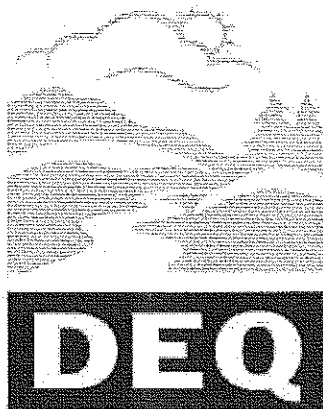


4/28/1978

**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS**



**State of Oregon
Department of
Environmental
Quality**

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April 23, 1978
Hearing Room 346, State Capitol Building
Salem, Oregon

- 8:15 am A. Minutes of the March 17, 1978 and March 31, 1978 EQC Meetings
B. Monthly Activity Report for March 1978
C. Tax Credit Applications
- PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.
- D. Willamette Valley Region - Report of Region Manager on significant on-going activities in the Willamette Valley Region BORDEN
- 8:30 am E. Contested Case Review - DEQ v. Sam Davis et al. Appeal to Commission involving 12 subsurface sewage disposal permits in Jackson County HASKINS
AINSWORTH
- 9:30 am F. River Road/Santa Clara Area, Lane County - Continuation of public hearing on proposed order prohibiting or limiting installation of subsurface sewage disposal systems within the River Road-Santa Clara Area, Lane County JOHNSON
- G. NPDES July 1, 1977 Compliance Date - Request for approval of Stipulated Consent Orders for NPDES permittees not meeting July 1, 1977 compliance date BOLTON
- H. Health Hazard Annexations - Certification of plans for sewerage systems as adequate to alleviate health hazards, ORS 222.898
(1) City of Rogue River
(2) City of Gold Beach HILBRICK
- I. Subsurface Rules, Clackamas County - Request for authorization to hold public hearing on proposal to amend the subsurface permit fee schedule for Clackamas County, OAR 340-72-010 OSBORNE
- ~~J. Hazardous Wastes Rules - Request for authorization to conduct a public hearing on proposed amendments to rules governing procedures for obtaining a Hazardous Waste Management Facility license DELETED~~
- K. Motor Vehicle Emission Testing Rules - Request for authorization to hold public hearing on proposed amendments to incorporate 1978 model year vehicles in emission testing rules, OAR 340-24-300 to 24-350 JASPER
- ~~L. Procedural Rules - Request for authorization to conduct a public hearing on proposed rules revising civil penalty and contested case procedures, OAR 340-11-097 to 11-140 and 340-12-030 to 12-075 DELETED~~
- ~~10:00 am M. Browns Island Landfill, Marion County - Request for concurrence of Commission with plans for expansion of Browns Island Landfill DELETE~~
- 10:00 am Field Burning - Discussion of EPA reaction to proposed one-year interim strategy
- N. Proposed Agreement Between the Department of Environmental Quality and the Oregon Department of Forestry (OSFD) - Informational Item LUCAS

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

The Commission will breakfast (7:00 am) and lunch (1:15 pm) in the Blue Room of the State Capitol Building. The Commission plans to attend the Governor's Natural Resource meeting at 11:00 am. If the EQC meeting is not concluded at that time, it may be reconvened at

2:30 pm.

Patterson

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

April 28, 1978

On Friday, April 28, 1978, the ninety-sixth meeting of the Oregon Environmental Quality Commission convened in Hearing Room 346 of the State Capitol Building in Salem, Oregon.

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

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

AGENDA ITEM A - MINUTES OF THE MARCH 17, 1978 MEETING

It was MOVED by Commissioner Phinney, seconded by Commissioner Densmore and carried unanimously that the Minutes of the March 17, 1978 special EQC meeting be approved as presented.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR MARCH 1978

It was MOVED by Commissioner Densmore, seconded by Commissioner Phinney and carried unanimously that the Monthly Activity Report for March 1978 be approved.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

Mr. Bud Keeney, Plant Manager for Stimpson Lumber Company in Forest Grove, appeared regarding their request for Preliminary Certification for Tax Credit. He said they were asking for Preliminary Certification for the installation of two new hog fuel boilers. Mr. Keeney said they realized that boilers were not considered eligible for tax credit, but they felt that using dryer fuel and having more boiler capacity would achieve the same pollution control results as such equipment as scrubbers and baghouses. In response to a question by Chairman Richards, Mr. Keeney said that particulate emissions would be reduced by the installation of these boilers. Chairman Richards asked if production would increase. Mr. Keeney said they did not plan an increase in production.

Chairman Richards asked about the statement in the staff report that particulate emissions would not change significantly from existing levels, in view of the applicant's statement that the particulate emissions would be reduced. Mr. Steve Carter replied that source tests in 1976 showed a grain loading of between 0.07 and 0.09 gr/scdf. He said that Department documentation indicated the

facility was running in compliance at the present time. Chairman Richards asked if tax credit had ever been granted for hog fuel boiler installations. Mr. Carter replied that tax credit had been granted under Solid Waste but not Air Quality. He said that the boilers were the main power boilers for the plant.

In response to Commissioner Phinney, Mr. Carter said the source test was done with all three boilers on line at the normal standard steaming rate.

Chairman Richards asked Mr. Carter what he believed the company's substantial purpose was in installing the boilers. Mr. Carter replied it was his opinion that it was a wise move from a power engineering standpoint because it would allow the company to maintain production with two boilers operating while the third one was down for routine maintenance.

Mr. Carter said the request was evaluated from a pollution control standpoint and whether or not the new boilers would effectively reduce particulate emissions.

It was MOVED by Commissioner Phinney, seconded by Commissioner Densmore and carried unanimously that Pollution Control Facility Certificates be issued for tax credit applications T-938R, T-951, T-965, T-966, T-970, T-974, T-983, and T-988 and that Certificate No. 549 issued to Georgia-Pacific Corporation be revoked because the certified facility was no longer in use.

It was MOVED by Commissioner Phinney, seconded by Commissioner Densmore and carried unanimously that Stimson Lumber Company's request for Preliminary Certification for Tax Relief be denied.

PUBLIC FORUM

Mr. Ladd Henderson appeared before the Commission regarding a contested case matter. He said he felt the Department was purposely delaying final action on this matter which was causing him a hardship. Chairman Richards said that there were hearings held before Mr. Henderson's on which decisions were still pending due to the Hearing Officer's backlog, so he did not feel the Department was deliberately delaying a decision. Mr. Henderson said he was accusing the Department of abuse of power and requested a hearing before the Commission. Chairman Richards said that he would not place the matter on a Commission agenda until the Hearing Officer's report was available. However, he said, if Mr. Henderson felt there were abuses on the part of the Department then he could write to the Commission and the matter would be looked into.

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

Mr. John Borden, Willamette Valley Regional Manager, summarized the staff report for the Commission. In addition to those items listed in the staff report, Mr. Borden added that Stokley-Van Camp in Albany had disconnected from the city sewer system in 1977 and had been irrigating onto 180 acres, thus allowing the Albany sewage treatment plant to function better. Previously, he said, this plant had experienced upset conditions due to the effluent from the Stokley-Van Camp plant.

Mr. Borden said that Simpson Timber had done an excellent job of cleaning up glue, oil and septic tank problems and were very innovative in their pollution control measures.

The City of Corvallis, Mr. Borden said, had their new sewage treatment plant partially on-line and the plant was producing a consistently high quality effluent beyond what theoretically was obtainable. He said they thought this was due to the built-in flexibility of the plant.

Mr. Borden said that Boise Cascade in Salem had improved their sulfur dioxide control and the plant had met 200 ppm daily and 400 ppm hourly since mid-1976. Mr. Borden said that complaints had also declined regarding this source.

Mr. Borden added that the noise emissions from Cascade Steel Rolling Mills were now in compliance. He said the Company had also made significant improvements in air contaminant control.

AGENDA ITEM E - CONTESTED CASE REVIEW - DEQ v. SAM DAVIS et al. APPEAL TO COMMISSION INVOLVING 12 SUBSURFACE SEWAGE DISPOSAL PERMITS IN JACKSON COUNTY

Mr. Robert Haskins, Assistant Attorney General, said this matter involved the revocation of 12 sewage disposal system construction permits in Jackson County. Mr. Haskins said the grounds for revocation were failure to satisfy the prior approval rule. He said that the respondent's counsel had filed an answer indicating the permits had been based on prior approvals. They also maintained, Mr. Haskins said, that the Department had no power to revoke the permits.

Mr. Haskins said a hearing was held and the Hearing Officer's ruling had been issued. He said the Hearing Officer proposed that the Commission revoke one of the permits and rule that the Department failed to carry the burden of proof in regard to the remaining 11 permits.

The permit issued to William D. and JoAnn A. Paulsen was the one recommended to be revoked, Mr. Haskins said. He requested that consideration of this permit be delayed for possible consideration in the future. Hopefully, he said, the matter would be settled. Chairman Richards said the matter of the Paulsen permit would be withdrawn from consideration at this meeting.

Mr. Haskins said that respondents Harlon and Diane Trent had changed attorneys and their new attorney requested and was given additional time to review the transcripts and prepare a brief. Therefore, he said, the Trent's case was severed from the remaining cases.

Chairman Richards asked if Mr. Haskins' brief contained an administrative law reference that once having entered into a settlement agreement, and having acted on it, the respondents would be barred from proceeding further with any administrative appeal. Mr. Haskins said he cited ORS 183.415, and the Hearing Officer indicated that the Department and respondents had taken advantage of the statute.

Mr. Sidney Ainsworth, attorney, appeared on behalf of the respondents. Chairman Richards summed up the Department's position by saying that even though no one offered a valid written prior approval, it would still be presumed that there was a writing somewhere that Sanitarian Ronald Slater knew about. Mr. Ainsworth replied that large portions of the Jackson County records were missing which they maintain were in the custody of either the Jackson County Sanitarian or DEQ. He said that they maintained prior approvals were issued by letter from Orrie Moore, Jackson County Sanitarian, and that Mr. Slater personally inspected each site and then issued permits.

Mr. Ainsworth said that the parties involved were not afforded a hearing prior to revocation of their permits. He said the permits were simply revoked by letter.

Mr. Haskins replied that there was a hearing prior to revocation of the permits and the decision to revoke the permits was the decision of the Commission. He also said that the Hearing Officer found that Mr. Slater went to the sites but he did not find that Mr. Slater made any personal inspection of the soils.

The Commission went into Executive Session to deliberate on this matter.

Chairman Richards reconvened the meeting and submitted the following decision regarding DEQ v. Sam Davis et al. He said that the determination was made only by Commission members Densmore, Phinney and himself who were present when arguments were made, and Commissioner Hallock did not participate in the decision. It was the conclusion of the Commission, he said, as to the seven permittees which answered Mr. Kramer's letter of July 6, 1975, offering options for compromising and settling, that they did accept the first option, recorded deeds containing the restrictions mentioned, and the legal effect of that was to abandon an appeal and to enter into a compromise and settlement with the Department. Therefore, Chairman Richards said, they found in favor of the Department and against those respondents.

Chairman Richards said the Commission found that they rejected the position taken by the respondents' attorney that the Hearing Officer's decision and proposed finds were final and binding upon the Commission by his interpretation of ORS 183.460. Mr. Underwood clarified that that finding related to all 10 cases.

