18) "Leakage" means any smoke resulting from the use of a field sanitizer which is not vented through a stack and is not classified as after-smoke ~~[-and-is-produced-as-a-result-of-using-a-field-sanitizer].~~

~~[(19)-"Committee"-means-Oregon-Field-Sanitation-Committee.]~~

(19) ~~[(20)]~~ "Approved Pilot Field Sanitizer" means any field burning device that has been observed and endorsed by ~~[the-Committee-and]~~ the Department as an acceptable but improvable alternative to open field burning, the operation of which is expected to contribute information useful to further development and improved performance of field sanitizers.

(20) ~~[(21)]~~ "Approved Alternative Method(s)" means any method approved by ~~[the-Committee-and]~~ the Department to be a satisfactory alternative method to open field burning.

(21) ~~[(22)]~~ "Approved Interim Alternative Method" means any interim method approved by ~~[the-Committee-and]~~ the Department as an effective method to reduce or otherwise minimize the impact of smoke from open field burning.

(22) ~~[(23)]~~ "Approved Alternative Facilities" means any land, structure, building, installation, excavation, machinery, equipment or device approved by ~~[the-Committee-and]~~ the Department for use in conjunction with an Approved Alternative Method or an Approved Interim Alternative Method for field sanitation.

26-010 GENERAL PROVISIONS. The following provisions apply during both summer and winter burning seasons in the Willamette Valley unless otherwise specifically noted.

(1) Priority for Burning. On any marginal day, priorities for agricultural open burning shall follow those set forth in ORS 468.450 which give perennial grass seed fields used for grass seed production first priority, annual grass seed fields used for grass seed production second priority, grain fields third priority and all other burning fourth priority.

(2) Permits required.

(a) No person shall conduct open field burning within the Willamette Valley without first obtaining a valid open field burning permit from the Department and a fire permit and validation number from the local fire permit issuing agency for any given field for the day that the field is to be burned.

(b) Applications for open field burning permits shall be filed on Registration/Application forms provided by the Department.

(c) Open field burning permits issued by the Department are not valid until acreage fees are paid pursuant to ORS 468.480(1)(b) and a validation number is obtained from the appropriate local fire permit issuing agency for each field on the day that the field is to be burned.

(d) As provided in ORS 468.465(1), permits for open field burning of cereal grain crops shall be issued only if the person seeking the permits submits to the issuing authority a signed statement under oath or affirmation that the acreage to be burned will be planted to seed crops (other than cereal grains, hairy vetch, or field pea crops) which require flame sanitation for proper cultivation.

(e) Any person open burning or preparing to open burn fields under these rules shall maintain radio contact with the Department's field burning advisory broadcasts.

(f) [~~e~~] Any person granted an open field burning permit under these rules shall maintain a copy of said permit at the burn site at all times during the burning operation and said permit shall be made available for at least one year after [~~issuance~~] expiration for inspection upon request by appropriate authorities.

(g) [~~f~~] At all times proper and accurate records of permit transactions and copies of all permits shall be maintained by each agency or person involved in the issuance of permits, for inspection by the [~~proper~~] appropriate authority.

~~[(g)-Permit-agencies-or-persons-authorized-to-participate-in-the issuance-of-permits-shall-submit-to-the-Department,-on-forms-provided, weekly-summaries-of-field-burning-permit-data,-during-the-period-July-1-to October-15-]~~

(h) Open field burning permit issuing agencies shall submit to the Department, on forms provided, weekly summaries of field burning activities in their permit jurisdiction during the period July 1 to October 15. Weekly summaries shall be mailed and postmarked no later than the first working day of the following week.

(i) [(h)] All debris, cutting and prunings shall be dry, cleanly stacked and free of dirt and green material prior to being burned, to insure as nearly complete combustion as possible.

(j) [(i)] No substance or material which normally emits dense smoke or [ob]noxious odors may be used for auxiliary fuel in the igniting of debris, cutting or prunings.

(k) [(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.

26-011 CERTIFIED ALTERNATIVE TO OPEN FIELD BURNING.

(1) Approved pilot field sanitizers, approved experimental field sanitizers, or propane flammers may be used as alternatives to open field burning subject to the provisions of this section.

(2) Approved Pilot Field Sanitizers.

(a) Procedures for submitting application for approval of pilot field sanitizers.

Applications shall be submitted in writing to the Department and shall include, but not be limited to, the following:

- (i) Design plans and specifications;
- (ii) Acreage and emission performance data and rated capacities;
- (iii) Details regarding availability of repair service and replacement parts;

(iv) Operational instructions [;].

~~[(v)--Letter-of-approval-from-the-Field-Sanitation-Committee.]~~

(b) Emission Standards for Approved Pilot Field Sanitizers.

(A) Approved pilot field sanitizers shall be required to demonstrate the capability of sanitizing a representative [~~and~~] harvested grass [~~field~~] or cereal grain [~~stubble~~] field with an accumulative straw and stubble fuel load of not less than 1.0 tons/acre, dry weight basis, and which has an average moisture content not less than 10%, at a rate of not less than 85% of rated maximum capacity for a period of 30 continuous minutes without exceeding emission standards as follows:

- (i) Main stack: 20% average opacity [~~out-of-main-stacks~~];
- (ii) Leakage: not to exceed 20% of the total emissions.
- (iii) After-smoke: No significant [~~after-smoke~~] amounts originating more than 25 yards behind the operating machine.

(B) The Department shall certify in writing to [~~the-Field-Sanitation Committee-and~~] the manufacturer, the approval of the pilot field sanitizer within thirty (30) days of the receipt of a complete application and successful compliance demonstration with the emission standards of 2(b)(A). Such approval shall apply to all machines built to the specifications of the Department certified field sanitation machine.

(C) In the event of the development of significantly superior field sanitizers, the Department may decertify approved pilot field sanitizers previously approved, except that any unit built prior to this decertification in accordance with specifications of previously approved pilot field sanitizers shall be allowed to operate for a period not to exceed seven years from the date of delivery provided that the unit is adequately maintained as per (2)(c)(A).

(c) Operation and/or modification of approved pilot field sanitizers.

(A) Operating approved pilot field sanitizers shall be maintained to design specifications (normal wear expected) i.e., skirts, shrouds, shields, air bars, ducts, fans, motors, etc., shall be in place, intact and operational.

(B) Modifications to the structure or operating procedures which will knowingly increase emissions shall not be made.

(C) Any modifications to the structure or operating procedures which result in increased emissions shall be further modified or returned to manufacturer's specifications to reduce emissions to original levels or below as rapidly as practicable.

(D) Open fires away from the sanitizers shall be extinguished as rapidly as practicable.

(3) Experimental field sanitizers [~~identified-in-writing-as-experimental units-by-the-Committee-and~~] not meeting the emission criteria specified in 2(b)(A) above, may receive Department authorization for experimental use for not more than one season at a time, provided:

(a) The [~~Committee~~] operator of the field sanitizers shall report to the Department [~~field-burning-(manager)~~] the locations of operation of experimental field sanitizers.

[~~(b)--The-Committee-shall-provide-the-Department-an-end-of-season report-of-experimental-field-sanitizer-operations;~~]

(b) [~~(c)~~] Open fires away from the machines shall be extinguished as rapidly as practicable.

(c) Adequate water supply shall be available to extinguish open fires resulting from the operation of field sanitizers.

(4) Propane Flamers. [~~Open-propane~~] Propane flaming is an approved alternative to open field burning provided that all of the following conditions are met:

(a) Field sanitizers are not available or otherwise cannot accomplish the burning.

(b) The field stubble will not sustain an open fire.

(c) One of the following conditions exist:

(A) The field has been previously open burned and appropriate fees paid.

(B) The field has been flail-chopped, mowed, or otherwise cut close to the ground and loose straw has been removed to reduce the straw fuel load as much as practicable.

26-012 REGISTRATION AND AUTHORIZATION OF ACREAGE TO BE OPEN BURNED.

(1) On or before April 1 of each year, all acreages to be open burned under this rule shall be registered with the local fire permit issuing agency or its authorized representative[~~r~~] on forms provided by the Department. A nonrefundable \$1.00 per acre registration fee shall be paid at the time of registration.

(2) Registration of acreage after April 1 of each year shall require:

(a) Approval of the Department.

(b) An additional late registration fee of \$1.00 per acre if the late registration is determined by the Department to be the fault of the late registrant.

(3) Copies of all Registration/Application forms shall be forwarded to the Department and the Executive Department promptly by the local fire permit issuing agency.

(4) The local fire permitting agency shall maintain a record of all registered acreage by assigned field number, location, type of crop, number of acres to be burned and status of fee payment for each field.

(5) Burn authorizations shall be issued by the local fire permit issuing agency up to daily quota limitations established by the Department and shall be based on registered fee-paid acres and shall be issued in accordance with the priorities established by sub-section 26-010(1) of these rules, except that fourth priority burning shall not be permitted from July 15 to September 15 of any year unless specifically authorized by the Department.

(6) No local fire permit issuing agency shall authorize open field burning of more acreage than may be sub-allocated annually to the District by the Department pursuant to Section 26-013(5) of these rules.

26-013 LIMITATION AND ALLOCATION OF ACREAGE TO BE OPEN BURNED.

(1) Except for acreage to be burned under 26-013(7) and (8), the [M]maximum acreage to be open burned under these rules [shalt-not-exceed the-following]:

(a) [During-1977;-not-more-than-95;000-acres:]

During 1978, shall not exceed 180,000 acres.

(b) [In-1978-and-each-year-thereafter;-the-Commission;-after-taking into-consideration-the-factors-listed-in-subsection-(2)-or-ORS-468:460;-may by-order-issue-permits-for-the-burning-of-not-more-than-50;000-acres:]

During 1979 and each year thereafter shall be established by the Commission by January 1 of 1979 and by January 1 of each odd year thereafter. This determination shall be made after taking into consideration the factors listed in subsection (2) of ORS 468.460, shall by order indicate the number

of acres for which permits may be issued for the burning of such acreage as it considers appropriate and necessary, upon finding that open burning of such acreage will not substantially impair public health and safety and will not substantially interfere with compliance with relevant state and federal laws regarding air quality.

~~(2) [Each year, the Commission shall seek certification from the Field Sanitation Committee of the number of acres that can be sanitized by feasible alternative methods and the Committee's recommendations as to the general location and types of fields to be sanitized utilizing feasible alternative methods.]~~

Any revisions to the maximum acreage to be burned, allocation procedures, permit issuing procedures or any other substantive changes to these rules affecting the open field burning program for any year shall be made prior to June 1 of that year. In making these rule changes the Commission shall consult with Oregon State University (OSU) and may consult with other interested agencies.

~~[(3) On or before June 1 of each year, the Commission shall, after public hearing, establish an allocation of registered acres that can be open-burned that year. In establishing said acreage allocation, the Commission shall consult with OSU and the Oregon Field Sanitation Committee and may consult with other interested agencies and shall, pursuant to ORS 468.460(2) and ORS 468.475(4) consider means of more rapid reduction of acres burned each year than provided by ORS 468.475(2).]~~

(3) [(4)] Acres burned on any day by approved field sanitizers and approved experimental field sanitizers and propane flamers shall not be applied to open field burning acreage allocations or quotas, and such [sanitizers] equipment may be operated under either marginal or prohibition conditions.

(4) In the event that total registration is less than or equal to the acreage allowed to be open burned under section 26-013(1) all registrants shall be allocated 100 percent of their registered acres.

~~(5) [For the 1977 burning season, in the event that more than 95,000 acres are registered to be burned, the Department may issue acreage allocations~~

~~to-growers-totaling-not-more-than-95,000-acres-plus-ten-(10)-percent-or
104,500-acres;--The-Department-shall-monitor-burning-and-shall-cess-to
issue-burning-quotas-when-a-total-of-95,000-acres-have-been-reported-burned:]~~

In the event that total registration exceeds the acreage allowed to be open burned under 26-013(1) the Department may issue acreage allocations to growers totaling not more than 110 percent of the acreage allowed under Section 26-013(1). The Department shall monitor burning and shall cease to issue burning quotas when the total acreage reported burned equals the maximum acreage allowed under Section 26-013(1).

(a) Each year [F]the Department shall suballocate 110 percent of the [104,500] total acre allocation established by the Commission, as specified in Section 26-013(1), to the respective growers on [the] a pro rata share basis of the individual acreage registered as of April 1[;--1977] to the total acreage registered as of April 1[;--1977].

(b) Each year [F]the Department shall suballocate the [95,000] total acre allocation established by the Commission, as specified in Section 26-013(1), to the respective fire permit issuing agencies on [the] a pro rata share basis of the acreage registered within each fire permit issuing agency's jurisdiction as of April 1[;--1977] to the total acreage registered as of April 1[;--1977].

(c) In an effort to insure that permits are available in areas of greatest need, to coordinate completion of burning, and to achieve the greatest possible permit utilization, the Department may adjust, in cooperation with the fire districts, allocations of the [95,000-burnable-acres-made-to those-fire-districts] maximum acreage allowed in Section 26-013(1).

(d) Transfer of allocations for farm management purposes may be made within and between fire districts on a one-in/one-out basis under the supervision of the Department. Transfer of allocations between growers are not permitted after [95,000-acres] the maximum acres specified in Section 26-013(1) have been burned within the Valley.

(e) Except for additional acreage allowed to be burned by the Commission as provided for in (7) and (8) of this subsection [Governor pursuant-to-ORS-468-475(5)] no fire district shall allow acreage to be burned in excess of their allocations assigned pursuant to (b), (c) and (d) above.

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(6) [~~f~~]-in-1977-the-Department-may-supervise-^uwide-area-energy-concentrated convective-ventilation-experiments^u-to-investigate-the-possible-use-of-the techniques-as-an-alternative-to-open-burning;--The-total-acreage-involved with-such-experimentation-shall-be-deducted-from-the-total-acreage-allocations prior-to-making-the-sub-allocations-of-(a)-and-(b);-shall-not-exceed-that amount-specifically-authorized-in-writing-by-the-Department-and-shall-not exceed-10,000-acres:] Acres burned in test fires to determine atmospheric ventilation conditions shall be counted in open field burning acreage allocations.

(7) [~~5~~] Notwithstanding the acreage limitations under 26-013(1), the Department may allow experimental open burning pursuant to Section 9 of the 1977 Oregon Laws, Chapter 650, (HB 2196).

(a) Such experimental burning shall be only as specifically authorized by the Department.

(b) Experimental open burning, exclusive of that acreage burned by experimental open field sanitizers, shall not exceed 7500 acres during 1978.

(8) Pursuant to ORS 468.475(6) and (7) the Commission may permit the emergency open burning under the following procedures:

(a) A grower must submit to the Department an application form for emergency field burning requesting emergency burning for one of the following reasons:

(A) Extreme hardship documented by:

An analysis and signed statement from a CPA, public accountant, or other recognized financial expert which establishes that failure to allow emergency open burning as requested will result in extreme financial hardship above and beyond mere loss of revenue that would ordinarily accrue due to inability to open burn the particular acreage for which emergency open burning is requested. The analysis shall include an itemized statement of the applicant's net worth and include a discussion of potential alternatives and probable related consequences of not burning.

(B) Disease outbreak, documented by:

An affidavit or signed statement from the County Agent, State Department of Agriculture or other public agricultural expert authority that, based on his personal investigation, a true emergency exists due to a disease outbreak that can only be dealt with effectively and practically by open burning.

The statement must also include at least the following:

- i) time field investigation was made,
- ii) location and description of field,
- iii) crop,
- iv) infesting disease,
- v) extent of infestation (compared to normal),
- vi) necessity and urgency to control,
- vii) availability, efficacy and practicability of alternative control procedures,
- viii) probable damages or consequences of non-control.

(C) Insect infestation, documented by:

Affidavit or signed statement from the County Agent, State Department of Agriculture or other public agricultural expert authority that, based on his personal investigation, a true emergency exists due to an insect infestation that can only be dealt with effectively and practicably by open burning. The statement must also include at least the following:

- i) time field investigation was made,
- ii) location and description of field,
- iii) crop,
- iv) infesting insect,
- v) extent of infestation (compared to normal),
- vi) necessity and urgency to control,
- vii) availability, efficacy, and practicability of alternative control procedures,
- viii) probable damages or consequences of non-control.

(D) Irreparable damage to the land documented by an:

An affidavit or signed statement from the County Agent, State Department of Agriculture, or other public agricultural expert authority

that, based on his personal investigation, a true emergency exists which threatens irreparable damage to the land and which can only be dealt with effectively and practicably by open burning. The statement must also include at least the following:

- i) time of field investigation,
- ii) location and description of field,
- iii) crop,
- iv) type and characteristics of soil,
- v) slope and drainage characteristics of field,
- vi) necessity and urgency to control,
- vii) availability, efficacy and practicability of alternative control procedures,
- viii) probable damages or consequences of non-control.

(b) Upon receipt of a properly completed application form and supporting documentation the Commission shall within 10 days, return to the grower its decision.

(c) An open field burning permit, to be validated upon payment of the required fees, shall be promptly issued by the Department for that portion of the requested acreage which the Commission has approved.

(d) Application forms for emergency open field burning provided by the Department must be used and may be obtained from the Department either in person, by letter or by telephone request.

(9) The Department shall act, pursuant to this section, on any application for a permit to open burn under these rules within 60 days of registration and receipt of the fee provided in ORS 468.480.

(10) [(6)] The Department may [authorize-burning-on-an-experimental basis;-and-may-also;] on a fire district by fire district basis, issue limitations more restrictive than those contained in these regulations when in their judgment it is necessary to attain and maintain air quality.

26-015 WILLAMETTE VALLEY SUMMER BURNING SEASON REGULATIONS

(1) Classification of Atmospheric Conditions. All days will be classified as marginal or prohibition days under the following criteria:

- (a) Marginal Class N conditions: Forecast northerly winds and a [maximum] mixing depth greater than 3500 feet.
- (b) Marginal Class S conditions: Forecast southerly winds.

(c) Prohibition conditions: Forecast northerly winds and [maximum] mixing depth of 3500 feet or less.

(2) Quotas.

(a) Except as provided in this subsection, the total acreage of permits for open field burning shall not exceed the amount authorized by the Department for each marginal day. Daily authorizations of acreages shall be issued in terms of basic quotas or priority area quotas as listed in Table 1, attached as Exhibit A and incorporated by reference into this regulation and schedule, and defined as follows:

(A) The basic quota represents the number of acres to be allowed throughout a permit jurisdiction, including fields located in priority areas, on a marginal day on which general burning is allowed in that jurisdiction.

(B) The priority area quota represents the number of acres allowed within the priority areas of a permit jurisdiction on a marginal day when only priority area burning is allowed in that jurisdiction.

(b) Willamette Valley permit agencies or agents not specifically named in Table 1 shall have a basic quota and priority area quota of 50 acres only if they have registered acreage to be burned within their jurisdiction.

(c) In no instance shall the total acreage of permits issued by any permit issuing agency or agent exceed that allowed by the Department for the marginal day, except as provided for 50 acre quotas as follows: When the established daily acreage quota is 50 acres or less, a permit may be issued to include all the acreage in one field providing that field does not exceed 100 acres and provided further that no other permit is issued for that day. For those districts with a 50 acre quota, permits for more than 50 acres shall not be issued on two consecutive days.

(d) The Department may designate additional areas as Priority Areas, and may adjust the basic acreage quotas or priority area quotas of any permit jurisdiction, where conditions in their judgment warrant such action.

~~[(3)---Burning-Hours-may-begin-at-9:30-a.m.-PDT,-under-marginal-conditions but-no-open-field-burning-may-be-started-later-than-one-half-hour-before sunset-nor-be-allowed-to-continue-burning-later-than-one-and-one-half-hour after-sunset.--Burning-hours-may-be-reduced-by-the-fire-chief-or-his-deputy when-necessary-to-protect-from-danger-by-fire.]~~

(3) Burning Hours.

(a) Burning hours may begin at 9:30 a.m. PDT, under marginal conditions but no open field burning may be started later than one-half hour before sunset or be allowed to continue burning later than one-half hour after sunset.

(b) The Department may alter burning hours according to atmospheric ventilation conditions when necessary to attain and maintain air quality.

(c) Burning hours may be reduced by the fire chief or his deputy when necessary to protect from danger by fire.

(4) Extent and Type of Burning.

(a) Prohibition. Under prohibition conditions, no fire permits or validation numbers for agricultural open burning shall be issued and no burning shall be conducted, except where an auxiliary liquid or gaseous fuel is used such that combustion is essentially complete, or an approved field sanitizer is used.

(b) Marginal Class N Conditions. Unless specifically authorized by the Department, on days classified as Marginal Class N burning may be limited to the following:

(A) North Valley: one basic quota may be issued in accordance with Table 1.

(B) South Valley: one priority area quota for priority area burning may be issued in accordance with Table 1.

(c) Marginal Class S Conditions. Unless specifically authorized by the Department on days classified as Marginal Class S conditions, burning shall be limited to the following:

(A) North Valley: One basic quota may be issued in accordance with Table 1 in the following permit jurisdictions: Aumsville, Drakes Crossing, Marion County District 1, Silverton, Stayton, Sublimity, and the Marion County portion of the Clackamas-Marion Forest Protection District. One priority area quota may be issued in accordance with Table 1 for priority area burning in all other North Valley jurisdictions.