As to the remaining three, Chairman Richards stated the Commission found that Mr. Slater did not perform his official duties in a regular manner. Therefore, he said, there was not sufficient evidence to support the fact that those three permits were regular. Nor, Chairman Richards said, was there evidence of prior approval. He said that a further finding was that in fact the soils in question did not qualify and do not qualify for a permit to be issued, and therefore the permits would be revoked.

Chairman Richards asked that Mr. Haskins draw the findings of fact and conclusions of law and present the order to the Commission for signing.

AGENDA ITEM M - FIELD BURNING - DISCUSSION OF EPA REACTION TO PROPOSED ONE-YEAR INTERIM STRATEGY

Chairman Richards said the City of Eugene and the Seed Council had requested time to formulate a recommendation to the Commission on how to deal with the EPA letter of April 27, 1978. Chairman Richards requested that the City of Eugene and the Seed Council respond by the next Friday with either a coordinated response or notice that they could not agree on a response, and then allow the staff until the Friday after that to respond to the City and the Seed Council. He said that the Commission would then hold either a special meeting or a conference call to respond to the EPA letter. This was agreed to by the City of Eugene, the Seed Council and Department staff.

It was MOVED by Commissioner Densmore, seconded by Commisisoner Hallock and carried unanimously that this matter be deferred and that action be taken according to the above request of Chairman Richards.

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

Chairman Richards said they would hear testimony but requested no testimony be given which was a rehearing of what was presented at the March 31, 1978 public hearing.

Ms. Vora Heintz, Eugene, said she felt the residents of the River Road/Santa Clara area were being forced to annex to the City by the proposed moratorium. She said septic tanks in the area were working satisfactorily, and requested that more data be developed before a moratorium was imposed.

Ms. Heintz said the residents of the area were requesting a chance to vote on city annexation and on construction of a sewer system. She also asked public review on alternative systems.

Mr. James Hale, Eugene, commented regarding the responses to the statutory findings in the staff report on population densities, availability of water from unpolluted sources and the capacity of existing subsurface sewage disposal systems. He said the staff did a good job in responding to the statutory requirements, but he did not feel there had been enough analysis to support the conclusions. He said he differed most from the staff recommendations on the capacity of the existing system. He said the figures given in the report were suspect and did not give an analysis of the capacity. Mr. Hale said that the analysis given as proposed findings needed to include what the nitrate level was. Chairman Richards responded that they had asked the staff to specify to what extent there was evidence that the nitrate level standard was being exceeded.

Mr. Hale said that the problem was not deteriorating at a significant rate, and the building taking place was not creating a large problem. He said that moratorium action would not be helpful to a long-range solution. He said the residents of the area saw this as a political maneuver to force them to annex to the City.

Mr. Jeff Siegel, Eugene, said he found that the testimony he presented March 31, 1978 was not evaluated in the staff report. Mr. Siegel quoted the following sentence from the "Santa Clara/River Road Groundwater Contamination Evaluation 1978" study by H. Randy Sweet:

"...it is not possible to verify the anticipated NO₃-N concentrations in the local shallow ground-water in the River Road/Santa Clara area at this time."

Mr. Siegel said that showed this was an inconclusive report. He said the necessary water quality monitoring was not done in order to verify nitrate levels.

Mr. Siegel said that the area was low in septic tank failures, and in fact the area seemed to handle septic tank systems adequately.

Mr. Siegel also spoke to the availability of water from unpolluted sources. He said that the areas north and northwest of the River Road/Santa Clara area were being required by the Lane County Department of Environmental Health to take water from a deep lying aquifer. He said that they were not being allowed to utilize the shallow groundwater aquifer.

Mr. Siegel said he did not think the data substantiated an increase in pollution and if anything there was a decline in the nitrate level. He also said he did not think there was any data which indicated a moratorium would stop an increase in pollution if the increase didn't exist. He said there was no increase and there was no difference between sewered and non-sewered areas. Mr. Siegel said that the Commission had to consider that septic systems had not been shown to affect the nitrate levels.

Mr. Siegel reiterated that he did not think that the data presented to the Commission supported a moratorium at this time.

Mr. Roy Burns, Lane County, submitted to the Commission a memorandum, staff report and some information regarding the development activity within the River Road/Santa Clara area. These documents are made a part of the record on this matter.

On behalf of the Board of County Commissioners, Mr. Burns stated that the issue before the Commission was specifically a request for moratorium pursuant to a resolution adopted by the Board of County Commissioners on February 22, 1978.

Chairman Richards asked Mr. Burns to respond to Mr. Siegel's remarks that there was no evidence that the nitrate/nitrogen filtered through the soil and into the aquifer. Mr. Burns replied that he was not a groundwater specialist, however, from the information he had he knew subsurface sewage disposal systems did have the ability to inject nitrate into the groundwater depending on the type of geological formation it was installed in.

Mr. Burns said that Mr. Sweet's complete report showed that there was a source of nitrate contamination to the groundwater from development within the River Road/Santa Clara area which was utilizing subsurface sewage disposal systems.

Mr. Daryl Johnson of the Department's Eugene Office presented the staff report on this matter. He said the Department looked at the failures in this area as a failure where contaminants affiliated with sewage enter the groundwater. This, he said, was unseen unless it was tested for. Mr. Johnson said they believed that data existed to substantiate that that type of failure in the area, and the staff was asking for time to research it.

Mr. Johnson presented the following word change revision to the proposed rule:

"(9) Pursuant to ORS 454.685, neither the Director nor his authorized representatives shall issue either permits for any [pending] new [or modified] sewage disposal facility..."

Mr. Larry Lowenkron of the Department's Eugene Office, said that after the March 31, 1978 meeting the staff made two quick sampling runs through the area. He said a large concentration of nitrates in the River Road/Santa Clara area was from sewage, which was not the case in Eugene-Springfield. Mr. Lowenkron presented maps and data of the wells tested to the Commission. These documents are made part of the record on this matter.

Mr. Burns stated that the River Road/Santa Clara area was covered by water districts, however water districts did not have the ability to prevent the development and use of a well as an alternative to connecting to the domestic water supply.

It was MOVED by Commissioner Hallock, and seconded by Commissioner Phinney that the Director's Recommendation as follows be approved:

Director's Recommendation

1. Impose a moratorium on issuance of construction permits for new subsurface sewage disposal systems and favorable reports of site suitability in the River Road/Santa Clara area of Lane County by adopting the proposed amendment to OAR 340-71-020 as shown in Attachment "A".
2. Impose a moratorium on approval of any new sewage disposal facility which would use subsurface injection.
3. Direct Department staff to work with the staff of the Metropolitan Wastewater Management Commission, Lane County, the Cities of Eugene and Springfield, and the Lane County Local Government Boundary Commission to obtain development and implementation of a plan for preventing and reducing groundwater pollution in the River Road/Santa Clara area.
4. Direct Department staff to provide the Commission with a status report within the six months period proposed by the Lane County Board of Commissioners regarding investigation progress.

Chairman Richards said he had been concerned whether or not there was sufficient evidence that there would be probable degradation and he left the last meeting being unsure. Chairman Richards said that the best evidence in the case was the Sweet report because of Mr. Sweet's expertise. He said that the opposition to the moratorium did not bring testimony of a consultant of equal qualifications. Chairman Richards said he was convinced that there was some probable cause. He said that this was not a final action and he was concerned if they waited until other competent evidence was brought forward to take action, then harm might be done to the groundwater. Chairman Richards said he also took into consideration that Lane County was satisfied with the evidence provided in the Sweet Report and had asked the Commission to impose a moratorium. For these reasons, he said he would support the Director's recommendation.

Mr. Siegel reiterated that the data supplied did not support the conclusions arrived at. He then reviewed some of his presentation at the March 31, 1978 meeting, reiterating that there was no exceeding of the EPA drinking water standard. In response to Chairman Richards, Mr. Siegel said that three of the wells tested for the report exceeded the EPA standards and there was no correlation in where they were located to the northerly portion of the River Road/Santa Clara area.

Also in response to Chairman Richards, Mr. Siegel maintained that Mr. Sweet in his report did not deal with his own data in an appropriate manner. Mr. Siegel said Mr. Sweet merely presented the data and did not discuss it.

Commissioner Hallock asked if the staff expected to have an improved data base at the end of six months if the moratorium was imposed. Mr. John Borden, Willamette Valley Regional Manager, replied that it would be difficult to gather substantial data by that time due to the seasons, the time frame, and the amount of money required. Mr. Burns said that to do the type of study Mr. Sweet indicated was necessary they had estimated an 18 month time frame to cover a full water year.

Mr. Kent Mathiot of the State Water Resources Board, said that the direct correlation between precipitation amounts in the area and water table fluctuations were well documented and provided sound evidence for the rapid permeability and porosity of the surface materials in the area which allowed rapid downward movement of soil moisture. Mr. Mathiot said the Frank report, also before the Commission, answered some of Mr. Siegel's points. He said this report gave background information for similar aquifers within the region that had very low nitrate/nitrogen levels.

Mr. Mathiot said EPA had recently reaffirmed their stand that 10 ppm level of nitrates was a recommended drinking water standard because of new evidence which indicated as well as causing "blue" babies, this level of nitrate/nitrogen concentration might also be related to carcinogenic effects in infants, and that these effects appear at or slightly below the 10 ppm concentration.

Mr. Mathiot said that when you were dealing with groundwater contamination problems it was frequently the case that localized problems develop before regional detection of a problem. Mr. Mathiot said he was concerned that enough evidence had not been gathered to address the consideration that degradation in

the lower portions of the aquifer might be occurring that had not been detected because the wells in the area were shallow. He said he was concerned about the potential of a future problem as well as the existing problem.

Chairman Richards asked if there was a correlation between the conclusions drawn by Randy Sweet and the factual material contained in his report. Mr. Mathiot replied he thought there was. Therefore, Chairman Richards asked if the conclusions Mr. Sweet drew supported the factual material in his report. Mr. Mathiot replied it was his opinion they did and also the models Mr. Sweet worked up based on that factual information.

Commissioner Hallock amended her motion to include as findings the following three items from the Lane County staff report on the River Road/Santa Clara area.

1. A highly permeable and productive aquifer underlies the study area and this shallow aquifer is readily accessible for development as well as surface contaminants.
2. Disposal of sanitary wastes via on-site disposal systems is the primary source of nitrogen in the study area, and as the population increases, a proportional increase in $\text{NO}_3\text{-N}$ can be expected.
3. Theoretical and measured $\text{NO}_3\text{-N}$ concentrations have been shown to locally exceed EPA primary drinking water standards.

The motion as amended was adopted with Commissioner Densmore dissenting.

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

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

I recommend that the Commission approve the following Stipulated Final Orders:

1. Department of Environmental Quality v. City of Dundee, Stipulation and Final Order No. WQ-SNCR-770261, Yamhill
2. Department of Environmental Quality v. City of Astoria, Stipulation and Final Order No. WQ-NWR-78-26, Clatsop

AGENDA ITEM H - HEALTH HAZARD ANNEXATIONS - CERTIFICATION OF PLANS FOR SEWERAGE SYSTEMS AS ADEQUATE TO ALLEVIATE HEALTH HAZARDS, ORS 222.989; (1) CITY OF ROGUE RIVER, (2) CITY OF GOLD BEACH

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the Director's recommendations to approve the proposals

of the Cities of Rogue River and Gold Beach and to certify said approvals to the Cities be approved.

AGENDA ITEM I - SUBSURFACE RULES, CLACKAMAS COUNTY - REQUEST FOR AUTHORIZATION TO HOLD A PUBLIC HEARING ON PROPOSAL TO AMEND THE SUBSURFACE PERMIT FEE SCHEDULE FOR CLACKAMAS COUNTY, OAR 340-72-010

AGENDA ITEM K - MOTOR VEHICLE EMISSION TESTING RULES - REQUEST FOR AUTHORIZATION TO HOLD PUBLIC HEARING ON PROPOSED AMENDMENTS TO INCORPORATE 1978 MODEL YEAR VEHICLES IN EMISSION TESTING RULES, OAR 340-24-300 to 24-350

It was MOVED by Commissioner Phinney, seconded by Commissioner Hallock and carried unanimously that the Director's recommendations in these matters to hold public hearings be approved.

AGENDA ITEM N - PROPOSED AGREEMENT BETWEEN THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE OREGON DEPARTMENT OF FORESTRY (OSFD) - AN INFORMATIONAL ITEM

Director Young said this item had been discussed at the Commission breakfast. He said it was the Department's intention to forward to the Governor a recommendation that this agreement and the forestry work plan and the citizen involvement document go forward with a designation of the Department of Forestry as the appropriate agency in the State to pursue water quality matters on forest lands, both state owned and private. And further, he said, to certify the current forest practices rules as being state of the art best management practices for this year.

There being no further business the meeting was adjourned.

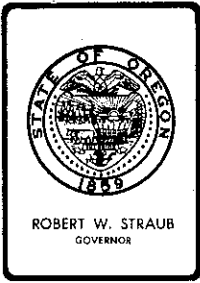
Respectfully submitted,

Carol A. Spletstaszer
Carol A. Spletstaszer
Recording Secretary

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
JUN 06 1978

AIR QUALITY CONTROL



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, April 28, 1978, EQC Meeting
March Program Activity Report

Discussion

Attached is the March Program Activity Report.

ORS 468.325 provides for Commission approval or disapproval of plans and specifications for construction of air contamination sources.

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.

OAR 340-62-020 provides for Commission approval prior to disposal of environmentally hazardous wastes in Oregon, which are generated outside of the State.

The purposes of this report are:

- 1) To provide information to the Commission regarding the status of reported program activities and an historical record of project plan and permit actions;
- 2) To obtain confirming approval from the Commission on actions taken by the Department relative to air contamination source plans and specifications;
- 3) To obtain Commission approval for disposal of specific environmentally hazardous wastes at Arlington, Oregon, which were generated outside of Oregon; and
- 4) To provide a log on the status of DEQ contested cases.

Recommendation

It is the Director's recommendation that the Commission take notice of the reported program activities and contested cases, give confirming approval to the air contamination source plans and specifications listed on page 8 of the report, and approve for disposal the environmentally hazardous wastes listed on page 18 of the report.

WILLIAM H. YOUNG



Contains
Recycled
Materials

M. Downs:ahe

229-6485
04-19-78

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air, Water, and
Solid Wastes Divisions
(Reporting Unit)

March, 1978
(Month and Year)

SUMMARY OF PLAN ACTIONS

<u>Program</u>	<u>Plans Received</u>		<u>Plans Approved</u>		<u>Plans Disapproved</u>		<u>Plans Pending</u>
	<u>Month</u>	<u>Fis.Yr.</u>	<u>Month</u>	<u>Fis.Yr.</u>	<u>Month</u>	<u>Fis.Yr.</u>	
<u>Air</u>							
Direct Sources	33	161	23	131		1	58
TOTAL	33	161	23	131		1	58
<u>Water</u>							
Municipal	135	1,038	111	1,079			67
Industrial	11	90	9	78			14
TOTAL	160	1,128	120	1,157			81
<u>Solid Waste</u>							
General Refuse	9	34	4	23			15
Demolition		5		2			3
Industrial	2	19		15			7
Sludge		5	1	5			
TOTAL	11	63	5	45			25
<u>Hazardous Wastes</u>							
<u>GRAND TOTAL</u>	<u>190</u>	<u>1,352</u>	<u>148</u>	<u>1,333</u>		<u>1</u>	<u>164</u>

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division

March, 1978

PLAN ACTIONS COMPLETED - 120

County	Name of Source/Project/Site and Type of Same	Rec'd	Date of Action	Action	Time to Complete Action	
<u>Municipal Sources - 110</u>						
06	N BEND	IOAHO ADDITION	J030278	030977	PROV APP	06
15	MEDFORD	MONT CREST SUBDIVISION	J030278	031477	PROV APP	12
03	WEST LINN	JAMES TOWN PLAZA	J031578	033077	PROV APP	15
02	CORVALLIS	CORVALLIS CH 84 93 & 94	V021778	022678	APPROVED	11
09	BLACK BUTTE	STP EXPANSION	V021378	030178	PROV APP	16
02	CORVALLIS	CRESCENT VALLEY INT REVISED	V022378	030178	PROV APP	06
24	SALEM	FIRCHEST FIRST ADD	J021778	030178	PROV APP	08
21	LINCOLN CITY	INDIAN SHORES PH 2	J022278	030178	PROV APP	07
24	SALEM WILLOW	IRONWOOD ESTATES NO 5	J022478	030178	PROV APP	05
24	SALEM WILLOW	COPPER GLEN IMPS	J022478	030178	PROV APP	05
24	SALEM WILLOW	MANBRIN VILLAGE	J022178	030178	PROV APP	08
09	DESCHUTES C	WATER WONDERLAND UNIT NO 2	V122377	030278	LTR CMNTS	70
03	WEST LINN	WILL LINN SUBDIVISION	K030178	030778	PROV APP	06
03	CLACKAMAS CO	TAX LOT 4200 & 4500	K030178	030778	PROV APP	06
02	WILSONVILLE	CHARBONNEAU WILSONVILLE LOT 48	J022778	030778	PROV APP	08
24	SALEM	REPLACEMENT MARKET-GARNET	J022778	030778	PROV APP	09
24	SALEM	WEST SALEM RELINING	J022778	030778	PROV APP	08
22	ALBANY	LINN CO FAIRGROUNDS	J022378	030778	PROV APP	12
21	SILETZ	PARKER HOLLIS ST	J022178	030778	PROV APP	14
34	LAKE OSWEGO	DOUGLAS WAY IMPS	J022178	030778	PROV APP	14
26	GRESHAM	ROBERTS AVE	J022178	030778	PROV APP	14
24	SALEM	WINDSWEEP MEADOWS SUBD	J022178	030878	PROV APP	15
24	SALEM	ALLELUIA HTS PH 2	K022478	030978	PROV APP	13
26	GRESHAM	MARPOL RIDGE SUBD PH II	J022778	030978	PROV APP	10
31	LA GRANDE	SECOND STREET VIADUCT	K022778	031378	PROV APP	14
03	CCSO	GLORIA ESTATES	J030378	031378	PROV APP	10
36	MCMINNVILLE	TALL OAKS SUBDIVISION	J030678	031378	PROV APP	07
15	RCVSA	KERSHAW RD & ANTELOPE RD	K022478	031378	PROV APP	17
20	SPRINGFIELD	SPRING VILLA ESTATES	K022378	031378	PROV APP	18
02	CORVALLIS	NUT TREE VILLAGE	K022378	031378	PROV APP	18
30	PENDLETON	PENDLETON SQUARE PH 2	K022278	031378	PROV APP	19
03	CCSO #1	TANGIERS	K022278	031378	PROV APP	19
31	LA GRANDE	COVE AVE & WATSON ST	K022778	031378	PROV APP	14
20	SPRINGFIELD	THURSTON PARK	K022778	031378	PROV APP	14
26	GRESHAM	REGNER ROAD	J030878	031478	PROV APP	06
26	GRESHAM	SE 28 ST.	K022878	031478	PROV APP	14
18	MERRILL	EAST MERRILL SEWAGE COLLECT	K031378	031578	PROV APP	02
03	OAK LODGE	WHISPERING OAKS SEWER	J030678	031578	PROV APP	09
18	MERRILL	MERRILL SEWER REHAB	K031678	031578	PROV APP	09
26	GRESHAM	NE 183RD TO 275 S OF NE PAC.	J030778	031578	PROV APP	08
26	TROUTDALE	WINDEMEER SUBDIVISION	J030878	031578	PROV APP	07
03	WEST LINN	HORTON HEIGHTS	K030178	031578	PROV APP	14
10	ROSEBURG	RIVERVIEW DRIVE EXT	K022778	031578	PROV APP	16
27	INDEPENDENCE	ASHBROOK ADD PH IV	K022478	031578	PROV APP	19
09	BEND	PEELIM SUBSYSTEMS E4 & E5	V121277	031578	VEPR CMNTS	90
18	KLAMATH FALL	MOORE PARK SAN SEWER	J031378	031678	PROV APP	03
21	ROADS END	REVISED SEWER PROJECT	V030978	031678	APPROVED	07
15	MEDFORD	DIVINITY SQUARE SUBDIVISION	K030978	031678	PROV APP	07
24	SALEM	WALLACE HILL WEST	K031078	031678	PROV APP	06
36	AMITY	AMITY ADDS & ALTS	V013078	031678	PROV APP	50
34	LAKE OSWEGO	SUNNY HILL UNIT DEVELOPMENT	J030378	031778	PROV APP	14
20	SPRINGFIELD	LAKSONEN 10TH ADD	K031078	032078	PROV APP	10
26	MULT. CO.	WT INDUSTRIAL PK	K031078	032078	PROV APP	10
06	N BEND	GRANT ST & HAYES ST	K030878	032078	PROV APP	12
20	SPRINGFIELD	55TH FROM E TO 770 S OF E ST	K030278	032078	PROV APP	18
34	USA	LANCASTER PARK 647	K030678	032178	PROV APP	15
34	USA	ABLEDA PARK 690 ROCK CR	K030778	032178	PROV APP	14
34	USA	DOUGLAS HEIGHTS TIGARD	K030778	032178	PROV APP	14
34	USA	ROSENCRANTZ SEWER 589 DUMHAM	K030778	032178	PROV APP	14
03	WILSONVILLE	MONTEHELLO NO 2	K030878	032178	PROV APP	13

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT
Plan Actions Completed - 120 (con't)