(B) South Valley: One basic quota may be issued in accordance with Table 1.

(d) Special Restrictions on Priority Area Burning. No field may be burned on the upwind side of any city, airport, or highway within a priority area.

(3) Burning Hours.

(a) Burning hours may begin at 9:30 a.m. PDT, under marginal conditions but no open field burning may be started later than one-half hour before sunset or be allowed to continue burning later than one-half hour after sunset.

(b) The Department may alter burning hours according to atmospheric ventilation conditions when necessary to attain and maintain air quality.

(c) Burning hours may be reduced by the fire chief or his deputy when necessary to protect from danger by fire.

(4) Extent and Type of Burning.

(a) Prohibition. Under prohibition conditions, no fire permits or validation numbers for agricultural open burning shall be issued and no burning shall be conducted, except where an auxiliary liquid or gaseous fuel is used such that combustion is essentially complete, or an approved field sanitizer is used.

(b) Marginal Class N Conditions. Unless specifically authorized by the Department, on days classified as Marginal Class N burning may be limited to the following:

(A) North Valley: one basic quota may be issued in accordance with Table 1.

(B) South Valley: one priority area quota for priority area burning may be issued in accordance with Table 1.

(c) Marginal Class S Conditions. Unless specifically authorized by the Department on days classified as Marginal Class S conditions, burning shall be limited to the following:

(A) North Valley: One basic quota may be issued in accordance with Table 1 in the following permit jurisdictions: Aumsville, Drakes Crossing, Marion County District 1, Silverton, Stayton, Sublimity, and the Marion County portion of the Clackamas-Marion Forest Protection District. One priority area quota may be issued in accordance with Table 1 for priority area burning in all other North Valley jurisdictions.

(B) South Valley: One basic quota may be issued in accordance with Table 1.

(d) Special Restrictions on Priority Area Burning. No field may be burned on the upwind side of any city, airport, or highway within a priority area.

TABLE 1
FIELD BURNING ACREAGE QUOTAS
NORTH VALLEY AREAS

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>North Valley Counties</u>		
<u>Clackamas County</u>		
Canby RFPD	50	[50] <u>0</u>
Clackamas County #54	50	0
Clackamas - Marion FPA	50	0
Estacada RFPD	75	0
Molalla RFPD	50	0
Monitor RFPD	50	0
Scotts Mills RFPD	<u>50</u>	<u>0</u>
Total	<u>375</u>	[50] <u>0</u>
<u>Marion County</u>		
Aumsville RFPD	50	0
Aurora-Donald RFPD	50	50
Drakes Crossing RFPD	50	0
Hubbard RFPD	50	0
Jefferson RFPD	225	50
Marion County #1	100	50
Marion County Unprotected	50	50
Mt. Angel RFPD	50	0

TABLE I
(continued)

<u>County/Fire District</u>	<u>Quota</u>		
	<u>Basic</u>	<u>Priority</u>	
<u>North Valley Counties</u>			
<u>Marion County (continued)</u>			
St. Paul RFPD	125	[50]	<u>0</u>
Salem City	50	50	
Silverton RFPD	300	0	
Stayton RFPD	150	0	
Sublimity RFPD	250	0	
Turner RFPD	50	50	
Woodburn RFPD	<u>125</u>	<u>50</u>	
Total	<u>1675</u>	[350]	<u>200</u>
 <u>Polk County</u>			
Polk County Non-District	50	0	
Southeast Rural Polk	400	50	
Southwest Rural Polk	<u>125</u>	<u>50</u>	
Total	<u>575</u>	<u>100</u>	
 <u>Washington County</u>			
Cornelius RFPD	50	[50]	<u>0</u>
Forest Grove RFPD	50	0	
Forest Grove, State Forestry	50	0	
Hillsboro	50	50	
Washington County FPD #1	50	50	
Washington County FPD #2	<u>50</u>	<u>50</u>	
Total	<u>300</u>	[200]	<u>150</u>

TABLE 1
(continued)

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>North Valley Counties</u>		
<u>Yamhill County</u>		
Amity RFPD	125	50
Carlton RFPD	50	[50] <u>0</u>
Dayton RFPD	50	50
Dundee RFPD	50	0
McMinnville RFPD	150	75
Newberg RFPD	50	[0] <u>50</u>
Sheridan RFPD	75	50
Yamhill RFPD	<u>50</u>	<u>[0]</u> <u>50</u>
Total	<u>600</u>	[275] <u>325</u>
<u>North Valley Total</u>	<u>3575</u>	[975] <u>725</u>

Table 1
(continued)

SOUTH VALLEY AREAS

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>South Valley Counties</u>		
<u>Benton County</u>		
County Non-District & Adair	350	175
Corvallis RFPD	175	125
Monroe RFPD	325	50
Philomath RFPD	125	100
Western Oregon FPD	<u>100</u>	<u>50</u>
Total	<u>1075</u>	<u>500</u>
<u>Lane County</u>		
Coburg RFPD	175	50
Creswell RFPD	75	100
Eugene RFPD		
(Zumwalt RFPD)	50	50
Junction City RFPD	325	50
Lane County Non-District	100	50
Lane County RFPD #1	350	[50] <u>150</u>
Santa Clara RFPD	50	50
Thurston-Walterville	50	50
West Lane FPD	<u>50</u>	<u>0</u>
Total	<u>1225</u>	[450] <u>550</u>
<u>Linn County</u>		
Albany RFPD (inc. N. Albany, Palestine, Co. Unprotected Areas)	625	125
Brownsville RFPD	750	[50] <u>100</u>

Table 1
(continued)

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>South Valley Counties</u>		
<u>Linn County (continued)</u>		
Halsey-Shedd RFPD	2050	200
Harrisburg RFPD	1350	50
Lebanon RFPD	325	325
Lyons RFPD	50	0
Scio RFPD	175	[0] <u>50</u>
Tangent RFPD	<u>925</u>	<u>325</u>
Total	<u>6250</u>	[1125] <u>1225</u>
<u>South Valley Total</u>	<u>8550</u>	[2175] <u>2275</u>

26-020 WINTER BURNING SEASON REGULATIONS.

(1) Classification of atmospheric conditions:

(a) Atmospheric conditions resulting in computed air pollution index values in the high range, values of 90 or greater, shall constitute prohibition conditions.

(b) Atmospheric conditions resulting in computed air pollution index values in the low and moderate ranges, values less than 90, shall constitute marginal conditions.

(2) Extent and Type of Burning.

(a) Burning Hours. Burning hours for all types of burning shall be from 9:00 a.m. until 4:00 p.m., but may be reduced when deemed necessary by the fire chief or his deputy. Burning hours for stumps may be increased if found necessary to do so by the permit issuing agency. All materials for burning shall be prepared and the operation conducted, subject to local fire protection regulations, to insure that it will be completed during the allotted time.

(b) Certain Burning Allowed Under Prohibition Conditions. Under prohibition conditions no permits for agricultural open burning may be issued and no burning may be conducted, except where an auxiliary liquid or gaseous fuel is used such that combustion is essentially complete, or an approved field sanitizer is used.

(c) Priority for Burning on Marginal Days. Permits for agricultural open burning may be issued on each marginal day in each permit jurisdiction in the Willamette Valley, following the priorities set forth in ORS 468.450 which gives perennial grass seed fields used for grass seed production first priority, annual grass seed fields used for grass seed production second priority, grain fields third priority and all other burning fourth priority.

26-025 CIVIL PENALTIES. In addition to any other penalty provided by law:

(1) Any person who intentionally or negligently causes or permits open field burning contrary to the provisions of ORS 468.450, 468.455 to 468.48[5] (0), 476.380 and 478.960 shall be assessed by the Department a civil penalty of at least \$20, but not more than \$40 for each acre so burned.

(2) Any person planting contrary to the restrictions of subsection (1) of ORS 468.465 shall be assessed by the Department a civil penalty of \$25 for each acre planted contrary to the restrictions.

(3) Any person who violates any requirements of these rules shall be assessed a civil penalty pursuant to OAR Chapter 340, Division 1, Subdivision 2, CIVIL PENALTIES.

26-030 TAX CREDITS FOR APPROVED ALTERNATIVE METHODS, APPROVED INTERIM ALTERNATIVE METHODS OR APPROVED ALTERNATIVE FACILITIES.

(1) As provided in [~~Oregon Laws 1975 Chapter 559 and~~] ORS [~~Chapter 468~~] 468.150, approved alternative methods[~~;-approved-interim-alternative-methods~~] or approved alternative facilities are eligible for tax credit as pollution control facilities as described in ORS 468.155 through 468.190.

(2) Approved alternative facilities eligible for pollution control facility tax credit shall include:

(a) Mobile equipment including but not limited to:

(A) Straw gathering, densifying and handling equipment.

(B) Tractors and other sources of motive power.

(C) Trucks, trailers, and other transportation equipment.

(D) Mobile field sanitizers (approved models and approved pilot models)

and associated fire control equipment.

(E) Equipment for handling all forms of processed straw.

(F) Special straw incorporation equipment.

(b) Stationary equipment and structures including but not limited to:

(A) Straw loading and unloading facilities.

(B) Straw storage structures.

(C) Straw processing and in plant transport equipment.

(D) Land associated with stationary straw processing facilities.

(E) Drainage tile installations which will result in a reduction of acreage burned.

(3) Equipment and facilities included in an application for certification for tax credit under this rule will be considered at their current depreciated value and in proportion to their actual use to reduce open field burning as compared to their total farm or other use.

(4) Procedures for application and certification of approved alternative facilities for pollution control facility tax credit.

(a) Preliminary certification for pollution control facility tax credit.

(A) A written application for preliminary certification shall be made to the Department prior to installation or use of approved alternative facilities in the first harvest season for which an application for tax credit certification is to be made. Such application shall be made on a form provided by the Department and shall include but not be limited to:

(i) Name, address and nature of business of the applicant.

(ii) Name of person authorized to receive Department requests for additional information.

(iii) Description of alternative method to be used.

(iv) A complete listing of mobile equipment and stationary facilities to be used in carrying out the alternative methods and for each item listed include:

(a) Date or estimated future date of purchase.

(b) Percentage of use allocated to approved alternative methods and approved interim alternative methods as compared to their total farm or other use.

(v) Such other information as the Department may require to determine compliance with state air, water, solid waste, and noise laws and regulations and to determine eligibility for tax credit.

(B) If, upon receipt of a properly completed application for preliminary certification for tax credit for approved alternative facilities the Department finds the proposed use of the approved alternative facilities are in accordance with the provisions of ORS 468.175, it shall, within 60 days, issue a preliminary certification of approval. If the proposed use of the approved alternative facilities are not in accordance with provisions of ORS 468.175, the Commission shall, within 60 days, issue an order denying certification.

(b) Certification for pollution control facility tax credit.

(A) A written application for certification shall be made to the Department on a form provided by the Department and shall include but not be limited to the following:

(i) Name, address and nature of business of the applicant.

(ii) Name of person authorized to receive Department requests for additional information.

(iii) Description of the alternative method to be used.

(iv) For each piece of mobile equipment and/or for each stationary facility, a complete description including the following information as applicable:

(a) Type and general description of each piece of mobile equipment.

(b) Complete description and copy of proposed plans or drawings of stationary facilities including buildings and contents used for straw storage, handling or processing of straw and straw products or used for storage of mobile field sanitizers and legal description of real property involved.

(c) Date of purchase or initial operation.

(d) Cost when purchased or constructed and current value.

(e) General use as applied to approved alternative methods and approved interim alternative methods.

(f) Percentage of use allocated to approved alternative methods and approved interim alternative methods as compared to their farm or other use.

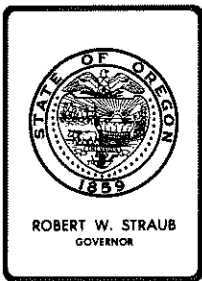
(B) Upon receipt of a properly completed application for certification for tax credit for approved alternative facilities or any subsequently requested additions to the application, the Department shall return within 120 days the decision of the Commission and certification as necessary indicating the portion of the cost of each facility allocable to pollution control.

(5) Certification for tax credits of equipment or facilities not covered in OAR Chapter 340, Section 26-030(1) through 26-030(4) shall be processed pursuant to the provisions of ORS 468.165 through 468.185.

(6) Election of type of tax credit pursuant to ORS 468.170(5).

(a) As provided in ORS 468.170(5), a person receiving the certification provided for in OAR Chapter 340, Section 26-030(4)(b) shall make an irrevocable election to take the tax credit relief under ORS 316.097, 317.072, or the ad valorem tax relief under ORS 307.405 and shall inform the Department of his election within 60 days of receipt of certification documents on the form supplied by the Department with the certification documents.

(b) As provided in ORS 468.170(5) failure to notify the Department of the election of the type of tax credit relief within 60 days shall render the certification ineffective for any tax relief under ORS 307.405, 316.097 and 317.072.



Environmental Quality Commission

~~1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205~~ PHONE (503) 229-5696

P.O. Box 1760, Portland, OR 97207

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. M., January 27, 1978, EQC Meeting

City of Bend Sewerage Project - Update on Financial Considerations of City of Bend Phase I Sewerage Project

Background

The Department has obtained additional information from the City of Bend and met with City officials on January 16, 1978. As a result of that meeting, the City is now in the process of revising project procedures and formulating a new funding proposal. We anticipate this proposal will allow initiation of construction with available funds. As bids are received, project cost estimates will be revised based on actual experience. A need for more funds may or may not be demonstrated necessary and justifiable at that time. If additional funds are needed, the City would either have to pass an additional bond issue or secure additional state or federal funding support or a combination of both.

Director's Recommendation

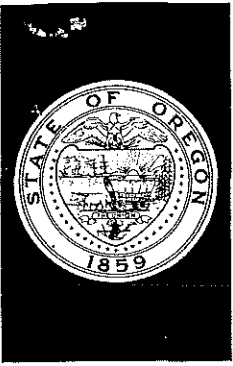
Since the City of Bend has not yet completed the details of its proposal, it is necessary to defer further action on this matter.

Michael Young
for
WILLIAM H. YOUNG

Clarence P. Hilbrick, Jr.:em
229-5311
January 23, 1978



Contains
Recycled



ENVIRONMENTAL QUALITY COMMISSION

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

ROBERT W. STRAUB
GOVERNOR

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. N, January 27, 1978, EQC Meeting
Public Sewerage Considerations Within Bend Urban Growth Boundary
Progress Report No. 2

Background

See Attachment "A", Progress Report Number 1.

Discussion

No meetings between Deschutes County Commissioners and staff occurred in December due to holiday interruptions.

Renewed meetings are proposed in January 1978 and should have occurred prior to the January 27, 1978 Commission Meeting. A supplement to this report will be presented on that date.

Director's Recommendation

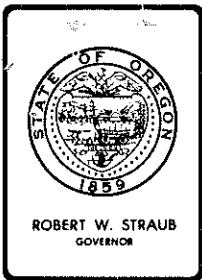
1. The Director recommends that the Commission direct the staff to continue to work with Deschutes County officials and the City of Bend to obtain a written agreement outlining how DEQ, Deschutes County and City of Bend can work together to solve the problems discussed in the November 18, 1977 report.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

Bill
WILLIAM H. YOUNG

Robert E. Shimek
382-6446
1-5-78

Attachment A: Agenda Item No. J , December 16, 1977 EQC Meeting
Attachment B: Agenda Item No. F , November 18, 1977 EQC Meeting





Environmental Quality Commission

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. J , December 16, 1977, EQC Meeting
Public Sewerage Considerations Within Bend Urban Growth Boundary
Progress Report No. 1

Background

Staff concerns about sewage collection and disposal consideration were discussed at the Commission's November 18, 1977 meeting (Agenda Item No. F, attached). The Commission concurred with the Director's recommendation for staff to participate in a work session on November 29, 1977. Representatives from City of Bend and Deschutes County discussed possible DEQ alternatives as presented on page 6, item 4 of the November 18, 1977 staff report with Department staff.

Evaluation

A working agreement between entities did not materialize at the November 29, 1977 work session. Progress was made in airing concerns of the involved entities. Department staff is waiting on a recommendation for future action from the Deschutes County Commissioners.

Deschutes County Commissioners seem reluctant to make a time and staff resource commitment to this issue while the apparent uncertainty of success of the Bend project exists.

Director's Recommendation

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.



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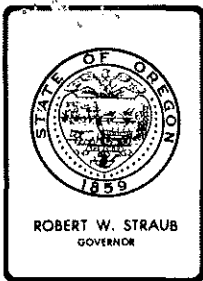
Agenda Item No.
December 16, 1977
Page 2

2. The Director recommends no Commission action at this time and that the Commission consider a staff progress report at the January meeting.

Michael Downs
for
WILLIAM H. YOUNG

Robert E. Shimek
382-6446
12-6-77

Attachment: Agenda Item No. F



Environmental Quality Commission

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. F, November 18, 1977, EQC Meeting

Public Sewerage Considerations Within Bend Urban Growth Boundary

Background

1. Since the early 1900s, central Oregonians have been disposing septic tank effluent down lava fissures and dry wells (sewage disposal wells) rather than using conventional drainfields. This practice prompted a study of disposal well practices in 1968 by FWPCA. FWPCA (predecessor to the EPA) concluded that continued discharges of septic tank wastes to disposal wells pose a potential threat to groundwater quality. Accordingly, the EQC adopted regulations on May 13, 1969 to phase out disposal wells for inadequately treated wastes. Exhibit A illustrates the general concepts.
2. The concept of the regulations was to phase out existing sewage disposal wells in rural areas by January 1, 1975, but to allow new wells in populated areas where an acceptable sewerage construction program had been approved by DEQ. The latter areas would be classed by DEQ as "permit authorized areas" within which DEQ (or a county Health Department) could issue temporary disposal well permits. After January 1, 1980, no new disposal wells would be permitted in the "authorized" areas, and existing wells at that time would be sealed and abandoned.
3. To qualify as a permit authorized area, applicants had to agree to sewerage construction thus:
 - a. Hire consulting engineer by July 1, 1969
 - b. Submit preliminary engineering report by January 1, 1971
 - c. Start construction by August 1, 1971
 - d. Complete construction by January 1, 1980
 - e. Submit annual reports to DEQ which show reasonable progress
4. Madras, Culver, Metolius, Redmond, and Bend were designated permit authorized areas. The status today of each is as follows:



- a. Madras--city sewerage system complete in 1976--urban area sewerage planning (Step I) in progress
- b. Metolius--system complete 1975
- c. Culver--sewerage system complete 1976
- d. Redmond--system under construction--about 40% complete
- e. Bend--Sewerage Planning (Step I) complete within Urban Growth Boundary (UGB). Final design (Step II) underway within current city limits (Phase I), but not within the UGB outside the city limits (Phase 2). There is no design or sewerage construction proposal pending for the Phase 2 area at this time.

5. Overall, Bend's sewerage project has been beset with delays since 1969. To date, the following sewerage planning has occurred:

- a. Report on a Preliminary Study of a Sewage Collection and Treatment Facilities--CH2M 1967 (sewage treatment plant serving about 10% of Bend constructed in 1970)
- b. Report on Cost Updating of a Proposed Sewerage System for Bend, Oregon--Clark & Groff 1972
- c. Preliminary Design and Final Plans for East Pilot Butte Interceptor Sewer--Clark & Groff and city staff 1972-1974 (not built)
- d. Study of the Feasibility of Accepting Privy Vault Wastes at the Bend Treatment Plant--Clark & Groff 1973 (built)
- e. Preliminary Report Sewerage Study (for the City of Bend)--Century West, paid for by Brooks Resources 1974
- f. Sewerage Facilities Plan, City of Bend, Oregon--Stevens, Thompson & Runyan, Inc. and Tenneson Engineering Corp. 1976--approved by DEQ and EPA
- g. Supplemental Environmental Impact Assessment Draft, 23 September 1977--BECON
- h. Step II underway for Phase I of ST&R plan

6. All the central Oregon sewerage projects have been complicated by rock excavation and local financing difficulties, but each community has overcome these obstacles. Bend overwhelmingly passed a \$9,000,000 bond issue. Bend experienced some additional time delays due to:

- a. Analysis of experimental vacuum and pressure sewer systems
- b. Excessive cost discussions before accurate cost estimates were actually pinned down.

Indeed, cost estimate inaccuracy is largely responsible for Bend's decision to return to the E-Board for more hardship funding, but that is covered under a separate Commission agenda item.

7. Because Bend's annual reports showed progress towards sewerage construction (although behind schedule) DEQ has renewed their permit authorized status for sewage disposal wells each year through present.

8. Believing sewerage construction to be in the offing, DEQ authorized several dry sewer projects with "interim" drainfield and disposal well facilities. The facilities plan addresses the entire urban area, but due to cost projections it soon became clear that an immediate project was likely only inside the city limits. Unfortunately, most current subdivision activity (and homesite construction) is actually occurring within the Urban Growth Boundary (UGB), but outside Bend city limits. The Phase I sewerage project will not serve construction outside the city limits.

9. DEQ recognized this dilemma as early as 1973, and began tentative negotiations with city and county officials (staffs and commissions) to jointly participate in sewerage planning and construction within the UGB. Although the city and county both endorsed the facilities plan on October 6, 1976. Deschutes County has not implemented any of its recommendations.