County	Water Quality Division Name of Source/Project/Site and Type of Same		March, 1978			Time t Comple Action
			Rec'd	Date of Action	Action	
25	PORTLAND	SW BEAV HILLSDALE HWY-SW 29	K030978	032178	PROV APP	12
26	PORTLAND	SW 14TH & SW MAPLECREST DR	K030278	032178	PROV APP	19
34	USA	BOONES FERRY PLAZA TUALATIN	K030678	032178	PROV APP	15
34	USA	CANYON PLAZA SEWER 688	K030678	032178	PROV APP	15
34	TUALATIN	FIREBRAND CREST SUBDIVISION	K030678	032278	PROV APP	16
24	SALEM	GREENCREST SUBD	K030678	032278	PROV APP	16
20	EUGENE	HENDRICKS HILL	K030278	032278	PROV APP	20
21	DEPOE BAY	LITTLE WHALE COVE - REVISED	J030678	032278	PROV APP	16
26	GRESHAM	SE VISTA & SE 2ND ST	K031378	032478	PROV APP	11
15	RCVSA AVENUE	AVENUE H EXTENSION	K031478	032478	PROV APP	10
03	CUSD #1	THORVILLE SQUARE	K031478	032478	PROV APP	10
09	SUNRIVER	RIVER VILLAGE II	K031578	032478	PROV APP	09
22	ALBANY	BULLFROG FLATS SUBD	K031578	032678	PROV APP	11
21	VACHATS	SAN SEWER EXT.	K031578	032678	PROV APP	11
10	CANYONVILLE	5TH ST & SANDRA CT	K032378	032778	PROV APP	04
29	TILLAMOOK	SHIVELEYS SUBD	J031678	032778	PROV APP	16
19	LAKEVIEW	MTN VIEW ADDITION	K031778	032778	PROV APP	10
07	PRINEVILLE	HUDSPETT SEWER RELOCATE	K032178	032778	PROV APP	06
27	INDEPENDENCE	OREGON TRAIL SUBD	K031578	032778	PROV APP	12
24	SALEM	BURLINGAME ADDITION	K031578	032778	PROV APP	12
06	LAKESIDE	BONNEVILLE RD	K031578	032778	PROV APP	12
34	LAKE OSWEGO	PALISADES PARK ESTATES II	K030878	032778	PROV APP	19
15	RCVSA	CUNNINGHAM AVE-COLUMBUS	K032478	032878	PROV APP	04
20	SPRINGFIELD	58TH & HIGHBANKS	K032078	032878	PROV APP	08
20	SPRINGFIELD	58TH & E SANITARY SEWER	K031478	032878	PROV APP	14
24	SALEM	DIANE SUBD	J031578	032878	PROV APP	13
16	MADRAS	BONE ADDITION	K031578	032978	PROV APP	14
07	PRINEVILLE	CROOK CO FAIRGROUNDS SEWER	K030678	032978	PROV APP	15
25	MULT CO	AIKEN SEWER PROJECT	J031578	032978	PROV APP	14
24	SALEM	ALLELUIA HEIGHTS II	J031578	032978	PROV APP	14
21	DEPOE BAY	SAN SEWER LN EXT P	J031678	032978	PROV APP	13
03	MILWAUKIE	RIEKER TERRACE	J031678	032978	PROV APP	13
17	HARDECK FD	BROOKSIDE SUBD	J032078	032978	PROV APP	09
34	NEWBERG	DOGWOOD TERRACE	J032278	032978	PROV APP	07
24	SALEM	NORTHGATE ANNEX NO 6	J031478	032978	PROV APP	15
03	LAKE OSWEGO	OXFORD DOWNS	J031478	032978	PROV APP	15
04	ASTORIA	COLUMBIA ST & 18ST	J031578	032978	PROV APP	14
24	SALEM	OAK VILLAGE EAST	K032278	033078	PROV APP	08
20	EUGENE	OXBOW WAY TO SUNSHINE ACRES	K032378	033078	PROV APP	07
03	CLACKAMAS CO	TALBROOK	K032478	033078	PROV APP	06
03	CLACKAMAS CO	AUTUMNHILL	K032478	033078	PROV APP	06
34	USA LK CH	COTTAGE GROVE #2	K032078	033078	PROV APP	10
24	SALEM	TIPUPON HILL	K032178	033078	PROV APP	09
34	NEWBERG	CAROL ANN SUBD	J032278	033178	PROV APP	09
36	GREEN SD	MARAMATHA SITES	K031578	033178	PROV APP	16
26	MULT CO	EDGEWAY MEADOW	K031578	033178	PROV APP	16
30	PENDLETON	RELOCATION PR MI POST 220	K032078	033178	PROV APP	11
26	GRESHAM	MINIT MART SAN SEWER	K032178	033178	PROV APP	10
24	SALEM	LONE OAK PROPERTY	J022778	037878	PROV APP	08
34	USA	SUMMERFIELD II-PHASE	J033078	040578	PROV APP	06

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

March 1978
(Month and Year)

PLAN ACTIONS COMPLETED - 120 (con't)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
INDUSTRIAL WASTE SOURCES (10)			
Multnomah	Coverall Uniform Supply Portland, Sumps and Separator	3-3-78	Approved
Douglas	Reedsport Seafoods Reedsport, Screening System	3-8-78	Approved
Lane	Champion Building Products Mapleton, Dryer Cleaning System	3-10-78	Approved
Multnomah	Pennwalt - Portland Absorption Facilities	3-14-78	Approved
Hood River	Luhr Jensen - Hood River Plating Wastes	3-20-78	Approved
Douglas	Myrtle Creek W.T.P. Settling Basin	3-22-78	Approved
Douglas	I.P. Gardiner, Flow Measurement & pH Control System	3-23-78	Approved
Yamhill	Stayton Canning - Dayton Irrigation Pump & Pipe	3-27-78	Approved
Marion	AB & I Plastics - Turner Sump & Cooling Tower	3-29-78	Approved
Washington	Progress Quarries - Progress Install Impactor	3-31-78	Air Quality

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

WATER QUALITY
(Reporting Unit)

March 1978
(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.							
	*	**	*	**	*	**	*	**	*	**	*	**	*	**
<u>Municipal</u>														
New	1	1	1	3	0	1	3	5	1	1				
Existing	0	0	0	2	0	1 ^{1/}	0	4	0	0				
Renewals	4	3	28	8	4	3	72	6	40	7				
Modifications	0	0	10	0	2	0	14	1	3	0				
Total	5	4	39	13	6	5	89	16	44	8	243	179	244	80
<u>Industrial</u>														
New	0	0	8	8	0	1	6	11	4	3				
Existing	0	1	1	9	0	1	1	11	1	2				
Renewals	9	5	40	13	5	2	49	11	47	7				
Modifications	0	0	12	2	0	1	15	3	8	0				
Total	9	6	61	32	5	5	71	36	60	12	401	117	406	122
<u>Agricultural (Hatcheries, Dairies, etc.)</u>														
New	0	2	3	3	0	0	1	1	3	2				
Existing	0	1	0	1	0	0	0	0	0	1				
Renewals	2	0	2	1	0	0	0	0	2	1				
Modifications	0	0	0	0	0	0	0	0	1	0				
Total	2	3	5	5	0	0	1	1	6	4	59	11	62	14
<u>GRAND TOTALS</u>	16	13	105	50	11	10	161	53	110	24	703	207	712	216

* NPDES Permits
** State Permits

^{1/} One application exempted

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

March 1978
(Month and Year)

PERMIT ACTIONS COMPLETED - 21

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Klamath	Modoc Lumber	3-1-78	Exempt from State Permit
Columbia	GATX Port Westward Oil Tank Storage	3-6-78	State Permit Issued
Baker	City of Unity Sewage Disposal	3-22-78	State Permit Issued
Deschutes	Red Oakes Square Bend-Sewage Disposal	3-22-78	State Permit Issued
Clackamas	Riverview Mobile Home Park Trailer Park	3-22-78	State Permit Renewed
Klamath	Bly Sanitary District Sewage Disposal	3-22-78	State Permit Renewed
Yamhill	Gray & Company Cherry Processing	3-22-78	State Permit Modified
Benton	Laborers Trust & Training School-Corvallis-Education	3-22-78	Exempt from State Renewal
Coos	Coos Head Timber Log Handling	3-24-78	State Permit Issued
Linn	Stuckart Lumber Co.	3-27-78	Transferred to NPDES Pending
Tillamook	City of Tillamook Sewage Disposal	3-29-78	NPDES Permit Modified
Marion	City of Yamhill Sewage Disposal	3-29-78	NPDES Permit Modified
Clatsop	City of Seaside Sewage Disposal	3-29-78	NPDES Permit Renewed
Yamhill	City of Willamina Sewage Disposal	3-29-78	NPDES Permit Renewed
Linn	Willamette Industries, Inc. Sweet Home Division	3-29-78	NPDES Permit Renewed

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

March 1978
(Month and Year)

PERMIT ACTIONS COMPLETED - 21 (con't)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Washington	Unified Sewerage Agency Forest Grove STP	3-29-78	NPDES Permit Renewed
Curry	Blanco Fisheries Seafood Processing	3-29-78	NPDES Permit Renewed
Coos	Coos Bay Packing Co., Inc. Slaughterhouse	3-29-78	NPDES Permit Renewed
Douglas	Roseburg Lumber Dixonville (Wood Products)	3-29-78	NPDES Permit Renewed
Coos	Texaco Inc. Oil Terminal	3-29-78	NPDES Permit Renewed
Curry	City of Gold Beach Sewage Disposal	3-29-78	NPDES Permit Renewed

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

March 1978
(Month and Year)

PLAN ACTIONS COMPLETED - 23

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources (23)</u>			
Morrow (NC656)	Portland General Electric New coal fired power plant	3/14/78	Approved (limited to Coal Receiving and Handling)
Benton (NC1054)	Publishers Paper Co. Cyclone for shredded shavings	1/6/78	Approved
Clatsop (NC1055)	Crown Zellerbach Caustic scrubber system	2/23/78	Approved
Washington (NC1066)	Stimson Lumber Co. Hog fuel dryer using stack gas	2/24/78	NC Approved (Tax Credit Denied)
Washington (NC1067)	Stimson Lumber Co. Replace No. 1 hog fuel boiler	3/22/78	NC Approved (Tax Credit Denied)
Washington (NC1068)	Stimson Lumber Co. Replace No. 2 hog fuel boiler	3/22/78	Approved
Columbia (NC1070)	Boise Cascade Corp. Replace firing controls on No. 8 boiler	3/17/78	Approved
Crook (NC1073)	American Forest Prods. Co. Sawdust bin and cyclone	3/2/78	Approved
Marion (NC1074)	Johnson Bros. Lumber Co. New saw mill	2/2/78	Approved
Clatsop (NC1075)	Columbia Memorial Hospital Incinerator	2/2/78	Approved
Multnomah (NC1076)	Shell Oil Co. Four (4) new storage tanks	3/17/78	Approved
Multnomah (NC1079)	Hercules, Inc. Resin reactor, venturi and packed tower	2/24/78	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

March 1978
(Month and Year)

PLAN ACTIONS COMPLETED - 23 (con't)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources (cont.)</u>			
Marion (NC1083)	Walling Sand & Gravel Ready mix concrete plant	2/23/78	Approved
Multnomah (NC1086)	Renaissance Woodwork Spray paint booth	2/23/78	Approved
Clackamas (NC1088)	Omark Industries Vapor degreaser	3/7/78	Approved
Josephine (NC1098)	Menasha Corp. Baghouse on cyclone	3/23/78	Approved
Hood River (NC1101)	Walton Orchards One (1) orchard fan	3/27/78	Approved (Tax Credit Only)
Douglas (NC1102)	Carter Tire Company Control tire buffing smoke	2/28/78	Approved
Hood River (NC1103)	Cascade Orchards Five (5) orchard fans	3/27/78	Approved (Tax Credit Only)
Hood River (NC1104)	Walter Wells & Sons Two (2) orchard fans	3/27/78	Approved (Tax Credit Only)
Hood River (NC1109)	Donald L. Goe Three orchard fans	3/27/78	Approved (Tax Credit Only)
Hood River (NC1110)	Kenneth J. Merz Two orchard fans	3/27/78	Approved (Tax Credit Only)
Hood River (NC1124)	Raymond A. Wilhite Two orchard fans	3/27/78	Approved (Tax Credit Only)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

March 1978
(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	5	42	1	22	20		
Existing	9	80	2	49	31		
Renewals	2	70	2	48	22		
Modifications	7	850	7	834	16		
Total	23	1,042	12	953	89	1,797	1,848
<u>Indirect Sources</u>							
New	4	21	0	18	4		
Existing					12		
Renewals							
Modifications	0	5	1	4	1		
Total	4	26	1	22	17	70	
<u>GRAND TOTALS</u>							

Number of Pending Permits

Comments

12	To be drafted by Northwest Region Office
10	To be drafted by Willamette Valley Region Office
5	To be drafted by Southwest Region Office
2	To be drafted by Central Region Office
0	To be drafted by Eastern Region Office
6	To be drafted by Program Operations
2	To be drafted by Program Planning & Development
<u>37</u>	
5	Permits being typed
33	Permits awaiting end of 30-day public notice period
14	Permits awaiting next public notice
<u>52</u>	Permits pending

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

March 1978
(Month and Year)

PERMIT ACTIONS COMPLETED - 13

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources (12)</u>			
Columbia	GATX Terminals 05-2569, New	3/2/78	Permit issued
Curry	Champion Building Products 08-0004, Modification	3/6/78	Addendum issued
Harney	Harney Rock & Paving 13-0010, Existing	3/9/78	Permit issued
Hood River	Cascade Locks Lumber Co. 14-0005, Modification	3/9/78	Permit issued
Klamath	Columbia Plywood Corp. 18-0014, Modification	3/10/78	Addendum issued
Linn	Tomco 22-7005, Existing	3/9/78	Permit issued
Marion	Portland General Electric 24-2318, Renewal	3/2/78	Permit issued
Multnomah	Owens Corning Fiberglas 26-1815, Modification	3/14/78	Permit issued
Multnomah	Owens Corning Fiberglas 26-2044, Modification	3/9/78	Permit issued
Multnomah	Owens Corning Fiberglas 26-2472, Modification	3/9/78	Permit issued
Polk	Fort Hill Lumber 27-3001, Modification	3/16/78	Permit issued
<u>Portable Plants</u>			
Portable	Babler Bros. 37-0168, Renewal	3/9/78	Permit issued
<u>Indirect Sources (1)</u>			
Washington	Washington Square 1,950 spaces 34-6021, Addendum 1	3/24/78	Final Permit issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

March 1978
(Month and Year)

PLAN ACTIONS COMPLETED - 5

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Columbia	Clatskanie Existing Site Closure Plan	3/3/78	Approved
Douglas	Roseburg Lumber-Green Existing Site Operational Plan Amendment	3/8/78	Approved
Harney	Lawen Existing Site Operational Plan	3/24/78	Conditional approval.
Harney	Crane Existing Site Operational Plan	3/24/78	Conditional approval.
Wasco	Antelope Existing Site Operational Plan	3/27/78	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

March 1978
(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	8	2	11	1		
Existing	4	8		7	24 *		
Renewals	5	31	5	29	11		
Modifications	1	7		8	2		
Total	11	54	7	55	38	188	189
<u>Demolition</u>							
New		1		2			
Existing				1			
Renewals							
Modifications							
Total	0	1	0	3	0	19	19
<u>Industrial</u>							
New		4		9	1		
Existing	1	1	4	7			
Renewals	1	12	2	9	7		
Modifications		2	1	5	2		
Total	2	19	7	30	10	98	99
<u>Sludge Disposal</u>							
New							
Existing		3	3	3			
Renewals		1		2			
Modifications							
Total	0	4	3	5	0	8	8
<u>Hazardous Waste</u>							
New							
Authorizations	20	134	24	150	12		
Renewals							
Modifications							
Total	20	134	24	150	12	1	1
<u>GRAND TOTALS</u>	<u>33</u>	<u>212</u>	<u>41</u>	<u>243</u>	<u>60</u>	<u>314</u>	<u>316</u>

* Sites operating under temporary permits until regular permits are issued.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

March 1978
(Month and Year)

PERMIT ACTIONS COMPLETED - 41

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>General Refuse (Garbage) Facilities (7)</u>			
Coos	Shinglehouse Slough Existing facility	3/16/78	Permit renewed.
Benton	Coffin Butte Expansion New facility	3/16/78	Permit issued.
Lane	Franklin Landfill Existing facility	3/16/78	Permit renewed.
Lane	McKenzie Bridge Landfill Existing facility	3/16/78	Permit renewed.
Lane	Sharps Creek Transfer Existing facility	3/16/78	Permit renewed.
Union	LaGrande Landfill New facility	3/16/78	Temporary permit issued.
Jefferson	Camp Sherman Transfer Existing facility	3/16/78	Permit renewed.
<u>Demolition Waste Facilities - none</u>			
<u>Sludge Disposal Facilities (3)</u>			
Umatilla	Howard Sludge Site New facility	3/16/78	Permit issued.
Umatilla	Key Sludge Site New facility	3/16/78	Permit issued.
Umatilla	March Sludge Site New facility	3/16/78	Permit issued.
<u>Industrial Waste Facilities (7)</u>			
Curry	Rogge Lumber Co. Existing facility	3/6/78	Permit renewed.
Josephine	Mt. Fir Lumber Existing facility	3/9/78	Permit issued.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

March 1978
(Month and Year)

PERMIT ACTIONS COMPLETED - 41 (con't)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Industrial Waste Facilities (continued)</u>			
Lane	Champion Bldg. Prod., Mapleton plant Existing facility	3/16/78	Permit issued.
Coos	Coos Bay Plywood Existing facility	3/22/78	Permit issued.
Douglas	Little River Lumber Existing facility	3/22/78	Permit renewed
Hood River	Champion Bldg., Prod., Neal Creek Plant Existing facility	3/29/78	Permit issued.
Josephine	Mt. Fir Lumber Existing facility	3/29/78	Permit amended.
<u>Hazardous Waste Facilities (24)</u>			
Gilliam	Chem-Nuclear Systems Existing facility	3/1/79	Disposal authoriza- tion granted (arsenic bark/sand mixture).*
"	" "	3/1/79	Disposal authoriza- tion granted (unwanted herbicide containing 2-4-5T).
"	" "	3/1/78	Disposal authoriza- tion (used PCB capacitors and PCB contaminated wastes).*
"	" "	3/1/78	Disposal authoriza- tion granted (un- wanted pesticides, PCB capacitors and PCB contaminated wastes).*

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

March 1978
(Month and Year)

PERMIT ACTIONS COMPLETED - 41 (con't)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Hazardous Waste Facilities (continued)</u>			
Gilliam	Chem-Nuclear Systems	3/2/78	Disposal authorization granted (sodium fluoro-zirconate filter cake).
"	" "	3/3/78	Disposal authorization granted (lubricating products containing toxic lead).*
"	" "	3/3/78	Disposal authorization granted (PCB capacitors and PCB contaminated wastes).*
"	" "	3/6/78	Disposal authorization granted (PCB capacitors, pesticides and lab chemicals).*
"	" "	3/6/78	Disposal authorization granted (pesticide wastes).*
"	" "	3/6/78	Disposal authorization (sulfuric acid).*
"	" "	3/7/78	10 verbal authorizations confirmed in writing (small quantities of various chemicals).
"	" "	3/8/78	Disposal authorization granted (flam-mable paint residue).

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

March 1978
(Month and Year)

PERMIT ACTIONS COMPLETED - 41 (con't)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Hazardous Waste Facilities (continued)</u>			
Gilliam	Chem-Nuclear Systems	3/13/78	Disposal authoriza- tion granted (phenolic wastes).
"	"	3/14/78	Disposal authoriza- tion granted (paint waste, heavy metal solution, otto fuel drum liners, mercury contaminated waste and used asbestos insulation).*
"	"	3/21/78	Disposal authoriza- tion granted (acry- lamide gelatinous resin).*

*Approval by the EQC at its 2/23/78 meeting.

NOTE

PAGE 17 - HAZARDOUS WASTE DISPOSAL AUTHORIZATION
REQUESTS (OUT OF STATE) WILL BE DISTRIBUTED AT THE
MEETING.

<u>TOTALS</u>	Last	This
Settlement Action	11	8
Preliminary Issues	12	16
Discovery	8	7
To be Scheduled	6	3
To be Rescheduled	1	1
Set for Hearing	6	3
Briefing	2	2
Decision Due	8	10
Decision Out	1	0
Appeal to Comm.	3	3
Appeal to Ct.	0	0
Transcript	1	1
Finished	-8	-7
Totals	<u>60</u>	<u>61-7 = 54</u>

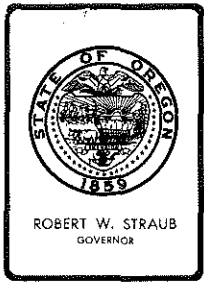
DEQ/EQC CONTESTED CASE LOG

APRIL 17, 1978

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 Rfrl	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
	Trancr	Transcript being made
	WQ	Water Quality