The facilities plan includes an adopted Urban Growth Boundary (UGB) which influenced the plan. A quotation from the facilities plan describes the relation of the City of Bend General Plan to sewerage service:

"Since 1970 rapid population growth in the Bend area has occurred mostly in Deschutes County rather than the City. Population growth within the City has occurred mainly because of annexation policies.

"Flexibility has been a major objective in establishing the plan and it has provided for alternate population densities in outlying areas to accommodate future growth trends which are difficult to anticipate at this time. The major determining factor for higher densities will be the provision for sewerage. It is important to recognize that proper land use planning should precede sewerage planning. The plan would provide a north-south center strip of industrial and commercial activities with varying types of residential activities extending from this central core. The greatest population densities would be located in the central area with lower densities toward the outer edges of the urban area."

10. Much of the growth outside the city, but inside the UGB (i.e. the Phase 2 area) actually has occurred with little or no regard for how sewerage connections would be made except as inadvertently regulated by DEQ by "indirect" planning strategies. Examples are shown in Exhibit B. The City of Bend is powerless to implement planning decisions outside their city limits.

11. By 1976, the interface conflict and Phase 2 growth without sewers was obviously serious. DEQ continued meetings with city and county officials. The city was becoming conspicuously concerned about their possible "inheritance." Thus on June 1, 1977 and July 5, 1977, DEQ was successful in conducting joint sewerage policy planning sessions among City-County-DEQ.

At the July 5, 1977 meeting, it seemed appropriate to turn initiative for further meetings over to local officials since planning is a local function. Deschutes County requested a follow-up meeting on September 12, 1977. At that meeting with the County Commission DEQ volunteered that it was unable to justify continued sewerage "concessions" in the Phase 2 area, since no sewerage implementing authority, such as a County Service District, was operational there. The concept of a septic tank moratorium to halt conflicts with the sewerage plan was discussed.

A joint City-County urban planning commission concept was proposed (Exhibit C), but Deschutes County felt that to be a premature move. Instead, a joint committee to study differing building standards between city and county was established (Exhibit D). Intensive development continued in the Phase 2 area without sewerage services, except for Choctaw Village Sanitary District.

Bend changed its annexation policy after forming a citizens' group to study subdivision standards (Exhibit E).

12. Unlike many urban growth areas, Deschutes County planning ordinances permit development at low (up to 5 acre lot sizes) as well as high densities within the UGB. This aggravates sewerage construction by permitting "leap-frogging" densities. For example, on a given radius from Bend you might encounter 1000 feet of 1/3 acre lots, then 1000 feet of 2-1/2 acre lots, then 2000 feet of 1/2 acre lots, etc. The net result is expensive ultimate sewerage service to urban densities not immediately adjacent to Bend's existing urban densities.

13. The key item lacking is local coordination such as a City Utility Board, a County Service District, or some form of equivalent control.

Evaluation

1. Sewerage construction in Bend proper (Phase 1) will not likely be complete and available at the city limits until at least 1981.
2. At least 230 sewage disposal wells exist in the Phase 2 area which are not now scheduled for phase out by a sewerage system although the facilities plan shows how that could be done.
3. There are not many alternatives for sewage disposal in the Phase 2 area other than dry or wet community sewers due to:
 - a. Unavailability of a municipal sewerage system
 - b. Disposal wells not permitted per Oregon Administrative Rules (OAR) 340-44-005 through 44-045
 - c. Shallow soils often prevent drainfield construction
 - d. Package sewage treatment plants are not viable unless they have a large number of service connections

- e. Experimental septic systems are costly, and encourage low density
- f. Alternate systems usually turn out to be big and costly drain-fields

Thus, through Geographic Region Rule A which allows drainfield construction in shallower soils in central Oregon, DEQ has actually aggravated the planning and sewerage construction costs by allowing these systems which, in turn, encourage low density development.

4. DEQ has documented 28 surfacing sewage failures in the Craven Road-Cessna Drive area adjacent to Bend, which generally have no alternative for repair other than a regional sewerage system. The city is unwilling to annex because the water system does not meet city specifications, and the county has discussed an LID. But nothing has happened. DEQ attended several local meetings to develop interest in annexation, LID's or a County Service District with no success. The sewage continues to surface.

5. DEQ is pressured daily for sewage disposal well repair permits within the UGB. Short of vacation of the premises, drillhole repairs are the only immediate option (although illegal), since a regional sewerage system is not available and drainfields are usually not possible due to small lot sizes and/or shallow soils. Authorization of such repairs actually undermines support for regional sewerage construction since the problem is moved out of sight but not solved by such repairs.

6. DEQ is pressured daily to approve compromise subsurface systems within the UGB for many subdivisions. In so far as has been possible, DEQ has agreed to complex terms to facilitate sewerage planning, allow interim facilities, not aggravate densities, and to prevent high denial rates. Unfortunately, lacking regional sewerage systems, the "interim" facilities become "permanent"--they are not designed to function permanently, and usually do not.

7. Since federal construction grants were projected based on regional sewerage facilities, there is risk of losing such funding if the Phase 2 area is developed without a sewerage system.

Summation

1. The UGB was adopted by the City of Bend and the Deschutes County Commission on June 2, 1976. The facilities plan was adopted by City of Bend and Deschutes County Commission on October 6, 1976, and is the approved sewerage services component within the UGB. The Oregon Department of Land Conservation and Development has not yet adopted the UGB.

2. Since there is no implementing mechanism or authority for sewerage services within the UGB and outside the Bend city limits, DEQ has been unable to develop guidelines consistent with the facilities plan which do not aggravate sewerage construction in that area.

3. Thus a question exists as to whether DEQ and its contract agent, Deschutes County Health Department, can continue septic tank approvals in the Phase 2 area when such approvals are or may be in conflict with local plan elements. To what extent are DEQ actions controlled by planning laws is a key question.

4. Possible DEQ alternatives range as follows:

- a. No action--continue septic tank and drainfield approvals/denials without regard to local planning.
- b. 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:
 - 1) Who will plan collector sewers;
 - 2) When sewerage facilities will be constructed;
 - 3) How sewerage facilities will be financed;
 - 4) Who will implement planning, design and construction;
 - 5) How development will be handled in the interim to insure that it does not impair implementation.
- c. Restrict subsurface sewage disposal systems in the Phase 2 area until at least one of the following occurs:
 - 1) 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
 - 2) An equivalent public body is formed to regulate these activities in accordance with regional sewerage planning.

Director's Recommendation

1. The Director recommends that the Commission direct the staff to work with the Deschutes County Commission to obtain a written agreement outlining how DEQ and the County Commission can work together to solve the problems discussed in this report, and further direct the staff to schedule a public hearing on November 29, 1977 in Bend to take testimony on the proposed working agreement between DEQ and the County and on other alternative causes of action the EQC could pursue.

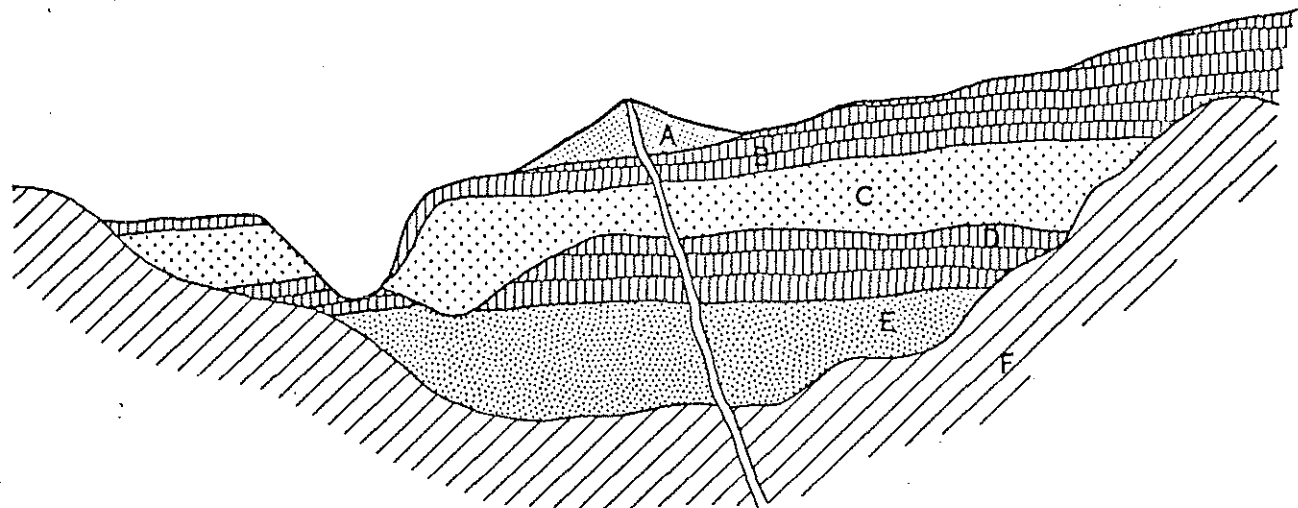
2. The Director recommends no further action at this time, but suggests that the Commission consider findings from the November 29 hearing at its next meeting.

Bill

WILLIAM H. YOUNG

John E. Borden
382-6446
11/2/77

Attachments: A through F



Designation in Figure	Unit Name	Character	Water-bearing Characteristics
A	Quaternary pyroclastic deposits	Chiefly cinders associated with cinder cones.	Rocks of this unit are generally well drained and not sources of ground water. Where saturated they are capable of yielding large supplies of ground water.
B	Quaternary lavas	Chiefly basaltic lava flows associated with Newberry Crater, and volcanic eruptions in the Cascade Range.	Contains numerous porous lava flows. At most places are well drained and are unproductive. Where they are saturated, they are capable of yielding moderate to large supplies of ground water.
C	Madras formation	Chiefly stratified layers of sand, silt, ash, pumice with some gravel lenses. Contains some interbedded lava flows.	This formation is in large part fine grained and not a productive aquifer. At places it contains permeable lenses of gravel that are capable of yielding moderate supplies of ground water. Some of the interbedded volcanic rocks are permeable and are capable of yielding large supplies of ground water.
D	Columbia River basalt	Series of basaltic lava flows.	Contact zones between individual lava flows serve as aquifers. This formation is generally capable of yielding moderate to large supplies of ground water.
E	John Day formation	A sedimentary formation composed of silt, sand, and volcanic ash.	The fine grained character of this formation precludes it from being a productive source of ground water.
F	Clarno formation and older rocks undifferentiated	Chiefly consolidated sedimentary rocks, volcanic rocks and associated pyroclastics.	All of these rocks are believed to be of low permeability and not capable of furnishing more than meager supplies of ground water.

FROM UNPUBLISHED REPORT - OREGON STATE ENGINEER

FIGURE 3. --MAJOR ROCK UNITS IN THE DESCHUTES RIVER BASIN

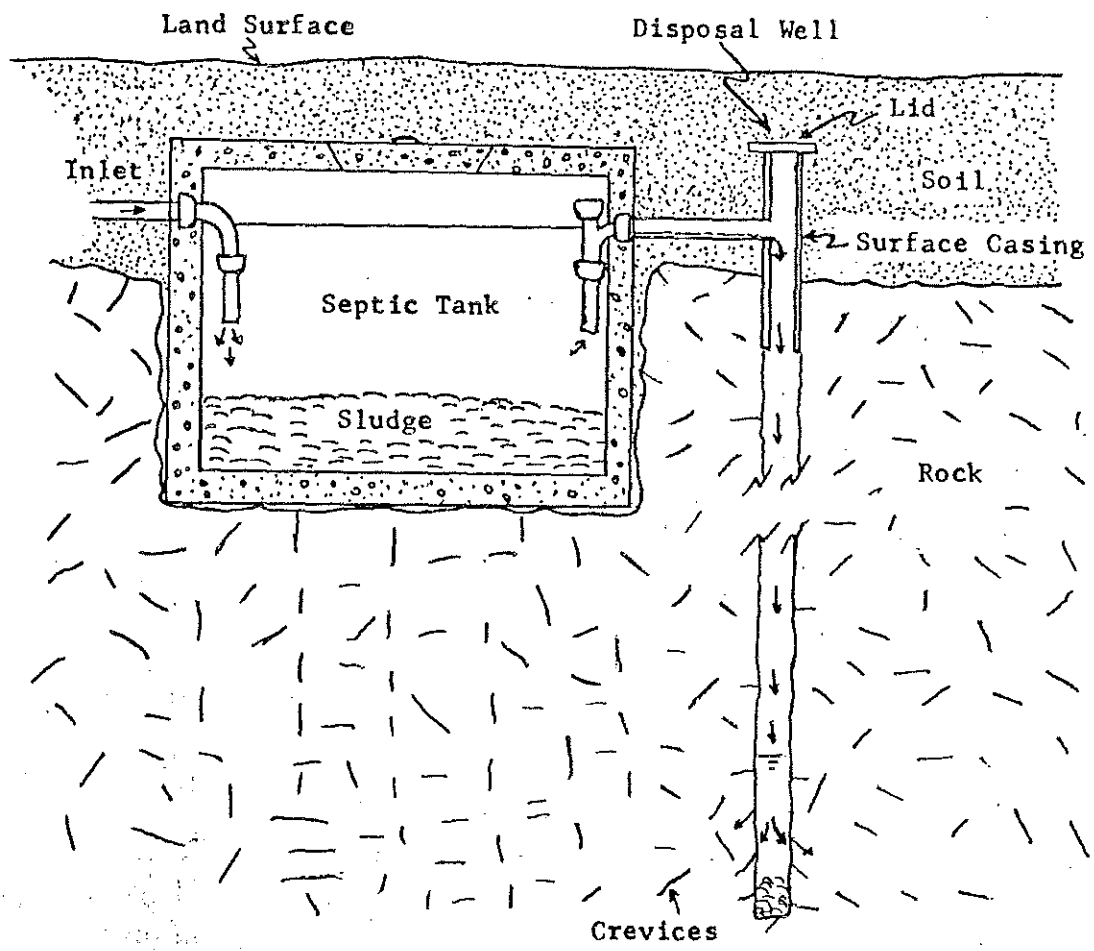


FIGURE 6. --DIAGRAM OF A TYPICAL DOMESTIC SEWAGE DISPOSAL SYSTEM IN THE MIDDLE DESCHUTES BASIN

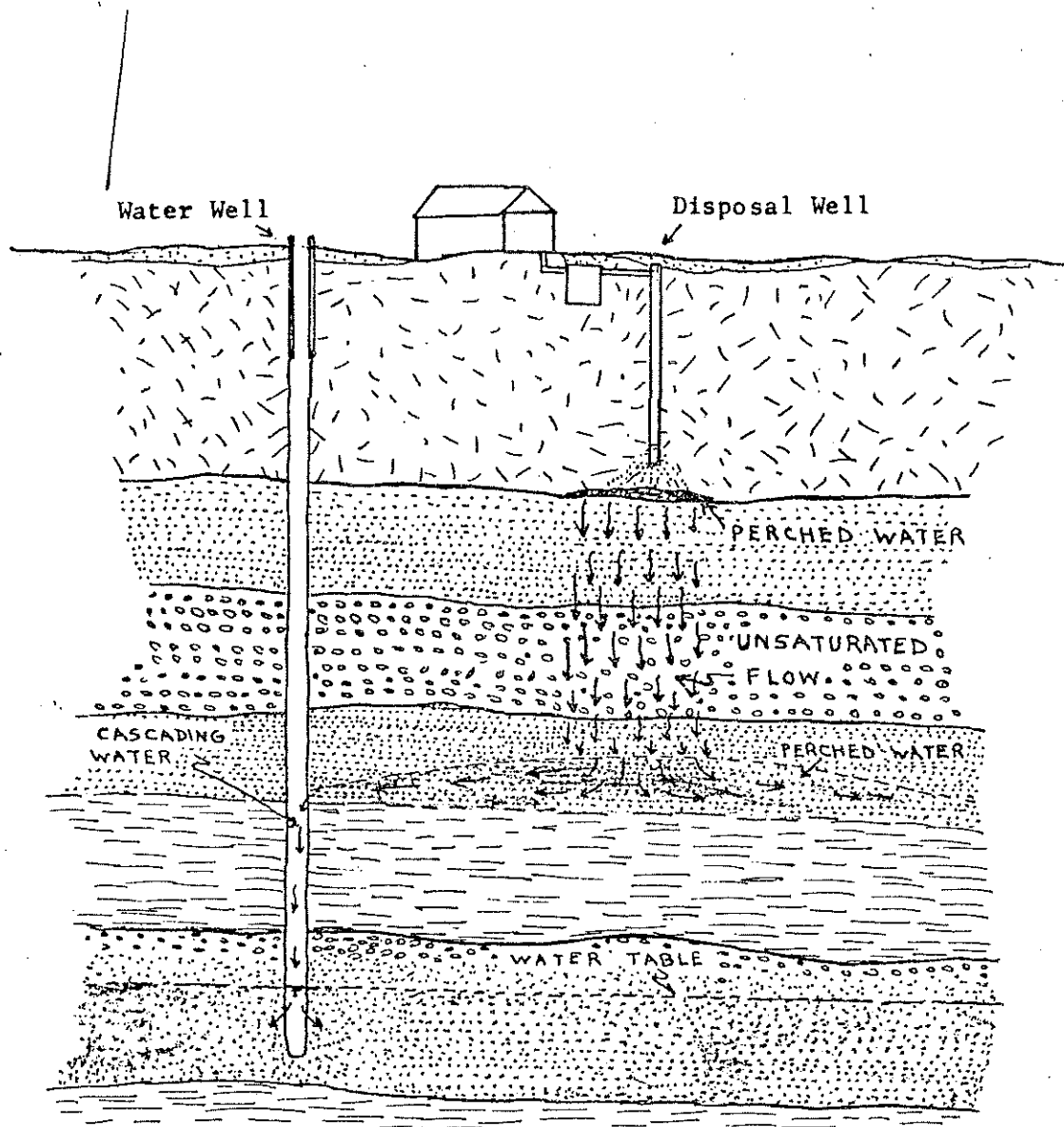


FIGURE 15. --DIAGRAM SHOWING HOW AN UNCASD WATER WELL CAN SERVE AS A CONDUIT FOR THE MOVEMENT OF PERCHED WATER TO THE REGIONAL WATER TABLE

City, county officials set joint planning session

Bend Bulletin 8-10-77

Bend City Commissioners and urban area planning commission Deschutes County Commissioners would have jurisdiction with the Bend will meet tonight at 7:30 at Bend City Urban Area, which has its boundary Hall to discuss how to plan Bend's outside the Bend city limits. growth.

Bend City Manager Art Johnson said the commissioners will consider the possibility of creating an urban area planning commission. Such a body would replace the Bend Planning Commission, which deals with planning inside the city limits.

It also would take over some of the duties of the Deschutes County Planning Commission, which handles all planning within areas of Deschutes County not now incorporated. An urban area planning commission would have jurisdiction with the Bend Urban Area, which has its boundary outside the Bend city limits. The commissioners also will consider widening Neff Road between the city limits and St. Charles Medical Center. The section is located between Pilot Butte Junior High School and St. Charles. Bend's sign code will be discussed at the request of Deschutes County Commissioner Bob Montgomery. He said signs are becoming too numerous along county roads as well as along some city streets, and he wondered what the city's code involves.

Bend Bulletin 8-11-77

Jim Swenson

City, county to appoint joint committee to study differing building standards

By Steve Boyer

Bulletin Staff Writer

Bend and Deschutes County commissioners Wednesday night took a step toward closer cooperation in controlling growth in the Bend Urban Area.

In a joint session at Bend City Hall, the commissioners set up a committee and city and county officials to determine what differences exist between city and county construction standards for developers. The study will focus on roads and water and sewer systems, the areas of the greatest differences.

At the meeting, city commissioners expressed concern that the city may become surrounded by developments which use private water and sewer systems, a number of which already exist outside the city limits. The private systems often are incompatible with the city's. If the developments were to be annexed, said city commissioners, their existing water systems would have to be replaced with ones which meet city standards.

If the city were to become com-

pletely surrounded by private water and sewer systems, it could become locked into a fixed area and tax base.

Then, said commissioners, city residents would be forced to pay an increasingly higher tax rate to provide services to the expanding population living outside the city limits but coming into the city to work and shop.

"If we allow this situation to degenerate, we're all laying down on the job," said Bend Mayor Clay Shepard.

Members of the joint committee are Dave Hoerning, Deschutes County director of public works; Charles Plummer, county engineer; Pete Hansen, Bend fire chief; Gary DeBernardi, county project coordinator, and John Hossick, city planner.

When the committee has completed its study of the differences in standards, commissioners decided, it will report back to them. Then they can get together again to attempt to resolve the discrepancies.

"We all have to bend a little bit, and I think we should," said Deschutes County Commissioner Bob Montgomery. "There's no question

about it. We have to have the same standards."

In setting up the joint committee, the commissioners rejected, at least for now, Shepard's idea of creating a planning commission for the Bend urban area. Part of the urban area outlined in the Bend Urban Area Comprehensive Plan, lies outside the city limits.

The Bend Planning Commission, which has jurisdiction inside the city limits, would be dissolved, said Shepard.

An urban area planning commission would take over its functions as well as those within that part of Deschutes County located inside the urban area boundary. County planning now is handled by the Deschutes County Planning Commission.

Urban area planning commission members would be appointed, said Shepard, some by the county commission and some by the city commission.

On matters affecting areas inside the city limits, he said, the urban area commission would report to the city commission. In the rest of the urban area, it would report to the county

commission.

Shepard said the urban area commission would be able to resolve many of the differences in standards.

While he won support from City Commissioner Dick Carlson, the proposal earned mostly questions from the three county commissioners.

County Commissioner Don Grubb said once a citizens' committee completes its work on zoning within the urban area, all a planning commission will be required to do is grant variances, or exceptions to the zoning requirements.

Montgomery wondered if the city still would need a planning department if the urban area commission were created. Commissioner Abe Young said two planning commissions still would be required, one for the urban area and one for the rest of the county.

"I don't think there's a dire need for one (urban area) planning commission, but I do think there's dire need for common standards," said Montgomery.

Bend Bulletin 10-6-77

Bend reverses city annexation policy in agreement with planner's suggestion

The City of Bend will begin to annex undeveloped land in a 180-degree shift from previous policy after the Bend City commission approved the change at its Wednesday night meeting.

The change had been recommended by the Bend Planning Commission following the presentation of a report by City Planner John Hossick.

The report compared the costs of annexing land before and after it is fully developed. Hossick told commissioners that regardless of which policy is pursued, the city will have to pay to improve streets, water lines and other services in areas which are annexed.

The report advocates annexing land before it is developed so the city has room to expand its area, population and tax base. The early annexations also will allow the city to gain tax revenue earlier than if it waited until after development, which is the present policy.

If the city continues its present policy, it also could become surrounded by developments with private sewer and water systems which have no wish to annex. Then the city would stagnate while residents moved to the suburbs, the report said.

Hossick and the commissioners emphasized that the report is simply a study, not a concrete proposal to annex the study area an 1,800-acre parcel of land located just north and east of the city. Hossick said the city

cannot unilaterally annex land except when residents or developers have previously agreed to annex in return for city water or sewer service.

Otherwise, said Hossick, state law requires that the city be presented with a petition signed by residents with majorities of the land, population and assessed valuation in the area. A single property owner adjacent to the city limits may also make an individual request, he said. The city can also call an election in which an area's property owners would vote on annexation.

Motel and restaurant owners in Bend's downtown area got the support of the commission in their attempts to be allowed to advertise their establishments along U.S. Highway 97. The commission authorized Mayor Clay Shepard to write a letter to the Oregon Department of Transportation supporting the request.

The commission made its decision after Delvin Plagman, owner of the Rainbow Motel in Bend, showed them a petition signed by Allan Crisler, director of the Bend Chamber of Commerce, and 24 restaurant and motel owners in town. The signs would be placed at the intersections of NE Third Street and NE Franklin Avenue and of N. Highway 97 and NE First Street.

The Department of Transportation controls what signs may be placed along Highway 97.

The commission also:

—Agreed to provide sewer ser-

vice to the proposed Winchester subdivision, located north and east of St. Charles Medical Center. The subdivision will consist of 112 single-family residences and duplexes.

—Awarded a contract to Hap Taylor Inc. of Bend for the construction of a water line from the city's second well soon to be constructed, to the city water system on the east side of the Deschutes River. The company was the low bidder for the project at \$89,914. The cost of the entire project is \$458,000. Half is being paid by the city and half by the U.S. Economic Development Agency.

SUBDIVISION ACTIVITY SINCE JULY 1, 1969

Subdivision Name	Plat Date	Number of Lots	Subdivision Acreage	Proposed or Existing Sewage Disposal Status
Awbrey Meadows	7-28-71	45		Septic tank/drainfield
Mitchell		6	2.4	Septic tank/drainfield
Sherman Park	1976			Septic tank/drainfield
BID 1	1975			Septic tank/drainfield
BID 2	1976			Septic tank/drainfield
BID 3	1977			Septic tank/drainfield
Swalley View	6-76	18	49	Septic tank/drainfield
Hunters Circle	6-77	96	43	Septic tank/drainfield
Country View Estates	5-74	13	33	Septic tank/drainfield
Sunny Acres	5-75	14	40	Septic tank/drainfield
Bee Tree	5-72	15	40	Septic tank/drainfield
Kerr Heights	9-77 Appealed	24	48	Septic tank/drainfield
Ronald Acres	9-8-72	6	29	Septic tank/drainfield
Valhalla Heights	Not final	193	100	Septic tank/drainfield -- dry sewers
Bel Air	7-77	40	20	Septic tank/drainfield -- dry sewers
Boyd Estates	Not final			Septic tank/drainfield
Chocktaw Village	6-77	85	85	City sewer under construction
Add. A	Not final	16	5	
Valley View Estates	Not final	13	3	City sewer

Subdivision Name	Plat Date	Number of Lots	Subdivision Acreage	Proposed or Existing Sewage Disposal Status
Vintage Fare	10-77	40	28	Septic tank/drainfield
Desert Woods	4-77	81	50	Septic tank/drainfield
Paulina View Estates	4-73	61	38	Septic tank/drainfield
Nottingham Square	11-73	170	97	Private sewer system (Juniper Utilities)
Kings Forest	6-76, 3-77	90	79	Septic tank/drainfield
Trapper Club Road Estates	8-76	22	8	Septic tank/drainfield -- some disposal wells
Ridgeview Park	City - not final	12	4	Septic tank/drainfield
Woodriver Village	11-72	159	25	Septic tank/drainfield
Basque Tranquiles	Not final	--	--	Septic tank/drainfield
High Country	8-73	30	16	Septic tank/drainfield
Chuckanut Estates	6-77	45	17	Septic tank/drainfield
American West	Not final	56	20	Septic tank/drainfield
Timber Ridge	6-76	184	94	Private sewer system (Juniper Utilities)
Mountain High	Not final	121	71	Private sewer system (Juniper Utilities)
Mountain High - 1st Add.	Not final	24	18	Private sewer system (Juniper Utilities)
Tillicum Village	1-13-73	--	--	Juniper Utilities and disposal wells, and drainfields
Ambrosia Acres	Not final	30	20	Septic tank/drainfield
Pinebrook	8-74, 9-76, 5-77	89	57	Septic tank/drainfield
Larkwood Estates	7-77	--	--	Septic tank/drainfield

Subdivision Name	Plat Date	Number of Lots	Subdivision Acreage	Proposed or Existing Sewage Disposal Status
Holiday Park	5-74, 10-76	83	31	City sewer
Edgecliff Estates	6-76	8	16	City sewer
Williamson Park	Not final	93	100	Proposed city sewer
The Winchester:				Proposed city sewer
" " W. Arms	Not final	42	10	Proposed city sewer
" " W. Square	Not final	81	40	Proposed city sewer
Quail Ridge Park	Not final	21	70	Septic tank/drainfield
Overturf Butte	Not final	56	18	Septic tank/disposal wells -- dry sewer
Knoll Heights	3-74, 3-76	34	14	Septic tank/disposal wells -- dry sewer
Broadway Terrace	City - not final	13	5	Septic tank/disposal wells
Prophets Den	Not final	60	29	Septic tank/drainfield
Ramsey 5th	City - not final	23	15	Septic tank/disposal wells -- dry sewer
Aero Acres	4-72, 4-73	35	16	Septic tank/drainfield
Air Park Estates	9-77	36	20	Unknown
Thomas Acres	7-76	23	14	Septic tank drainfield
Davis Additions	4-73, 4-74	82	50	Septic tank/drainfield
Reed Market Estates	9-73, 4-76, 7-70	48	19	Septic tank/drainfield
Daily Estates	7-70	29	19.5	Septic tank/drainfield

Subdivision Name	Plat Date	Number of Lots	Subdivision Acreage	Proposed or Existing Sewage Disposal Status
Romaine Village	5-74, 2-70, 11-72 6-73, 7-75, 4-76	309	130	Septic tank/drainfield (some large systems)
Homestead	9-73, 5-74, 3-76	79	49	Septic tank/drainfield
Golden Mantle	5-71, 8-72, 6-74	54	27	Septic tank/drainfield
Golden Rain	6-72, 6-73, 7-74	24	15	Septic tank/drainfield
Frontier West	6-76	16	8.5	Septic tank/drainfield
St. James Square				City sewer
Shradon Estates	Not Final			City sewer
Janela Court	2-77			Septic tank/drainfield
Crown Villa				Private sewer system (Juniper Utilities)
Crown Villa, 1st Add.	Site plan-- <u>not</u> subdivision		27	Private sewer system (Juniper Utilities)
Missionary First Baptist (with dormitory facilities)	1977			Septic tank/drainfield
Heritage	Not final			City sewer
Deprada Court	Not final			City sewer
Sunrise Village	Not final			Possible private sewerage system
Renwick Acres	10-14-77 Not final	16	6	Unknown
Brightenwood	Final - may be in UGB if changes approved			Septic tank/drainfield

For Discussion
Amendment to Comprehensive Plan
Development Alternative and Urban Service
Policies

Background

The City, on May 24, 1977, passed a \$9 million bond issue for construction of a regional sewer system. Final design is now underway. BECON, the sewer consultants, will be presenting a project delivery program report within the next several months and have indicated that construction is targeted to start early in 1978.

The City's existing sewage treatment plant has a capacity for approximately 1 million gallons per day. The disposal of effluent is to an open crevice. The amount of effluent the crevice can take is unknown. Several developments in the City and adjacent to the existing plant have been proposed. The developments could create more effluent than the plant and crevice can handle.

The City is striving to coordinate the development of a regional sewage system. It is taking steps to try to accommodate growth until the City's sewer system is enlarged. The provision of sewer service on an areawide basis will need the concurrence of the City, County and DEQ. An agreement should be reached on the regional sewerage system as the basis for future development. Steps should be taken to establish detailed engineering for Phase II areas; caution should be used in the formation of small districts that could impede the development of the regional system; and policies established that clarify when, how and under what type of jurisdiction the "interim" facilities may be permitted.

Several factors now appear to be true:

- 1) The City's sewer system is now assured.
- 2) Land available to be developed at greater densities is now greatly increased.
- 3) State law allows interim facilities in areas where a regional system is or will exist. DEQ's role is to protect the environment and under present regulations cannot deny or control small package plants without a local policy to support such action.
- 4) The development of half-acre lots is generally wasteful of land and can form a barrier to future sewer line construction due to high unit cost. A density of 10-12 people/acre is generally needed to jointly pay for sewers. This is 3 to 4 houses per acre.
- 5) The City and County do not have a definitive policy regarding sewer development within the urban area.
- 6) The history from other communities points to the need for close coordination of decisions effecting District formations, interim plants and provision of sewer services within an urban area.
- 7) There may be more development than the City's existing plant can handle without enlarging parts of the existing plant or development of temporary facilities.

Suggested Policies:

The Development Alternative specifies the need to make provision for sewer service when a financial commitment exists and the sewers will be available within 5 years. It is expected that the design definition timetable will give us a reasonable idea on those areas adjacent to the City that will be so situated.

- 1) Within the Phase II area discourage larger lot (1/2 acre +) developments that would form barriers to line extensions or make provisions for dry sewer lines to pass through such an area at the time of development or require dry line or wet line sewers and drill holes where a timetable and financial commitment exists.
- 2) Ask for Environmental Quality Commission approval of subsurface regulation for smaller lots without drainfield replacement areas or drill hole usage in areas where sewer lines are financially committed and assured within a 3-5 year period and where domestic or developed water sources would not be endangered. Also for approval of drill hole usage where the developer will complete the necessary lines to bring the development project sewage effluent to a point where it will connect to an assured system in a 3 to 5 year period provided that the lines so constructed are consistent with the overall facilities plan and meet any neighborhood drainage basin needs.

The City has made a financial commitment to a regional sewage system. The long term benefits to the community were the basis of this decision. We need to take steps that will make it attractive and practical to implement a regional system.

- 1) The County should consider formation of County Service district to provide sewer service.
- 2) Steps should be taken to implement Phase II sewer design. Aerial topographic mapping of the Phase II areas and design of drainage basin systems should be started.

JCH:ve
8/12/77

The County has just begun to consider becoming involved in this problem and with good reason. Historically, there have been few problems with septic tank drainfields or drill holes in the County. Recently, changes in State regulations have virtually eliminated the use of drill holes for new development and have created an awareness and concern about future growth using drainfields.

The County has many problems to consider and much to do in the process of planning and establishing sewer service in the urban growth area. As mentioned earlier, a small area east of Pilot Butte could be served now. To provide service over fairly extensive areas would require formation of a service district and several years of planning and construction. Since there is no apparent problem in the area now, it may be very difficult to get voter approval of a sewer district. The most difficult part of this entire situation is that the problems all lie in the future and there are few if any indications of them today.

However, the purpose of any plan is to look to the future and attempt to foresee and avoid problems. If the plan is to be successful, problems must be solved in a context acceptable to the people of the community today. It is not possible at this time to set forth detailed and specific guidelines for Development Alternative areas because the options for development are not clear. Will the County initiate sewer service districts? Will the State regulations eventually require sewer service? Would large parts of the area be interested in annexation to the City as a means of obtaining services? How soon will enough new growth occur to make the problems more obvious? These and many other questions may remain unanswered for several years.

There are some things we do know about the future. The rock will continue to make construction cost higher than normal. The rock will probably continue to require blasting. The Bend Area will continue to grow. Growth pressure will increase land values and reduce lot sizes. Smaller lots will not work as well for individual disposal systems. Sanitation problems will result and, eventually, sewers will be required. It is not a question of whether or not sewers will be necessary, but rather, how to minimize the cost.

The solution to services and increased housing densities must be a joint public and private effort. If services are to be provided, the city and county must participate by doing those things which individual property owners or small developers cannot do for themselves. Facility planning for systems, establishment of districts and unification of standards are examples of functions and responsibilities of local government. As the city and county proceed with these activities, development alternative standards may change for some areas as additional engineering data becomes available.

The Development Alternative symbol consists of two colors in each case. The colors correspond in meaning to those used for other residential areas on the map. The color which symbolizes the larger lot size is the recommended housing density for that area without community services. It recognizes lot sizes generally found in the area at the present time. The second color symbolizes the recommended housing

density if all community services are provided. If community water service is provided, and if the area to be developed is preplanned to the approximate higher density shown on the plan, lots of less than 2-1/2 or less than 5 acres may be developed. The following general policies are recommended for Development Alternative areas:

Urban Standard Residential Areas -

1. Within community sewer facilities planning area or areas with existing community sewer system:

6,000 - 14,000 square foot lot size

Requirement: - Community sewer and water system or
- Septic tank, drill hole, dry sewer and community water system.

2. Outside community sewer facilities planning area but within development alternative area for future community sewer system:

14,000 - 20,000 square foot lot size

Requirement: - Preplanned subdivision or land partition
- Community water system
- Septic tank and drain field

Multiple Family Areas -

1. Within community sewer facilities planning area:

1,000 - 3,000 square foot/dwelling unit

Requirement: - Install community sewer and water system

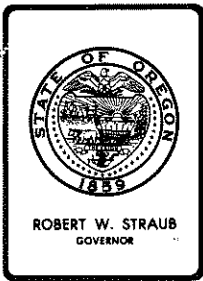
3,000 - 14,000 square foot/dwelling unit

Requirement: - Community sewer system or dry sewer and community water system

2. Outside community sewer facilities planning area, but within development alternative area for future community sewer system:

14,000 - 20,000 square foot/dwelling unit

Requirement: - Preplanned development
- Community water system
- Septic tank and drain field



Environmental Quality Commission

~~1234 S.W. MORRISON STREET, PORTLAND OREGON 97205~~ PHONE (503) 229-5696
P.O. Box 1760, Portland, OR 97207

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. 0, January 27, 1978, EQC Meeting
Rifle Range Road Area, Roseburg, Douglas County -
Certification of plans for sewerage system as
adequate to alleviate health hazard, ORS 222.898

Background

The Oregon Health Division, after following all due process required by ORS 222.850 to ORS 222.915, issued an annexation order to the City of Roseburg on November 7, 1977. The order, finding that a danger to public health exists, covers the area known as Rifle Range Road Area. The area was surveyed in January and February 1976, and a 53% sub-surface sewage disposal system failure rate was documented.

The City has 90 days after the date of the annexation order to prepare preliminary plans and specifications together with a time schedule for removing or alleviating the health hazard.

Evaluation

The preliminary plan and specifications (Oregon APWA Standards - 1970) together with a schedule for the removal of the health hazard in the Rifle Range Road annexation area by the construction of gravity sewers were prepared by the City of Roseburg and submitted to DEQ on December 8, 1977. The documents submitted appear to be sufficient to satisfy the law.

The conditions dangerous to public health within the territory annexed can be removed or alleviated by the construction of sanitary sewers, as proposed.



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Summation

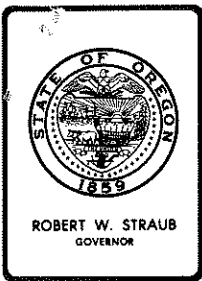
1. Pursuant to the provisions of ORS 222.850 to 222.915 the State Health Division issued an annexation order to the City of Roseburg, November 7, 1977.
2. The City submitted preliminary plans and specifications together with a time schedule to the DEQ for review.
3. ORS 222.898(1) requires the Commission to review the preliminary plans and other documents submitted by the City within 60 days of receipt.
4. The staff has reviewed the documents submitted and found the proposed sewerage project will remove the conditions dangerous to public health within the area annexed.
5. ORS 222.898(2) requires the Commission to certify to the City its approval if it considers the proposed facilities and time schedule adequate to remove or alleviate the dangerous conditions.

Director's Recommendation

It is recommended that the Commission approve the proposal of the City of Roseburg and certify said approval to the City.

Bill
WILLIAM H. YOUNG

Clarence P. Hilbrick:em
229-5311
January 10, 1978



Environmental Quality Commission

~~1004 SW WASHINGTON STREET, PORTLAND, OREGON 97206~~ PHONE (503) 229-5696
P. O. Box 1760, Portland, Oregon 97207

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. P, January 27, 1978, EQC Meeting

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

Background

The 1977 Oregon Legislative Assembly enacted SB 570, amending ORS Chapter 197, the statewide land use planning act. ORS 197.180, as amended, required the Department of Environmental Quality to submit a program for coordination to the Land Conservation and Development Commission by January 1, 1978.

On December 9, 1977, LCDC adopted an administrative rule on state agency coordination program requirements, which implements the statute.

These requirements are termed key elements and are numbered and titled in the rule:

- 2.1 List of agency rules and programs affecting land use.
- 2.2 Program for cooperation with and technical assistance to local governments.
- 2.3 Program for assuring conformance with the goals and compatibility with comprehensive plans.
- 2.4 Program for coordination with other governmental agencies and bodies.

The Department submitted its basic program to LCDC December 28, 1977, with copies to the EQC. Another copy is attached. A "How to Handbook" to complement the program and guide both writers and reviewers of local comprehensive plans is being completed. It has been promised to LCDC by January 31, 1978. The handbook is intended to present DEQ's program for requirement 2.1, above, and tell writers and reviewers how to incorporate the Department's pollution control programs into the local plan. The Department of Land Conservation and Development (DLCD) previously agreed to the concept of a coordination program complemented by a handbook as meeting the intent of LCDC requirements.



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LCDC procedures for review and approval of state agency coordination programs are outlined in Section 3.0 of LCDC's rule and ORS 197.180(2), attached. The major points in the procedures are as follows:

DLCD must:

1. Log in the date of receipt, set a tentative date for LCDC action and notify DEQ.
2. Review the program to assure that all major requirements have been addressed; provide DEQ an opportunity to submit additional material in completion of requirements before review proceeds. DEQ is taking advantage of this opportunity to complete and submit the handbook. ORS 197.180 allows DLCD 90 days after receipt to determine and advise DEQ of insufficiency of its program submittal.
3. Issue a public notice within two weeks of receipt of DEQ's program. The notice must indicate receipt and tentative LCDC action date, and invite public review and comment.
4. Perform a detailed program review against the "key element" requirements and provide a staff report of findings and recommendations to LCDC and its advisory committees, with a copy to DEQ at least one week in advance.
5. Advise DEQ and DLCD's Local Coordinators of the Commission's action. If approved, DEQ's program can then be implemented.

LCDC must:

1. Approve or disapprove the program after step 4 above, or delegate that authority to DLCD's Director.
2. Consider an agency's appeal of the DLCD Director's action on its program.

DEQ has 90 days after receiving notification of a determination of program insufficiency or disapproval to revise and resubmit or appeal to LCDC the DLCD Director's disapproval.

Discussion

1. In completing LCDC requirement 2.1 above, DEQ's handbook will list and summarize Department programs and actions affecting land use and cite legal references. For information purposes, it will also list agency programs and actions not affecting land use. Potential conflicts with statewide planning goals and local plans will be discussed.