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	DEQ or Atty	Hrng Offcr	Hrng Date	Resp Code	Dec Date	Case Type & #	Case Status
Davis et al	5/75	5/75	Atty	McS	5/76	Prtys	1/78	12 SSD Permits	Appeal to Comm
Faydrex, Inc.	5/75	5/75	Atty	McS	11/77	Transc		64 SSD Permits	Transcript Prepared
Johns et al	5/75	5/75	Atty	McS		All		3 SSD Permits	Preliminary Issues
Faydrex-(et-116)	8/75	5/75	Atty	McS	5/77	Resp	1/78	1-SSB-Permit	Finished
Laharty	1/76	1/76	Atty	McS	9/76	Resp	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		Resp		SSD Permit	To be Scheduled
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-76-4R	Discovery
Silbernagel	10/76	10/77	DEQ	Cor		Resp		AQ-MWR-76-202 \$400	Discovery
Jensen	11/76	11/76	DEQ	Cor	12/77	Hrnga		\$1500 Fld Brn AQ-SNCR-76-232	Decision Due
Mignot	11/76	11/76	Atty	McS	2/77	Resp	2/77	\$400 SW-SWR-288-76	Settlement Action
Hudspeth	12/76	12/76	Atty	McS	3/77	Hrnga		\$500 WQ-CR-76-250	Decision Due
Perry	12/76	12/76	DEQ	Cor	1/78	Resp		Rem Order SS-SWR-253-76	Briefing
Alexander	2/77	6/77	DEQ			Dept		Rem Order-66-SWR-77-23	Finished
McBotlum	3/77	3/77	Atty	McS	8/77	Hrnga	2/78	66B-Permit-App	Finished
Jones	4/77	7/77	DEQ	Cor	6/9/78	Hrnga		SSD Permit SS-SWR-77-57	Set for Hearing
Beaver State et al	5/77	5/77	Atty	Cor	10/77	Hrnga		\$150 AQ-SNCR-77-24	Decision Due
Middletown	5/77		DEQ			Dept		Rem Order-55-PR-77-66	Finished
Sundown et al	5/77	6/77	Atty	McS		Prtys		\$20,000 Total SS Viol SNCR	Settlement Action
Wallace	5/77	6/77	DEQ	Cor	1/78	Hrnga		1 SSD Permit Denial	Decision Due
Wright	5/77	5/77	Atty	McS		Resp		\$250 SS-MWR-77-99	Preliminary Issues
Henderson	6/77	7/77	Atty	Cor	1/77	Hrnga		Rem Order SS-CR-77-136	Decision Due
Exton	6/77	8/77	DEQ	Cor		Hrnga		Rem Order SS-PR-76-26R	To be Rescheduled
Lowe	7/77	7/77	DEQ	Cor		Prtys		\$1500 SW-PR-77-103	Settlement Action
Magness	7/77	7/77	DEQ	Cor	11/77	Hrnga		\$1150 Total SS-SWR-77-142	Decision Due
Southern Pacific Trans	7/77	7/77	Atty	Cor		Prtys		\$500 NP-SNCR-77-154	Preliminary Issues
Suniga	7/77	7/77	DEQ	Lmb	10/77	Resp		\$500 AQ-SNCR-77-143	Decision Due
Sun Studs	8/77	9/77	DEQ			Dept		\$300 WQ-SWR-77-152	Preliminary Issues
Taylor, D.	8/77	10/77	DEQ	McS	4/78	Dept		\$250 SS-PR-77-188	Settlement Action
Brookshire	9/77	9/77	Atty	McS	4/19/78	Hrnga		\$1000 AQ-SNCR-76-178 Fld Brn	Set for Hearing
Grants Pass Irrig	9/77	9/77	Atty	McS		Prtys		\$10,000 WQ-SWR-77-195	Discovery
Pohll	9/77	12/77	Atty	Cor	3/30/78	Prtys		SSD Permit App	Briefing
Trussel et al	9/77	9/77	DEQ	Cor	10/77	Hrnga		\$150 AQ-SNCR-77-185	Decision Due
Califf	10/77	10/77	DEQ		4/26/78	Hrnga		Rem Order SS-PR-77-225	Preliminary Issues
Mc Clincy	10/77	12/77	Atty	McS		Prtys		SSD Permit Denial	Preliminary Issues
Zorich	10/77	10/77	DEQ	Cor		Prtys		\$100 NP-SNCR-77-173	Discovery
Clay	11/77	12/77	DEQ			Dept		\$200 SS-MWR-77-254	Preliminary Issues
Hayes	11/77		DEQ			Resp		61580-AQ-MWR-77-240	Finished
Jenks	11/77	12/77	DEQ			Dept		\$1000 Fld Brn AQ-MWR-77-284	Preliminary Issues
Keen	11/77		DEQ			Resp		63080-Fld-Brn	Finished
Koos	11/77	12/77	DEQ			Dept		\$120 Assmt Fld Brn	Settlement Action
Oak Creek Farms	11/77	12/77	DEQ	McS	3/78	Hrnga		\$500 AQ-MWR-77 Fld Brn	Decision Due
Powell	11/77	11/77	DEQ	Cor		Prtys		\$10,000 Fld Brn AQ-MWR-77-241	Discovery
Wah Chang	12/77	12/77	Atty	McS		Dept		ACD Permit Conditions	Preliminary Issues
Barrett & Sons, Inc.	12/77		DEQ			Dept		\$500 WQ-PR-77-307	Preliminary Issues
Helms et al	12/77	12/77	DEQ			Dept		6200-AQ-SNCR-77-306-Fld-Brn	Finished
Carl F. Jensen	12/77	1/78	Atty	McS		Prtys		\$18,600 AQ-MWR-77-321 Fld Brn	Discovery
Carl F. Jensen/ Elmer Klopfenstein	12/77	1/78	Atty	McS		Prtys		\$1200 AQ-SNCR-77-320 Fld Brn	Discovery
Schrock, D.	12/77	1/78	DEQ	Cor	4/11/78	Prtys		\$200 AQ-MWR-77-324 Fld Brn	Settlement Action
Schrock Farms, Inc.	12/77	1/78	DEQ	Cor	4/78	Prtys		\$200 AQ-MWR-77-300 Fld Brn	Settlement Action
Steckley	12/77	12/77	DEQ	McS		Dept		\$200 AQ-MWR-77-298 Fld Brn	To be Scheduled
Van Leeuwen	12/77		DEQ			Prtys		\$320 AQ-MWR-77-295 Fld Brn	Settlement Action
Heaton	1/78	2/78	DEQ	McS	4/78	Hrnga		\$500 AQ-PR-77-325 Fld Brn	Set for Hearing
Towery	1/78	2/78	DEQ			Hrnga		\$375 SNCR-77-326 Fld Brn	To be Scheduled
Wah Chang	1/78	2/78	Atty			Dept		\$5500 WQ-MWR-77-334	Preliminary Issues
Cook Farms	2/78	2/78	DEQ			Dept		\$200 AQ-MWR-77-330 Fld Brn	Decision Due
Hawkins	3/78	3/78	Atty			Dept		\$5000 AQ-PR-77-315	Preliminary Issues
Hawkins Timber	3/78	3/78	Atty			Dept		\$5000 AP-PR-77-314	Preliminary Issues
Gray	2/78	3/78	Dept			Dept		\$250 SS-PR-78-12	Preliminary Issues
Knight	3/78		Dept			Dept		\$500 SS-SWR-78-33	Preliminary Issues



Department of Environmental Quality

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Addendum 1, Agenda Item No. C, April 28, 1978, EQC Meeting
Tax Credit Applications

Director's Recommendation

Issue an order denying Stimson Lumber Company's request for Preliminary Certification for Tax Relief for two hog fuel power boilers located at their mill at Scoggins Valley, Oregon (see attached review report).

WILLIAM H. YOUNG

MJDowns:cs
229-6484
4/18/78
Attachment



Contains
Recycled
Materials

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Preliminary Certification for Tax Relief Review Report

1. Applicant

Stimson Lumber Company
P. O. Box 68
Forest Grove, Oregon 97116

The applicant owns and operates a lumber and veneer manufacturing mill at Scoggins Valley, Oregon.

Applications were made for preliminary certification for air pollution control facilities.

2. Description of Claimed Facility

The facilities described in these applications are two hog fuel power boilers designed to produce 53,000 lbs/hr of steam each.

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

The estimated cost of the facilities are \$250,000 and \$200,000 of which \$50,000 is allocated to pollution control for each of the power boilers.

3. Evaluation of Application

The proposed boilers will replace two existing hog fuel boilers which have a combined rating of 75,000 lbs/hr. The existing boilers were source tested in mid 1976 and determined to be in compliance with Department emission standards. The proposed boilers will have a combined rating of 106,000 lbs/hr. The multiclone serving the existing boilers will be used to control emissions from the proposed boilers. No other pollution control equipment is included in this proposal. Particulate emissions will not change significantly from existing levels.

The applicant indicated that since the boilers will be operated below rated capacities, fewer particulates will be released because less particulates will leave the fuel piles and combustion will be more complete due to longer residence times. They conclude therefore that the boilers will serve in part as pollution control facilities. The Department does not concur with this rationale.

The Department concludes that the applicant will expand its steam production capacity even though they may not use it without either significantly decreasing or increasing its emissions. Therefore, in the absence of any pollution control benefits, preliminary certification as a pollution control facility is not warranted.

4. Summation

- A. A substantial purpose for construction of the facility is not for prevention, control or reduction of air, water or noise pollution or solid waste.
- B. 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.

Stephen C. Carter:as
229-5297
4/17/77

Post Office Box 1760, Portland, Oregon 97207

March 22, 1978

Stimson Lumber Company
Post Office Box 68
Forest Grove, Oregon 97116

Attention: Bud Keeney, Plant Manager

Re: AQ - Stimson Lumber
Washington County
File No. 34-2066
NC #1067 and #1068
PR-101A and PR-102A

Gentlemen:

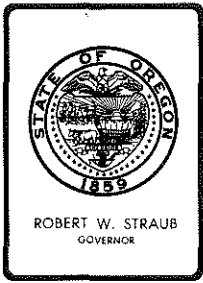
We have reviewed the information contained in your notice of intent to construct two B&W hog fuel boilers at your Scoggins Valley mill and the supplemental information received by the Department on March 9, 1978. Based on this information and the Department's engineering review we have determined that the substantial purpose of the boilers is not for prevention, control, or reduction of air, water, or noise pollution or solid waste.

We request that you withdraw your request for preliminary certification for tax credit by no later than April 5, 1978. If you disagree with the Department's determination it will be our recommendation that the Environmental Quality Commission deny your request for Preliminary Certification at its April 28, 1978 meeting which will be held in Corvallis, Oregon.

Sincerely,

Stephen C. Carter
Regional Engineer
Northwest Region

SCC/mjb
cc: Air Quality Division, DEQ



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, April 28, 1978, EQC Meeting
Tax Credit Applications

Attached are nine 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 eight applications: T-938R, T-951, T-965, T-966, T-970, T-974, T-983, and T-988.
2. Revoke Pollution Control Facility Certificate No. 549, issued to Georgia-Pacific Corporation, because the certified facility is no longer in use (see attached review report).

Bill

WILLIAM H. YOUNG

MJDowns:cs

229-6485

4/18/78

Attachments

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



Contains
Recycled
Materials

Attachment 1

Proposed April 1978 Totals

Air Quality	\$ 319,419
Water Quality	3,107,399
Solid Waste	251,727
	<u>\$3,678,454</u>

Calendar Year Totals to Date
(Excluding April 1978 Totals)

Air Quality	\$ 1,188,758
Water Quality	1,416,702
Solid Waste	12,870,494
	<u>\$15,475,954</u>

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

Air Quality	\$113,375,873
Water Quality	80,711,841
Solid Waste	27,299,123
	<u>\$221,586,837</u>

TAX CREDIT APPLICATIONS SUMMARY

Applicant/ Plant Location	Appl. No.	Facility	Claimed Cost	% Allocable to Pollution Control	Director's Recommendation
Publishers Paper Co. Oregon City	T-938R AQ	Cyclone to control dust emissions from chip bin	\$ 52,874.00	80% or more	Issue Certificate
Culbertson Orchards Jacksonville	T-951 AQ	Overtree water sprinkler system	44,337.00	40% or more but less than 60%	Issue Certificate
Bohemia, Inc. Culp Creek	T-965 SW	Paving of log storage yard	251,727.00	100%	Issue Certificate
Georgia-Pacific Corp. Coos Bay	T-966 AQ	VOP multiclone	189,217.00	80% or more	Issue Certificate
Georgia-Pacific Corp. Toledo	T-970 WQ	Aeration Basins & associated facilities	2,320,472.00	80% or more	Issue Certificate
Louisiana Pacific Corp. Prineville	T-974 AQ	Spray chamber scrubber	32,991.73	80% or more	Issue Certificate
Stadelman Fruit Co., Inc. The Dalles	T-983 WQ	Waste water collection system	539,130.00	80% or more	Issue Certificate
Pennwalt Corp. Portland	T-988 WQ	Entrainment separators; sets A and B evaporators	71,569.00	80% or more	Issue Certificate
		Entrainment separators; sets B and D evaporators	176,228.00	80% or more	Issue Certificate
Georgia-Pacific Corp. Toledo		Outer lagoon water reuse system	78,169.00		Revoke (see review report)

State of Oregon
Department of Environmental Quality
Tax Relief Application Review Report

1. Applicant

Publishers Paper Company
Oregon City Division
419 Main Street
Oregon City, Oregon 97045

The applicant owns and operates a sulphite pulp and paper mill at Oregon City.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a cyclone to control dust emissions from a chip bin. The facility costs consist of the following:

a. Cyclone	\$20,000
b. Ductwork	8,900
c. Fan assembly	20,000
d. Motor	3,974

Request for Preliminary Certification for Tax Credit was made on June 20, 1977, and approved on September 9, 1977.