2. The Department's coordination program addresses requirement 2.2 by discussing DEQ review of LCDC approved local land use planning compliance schedules for completing the local plan. Technical assistance DEQ will give to local planners as they work to complete their plans for LCDC Acknowledgement is also covered. The Department's regional or branch office is the main contact, assisted by headquarters. This coordination program apparently will require more DEQ manpower and services than we can presently provide. The Department has promised to tell DLCD by April 1, 1978 what more is needed to provide adequate DEQ coordination as described in the program.
3. Requirement 2.3, to assure DEQ programs and actions conform with the statewide planning goals, and are compatible with local comprehensive plans, may be the most controversial portion of the coordination program. The major points are:
 - a. By March 1, 1978, DEQ will review its programs, to be listed in the handbook as affecting land use, for conformance with LCDC's Goals.
 - b. By July 1, 1978, DEQ will review its rules, to be listed in the handbook, for goal conformance.
 - c. The Department bases its conformance and compatibility determinations primarily on LCDC Goals 6 (air, water and land resources quality) and 11 (public facilities and services) for which DEQ clearly has authority and expertise. DEQ will go so far as to identify apparent potential conflicts with other goals beyond our expertise and participate in overall goal balancing mediations, but not perform this balancing.
 - d. DEQ will develop and ask the EQC to adopt an administrative rule requiring a "statement of compatibility" of certain projects with local comprehensive plans and implementing ordinances from appropriate cities and counties. This statement would have to accompany applications for site specific DEQ permits and construction or funding approvals on new or expansion projects. The statement from the local land use planning agency or jurisdiction would be required before considering the DEQ application complete and ready for processing. An affirmative statement of compatibility would be presumed by DEQ to also express conformance of the project with LCDC's overall Goals. DEQ would then process the application on the merits of its compliance with requirements under Department authority. A non-response from the local government of jurisdiction within a specified period of time from the date of notification will be presumed to indicate a positive statement of compatibility.

The process described would help accomplish statutory intent of placing the responsibility for coordinated comprehensive planning at the local level. It would do this by putting the joint determination of compatibility with local plans and conformance with statewide planning goals on the appropriate city or county. The Department recognizes its right to petition to LCDC a local negative compatibility statement on a proposal needed to meet DEQ program requirements.

- e. By March 1, 1978 the Department will implement a program for non-site specific items such as area-wide plans, grants, programs, criteria, rules and other appropriate items affecting land use. The heart of this process will be modification of DEQ's notice on all these proposed actions and expansion of notice distribution to assure the inclusion of the local planning agency and governing jurisdiction, and state and federal agencies administering programs apparently impacted by DEQ's proposal and LCDC Goals.

The notice will be revised to indicate that the Department:

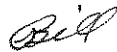
- (1) Has found that the proposed action appears to conform to LCDC Goals 6 and 11 (in which the Department declares preeminence in judgment for DEQ programs) and does not appear to conflict with the other goals, which are beyond DEQ's expertise;
 - (2) Invites public comment;
 - (3) Requests that local, state and federal agencies review the proposed action and comment on possible conflicts with their programs and LCDC goals within their expertise and jurisdiction;
 - (4) Intends to ask DLCD to mediate apparent goal conflicts resulting from (3);
 - (5) Intends to take the proposed action in a specified period absent apparent conflicts resulting from (3), or upon the conclusion of mediation discussed in (4).
- f. DEQ will initiate incorporation of new and developing programs, such as for non-point source water quality into the local planning process, when it becomes appropriate. The Department will expect these to be included in local plans when routinely revised.
- 4. The Department will improve its program for coordination with state and federal agencies and special districts in a manner meeting requirement 2.4 of LCDC key elements, as described in the coordination program.

Summation

1. The Department's program for coordination with LCDC is required by ORS 197.180 and was due by January 1, 1978.
2. The program was submitted to DLCD December 28, 1977, except for the handbook for writers and reviewers of local comprehensive plans.
3. The handbook will be submitted to DLCD by January 31, 1978.
4. DLCD has 90 days from receipt to review the submittals and notify the Department if it believes the program is insufficient.
5. Eventually LCDC, or by delegation the DLCD Director, must approve or disapprove DEQ's program.
6. If judged insufficient or disapproved, DEQ has 90 days after receipt of DLCD notification to revise the program and resubmit it or appeal to LCDC the DLCD Director's disapproval.
7. When ultimately approved, DEQ will fully implement its program for coordination with LCDC and local comprehensive land use planning, provided the necessary resources are available or forthcoming.

Director's Recommendation

The preceding report is for the information of the Commission. Commission action is not requested or appropriate at this time.

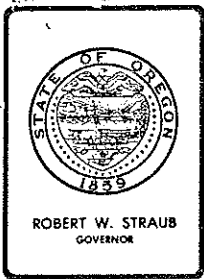


WILLIAM H. YOUNG

R.D.Jackman/cs
229-6403
1/12/78

Attachments

- (1) DEQ Coordination Program
- (2) LCDC Adopted Rule on "State Agency Coordination Programs and ORS 197.180



Department of Environmental Quality

1234 S.W. MORRISON STREET, PORTLAND, OREGON 97205 Telephone (503) 229- 5300

December 28, 1977

Mr. Wes Kvarsten
 Department of Land Conservation
 and Development
 1175 Court Street, N.E.
 Salem, Oregon 97310

Dear Mr. Kvarsten:

The Department's proposed program for coordination with the Land Conservation and Development Commission as required by ORS 197.180 and the new LCDC rule is enclosed. DEQ appreciates the ready and willing assistance of DLCD's Kathleen Carter and others in this effort.

The proposal is deficient in the items listed below. These will be submitted by January 31, 1978. The Department wants to do a good job and simply needs a little longer to complete the task.

1. DEQ handbook for environmental quality elements of local comprehensive plans;
2. Appendix 2 - List of state and federal agencies routinely working with DEQ;
3. Appendix 3 - List of special districts implementing DEQ programs.

We will keep you advised as we progress toward completion and into implementation of the proposal according to the items and deadlines listed. Please advise us early of items which appear unsatisfactory.

Sincerely,

WILLIAM H. YOUNG
 Director

RDJ:cs

Enclosure

cc: Environmental Quality Commission
 Janet McLennan



Contains
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 Materials

December 28, 1977

DEPARTMENT OF ENVIRONMENTAL QUALITY
PROGRAM FOR COORDINATION WITH
LAND CONSERVATION AND DEVELOPMENT COMMISSION

1.0 Introduction

The Department of Environmental Quality's (DEQ) program for coordination with the Land Conservation and Development Commission (LCDC) has been prepared to meet the requirements of ORS Chapter 197, particularly ORS 197.180 (2), and the LCDC Administrative Rule on state agency coordination programs adopted December 9, 1977.

These requirements, termed Key Elements in the rule, are titled:

1. List of agency rules and programs affecting land use.
2. Program for cooperation with and technical assistance to local governments.
3. Program for assuring conformance with the goals and compatibility with comprehensive plans.
4. Program for coordination with other governmental agencies and bodies.

The Department's program presented here includes a "How To Handbook." The Department of Land Conservation and Development (DLCD) previously agreed with this concept of a coordination program complemented by a handbook as meeting the intent of LCDC requirements.

The handbook has been prepared to guide both writers and reviewers of local comprehensive land use plans in how to incorporate the Department's pollution control programs into the local plan. The handbook includes an introduction and sections for air quality, water quality, solid waste management, and noise control. Section formats vary somewhat depending upon the writers' perspective

on program needs and the best way to communicate with writers and reviewers of local plans. Items relating to all four LCDC "key elements" are included.

The Department's program for coordination addresses the four key elements in the sequence of LCDC's rule. Some information is presented in appendices, including major portions in DEQ's handbook for local government.

2.0 The Key Elements of DEQ's Coordination Program

2.1 List of Agency Rules and Programs Affecting Land Use.

The Department's handbook lists and summarizes DEQ statutes, rules, programs and actions affecting land use, and those not affecting land use.

2.2 Program for Cooperation with and Technical Assistance to Local Governments.

2.2.A Participation in Development of Comprehensive Plans: Compliance Schedules.

Department resources are clearly insufficient to adequately participate in development of all local comprehensive plans.

The Department will work with local governments to do the following things by way of participation. This participation will be undertaken to the extent current resources can safely be diverted from other basic agency responsibilities:

- 1) By April 1, 1978, DEQ intends to identify and inform DLCD of the additional manpower and support costs needed by the Department to provide an adequate level of local coordination as described in this program.
- 2) By February 1, 1978, the Department will complete development and forward a copy to DLCD of a list of cities, counties,

and appropriate special districts in whose area DEQ has problems with air or water quality, solid waste, or noise conditions.

- 3) By March 1, 1978, DEQ headquarters will write each city, county, and special district listed in 2) advising them that DEQ has problems with noise, solid waste, air or water quality conditions in their area. They will be advised that these should be addressed, if not already done so, in their local comprehensive plan and supporting documents before they submit these items for LCDC Acknowledgment of Compliance. They will also be told:
 - a) To expect a follow-up call from DEQ's region or branch office;
 - b) If they don't hear from DEQ by the time they need our input, they should call our region or branch office first;
 - c) They may request through the region or branch office technical data DEQ has available.
- 4) The appropriate region or branch is being asked to plan now to initiate contact, through the local DLCD coordinator, with the local jurisdictions listed in 2), starting with those scheduled first for LCDC Acknowledgment of Compliance. Arrangements will be made by DEQ regions and branches to review the draft plan, supporting documents and compliance schedule, and talk with local planners, if not already done. Needed compliance schedule revisions will be negotiated.

Copies of local compliance schedules have been distributed to DEQ regional offices. We intend to review each local schedule, as they become available, for conflicts between when they expect help and when we can give help. Appropriate changes will be proposed.

If DEQ needs a "take home" copy of the plan during the review, we will tell local officials that DLCD considers this is a necessary cost under the LCDC planning assistance grant to local government. This is discussed in more detail below under 6).

We will check for adequate reference to the problem, its correction if known, and then DEQ's other programs. This is to prevent any "surprises" from DEQ to the city or county at Acknowledgment of Compliance time.

If DEQ has time to contact the other "non-problem" jurisdictions to schedule plan document review for adequacy of reference to DEQ programs prior to their planned request for LCDC Acknowledgment, we will do so.

The priority of our working with local jurisdictions will be determined by the following:

- a) DEQ's list of local problems;
 - b) The scheduled local request for LCDC Acknowledgment of Compliance;
 - c) The LCDC approved local comprehensive planning compliance schedule.
- 5) During local plan development, the Department expects local

planners to initiate requests with DEQ regions and branches for assistance and review of preliminary plan drafts with as much advance notice as possible. Once agreement between DEQ and local planners is reached on the tasks and timing for DEQ involvement under the local compliance schedule, the Department will commit to that time. We will appreciate the assistance of the local coordinators and field representatives in scheduling our visits to neighboring jurisdictions, particularly in areas remote from our offices. We would prefer to schedule some of these sessions in our own offices.

In pursuing the process of negotiating our involvement under the local compliance schedule, we will attempt to coincide timing of our work with neighboring jurisdictions to facilitate efficient trip planning and workload management.

- 6) The following program by which DEQ reviews and comments on local comprehensive plans and ordinances will continue to be implemented. This is to assure that the Department programs affecting land use have been considered and accommodated in these local documents as they are developed.
 - a) DEQ region and branch liaisons review and comment on how completely the plans address DEQ programs affecting land use. They frequently request the assistance of the local planner, local coordinator, and field representative in finding the appropriate references in the plans.
 - b) DEQ region comments are then forwarded to headquarters

where program division liaisons review them to assure consistency with DEQ policy.

- c) Region and headquarters remarks are compiled and adjusted for consistency by the Management Services Division, which then routes the official DEQ response to the local jurisdiction or DLCDD, depending on whether the review was initiated directly by the local jurisdiction or DLCDD. We use the same process for both.

The DEQ staff listed in Appendix 1 are designated as land use liaisons to assist development and review of local comprehensive plans.

With present manpower, DEQ needs at least six weeks for internal review of local comprehensive plans. The complexity of DEQ programs prevents us from authorizing direct region comment to local governments without headquarters' concurrence.

We must have a copy of the local plan for internal review during the review period if we are to do our job with current staff in less than the six to eight week period. To date, plans have often not been available except in Salem or the particular city or county. This poses a real hardship for DEQ's larger regions encompassing eastern Oregon's 18 counties. The one or two region land use liaisons have real problems seeing, let alone reviewing local plans during local business hours due to long travel times between jurisdictions.

2.2.B Provision of Technical Assistance to Local Governments.

The following, in addition to that covered under 2.2.A above, comprises DEQ's program for provision of technical assistance (information and services) to local governments to aid development of comprehensive plans.

- 1) Information from DEQ:
 - a) The handbook lists information which is available upon request.
 - b) The Department can provide other information on request on specific items not contained in the publications referred to in the handbook.
 - c) Informational reports and other items such as those listed in the handbook will routinely be mailed as soon as they are available to those on our mailing lists including each DLCD field representative, the DLCD Director, the DLCD coordinator for DEQ, and each local planning coordinator. The Department expects the local coordinator to advise the cities and counties he has a copy for review. Additional copies may be requested from DEQ headquarters or regions, but budget constraints preclude us from routinely sending a copy to each city and county in Oregon.
 - d) Other items will be provided upon request, insofar as is possible, or may be examined at DEQ offices.
 - e) Prior to DEQ adoption, notice of proposed non-site specific items such as area-wide plans, grants, programs,

criteria, rules, and other appropriate items affecting local comprehensive plans, including those scheduled for hearing, will be sent by the appropriate headquarters division or public affairs office to all affected local governments, state, and federal agencies as much in advance as possible, but with at least the minimum notice required by law. Local governing bodies, planning, public works, environmental health agencies, local coordinators, DLCD field representatives and Director, and others on our lists will be routinely advised.

2) DEQ assistance:

- a) Requests for technical assistance should be made to the land use liaisons identified in Appendix I.
- b) DEQ program, region, and public affairs staff are available on a limited basis to brief or hold discussions with local planners and citizen groups. Where appropriate, local officials will be invited to accompany DEQ staff on field investigations to promote mutual understanding.
- c) Requests for DEQ assistance should be initiated by local government or citizens' groups or committees, 45 days before it is needed. This will facilitate efficient workload planning, whether or not agreement has previously been reached between DEQ and a local government on the tasks involving DEQ and the timing

under the local compliance schedule. The Department hopes that local coordinators will help us centralize in location and time, any requested briefings or work with neighboring local planners and citizen groups, as much as is possible and feasible.

The Department will keep local government regularly and promptly informed of any pertinent local situations which we find may require DEQ assistance.

2.3 Program for Assuring Conformance with the Goals and Compatibility with Comprehensive Plans.

2.3.A Review of Current DEQ Programs and Rules.

- 1) By March 1, 1978 the Department will review its programs listed in the handbook for conformance and potential conflicts with LCDC's Statewide Planning Goals.
- 2) By July 1, 1978, DEQ will review its rules listed in the handbook for goal conformance.

Upon a finding by DEQ that any program or rule is not in conformance, revision consideration will promptly begin.

The Department is apt to sometimes need DLCD's mediation of differences between state agencies regarding conformance of DEQ programs and rules with LCDC goals.

2.3.B Review of DEQ Actions Affecting Land Use.

The Department is responsible for programs and actions related primarily to LCDC Goals 6 (Air, Water and Land Resources Quality) and 11 (Public Facilities and Services) to the limit of our statutory authority in serving as the

Oregon environmental quality agency. Department implementation of environmental quality programs may from time to time present apparent conflicts with other LCDC goals. DEQ understands that all 19 LCDC goals must be considered by local governments and an overall goal conformance and comprehensive plan compatibility assessment developed by the appropriate local government in considering any proposed project or program. It is clearly beyond DEQ's authority and expertise to make such overall assessments.

The Department will always be available to assist local governments with information they may need on matters under DEQ's authority and will join with other state agencies, including DLCD, and federal and local agencies in any necessary mediations.

The following states the Department's proposed process to assure that its actions conform with the Statewide Planning Goals and are compatible with local comprehensive plans. As presented here it proposes to apply to all DEQ actions affecting land use.

By March 1, 1978, DEQ will confirm that this process applies to all DEQ actions affecting land use or offer an amended process for certain actions.

1) Site Specific Actions:

The Department intends to develop an administrative rule to require a "statement of compatibility" with local comprehensive plans and implementing ordinances from appropriate

local jurisdictions. This statement would have to accompany applications for DEQ permits, and construction or funding approvals, on new or expansion projects. The applications will not be considered complete and ready for processing until the required statements are received. DEQ legal counsel advises this should be possible.

The process would work as follows: when an applicant submits an application to DEQ, we will notify him and the appropriate local jurisdictions that it will not be processed until we have received statements from the local jurisdictions that the proposed project is compatible with local comprehensive plans and implementing ordinances.

If we receive affirmative statements of compatibility we will presume that the project is also in conformance with the Statewide Planning Goals, and begin processing the application.

If we receive a negative statement of compatibility, indicating that the project is currently not compatible because it needs a zone change, variance or other modification, we will expect the applicant to work with the local jurisdictions to obtain such modifications and return to DEQ when the issues are resolved and the local jurisdictions have made a statement of compatibility. We will presume that the issue of conformance with the Statewide Planning Goals will also be addressed during this process.

If we do not receive any indication of compatibility or incompatibility within a specified period of time from the

date local jurisdictions were notified that such a determination was required, we will presume a positive statement of compatibility has been made and begin processing the application.

Where more than one local jurisdiction has planning authority over a specific site we will expect statements of compatibility from each of these jurisdictions (e.g. city, county and regional planning jurisdictions).

The Department feels that the process described above is consistent with the intent of the statewide planning statutes (SB 10, SB 100, and SB 570) to place the responsibility for coordinated comprehensive planning at the local level. This process helps to accomplish that by putting the determinations of compatibility with local plans and conformance with Statewide Planning Goals at the local level. At the same time, it does not place significant additional paperwork load on local jurisdictions.

Finally, the Department recognizes its right to petition to LCDC a refusal by a city or county to issue a statement of compatibility on a proposal needed to meet DEQ program requirements (e.g., sewage treatment plant modifications).

2) Non-Site Specific Actions:

- a) By March 1, 1978 the Department will implement the following process for assuring that DEQ non-site specific actions conform with LCDC goals and are compatible with the local comprehensive plan.

Prior to DEQ action, notice of proposed non-site specific items such as area-wide plans, grants, programs,

criteria, rules, and other appropriate items affecting local comprehensive plans, including those scheduled for hearing, will be sent by the appropriate headquarters division to affected local governments, state and federal agencies as much in advance as possible, but with at least the minimum notice required by law. Local governing bodies, planning, public works, environmental health agencies, local coordinators, DLCD field representatives and Director, and others on our lists will routinely be advised essentially as they are now.

The notice will be revised to indicate that the Department:

- (1) Has found that the proposed action appears to conform to LCDC Goals 6 and 11 (in which the Department declares preeminence in judgment for DEQ programs) and does not appear to conflict with the other goals, which are beyond DEQ's expertise;
- (2) Invites public comment;
- (3) Requests that local, state and federal agencies review the proposed action and comment on possible conflicts with their programs and LCDC goals within their expertise and jurisdiction;
- (4) Intends to ask DLCD to mediate apparent goal conflicts resulting from (3);
- (5) Intends to take the proposed action in a specified period absent apparent conflicts resulting from (3) or upon the conclusion of mediation discussed in (4).

- b) From time to time DEQ will initiate incorporation of new and developing non-site specific programs into the local planning process. New and developing Department programs include noise control, non-point source water quality ("208"), prevention of significant deterioration of air quality ("PSD"), and increased emphasis on local resource recovery of solid wastes.

Usually, we will work (in coordination with DLCD) with local planners to develop needed amendments to local plans with plenty of lead time. If there is insufficient time to work in these elements with a particular local government prior to LCDC acknowledgment, DEQ will target toward the two year local revision cycle.

Once the Department's program is sufficiently developed to incorporate locally, we will attempt to answer local requests for work sessions. On occasion we may initiate a request for local plan revision if local conditions necessitate such action.

2.4 Program for Coordination with Other Governmental Agencies and Bodies.

The Department's program for coordination of DEQ actions with affected state and federal agencies and special districts includes the following:

- a) Provision of information and call for comment on DEQ plans, programs, and actions affecting land use as described above in 2.2.B 1) e) and in 2.3.B.

- b) DEQ reaction to information and calls for comment from other agencies, including notices from the Executive Department, Intergovernmental Relations Division's "A-95" state clearinghouse and "One-Stop Permit" coordination center.

The Department in its program rule development, framework planning and site-specific actions, such as permits, routinely works with the state and federal agencies listed in Appendix 2. DEQ also has a close on-going relationship with the special local/regional districts listed in Appendix 3. These provide air pollution control and sewage and solid waste disposal and management under Department permits and overall DEQ regulatory responsibility.

3.0 Implementation

Once approved by LCDC, the Department suggests that to help implement this program, one or more workshops be held jointly by DLCD and DEQ, preferably regionally. These would be to inform, promote discussion, and develop understanding on proper interpretation of this program with DEQ and DLCD staff, local coordinators, and perhaps other interested agencies and officials.

Attachments: Appendices 1 - 3

Handbook

Appendix 1

DEQ Land Use Liaisons

1. The following DEQ region and branch land use liaisons (see Figure 1 for map and Table 1 for addresses) have the responsibility for DEQ lead involvement in working with each local government under the local compliance schedule of tasks to:

- a. Develop the local comprehensive land use plan, and
- b. Later review and comment on plan drafts at local or DLCD request for completeness of reference to DEQ programs.

<u>Region</u>	<u>Liaison</u>	<u>Phone</u>	<u>Counties</u>
Portland	Bob Gilbert (Mgr) Tom Bispham Larry Patterson Steve Carter Charlie Gray	229-5263	Clackamas, Columbia, Multnomah, Washington
Salem/North Coast (Salem)	John Borden (Mgr) Dave St. Louis Mary Halliburton	378-8240	Marion, Polk, Yamhill
Tillamook Branch	Murray Tilson	842-6637	Clatsop, Lincoln, Tillamook
Midwest (Eugene)	Vacant (Mgr) Don Hernandez	686-7601	Benton, Lane, Linn
Southwest (Roseburg)	Rich Reiter (Mgr) Don Neff	672-8204	Douglas
Medford Branch	Merlyn Hough	776-6010	Jackson, Josephine
Coos Bay Branch	Tim Davison	756-4244	Coos, Curry
Central (Bend)	Vacant (Mgr) Bob Shimek Bob Danko	382-6446	Deschutes, Hood River, Sherman, Wasco Crook, Harney, Jefferson
Klamath Falls Branch	Neil Adams (Bob Danko assists)	884-2747	Klamath, Lake
Eastern (Pendleton)	Steve Gardels (Mgr)	276-4063	Baker, Gilliam, Grant, Malheur, Morrow, Umatilla, Union, Wallowa, Wheeler

2. The following Portland headquarters technical division and section liaisons are responsible for providing back-up technical assistance and reviewing region comments and sometimes the plans themselves to assure completeness of reference to DEQ programs (see Table I for headquarters address):

<u>Program</u>	<u>Liaison</u>	<u>Phone</u>
Air Quality	Carl Simons	229-6279
Backup (Air and Noise)	E. J. Weathersbee (Admin.)	
Noise Control	John Hector (Supv.)	229-5989
Water Quality	Clarence Hilbrick	229-5311
Backup	Hal Sawyer (Admin.)	
Solid Waste	Bob Brown	229-5157
Backup	Ernie Schmidt (Admin.)	

3. Overall DEQ liaison for land use planning, responsible for assuring adequate and timely region and division technical assistance and review and comment on local plan drafts, and assembly of region and division comments into one overall response:

Management Services	Bob Jackman	229-6403
Backup	Mike Downs (Admin.)	

4. Special assistance for public participation and citizen involvement may be requested from:

Public Affairs	Mark Fritzler	229-5391
----------------	---------------	----------

5. Public information to supplement DEQ's handbook and other information listed in the handbook (which usually should be available from DEQ regions, branches, and headquarters technical divisions and sections) may be requested from:

Public Affairs	Jim Swenson (PA Officer)	229-5327
Backup	Dave Gemma	229-6271

6. DEQ headquarters reception telephone number is 229-5696, in the event the other lines are busy.

STATE OF OREGON

DEQ - REGIONAL OPERATIONS

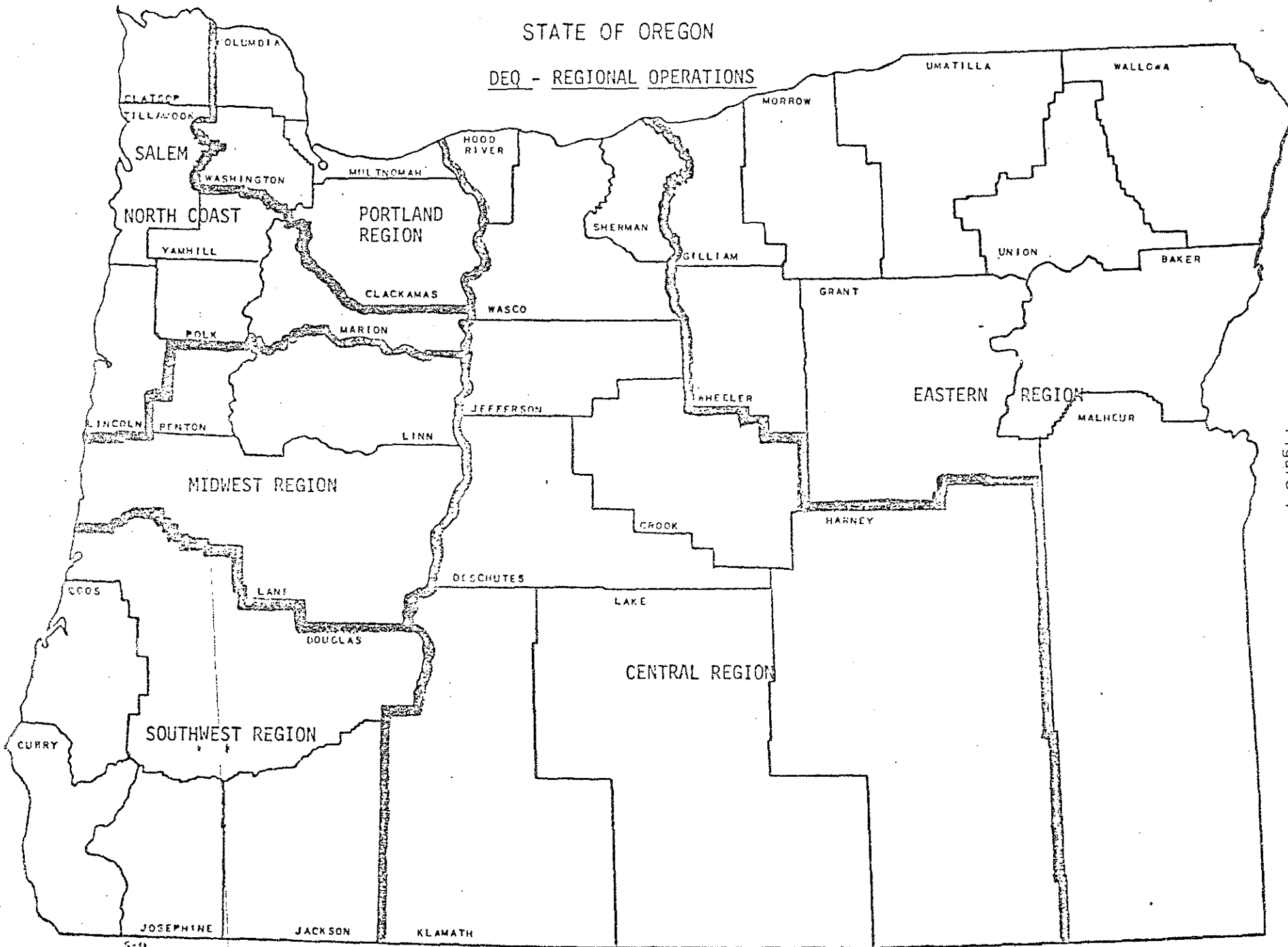


Figure 1

Table 1

DEPARTMENT OF ENVIRONMENTAL QUALITY

Office Addresses

HEADQUARTERS

1234 S. W. Morrison St.
Portland, Oregon 97205

PORTLAND REGION

1234 S. W. Morrison
Portland, Oregon 97205

St. Helens Office

161 St. Helens St.
St. Helens, Oregon 97051

SALEM-NORTH COAST REGION

796 Winter Street, N.E.
Salem, Oregon 97310

North Coast Office

3600 E. Third
Tillamook, Oregon 97141

MIDWEST REGION

16 Oakway Mall
Eugene, Oregon 97401

SOUTHWEST REGION

1937 W. Harvard Blvd.
Roseburg, Oregon 97470

Coos Bay Branch

490 N. Second St.
Coos Bay, Oregon 97420

Medford Branch

223 W. Main St., Room 202
Medford, Oregon 97501

CENTRAL REGION

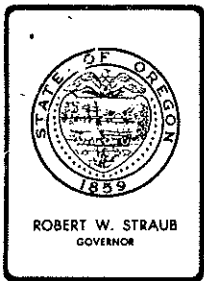
2150 N. E. Studio Road
Bend, Oregon 97701

Klamath Falls Branch

226 Pine Street
Klamath Falls, Oregon 97601

EASTERN REGION

424 S. W. 6th
Pendleton, Oregon 97801

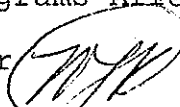


Department of Land Conservation and Development

1175 COURT STREET N.E., SALEM, OREGON 97310 PHONE (503) 378-4926

M E M O R A N D U M

December 14, 1977

TO: State Agencies with Programs Affecting Land Use
FROM: W. J. Kvarsten, Director 
SUBJECT: ADOPTED RULE ON "STATE AGENCY COORDINATION PROGRAMS"

On December 9 the Land Conservation and Development Commission adopted the attached administrative rule implementing ORS 197.180. The rule sets forth the criteria and procedures which will be used for review and approval of each state agency's coordination program. As required under ORS 197.180 these programs must be submitted to our Department by January 1, 1978.

We appreciate your cooperation in development of the rule.

KC:dh

RECEIVED
DEC 19 1977

Water Quality Division
Dept. of Environmental Quality

FILED
DEC 15 1977
NORMA PAULUS
SECRETARY OF STATE

1 BEFORE THE LAND CONSERVATION AND DEVELOPMENT
2 COMMISSION OF THE STATE OF OREGON

3 In the Matter of the)
4 ADOPTION OF A STATE AGENCY) CERTIFICATE OF ADOPTION
5 COORDINATION RULE) OF RULES
6)

7 The Commission, on December 9, 1977, after a public
8 hearing, adopted the attached State Agency Coordination
9 Rule.

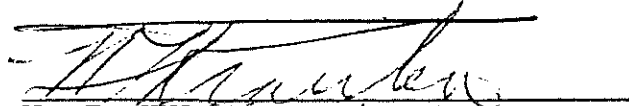
10 The rule is necessary to implement the requirements of
11 ORS 197.180, as amended by Oregon Laws 1977, ch 644, (SB
12 570). The rule clarifys procedures to be used by state
13 agencies in coordinating programs and actions affecting land
14 use with local comprehensive planning processes and with
15 other governmental agencies. The rule is incorporated
16 herein by reference as though set out in full.

17 Notice of proposed adoption of the rule was filed with
18 the Secretary of State on November 2, 1977 and published in
19 accord with OAR 660-01-000. A copy of the proposed rule was
20 filed with the office of the Legislative Council on November 3, 1977
21 A public hearing on the rule was held in the Deschutes
22 County Courthouse annex in Bend, Oregon, on December 9,

23 ///
24 ///
25 ///

1 1977. A copy of the final rule was filed with the Legislative
2 Council on December 15, 1977

3 DATED this 15th day of December, 1977.

4 
5 _____
6 W. J. KVARSTEN, Director

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Administrative Rule) Criteria and Procedures for
Implementing ORS 197.180) Review and Approval of State
) Agency Coordination Programs

INDEX

- 1.0 INTRODUCTION
 - 1.1 Purpose
 - 1.2 Definitions
- 2.0 KEY ELEMENTS OF THE STATE AGENCY COORDINATION PROGRAMS
 - 2.1 List of Agency Rules and Programs Affecting Land Use
 - 2.2 Program for Cooperation with and Technical Assistance to Local Governments
 - 2.3 Program for Assuring Conformance with the Goals and Compatibility with Comprehensive Plans
 - 2.4 Program for Coordination with Other Governmental Agencies and Bodies
- 3.0 PROCEDURES FOR REVIEW AND APPROVAL OF COORDINATION PROGRAMS
- 4.0 PROCEDURES FOR AMENDING COORDINATION PROGRAMS

KC:krm
12/13/77

1.0 INTRODUCTION

1.1 PURPOSE

ORS 197.180(2) provides that each state agency submit specific information to the Department of Land Conservation and Development (DLCD) by January 1, 1978. This rule establishes the criteria and procedures which DLCD and the Land Conservation and Development Commission (LCDC) will use for review and approval of this state agency information as required under ORS 197.180(3) and (4). The required information to be submitted by state agencies shall hereafter be referred to as "state agency coordination programs."

The first part of this rule (Section 2.0) is intended to indicate the key elements to be included in the state agency coordination programs. These key elements will be the basis for evaluating agency programs. Each agency's program will, however, need to be tailored to its own particular responsibilities, organization and staffing. Some elements will not apply to each agency.

The second part of this rule (Section 3.0) sets forth the procedural steps which will be followed by DLCD and LCDC in reviewing and approving state agency coordination programs. Section 4.0 sets forth procedures for amending coordination programs.

Notice of proposed adoption of the rule was filed with the Secretary of State on November 2, 1977 and published in accord with OAR 660-01-000. A copy of the proposed rule was filed with the office of the Legislative Council on November 3, 1977 - 9:35 A.M. A public hearing on the rule was held in the Deschutes County Courthouse annex in Bend, Oregon, on December 9, 1977. A copy of the final rule was filed with the Legislative Council on December 15, 1977.

1.2 DEFINITIONS

"Acknowledged Comprehensive Plan" is a comprehensive plan that has been adopted by a city or county and has been found by the Land Conservation and Development Commission to be in compliance with Statewide Planning Goals pursuant to Chapter 664, Section 20(1) of Oregon Laws 1977.

"Compliance Schedules" are listings of the tasks which each city and county must complete to bring their comprehensive plans and implementing ordinances into conformance with Statewide Planning Goals. The schedules set forth a generalized time schedule for completion of these tasks and show the points at which affected agencies and citizens need to be involved.

"Programs and Actions Affecting Land Use" shall be determined by each agency subject to review by LCDC.

2.0 KEY ELEMENTS OF THE STATE AGENCY COORDINATION PROGRAMS

2.1 LIST OF AGENCY RULES AND PROGRAMS AFFECTING LAND USE

State agencies shall list and summarize the agency's enabling legislation, rules and programs affecting land use, pursuant to ORS 197.180(2).

2.2 PROGRAM FOR COOPERATION WITH AND TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS

A. Participation in Development of Comprehensive Plans: Compliance Schedules

1. Purpose and Scope: In order to achieve coordinated comprehensive plans and implementation measures, state agencies need to be involved during each of the planning phases in development or revision of these documents as called for under Statewide Planning Goal #2. By making state agency interests clear to local governments early in the process, specific concerns can be resolved before the plan and implementation measures take their final form.

It is not intended that all state agencies must participate in the planning processes of all cities and counties. However, those agencies not intending to participate with all cities and counties shall if possible, list those cities and counties with whom they either do or do not intend to participate and shall set forth succinctly the reasons.

2. State agencies shall:

(a) Indicate whether they wish to review city and county compliance schedules in terms of the agency's involvement in development of the comprehensive plan. If an agency does wish to review a schedule, the agency shall indicate how this review is to be accomplished and how it will seek agreement with the city or county on tasks and timing for the agency's involvement. If an agency chooses not to review a compliance schedule, it is presumed that the agency accepts its involvement as set forth in the schedule.

(b) Specify (1) who at the staff and decision-making levels will be involved in development of the comprehensive plans and (2) how they will be working with cities and counties (meetings, review of drafts, etc.) to assure that the agency's programs affecting land use have been considered and accommodated in the plans and ordinances as these are developed.

As an agency participates in the planning process of a city or county, conflicts may develop between the agency's program and the local plans or ordinances. If such conflicts can not be resolved as provided for in ORS 197.190, the agency shall contact DLCD to assist in mediation.

B. Provision of Technical Assistance

State agencies shall:

- 1) identify the agency's available information, staff expertise or services which can be of assistance to cities and counties or which should be used in the development of comprehensive plans, and;
- 2) indicate how the agency will be making such information and assistance available to cities and counties.

2.3 PROGRAM FOR ASSURING CONFORMANCE WITH THE GOALS AND COMPATIBILITY WITH COMPREHENSIVE PLANS

A. Review of State Agency Programs

State agencies shall indicate whether their agency has reviewed the rules and programs listed under 2.1 to determine whether they are in conformance with the Statewide Planning Goals. If such review has been done, the agency shall briefly describe how the review process was performed and the results of that review. If such review shows that any of these rules and programs are not in conformance with the Statewide Planning Goals, an agency shall indicate how and when it shall conform the rule or program to the Goals. If such review has not been done, an agency shall briefly indicate how and when it plans to review its rules and programs.

B. Review of State Agency Actions Affecting Land Use

- (1) Agencies shall describe the process their agency is using or will develop to assure that actions of that agency conform with the Statewide Planning Goals and are compatible with the acknowledged comprehensive plan for the affected area pursuant to ORS 197.005, ORS 197.040(2)(F), ORS 197.180, ORS 215.130, ORS 227. 286 and LCDC Goal #2.

2.4 PROGRAM FOR COORDINATION WITH OTHER GOVERNMENTAL AGENCIES AND BODIES

State agencies shall indicate how their actions will be coordinated with affected state and federal agencies and special districts. This may be included in the process described above under Section 2.3 subsection B(1).

3.0 PROCEDURES FOR REVIEW AND APPROVAL OF COORDINATION PROGRAMS

A. Submission of Agency Programs

Each agency shall provide the Department with sufficient copies of its program (number to be mutually determined by the agency and DLCD) to permit review by interested parties. At least one copy shall be available at the DLCD office in Salem, the DLCD field offices and at the agency's office.

B. Program Review

Upon formal submission of each agency's coordination program, DLCD shall:

- (1) Log in the program (with date of receipt) and set a tentative date for Commission action on the program;
- (2) Notify the agency that its program has been received and that a tentative date for Commission action has been set;
- (3) Briefly review the program to assure that the major elements have been addressed and that all referenced materials have been included; Where an element has not been addressed, staff will notify the agency to determine whether the agency wishes to provide additional material before review proceeds further;
- (4) Within two weeks of receipt of the program, issue public notice which (a) indicates receipt of the agency's program, (b) sets the tentative date for Commission action, and (c) invites public review and comment;
- (5) DLCD staff will review the program in light of the key elements set forth in Section 2.0 of this rule;
- (6) Prepare a report to the Commission which shall include staff findings and recommendations;
- (7) Provide a copy of the staff report to the agency for its comment at least one week prior to mailing of that report to the Commission;
- (8) Mail copy of the staff report to the Commission, Local Officials Advisory Committee and Citizen Involvement Advisory Committee;

- (9) Advise the agency and Local Coordinators of the Commission's action taken under subsection C of this section.

C. Program Approval

Following accomplishment of the steps 1 through 9 outlined in subsection A of this section, LCDC shall approve or disapprove the program. The Commission may delegate to the Director the authority to approve or disapprove an agency's program. An agency may appeal to the Commission the Director's action on that agency's program.

If an agency's program is disapproved, the agency shall revise and resubmit its program as called for in ORS 197.180(4). Upon receipt of the revised program DLCD and LCDC shall follow the steps outlined in subsections A, B and C of this section.

4.0 PROCEDURES FOR AMENDING COORDINATION PROGRAMS

Upon request by an agency, DLCD will consider amendments to the agency's coordination program. DLCD and LCDC will follow the same procedures outlined in Section 3.0 for reviewing and acting on the agency's request.

KC:krm/MC
12/13/77

ATTACHMENT

197.180

STATE AGENCY
PLANNING RESPONSIBILITIES

197.180. (1) State agencies shall carry out their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use in accordance with state-wide planning goals [*and guidelines*] approved pursuant to ORS 197.005 to 197.430, 215.055, [*215.510,*] 215.515[, *215.535*] and 469.350.

(2) Upon request by the commission but not later than January 1, 1978, each state agency shall submit to the department the following information:

(a) Agency rules and summaries of programs affecting land use;

(b) A program for coordination pursuant to paragraph (f) of subsection (2) of ORS 197.040;

(c) A program for coordination pursuant to subsection (2) of ORS 197.090; and

(d) A program for cooperation with and technical assistance to local governments.

(3) Within 90 days of receipt, the department shall review the information submitted pursuant to subsection (2) of this section and shall notify each agency if it believes the programs submitted are insufficient to assure conformance with state-wide planning goals and compatibility with city and county comprehensive plans.

(4) Within 90 days of receipt of notification specified in subsection (3) of this section, the agency shall revise the information and resubmit it to the commission for approval.

197.040. (1) The commission shall: _____

(f) Coordinate planning efforts of state agencies to assure conformance with state-wide planning goals and compatibility with city and county comprehensive plans;

197.090 Duties of director. Subject to policies adopted by the commission, the director shall:

(2) Coordinate the activities of the department in its land conservation and development functions with such functions of federal agencies, other state agencies, cities, counties and special districts.

HMP's



State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

To: Mike Downs

Date: January 27, 1978

From: Bob Jackman

Subject: DLCD-DEQ Coordination Program - Fundamental Issues on
Site-Specific Proposals

Key Issue:

Should the compatibility/conformance of site-specific actions with local comprehensive land use plans, and the Statewide Planning Goals, be determined by local governments and DLCD, or the state agency proposing to take the action?

Subissues of the Key Issue; Elaboration:

1. What is the appropriate role for a state agency, proposing to take a site-specific action, in balancing conflicting Statewide Planning Goals and reaching an overall Goal conformance determination?
2. What is the appropriate role for a state agency in determining consistency of federal permits in the coastal zone with the Statewide Goals.
3. If a local government fails to make a determination of compatibility with its land use plan, or conformance with the Statewide Planning Goals, what should the state agency presume about this silence?

Evaluation:

Key Issue:

Who should determine compatibility with local plans and conformance with Statewide Goals?

Most of our programs and actions affect land use, so the potential DEQ workload impact is significant.

- A. After LCDC Acknowledgment of Compliance of the local comprehensive plan with LCDC Statewide Planning Goals.

Alternatives:

1. Local Government and (or assisted by) DLCD determine local plan compatibility and Statewide Goal balancing and conformance.
2. State Agency (e.g., DEQ) determine plan compatibility and Goal conformance.