Construction was initiated on the claimed facility on July 4, 1977, completed on July 28, 1977, and the facility was placed into operation on July 6, 1977.

Facility Cost: \$52,874 (Accountant's certification was provided.)

3. Evaluation of Application

The claimed facility replaces two cyclones which had previously plugged up and caused excessive particulate emissions. The claimed facility serves a different purpose than the original cyclones. The original cyclones were used to separate the wood chips from the air stream that conveyed them. Presently chips are blown into the bin where most of the wood is separated from the air stream. After this, the air stream is cleaned by the subject facility, a cyclone and fan. This cyclone is a high efficiency cyclone which was designed to remove the particulates contained in the chip bin exhaust. The sole purpose of the facility is to control the dust emissions from the chip bin.

The facility has been inspected by the Department and is operating satisfactorily. The facility has also been tested and was found to be 90% efficient. The value of the material collected is much less than the operating costs of the system.

Therefore, it is concluded that the facility was installed solely for air pollution control and that 100% of the cost of the facility is allocable to air pollution control.

4. Summation

- A. Facility was constructed after application for preliminary certification had been made 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 air pollution.
- D. The facility was required by the Department and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- E. The Department has concluded that 100% of the cost of this facility is allocable to air pollution control since the facility was installed solely for air pollution control.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$52,874 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-938.

F. A. Skirvin:mh
229-6414
3/17/78

Appl T-951

Date 12/13/77

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Culbertson Orchards
1663 South Stage Road
Medford, Oregon 97501

The applicant owns and operates a pear orchard adjacent to the east boundary of the City of Jacksonville on the south side of Oregon Highway 238.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is an overtree water sprinkler system which was installed for both irrigation and frost protection of a new pear orchard.

Request for Preliminary Certification for Tax Credit was made on December 2, 1976, and approved on December 9, 1976.

Construction was initiated on the claimed facility on December 5, 1976, completed on April 20, 1977, and the facility will be placed into operation in 1982.

Facility Cost: \$44,337 (Accountant's Certification was provided).

3. Evaluation of Application

The applicant is developing a new 45 acre pear orchard adjacent to the City of Jacksonville. Rather than use an existing movable irrigation system and purchase some 1,350 oil-fired heaters to provide irrigation and frost protection, the applicant installed a permanent overhead sprinkler system prior to planting the trees.

Since this is a new planting, the first commercial crop is not expected until the orchard is about five years old, i.e., 1982. Irrigation is required at the start, while frost protection will not be necessary until about 1982.

The applicant provided data for comparing the capital and operating costs of the overhead sprinkler system to his existing movable sprinkler system combined with oil-fired heaters. Present value annual costs were developed using the certified cost of \$44,337 for the subject facility with a 20-year depreciation schedule, a present worth of \$16,200 for the heaters with a 15-year depreciation schedule, zero value for the movable irrigation system and the operating cost data including electricity, oil, labor and projected schedules for irrigation and heating as provided by the applicant. During

the first five-year period (irrigation only) the present value annual cost of the overhead system will be \$6,156 as compared to \$5,256 for the movable system. During the subsequent 15 years (irrigation plus heating), the present value annual cost of the overhead system will be \$7,122 as compared to \$22,694 for the movable system plus heaters. The subject facility is \$900 per year more expensive the first five years but becomes \$15,572 per year less expensive during the subsequent 15 years.

A sprinkler system that also provides frost protection costs substantially more to install than one for irrigation only. For frost protection, the whole orchard is watered at one time, and extensions are used to raise the sprinkler heads. A similar system for only irrigation would water the orchard in sections over 3 or 4 days using either permanent or portable pipes.

Although the overhead sprinkler system appears to be the more desirable based on economics, it is also the more desirable based on air pollution considerations. The Environmental Quality Commission has previously certified overhead sprinkler systems located in the Central Point area (Application Nos. T-212, T-339, T-476 and T-579) with more than 40% and less than 60% of the cost allocable to pollution control. In these applications the per cent allocable to pollution control was based on the percentage of total operating time used for frost protection.

The applicant being considered here indicated that irrigation will be 144 hours per year (six 24-hour runs) and frost protection will average a total of 110 hours per year. (It is well established that the required amount of frost protection usually varies among orchards and often varies within a given orchard.) The frost protection requirement was based upon information furnished to the applicant by the Horticultural Extension Agent for Jackson County. Based on these figures, the subject facility will be operated 43% of the time as an annual average for frost protection after the initial five years.

It is concluded that while the overhead sprinklers were more economical to install, they essentially eliminate air pollution associated with more conventional frost protection, i.e., oil-fired orchard heaters. It is also concluded that 40% or more but less than 60% of the facility cost is allocable to 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 will be operated to a substantial extent for the purpose of preventing, controlling or reducing air pollution.

D. The facility does satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.

E. The per cent allocable to pollution control was based on the per cent of total operating time projected to be used for frost protection.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$44,337 with 40% or more but less than 60% allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-951.

F. A. Skirvin/kz
(503) 229-6414
4/3/78

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

1. Applicant

Bohemia, Inc.
P.O. Box 1819
Eugene, Oregon 97401

The applicant owns and operates a veneer, lumber and plywood mill at Culp Creek, Oregon.

Application was made for Tax Credit for Solid Waste Pollution Control Facility.

2. Description of Claimed Facility

The facility claimed in this application consists of 23,000 square yards of asphalt paving over the plant log storage, handling and scaling yard.

Request for Preliminary Certification for Tax Credit was made July 21, 1977, and approved September 27, 1977. Construction was initiated on the claimed facility August 1, 1977, completed December 15, 1977, and the facility was placed into operation December 15, 1977.

Facility Costs: \$251,727.00 (accountant's certification was provided.)

3. Evaluation of Application

Prior to the paving of the Bohemia Culp Creek plant log yard 15,000 cubic yards per year of log yard residue (dirt, rock, bark, and scraps) was landfilled. The log yard was dusty and muddy, and considerable amounts of rock had to be used to provide all-weather trafficability. The paving eliminated the mud problem, dust emissions and landfill disposal of solid waste. The clean recoverable portion of the waste (bark and wood scraps) is now picked up off the yard and processed into hog fuel. The following is a cost saving analysis for the claimed facility as prepared by Bohemia, Inc.:

1. Annual Cost Savings

A.	Annual Rock Replacement	\$ 14,662
B.	Annual Cleanup Cost	37,389
C.	Annual Equipment Maintenance	13,481
	TOTAL	<u>\$ 65,532</u>

2. Annual Cost of Paving

A. Interest Expense 10 Years at 9% (average)	\$ 11,327
B. Pavement Maintenance 20¢ per sq.yd.	7,200
C. Property Taxes	4,086
D. Depreciation 10 years straight line 5% salvage	23,913
TOTAL	<u>\$ 46,526</u>
Pre-tax Savings (cost savings-cost of paving)	19,006
Corporation Income Taxes at 51.38%	<u>9,765</u>
NET AFTER TAX SAVINGS	<u>\$ 9,241</u>

Value of the recovered bark is approximately \$27,500 annually (current value of hog fuel is \$2.50 per ton).

The claimed facility eliminated generation of 15,000 cubic yards per year of solid waste, mud problems, dust emissions, and substantially reduced the need for new landfill sites. Considering that the value of the recovered bark is greater than the annual operational savings, it appears that the substantial purpose for the construction of the claimed facility was pollution control and utilization of solid wastes.

4. Summation

- A. Facility was constructed after receiving approval to construct and preliminary certification issued pursuant to ORS 468.175.
- B. Facility was under construction on or after January 1, 1973 as required by ORS 468.165(1)(c).
- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling or reducing solid waste.
- D. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459 and the rules adopted under that chapter.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$251,727.00 with 100 percent allocated to pollution control be issued for the facility claimed in Tax Credit Application Number T-965.

EAS:ps
229-5356
April 6, 1978

Appl T-966

Date 4/12/78

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

1. Applicant

Georgia Pacific Corporation
Coos Bay Division
P.O. Box 869
Coos Bay, Oregon 97420

The applicant owns and operates a plywood plant at Coos Bay, Oregon.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a VOP multiclone which reduces particulate emissions from the Garrett & Schaffer boiler.

Request for Preliminary Certification for Tax Credit was made on 12/19/75, and approved on 2/12/76.

Construction was initiated on the claimed facility on 10/1/74, completed on 11/1/76, and the facility was placed into operation on 10/10/76.

Facility Cost: \$189,217.00 (Accountant's Certification was provided).

3. Evaluation of Application

After installation of the multiclone, the boiler was source tested and demonstrated the ability to comply with the Department's regulations. However recent observations have shown that continuous compliance with opacity regulations has not been maintained. It is the company's and the Department's opinion that the violations have been caused by improper operation of the boiler rather than failure of the multiclone. The multiclone is still in operation and functioning at maximum efficiency.

4. Summation

- A. Facility was constructed after receiving approval to construct 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 air 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. This facility serves no purpose other than air pollution control. The material collected has no value. Therefore 100% of the cost is allocable to air pollution control.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$189,217 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-966.

dc

Appl T-970

Date April 17, 1978

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

1. Applicant

Georgia Pacific Corporation
Toledo Division
900 S. W. 5th Avenue
Portland, OR 97204

The applicant owns and operates a mill producing unbleached Kraft Pulp and Linerboard at Toledo, Oregon.

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

2. Description of Claimed Facility

The claimed facility consists of:

- A. Containment and collection of drainage from recausticizing area to be pumped to the settling pond
- B. Mill effluent sewers to fiber reclaim and secondary treatment
- C. Lagoon No. 1 dredged and diked to 20.5 million gallons, aerated by a total of eight 40 hp floating aerators
- D. Lagoon No. 2 dredged and diked to 11.4 million gallons, aerated by three 40 hp floating aerators with a bull screen at the outlet

General construction work, piping, electrical, necessary buildings and instrumentation were involved.

Notice of Intent to Construct was approved by DEQ letter of December 12, 1974.

Certification for Tax Credit was not required.

Construction was initiated on the Claimed Facility 2nd quarter of 1975. The facility was completed and placed into operation 4th quarter of 1976.

Facility Cost: \$2,320,472.00 (Certified Accountant's statement was provided)

3. Evaluation

A NPDES discharge permit, issued April 1974, required reduction of BOD₅ and suspended solids discharges to the ocean. The claimed facility, which was designed for this purpose, was capable of

reducing suspended solids to compliance but failed to meet BOD limitations.

The claimed facility did, however, improve water quality and is, in total, an integral part of an expanded pollution control facility. Staff considers that the expanded treatment system will enable Georgia Pacific-Toledo to meet the effluent limitations.