Discussion:

DEQ and DLCD appear to agree on Alternative 1, the local role in determining overall goal conformance after the local plan is acknowledged in compliance by LCDC. Local government is responsible after acknowledgment for determining the compatibility of the proposed project with its comprehensive plan and implementing ordinances and overall conformance with the Statewide Goals. The state permit agency for the proposal would subsequently make its determination on proposal consistency with the statutes and rules it administers and one or more related LCDC Goals.

B. Before local plan acknowledgment.

Alternatives:

1. Local/DLCD determination.
2. DEQ determination.

Discussion:

1. DEQ supports Alternative 1, and contends that local government should continue to do what they do today; review the proposal and determine compatibility with the local plan and implementing ordinances, whatever the state they are in.

We would presume that what overall LCDC goal conformance determining is done will occur incidentally with the local plan compatibility review, and that should suffice before acknowledgment. DEQ would then review the proposal as described above for after acknowledgment. In fact, we hold that the local and state agency roles and responsibilities should be the same regardless of local plan status, whether before or after acknowledgment.

Alternative 1 is preferable to the Department because:

- a. Compatibility/conformance would be determined and appeals heard by those best able to interpret the overall issues, local government and DLCD/LCDC.
- b. DEQ is left to deal within its expertise, in interpretation of its statutes and those Statewide Goals directly related thereto, primarily Goal 6: Air, Water, and Land Resources Quality, and Goal 11: Public Facilities and Services.
- c. It is consistent with current DEQ procedures related to Water Quality which are acceptable to DLCD.

Local governments sign off now using whatever plans they have on land use acceptability of proposals:

- (1) For individual subsurface sewage disposal systems
- (2) Under the EPA funded Sewerage Works Construction Grants Program.

2. DEQ cannot support Alternative 2 because:

- a. The impact would push the Department far beyond its authority and expertise.
- b. The EQC and DEQ would be burdened with appeals on land use issues. Both would further suffer the workload of subsequent appeals of EQC decision on land use issues to the courts.
- c. It is inconsistent with the way we are handling these matters now (See 1.c. above).
- d. We do not agree with DLCD that the local plan has no status before acknowledgment. DLCD says that local government should consider what plan it has, but they and the state permitting agency should both review the proposal for conformance with the overall goals. In reality, it appears DLCD does not really expect a complete over-all goal balancing by either the locals or state agency before

acknowledgment, but wants it to appear that way to meet their interpretation of statutory intent.

DEQ contends that goal balancing is impossible and improper prior to acknowledgment. Interpretation of the proposal for overall goal conformance can only be made through the goal conforming local plan. Otherwise, much time can be wasted before acknowledgement on an impossible task; time better spent on completing the local plan.

Subissues:

The following subissues of the Key Issue bear further discussion.

1. What should be the role of a state agency in overall Goals determinations?

DLCD contends that before local plan Acknowledgment state permit agencies should in effect be "lead" state agencies, responsible for at least the initial determination and "goal balancing" on a proposal for conformance with the Statewide Goals. DLCD has agreed to mediate conflicting goal determinations from state agencies upon request from the "lead."

DEQ wants DLCD to take the state level goal balancing initiative and responsibility.

LCDC statutes say that our actions must be in accord with the Statewide Planning Goals, but do not say how that is determined other than by LCDC action on coordination programs of state agencies.

DLCD asks if their new proposal for categorization of the goals into Action Specific (establishing particular uses for specific lands or resources, e.g., Goal 3: Agricultural Lands; Goal 6: Air, Water, and Land Resources Quality) versus Planning Requirement (e.g., Goal 2: Land Use Planning; Goal 13: Energy Conservation) would help. DLCD feels that this would reduce the number of goals to be balanced by the "lead" state agency to nine (9) or less, depending on whether the proposal is on the Willamette Greenway, the Coast, or not.

DEQ feels this does not really help, since, if designated a "lead" agency, we would still be required to deal with goals beyond our authority and expertise.

2. What should be the role of a state agency in federal consistency determinations?

LCDC endorsed the "lead" role for the state permit agency in June, 1977, for determining the consistency of federal permits in the coastal zone with the Statewide Goals. LCDC will reconsider and appears to be leaning toward re-endorsement of that concept in the proposed rule on federal consistency in March or April, 1978.

DEQ reminded LCDC in person with testimony January 20, 1978, that we have fundamentally disagreed with this "lead" approach for over a year. DEQ also told LCDC that we can only deal with goals related to our authority and expertise; and that the position they take on this will be precedence-setting for proposals statewide. We are arguing that they should first determine the statewide coordination mechanism before dealing with the special coastal issues. We favor the same approach on site-specific proposals for both the coast and statewide.

Incidentally, DLCD has decided that DEQ-issued NPDES permits do not fall under the federal consistency procedure, since according to EPA they are state permits. EPA-issued NPDES permits, however, would be required to follow these procedures and we would be the "lead" state agency.

3. What should a state agency presume if a local government fails to determine compatibility/conformance?

This is more likely before acknowledgment.

For months DLCD's federal consistency rule drafts have carried the position that local non-response after a given time meant automatic inconsistency, i.e., "negative presumption," and killed the project (subject to appeal to LCDC).

DEQ has argued that "positive presumption" is best since we need to get on with decisions on projects. Recently coastal local governments and DLCD have swung to "positive" presumption, for this and other reasons.

On January 20, John Mosser, LCDC Chairman, appeared to react that perhaps "no presumption" of a local non-response may be better. He expanded that the entire issue would then go to state agencies and their Commissions for determination of the broad land use issues, including the potential for hearings. It appeared he was suggesting the "lead" state agency concept without actually saying so.

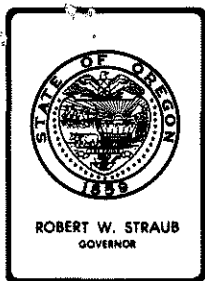
All of this is still officially at issue before LCDC.

It is possible that LCDC will review our statewide program, scheduled for March 9, on the same day they take up the federal consistency rule again.

DLCD has advised us that except for these site-specific issues, our Coordination Program appears to have won a favorable preliminary staff recommendation. The last pieces of the Program, including our Handbook for writers and reviewers of local plans, is slated for delivery to DLCD by February 7, 1978, with copies to the EQC.

ahc

cc: Bill Young
EQC Members



Department of Environmental Quality

Post Office Box 1760 PORTLAND, OREGON 97207 Telephone (503) 229- 5395

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item Q, January 27, 1978, EQC Meeting

1977 Clean Air Act Amendments - An Informational and Resource
Impact Report

BACKGROUND

When President Carter signed the Clean Air Act Amendments of 1977 (CAAA) into law on August 7, 1977 (Public Law 95-95), many thought this dealt the drive for clean air a severe blow. Months later, after digestion of the major provisions of the amendments, it is clear in fact that the Act contains numerous very demanding and aggressive requirements to: 1) finally bring areas into compliance with national air quality standards, 2) prevent deterioration of air quality (PSD) in clean air areas, 3) strengthen enforcement against sources and even states who fail to meet specific time deadlines, and 4) minimize disruptions to growth by integrating air planning efforts into local planning processes.

The CAAA's, the first major amendments since the 1970 Clean Air Act, were necessary and adopted in recognition that auto manufacturers efforts fell somewhat short of building a clean car and state implementation plans (SIP) developed as a result of the 1970 Act, in some cases fell short of bringing areas into compliance with air quality standards.

While automakers were given until 1981 to meet final clean car standards once set for 1975, states were given to 1982 to meet air quality standards with a possible extension to 1987 if application of all reasonably available control technology (including vehicle inspection/maintenance) would not do the job by 1982.

From here on the CAAAs lay out a stringent set of requirements, deadlines and enforcement procedures that will have major impacts on the State of Oregon's air quality program and those regulated by it in the years ahead. A summary of major items and deadlines follows:



Contains
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CAAA Key Dates

- 11/77 - States designate sources potentially contributing to air quality problems in adjacent states.
- 12/77 - States designate areas of attainment/non-attainment of air quality standards.
- 2/78 - Governor designates lead agency (state or local COG) for transportation and strategy development.
- 8/78 - States submit review of SIP to ensure that fuel conversions will not affect adequacy of SIP.
- 12/78 - State submits adequate PSD rule.
- 1/79 - State submits revised SIP for non-attainment areas (Portland, Eugene, Medford).
- 8/79 - State submits revised SIP for visibility restoration in mandatory Class I areas.
- 7/82 - State submits revised SIP for transportation control strategy in non-attainment areas where compliance extensions granted from 1982 to 1987.

There are numerous other less significant requirements, many of which will also require new Department rules and SIP revisions. All-in-all, the impact of these requirements are substantial on DEQ and are summarized below:

DEQ Resource Impact Summary

<u>Requirement</u>	<u>Resource Needs</u>
PSD Program	24 man months
Visibility Restoration Program	12 man months
Over 12 SIP Revisions	6+ man months
Other Requirements	6+ man months
Monitoring Network	\$60,000 minimum
Parking and Circulation Plans	? (likely \$100,000+)

The Department is exploring means of satisfying the resource needs through special EPA assistance and internal work plan adjustments. With imposition of other new programs on the Department and EPA such as the field burning research effort and special studies on slash burning, it is very unclear at this time where the additional resources will come from.

Evaluation - CAAA

Looking at the 1977 CAAAs in detail, it is apparent that new requirements are primarily directed to areas not meeting air quality standards (non-attainment areas) and areas meeting standards (attainment areas).

Non-Attainment Areas

By December 7, 1977, states were to identify non-attainment areas. The Department has recommended the following:

Proposed Non-Attainment Areas

	<u>Particulate</u>	<u>Carbon Monoxide</u>	<u>Oxidant</u>
Portland-Vancouver AQMA	X	X	X
Eugene-Springfield AQMA	X	X (1)	
Medford-Ashland AQMA	X	X	X
City of Salem		X(1)	X(1)

(1) marginal non-attainment. Request made to not develop new control strategy.

Transportation Planning - Lead Agency Designation

By February 7, 1978, states and local officials are to decide who will be designated lead agency for development of the transportation control portion of the SIP revisions. These SIP revisions are due January 1, 1979 except in cases of transportation related problems for carbon monoxide and oxidants. The due date can and likely will be extended until July 1, 1982. If an extension is granted to 1982 to submit a plan which will attain standards by 1987, an inspection and maintenance program will have to be implemented. The Department is working with CRAG in Portland and the Rogue Valley COG in Medford to develop recommendations. The CAAA encourages designation of regional planning agencies and has provided the potential for 100% local funding for transportation planning. As of yet, however, this money has not been appropriated.

Offsets

Until an acceptable control strategy SIP revision is promulgated by EPA (scheduled for no later than July 1, 1979), EPA's emission trade-off policy requirement will remain in effect. This policy requires trade-offs for new or modified sources in non-attainment areas to the point that the net result is an improvement in air quality. This requirement is an incentive to complete SIP revisions in a timely manner. The Department is well under way in developing control strategies for the state's three AQMA's with rule hearings already held in Medford for that area's particulate strategy SIP revision.

California Auto Standards:

In the case of transportation control plans, the CAAA for the first time authorizes states to adopt California's stricter automotive emission standards. These standards must be adopted at least two years before the beginning of the affected model year.

Enforcement

Penalties imposed on a state for failure to implement an adequately revised SIP in 1979 may be formidable. The CAAA provides that:

1. The Secretary of Transportation award no Federal-Aid Highway grants to the state except grants related to safety and related air quality transportation improvements.
2. EPA may award no grants to the state under the Clean Air Act.
3. No new major air pollution facilities will be allowed to construct in non-attainment areas.
4. Sewage treatment construction grants may be withheld if the plant will directly or indirectly contribute to air pollution violations.

Attainment Areas

The 1977 Amendments require States which now have good air quality to take steps to maintain that air quality. This policy is known as "Prevention of Significant Deterioration of Air Quality" (PSD). EPA first promulgated a PSD policy in 1975, in response to court order. The new Congressional requirements, however, differ in a number of respects from the original PSD plan. Most notably, the allowable pollution increases are smaller, and states now have exclusive authority over the air quality classification of most federal lands.

Designation of Lands. For states with PSD responsibilities, the most pressing task is to designate all clean air lands into one of three classes (Class I, II, or III). In areas designated Class I, virtually no further degradation of air quality will be allowed. Moderate degradation will be permitted in Class II areas, and fairly heavy degradation will be permitted in Class III. In no event, however, will air quality be allowed to deteriorate beyond the applicable national air quality standards.

Certain pristine federal lands have been set aside by the Congress as permanent Class I. In Oregon there are 11 areas shown in figure 1. But for the most part, PSD lands are originally assumed to be Class II, and the states have the option, after fulfilling certain procedural requirements, to redesignate downward differences between the three classes, a State's PSD designation decisions will have a strong impact on future development patterns in these areas.

Best Available Control Technology. The State's second major PSD responsibility is the determination, as a part of the permitting process for each new source, of what constitutes "Best Available Control Technology" for various types of new pollution emitting facilities. The BACT determinations are to be case-by-case and state-by-state, but in no event are they to be less stringent than the applicable national new source performance standards. The effect of BACT will be to allow growth in and around PSD areas, by ensuring that each new plant uses the least amount of available resources. Other areas of the country, including non-attainment areas, will also benefit, due to reduced atmospheric loading nationwide.

EPA published proposed regulations implementing the PSD sections of the 1977 amendments November 3 (open for comment until January 31). A more detailed summary of major provisions of these sections follows:

Redesignation by the States. Before an area may be redesignated, as Class I or Class III, the state must hold public hearings and make available an analysis of the environmental, economic, and social effects of the proposed redesignation. States proposing to redesignate federal lands must first consult with the federal land manager. No area may be designated upward to Class III unless the local governments representing a majority of the residents of the area agree to the redesignation, and the relevant committees of the state legislature also agree. Furthermore, no area may be designated Class III if such designation would cause air quality violations in neighboring areas.

Visibility Protection. This provision applies only to mandatory Class I areas. Major stationary sources less than fifteen years old which adversely affect visibility in these areas will be required to retrofit pollution control equipment. States will be required, through the SIP, to adopt methods to prevent future visibility impairment in these areas.

Class II Lid on Certain Other Federal Lands. The following lands (if they are larger than 10,000 acres) may not be designated as Class III: national monuments, national primitive areas, national preserves, national recreational areas, national wild and scenic rivers, national wildlife refuges, national lakeshores, national seashores, and future national parks and wilderness areas.

Other CAAA Features - Non-Compliance Penalties

The CAAA set new penalties for those sources that under existing rules fail to meet a July 1979 compliance deadline or any other applicable deadline. Courts can impose civil penalties up to \$25,000 per day. Also sources may be required to pay mandatory fines equal to the cost saved by non-complying.

Federal Facilities

Federal facilities are now required to not only comply with emission requirements of states but with procedural requirements such as permits as well. The Department has already requested authority to implement New Source Performance Standards and Hazardous Air Pollution Standards for Federal Facilities.

Interstate Pollution Abatement

State implementation plan will have to contain measures to assure that no major polluting facility in the state has the effect of preventing attainment of healthy air quality in any other state, or of interfering with another state's efforts to prevent significant deterioration of air quality. Furthermore, any state or locality may petition EPA for a finding that a pollution source in another state is interfering with its efforts to improve or maintain air quality. If EPA finds that there is interference, the source will not be allowed to operate (applies to existing as well as proposed major emitting facilities).

SUMMATION

The 1977 Clean Air Act Amendments will greatly affect Oregon's Air Quality Control program in the years ahead. Areas not meeting air quality standards notably the Portland, Eugene and Medford areas will need new control plans developed by January 1, 1979 which must attain standards by 1982. In the case of CO and oxidant violations, the deadline can be extended to 1987 if a reasonably available control measure, including vehicle inspection/maintenance is implemented. Until new plans are submitted, EPA's emission offset policy applies. Failure to meet plan implementation requirements can result in withholding of various federal funds, including those for transportation and sewage treatment projects and prohibiting construction of new major sources.

Clean air areas are subject to a stringent prevention of significant deterioration requirement which includes a visibility restoration program in potentially all of Oregon's 11 mandatory Class I pristine air areas.

Administration of a new source review and area reclassification program are also imposed on states.

Other features of the Clean Air Act Amendments include provisions for stiff penalties for non complying sources and provisions to prevent or correct interstate air pollution problems.

Impact on Department resources to meet all requirements of the amendments will be great. Efforts are underway to provide these resources either through EPA assistance or re-prioritizing of workloads. The implementation of the 1977 amendments can result in cleaner air for Oregon's metropolitan areas in the 1980's and prevention of deterioration of the clean air which abounds in the major portions of the remainder of the state.

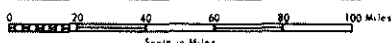
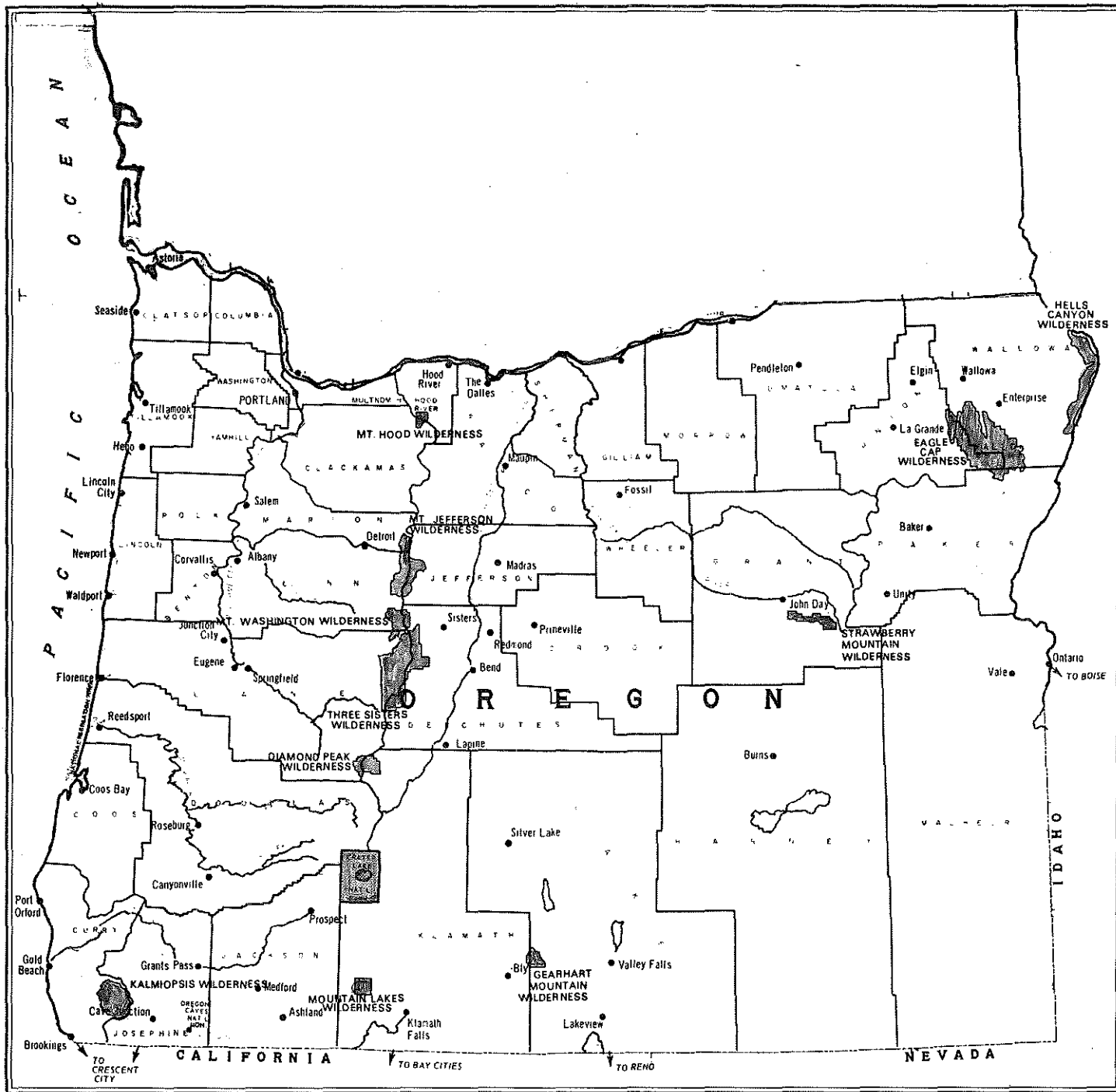
Director's Recommendation

This report is provided for informational purposes and as background for the EQC in preparation for many new rules which will be proposed as SIP revisions in the near future. No action by the EQC is required at this time.

Michael Young
for
WILLIAM H. YOUNG
Director


J.F.Kowalczyk:h
1/18/78

Attachment: Figure 1 - Class I areas
JAPCA article on the CAAA
The Clean Air Act as Amended in 1977



Prevention of
Significant Deterioration
Class 1 Areas

Legend



PSD Class 1 Areas

THE CLEAN AIR ACT AMENDMENTS OF 1977

Refining the National Air Pollution Control Strategy

Eric B. Easton and Francis J. O'Donnell
Air/Water Pollution Report

"At the beginning of the Clean Air Act conference, Senator Muskie warned the conferees that they would stay and work on the clean air bill until 'hell had frozen over.' Well, Mr. Speaker, I can report that, because of the dedication of this Congress, may the sinners of the world still repent, for hell still is as hot as ever."—Rep. Tim Lee Carter

On August 7, 1977, President Carter signed into law the Clean Air Act Amendments of 1977, ending a long, always frustrating, often bitter legislative ordeal. No one was entirely pleased with the law, but nearly everyone involved was glad it was over. The final agreement was a "compromise in every sense of the term," as Sen. Edmund Muskie (D.-Me.) pointed out, and most members of Congress and the ubiquitous lobbyists were satisfied it was the best they could get.

To characterize such a compromise measure as "stronger" or "weaker" than its predecessor is largely a meaningless exercise. Some deadlines have been relaxed, some requirements deleted. More standards will be imposed, new penalties have been added. Ambiguities in the original law have been clarified, and new ambiguities will doubtless emerge as regulations are promulgated and litigated.

As predicted by Rep. John Ashbrook (R.-Ohio), lawyers will probably reap a "bonanza" deciphering the 120 pages of "fine print" in the new law, not to mention the legislative history which was still being written at the moment of enactment. Any attempt at "authoritative interpretation" would be grossly premature at this early date.

Still, a few general observations seem not only possible but, perhaps, needed, even before dissecting the product of two-and-a-half years of legislative machinations. One can get lost in the maze of deadlines and standards without a broader point of departure.

This article will explore the new law in the context of four generalizations which appear to have guided Congress in fashioning the legislation. First, the basic goals and strategy of the Clean Air Act Amendments of 1970 were essentially correct. Second, responsibility and authority for implementing the act should be placed as close to the general public as possible. Third, some private interests must be protected from undesirable side-effects of strict regulation. And, finally, Environmental Protection Agency requires new tools to do the job it was assigned and the tasks it will face in future years.

Basic Goals and Strategy

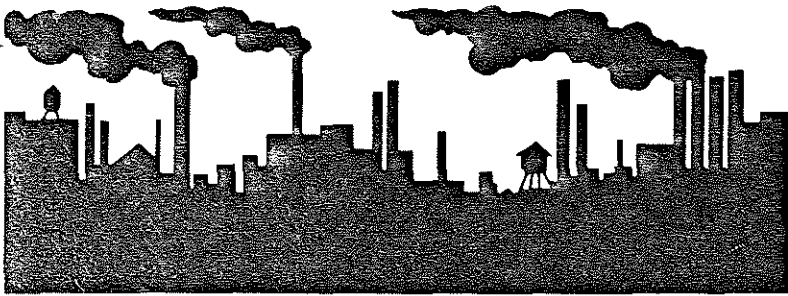
The Clean Air Act Amendments of 1970 introduced the philosophical premise that the most practical and efficient means of air pollution control would result from a blend of two complementary notions. National ambient air quality standards, designed to pro-

tect public health and welfare, were to be established at "threshold levels" below which no adverse effects would occur. Emission standards, based on control technology, would be imposed to bring pollution concentrations below ambient standards and keep them there.*

The Clean Air Act Amendments of 1977 retain this fundamental approach to air pollution control, notwithstanding provisions requiring thorough review of both ambient and emission standards, as well as alternative pollution control strategies. The new law also retains the basic mechanism through which this approach would be implemented: the state implementation plan.

Under the 1970 amendments, implementation plans were to include such emission limitations and other measures as might be necessary to attain and maintain primary ambient air quality standards by a date certain. That scenario is retained in all essential respects in the 1977 amendments, though attainment deadlines have been pushed

* The authors are indebted to Dr. Noel de Nevers, whose discussion of *Air Pollution Control Philosophies* appeared in the March JAPCA. Ref: *J. Air Poll Control Assoc.* 27: 197 (1977).



back and appropriate control measures more fully detailed.

For those areas which have not attained ambient standards, so-called "nonattainment areas," states must have an approved implementation plan revision by July 1, 1979, which provides for attainment of primary standards by Dec. 31, 1982. This requirement is a precondition for construction or modification of major emission sources in nonattainment areas after June 30, 1979.

If, despite implementation of all "reasonably available measures," a state cannot attain primary standards for carbon monoxide or photochemical oxidant in timely fashion, it must submit a second plan revision by Dec. 31, 1982, which provides for attainment by Dec. 31, 1987. All plan revisions must, prior to attainment, provide for "reasonable further progress" toward attainment in terms of annual incremental reductions in emissions.

For those areas which are cleaner than required by ambient standards, implementation plans must include an elaborate program to prevent the significant deterioration of air quality. All such "nondegradation" areas must be designated Class I, II, or III, depending upon the degree of deterioration that is to be allowed, and limits are assigned to increases in pollution concentrations for each classification.

Congress specified which of these areas must be protected by the most stringent Class I designation. All others would be initially designated Class II, with states generally free to redesignate them as Class I or III. Congress also specified the maximum allowable increases in concentrations of sulfur dioxide and particulate for each classification and gave EPA two years to come up with comparable formulas for hydrocarbons, carbon monoxide, photochemical oxidants, and nitrogen oxides.

In both "nonattainment" and "nondegradation" areas, major stationary sources may be constructed only by permit and must, at the very least, meet new source performance standards prescribed by the law. As a general rule, these will require application of the

"best technological system of continuous emission reduction."

There, in a nutshell, is the Clean Air Act, as amended in 1977 and, fundamentally, as enacted in 1970. It is argued, of course, with some justification, the Congress never intended in 1970 to preclude use of dispersion techniques to meet emission standards, much less to regulate new source construction in pristine areas. The reverse has also been argued with considerable success, and the conference report on the new law refers to these provisions as "clarifications" of previous policy.

Historical arguments aside, there remains little legal or practical sense in viewing the Clean Air Act Amendments of 1977 as anything but a continuation of the basic air pollution control strategy designed by Congress in 1970.

Responsibility and Authority

Given the opportunity to adjust the details of its basic strategy, however, Congress wasted little time in placing more responsibility and more authority in the hands of state and local governments. "We have learned that there is little political support for inartfully conceived national measures which require people to change their way of living," Sen. Muskie told the Senate. "We have learned that where change can be made it must be made with the full understanding and support of the people who are affected by that change."

Nowhere has this been more apparent than in EPA's often abortive efforts to impose transportation control and indirect source review programs. An important symbol of Congress' change of heart is its deletion of any reference to "land use" controls in outlining implementation plan requirements. Of more practical importance are the restrictions imposed by the new law on EPA authority to impose indirect source review requirements.

Specifically, Congress has prohibited EPA from requiring the inclusion or retention of indirect source review programs as a condition of implementation plan approval. It also blocked EPA from imposing such programs in implementation plans which the agency promul-

gates, except with respect to major federally funded public works projects such as highways and airports and federally owned and operated indirect sources.

Any state or local government may adopt or retain indirect source review programs, and EPA may enforce any such measure approved as part of an implementation plan. But the state involved will always be free to suspend or revoke indirect source review at any time. Governors are also given new authority to suspend portions of transportation control plans which impose on-street parking restrictions, gasoline rationing, and retrofit of noncommercial vehicles until a revised implementation plan is submitted. EPA must suspend any requirements for intracity bridge tolls at a governor's request and assurance that equivalent control measures will be adopted.

One compensating measure which states may adopt to help meet ambient standards for auto-related pollutants would shift the cleanup burden from local government to the auto industry. Any state may adopt and enforce more stringent California auto emission standards, previously authorized only in that state, provided the industry has at least two years' notice.

This shift in responsibility from government to industry has a parallel with respect to stationary sources, in that states may petition EPA to publish or revise national new source performance standards for sources or pollutants which may have been overlooked or when new technology would dictate a more stringent standard. The purpose of this provision, of course, is to allow any state to adopt stringent standards without fear that an affected company will seek an "air pollution haven" in some other state.

Governors will also have more say in revision of air quality control region boundaries, redesignation of nondegradation areas and other aspects of that controversial program, and certification of coal conversion orders. Governors may also issue extended compliance orders to stationary sources, unless EPA objects for cause, and may even temporarily suspend implementation plan provisions in the event of a bona fide



energy emergency.

Few restrictions are placed on a state's right to impose more stringent requirements than might be prescribed by EPA, and governors may insist on the use of locally mined coal under certain conditions. All federal facilities must comply with both substantive and procedural requirements of federal, state, regional, and local air pollution control laws and regulations.

Local and regional officials must be brought into state decisions regarding transportation controls, preconstruction review, nonattainment, and nondegradation through a "satisfactory process of consultation" which is prescribed in the state implementation plan. Enforcement authority for implementation plans promulgated by EPA may now be delegated to local governments.

Special Considerations

Congress recognized, too, that the private sector has had its problems meeting the 1970 requirements. Representing, as it does, a broad spectrum of public opinion, Congress naturally divided over such questions as who is to blame, who deserves help, how much help to provide. Its final decisions were influenced by such factors as research and common sense, effective lobbying and constituent interest, political power and parliamentary skill. One can speculate endlessly on which factors were decisive in any given situation, but once a decision is made, such speculation is unimportant.

Auto emission control was the most publicized issue throughout Congress' deliberations, and the threat of an industry shutdown played a key role in expediting final Congressional action. When the dust finally settled, Congress essentially gave Detroit until 1981 to accomplish what it first thought would be done by 1975, while relaxing the oxides of nitrogen standard somewhat.

Congress made numerous other changes in the mobile sources control provisions of the new law, but one stands out as particularly indicative of Congress' overall attitude toward the private sector. It allowed American Motors and other small manufacturers to avoid

tighter restrictions on nitrogen oxides until 1983 under certain conditions.

Similarly, Congress reduced pre-certification testing requirements for very small automobile manufacturers; eased lead reduction standards for small gasoline refiners; and exempted small country grain elevators from new source performance standards. In every case, Congress drew the line between small installations, deserving special treatment, and larger facilities presumably able to take care of themselves.

Other kinds of facilities singled out for special consideration include primary nonferrous smelters, fossil fuel-fired plants prohibited from burning oil or natural gas, and some utilities caught up in pending litigation. In one case, Congress went out of its way to award a unique emission control credit to the tall stack at Tennessee Valley Authority's Kingston power plant.

These examples are offered, not so much to reflect on the legislative clout of specific industries, individual companies, or members of Congress, but to illustrate the extent of and limits to Congress' sensitivity to the economic impact of its actions. It is interesting to note that conferees accepted a House provision requiring EPA to prepare a formal "economic impact assessment" before proposing major regulations.

At the same time, however, conferees carefully limited the legal significance of any such document. No legal challenge to an EPA rule may be based on its failure to file an economic impact assessment, nor may any stay or injunction be granted on that basis. Even where rulemaking criteria expressly require consideration of costs, the impact assessment will not be taken by courts as conclusive.

New Tools for EPA

Although the basic objectives and strategy of air quality control remains unchanged by the new law, Congress did provide EPA some new tactical weapons. Several simply provide the regulators more flexibility in standards-setting and enforcement, others appear in the form of sanctions and waivers—increasing EPA's arsenal of carrots and

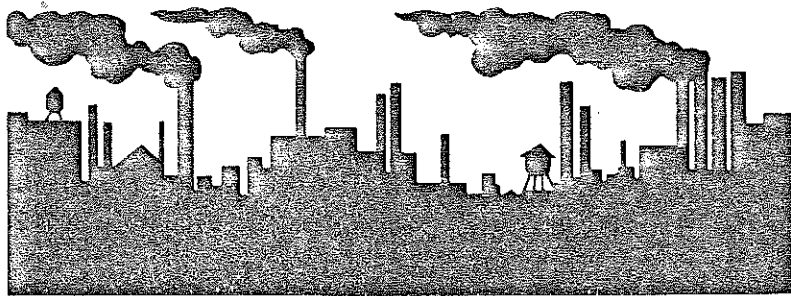
sticks. Other new weapons, however, may have more far-reaching importance and could portend future changes in regulatory strategy.

One prime example of EPA's new standards-setting flexibility involves amendments to Sections 111 and 112 of the original act which allow EPA to set design or operational standards to control emissions from new stationary sources and hazardous emissions from any source. Such standards may only be imposed when it is not feasible to establish a more traditional performance standard, and they must be changed to performance standards whenever possible. Alternative methods of emissions reduction which are equally effective may also be used with EPA's approval.

With respect to hazardous pollutants, these standards must be adequate, in EPA's judgment, to protect public health with an "ample margin of safety." For new or modified sources, such standards must reflect the "best technological system of continuous emission reduction" which—taking into account costs, energy requirements, and health and environmental impacts other than air quality—EPA determines to be "adequately demonstrated." Proper operation and maintenance requirements must be included in the standards.

Provisions allowing EPA to seek civil penalties for violations under the act illustrate its new enforcement flexibility. Under Section 113 of the original law, injunctive relief was the only civil remedy a court could impose. The new law authorizes courts to impose civil penalties up to \$25,000 per day of violation, taking into account the seriousness of the violation and the economic impact of the fine on the violator.

To limit any abuse of EPA's enforcement powers, Congress allowed courts to award litigation costs to defendants against whom EPA brings a frivolous or otherwise unreasonable action. Congress stopped short, however, of changing the basic standard of judicial review of EPA rulemaking. The original House bill would have required the courts to decide whether an EPA regulation conformed to the "substantial evidence" on the record. Conferees decided to retain the



prevailing standard, which required courts to find an EPA rule "arbitrary and capricious" before it can be overturned.

New regulatory tools of the carrot and stick variety include waivers of emission control deadlines for innovative technology, which Congress allowed for both stationary and mobile sources, and sanctions pertaining to implementation plan revisions. No highway grants may be awarded unless reasonable efforts are being made to include new "nonattainment area" requirements in implementation plans; no air pollution control grants may be awarded unless approved plan revisions are being implemented; and, in some cases, EPA may even withhold or restrict sewage treatment plant construction grants.

Another provision seeks to supplement standard regulatory procedures by bringing public pressure to bear on state and local governments. States must include in their implementation plans effective measures to notify the public when air pollution levels exceed primary standards and to educate the public as to the hazards involved and corrective measures available.

Increased reliance on Presidential authority is also provided where standard regulatory procedures could lead to stalemate—as in settling disputes between governors and federal land managers over variances for Class I nondegradation areas; regulating radioactive pollutants otherwise governed by energy authorities; disapproving EPA aircraft emission standards found unsafe by the Secretary of Transportation; and declaring an energy emergency so severe as to warrant suspension of state implementation plan requirements.

While each of these measures will be important in any given regulatory case, they have little effect on the overall strategy of the federal air pollution control effort. Other provisions of the new law, however, may be seen as the first tentative steps toward a major shift in the way we approach future air pollution control.

Section 405 of the new act requires EPA, in consultation with the Council of Economic Advisers, to conduct a comprehensive investigation into "eco-

nomical measures" to supplement existing regulatory authorities, provide incentives for additional emission reductions, and "serve as the primary incentive for controlling air pollution problems not addressed by any provision of the Clean Air Act (or any regulation thereunder)." The overall study is due in two years, but EPA will have only one year to assess the feasibility of establishing an emission charge on oxides of nitrogen from stationary sources.

No one would suggest that the concept of economic approaches to pollution control is especially new or unique to this regulation. The idea has been around for years—President Nixon briefly supported an excess sulfur emission tax—and the new Resource Conservation and Recovery Act requires a similar study of product disposal charge systems. Charles Schultze, who chairs the Council of Economic Advisers, is one of the nation's foremost advocates of such measures.

But the Clean Air Act Amendments of 1977 require more than a study of economic incentives. A new Section 120 gives EPA only six months to publish regulations requiring stationary sources to pay "noncompliance penalties" for failure to meet certain emissions standards by July 1, 1979, in most cases.

Congress made several exceptions to the rule and allowed states to administer the program. Both EPA regulations and specific penalties may be reviewed by the Federal courts, but the noncompliance penalty is in no way the same as a court-imposed fine. In fact, the law explicitly states that noncompliance payments shall be imposed in addition to civil or criminal fines.

Penalties are determined by administrative process, based on the cost of compliance, plus any additional economic value resulting from the delay, minus expenditures for interim control expenditures. Simply stated, the penalty is designed to assure that no company will profit from delaying control expenditures and thereby obtain a competitive advantage over companies which have installed controls.

The noncompliance penalty is hardly a pure economic approach to pollution control. But it takes an important step in that direction by assigning a mone-

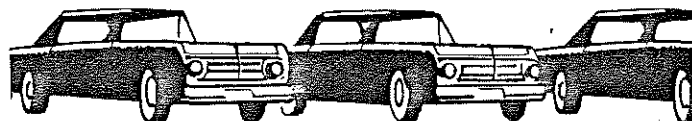
tary value to an otherwise intangible public commodity—time. Another provision, the controversial "emissions offset" policy, goes a step further by identifying increments of air quality as tangible commodities which can be bartered and, perhaps eventually, bought, sold, and brokered.

Technically, the emissions offset policy represented an "interpretive ruling" on existing law when EPA first formally introduced it in 1976. It had already been in use in California for two years, and was said to be the only legal and equitable way to allow continued growth in so-called "nonattainment" areas. The basis for the emissions offset policy in the Clean Air Act Amendments of 1970 is, at least, debatable; now that Congress has clarified its intent, the question is moot.

Section 129 of the new law ratifies, by statute, the basic EPA policy allowing new stationary sources in nonattainment areas only when pollution from existing sources in the area has been reduced to more than compensate for the new emissions. This policy would remain in effect until July 1, 1979, although Congress allowed for exceptions and waivers under certain circumstances.

By July 1, 1979, the objectives of EPA's emission offset policy must be incorporated into the state implementation plan process. In effect, no major source may be constructed in a nonattainment area unless combined emissions from existing sources, new minor sources and the proposed major source will be sufficiently less than total emissions from existing sources as to represent reasonable further progress toward attainment of standards. An alternative formula allows construction of new major sources which do not exceed a maximum allowable increase in emissions, as specified in the implementation plan, and any new major source must comply with the lowest achievable emission rate. The implementation plan itself must provide for attainment of primary standards as soon as possible, but not later than Dec. 31, 1982, for most pollutants, and five years later for carbon monoxide and photochemical oxidant.

While the immediate importance of



the emissions offset policy has already been established, its long-range implications should not be overlooked. One very far-sighted, idealistic scenario was offered by Council on Wage and Price Stability economists earlier this year.

Responding to EPA's request for comments on the emissions offset policy, CWPS pointed out that the new rule established a market-like structure for air emissions. Those firms in compliance with relevant standards would be "owners" and potential sellers of emission rights. Firms desiring to expand in nonattainment areas would be potential buyers.

To improve this "market," CWPS recommended that "owners" of emissions offsets be allowed to "bank" them for future approved use and that the "purchase" of offsets should not be restricted to new sources. Proponents of improved air quality, for example, should be allowed to purchase emission rights and hold them unused, CWPS said. Ultimately, the concept could be expanded to a "complete market approach" to emission control which incorporates both the trading and taxing of emission rights.

While the CWPS scenario seems revolutionary, it is only a logical extension of key provisions in the new law. One might hazard a guess that economic approaches to pollution control will become the dominant strategy by the turn of the century.

Conclusions

The foregoing description of the Clean Air Act Amendments of 1977 has been necessarily brief and generalized. Rather than attempt a detailed, section-by-section analysis of the law at this early date, we have tried to show simply that Congress retained the es-

sence of the 1970 amendments, while adjusting particulars to conform more closely to practical realities. We have also suggested that new regulatory and enforcement tools could lead to a new national air pollution control strategy sometime in the future.

In that context, it is fitting to close with some sort of projection as to when these major changes may come about. Congress can amend the Clean Air Act at any time, of course, but most bills contain one or more provisions which are virtually certain to trigger reconsideration.

Expiration of authorizations provides the first clue as to when Congress plans its review and revision. The Clean Air Act Amendments of 1977 authorize general appropriations of \$200-million annually through fiscal year 1981, beyond which new authorizations are needed.

While this event could, in itself, reopen the act to substantive amendment, Congress has been known to extend authorizations, without substantive change, in the absence of major controversy. Several other provisions of the new law, however, would seem to guarantee sufficient controversy to warrant full-scale legislative review.

One such provision requires the auto industry to achieve 3.4 grams per mile carbon monoxide and 1.0 gpm nitrogen oxides emission levels beginning in the 1981 model year. Even before the bill was enacted, some Congressmen were vowing to restore the original 0.4 gpm standard for nitrogen oxides, while others said they would seek less stringent standards.

Another provision requires attainment of primary ambient standards for all but carbon monoxide and photochemical oxidant by Dec. 31, 1982. More stringent mechanisms for controlling

those two pollutants would be imposed after that date. One Senator has already described the attainment deadlines as "legal fiction" for many areas—necessary to insure continued progress, but nevertheless unachievable.

These are but two of a dozen provisions which are likely to prompt Congressional review and revision by the time or before authorizations expire. Between now and then, EPA and other agencies will be sending Congress the results of a host of new specialized studies mandated by the new Clean Air Act Amendments in anticipation of a major overhaul.

Of all these studies, the most significant may well be the three-year effort of the National Commission on Air Quality. The mandate of this new 11 member commission is nearly as broad as the new law itself. Recommendations are due by March 1, 1978, on the commission's study of nitrogen oxides emissions and nonattainment problems; by Aug. 7, 1979, on nondegradation questions; and by Aug. 7, 1980, on all other issues.

If the recent experience with the National Commission on Water Quality is any guide, the reports coming out of the new air quality commission should provide more than enough controversy to stimulate new Congressional action.

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