4. Summation

- A. Facility was constructed after receiving approval to construct 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. 100% of the facility cost is claimed allocable to pollution control. The facility is solely for the purpose of Water Pollution Control.

Applicant claims no income is derived from the claimed facility.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facility claimed in Application T-970, such certificate to bear the actual cost of \$2,320,472.00, with 80% or more of the cost allocable to pollution control.

App# T-974

Date 4/12/78

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

1. Applicant

Louisiana Pacific Corporation
Columbia Corridor Division
3800 S.W. Cedar Hills Boulevard, Suite 200
Beaverton, Oregon 97005

The applicant owns and operates a sawmill at Prineville, Oregon.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a spray chamber scrubber to control emissions from 2 hogged fuel boilers.

Request for Preliminary Certification for Tax Credit was made on 12/19/75, and approved on 2/13/76.

Construction was initiated on the claimed facility on 8/1/76, completed on 11/1/76, and the facility was placed into operation on 11/1/76.

Facility Cost: \$32,991.73 (Accountant's Certification was provided).

3. Evaluation of Application

The installation has been source tested and has demonstrated compliance with Department regulations.

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 air 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. The only purpose of this installation is air pollution control. The collected material has no value. Therefore 100% of the cost is allocable to air pollution control.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$32,991.73 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-974.

dc

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Stadelman Fruit Company, Inc.
The Dalles Branch
P. O. Box 143
The Dalles, OR 97058

The applicant owns and operates a plant for packing cherries for the fresh market, processing cherries to be frozen and for brining pitted cherries on Barge Way Road, The Dalles, Oregon.

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

2. Description of Claimed Facility

The claimed facility consists of:

1. Plant waste water collection system to secondary treatment system.
2. Aeration pond with four 25 Hp. floating aerators. (Pond lined with three inch asphaltic concrete).
3. Pond effluent settling basin with sludge collection system. (Pond lined with three inch asphaltic concrete). Sludge may be returned to aeration or trucked to disposal.

General construction work, land, site preparation, equipment and machinery, engineering and miscellaneous items were involved.

Request for Preliminary Certification for Tax Credit was made October 10, 1975 and approved February 9, 1976. Construction was initiated on the claimed facility in February 1976, completed and placed into operation in September 1977.

Facility Cost: \$539,130 (Certified Public Accountant's statement was provided.)

3. Evaluation

The claimed facility was required to comply with NPDES permit 2240J. Attaining operational level BOD was reduced to 183 pounds per day and total suspended solids to less than 295 pounds per day. Staff has conducted field inspection several times since completion and reports compliance with the permit.

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, that no income is derived from the claimed facility.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facility claimed in Application T-983, such Certificate to bear the actual cost of \$539,130 with 80% or more allocable to pollution control.

Charles K. Ashbaker:aes
229-5309
3/31/78

App# T-988

Date April 17, 1978

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Pennwalt Corporation
Inorganic Chemicals Division
P. O. Box 4102
Portland, Oregon 97208

The applicant owns and operates a Chlor-alkali plant on the Willamette River at 6400 N.W. Front Ave. in Portland

Application was made for tax credit for water pollution control facility

2. Description of Claimed Facility

The claimed facility consists of:

- A. The installation of entrainment separators in four sodium hydroxide evaporator sets (A,B,C & D), spray nozzle piping, nickel mesh pads and supports make up the entrainment separators.
- B. Evaporator building diversion drain which collects ion rich water from pump stuffing boxes and other leaks and spills. An automatic sump pump at each end diverts contaminated water back to cell liquor storage tanks, eliminating this effluent to the river.

Request for Preliminary Certification for Tax Credit was made June 25, 1976 and approved August 30, 1976. Construction was initiated on the claimed facility on June 27, 1977, completed and placed into operation on Dec. 15, 1977.

Facility cost: \$247,797.00 (Certified Public Accountant's statement was provided)

The cost has been broken down to separate out the entrainment separators for the "A" and "B" set evaporators as they will be phased out in less than 10 years. At that time, the certificate will be withdrawn. This amount is \$71,568.70.

The remaining \$176,228.42 of the facility is estimated to have a useful life of 10 years.

3. Evaluation

The claimed facility was required to comply with NPDES permit 1605J. The entrainment separator in the evaporators eliminates carry over of sodium hydroxide and sodium chloride in the colling water. Staff observations indicate this installation has been very effective in reducing effluent pH spikes. Diversion of evaporator building drains and sumps back to cell liquor storage tanks also eliminates a source of ion rich waste waters from discharging to the Willamette.

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 extend 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. The applicant claims no income is derived from the operation of the claimed facility.

5. Director's Recommendation

It is recommended that two Pollution Control Facility Certificates be issued for the facility claimed in Application T-988, such certificates to bear the actual costs of \$71,569.00 and \$176,228.00 with 80% or more allocable to pollution control. The Certificate for \$71,569.00 can be withdrawn when this part of the claimed facility is abandoned.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

REVOCATION OF POLLUTION CONTROL FACILITY CERTIFICATE

1. Certificate Issued to:

Georgia-Pacific Corporation
Toledo Division
900 S. W. Fifth Avenue
Portland, Oregon 97204

The Pollution Control Facility Certificate was issued for a water pollution control facility.

2. Discussion

On January 24, 1975 the Environmental Quality Commission issued Pollution Control Facility Certificate No. 549 to Georgia-Pacific Corporation for their Toledo, Oregon plant. The Certificate was in the amount of \$78,169.00, and was issued for the outer lagoon water reuse system.

On April 10, 1978, the Company notified the Department that the facility certified in Pollution Control Facility Certificate No. 549 had been taken out of service in February 1978 (see letter attached).

3. Summation

Pursuant to ORS 317.072(10), Certificate No. 549 should be revoked because the certified facility is no longer in use.

4. Director's Recommendation

Revoke Pollution Control Facility Certificate No. 549 issued to Georgia-Pacific Corporation in the amount of \$78,169.00, effective February 28, 1978.

MJDowns:cs

4/18/78

Attachments (2)

Certificate No. 549

Letter from Georgia-Pacific

Certificate No. 549Date of Issue 01-24-75State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITYApplication No. T-614**POLLUTION CONTROL FACILITY CERTIFICATE**

Issued To: Georgia-Pacific Corporation Toledo Division 900 S. W. Fifth Avenue Portland, Oregon 97204	As: Owner	Location of Pollution Control Facility: Paper Mill Site Toledo, Oregon Lincoln County
Description of Pollution Control Facility: Outer lagoon water reuse system.		
Date Pollution Control Facility was completed and placed in operation: <u>07-73; 07-73</u>		
Actual Cost of Pollution Control Facility: \$ <u>78,169.00</u>		
Percent of actual cost properly allocable to pollution control: <u>Eighty percent (80%) or more</u>		

In accordance with the provisions of ORS 449.605 et seq., it is hereby certified that the facility described herein and in the application referenced above is a "pollution control facility" within the definition of ORS 449.605 and that the facility was erected, constructed, or installed on or after January 1, 1967, and on or before December 31, 1978, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air or water pollution, and that the facility is necessary to satisfy the intents and purposes of ORS Chapter 449 and regulations thereunder.

Therefore, this Pollution Control Facility Certificate is issued this date subject to compliance with the statutes of the State of Oregon, the regulations of the Department of Environmental Quality and the following special conditions:

1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing water pollution.
2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation of the facility and if, for any reason, the facility ceases to operate for its intended pollution control purpose.
3. Any reports or monitoring data requested by the Department of Environmental Quality shall be promptly provided.

Signed _____

Title B.A. McPhillips, Chairman

Approved by the Environmental Quality Commission

on the 24th day of January 1975



Georgia-Pacific Corporation

900 S.W. Fifth Avenue
Portland, Oregon 97204
Telephone (503) 222-5561

April 10, 1978

Ms. Carol A. Splettstaszer
Technical Programs Coordinator
1234 S.W. Morrison Street
Portland, OR 97205

Dear Ms. Splettstaszer:

This is to inform you that the 12 inch Toledo return line, Tax Credit Certificate #549 has been taken out of service as of February, 1978. The project has been completely abandoned.

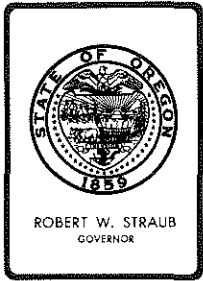
Sincerely,

R.M. Crockford
Senior Accountant

PAM/jlm

cc: Mr. R.C. Dubay
Mr. T.W. Mayberry
Mr. D.G. McLaughlin
Ms. P.A. Moffenbeier

Management Services Div.
Dept. of Environmental Quality
RECEIVED
APR 13 1978



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: John Borden, Willamette Valley Region Manager

Subject: Agenda Item No. D, April 28, 1978, EQC Meeting
Significant Activities, Willamette Valley Region.

Background

The Salem-North Coast and Midwest Regions were reorganized on February 1, 1978. Six counties (Marion, Polk, Yamhill, Linn, Benton, and Lane) are served from DEQ offices in Salem and Eugene. Clatsop, Tillamook, and Lincoln Counties are still served from Tillamook, which is now a branch of the Northwest Region's Portland office.

The reorganization has changed some geographic and program responsibilities in the six county area. Additionally, several staff changes have occurred during the last nine months, including a new Regional Manager on January 5, 1978.

The Regional Manager has requested that each Willamette Valley Region employee list his perception of existing or potential environmental problems. The next step is to rank them in a manner consistent with Department Goals and Objectives. The Evaluation section is an extraction of the more significant problems or activities in the Region.

Evaluation

Air Quality

1. There are 19 plants with veneer dryer emissions in the Region (excluding Lane County). Of these, 8 are currently in compliance, 2 are in marginal compliance, and 6 are on compliance schedules that will be complete on or before July 1, 1979. Two have been observed in violation, and schedules must be developed. One has a previously approved compliance schedule beyond July 1, 1979.



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2. GCA/Technology Division, Bedford, Massachusetts, recently conducted a Millersburg Industrial Complex Air Quality And Compliance Study for the Environmental Protection Agency. The study was begun in 1977 to determine the applicability of using EPA enforcement authority to help reduce air pollution problems in this Primary Abatement Area. Phase I (data gathering and survey design) of the study was completed in September, 1977. Further study, including extensive air quality sampling, is recommended, but funding to complete the study is not currently available.

Solid Waste

1. Brown's Island Sanitary Landfill is an agenda item currently before the Commission.
2. Short Mountain Landfill, Lane County, has discharged leachate to Camas Swale Creek. Lane County has not completed construction of leachate controls. Although previous discussions focused on disposal of treated leachate to the Creek, DEQ has requested that Lane County explore land disposal, and submit plans for completing the control system before the next rainy season.

Water Quality

1. Evans Products, Corvallis, currently has best practical technology (BPT) equipment installed, but influent BOD must be reduced. Also, they have no capability other than dredging for continuously removing solids. EPA is currently looking at enforcement. DEQ is evaluating the system's treatment capability to determine if any "fine-tuning" is possible.
2. The City of Newberg has had a recent history of severe long-term upset conditions at their sewage treatment plant. The problem has been traced to toxic substances discharged by one of the City's industrial customers. Newberg has been reluctant to seek remedies from their industrial users, and has had significant City staff turnover. DEQ has provided substantial manpower assistance at the treatment plant. Enforcement may be needed, and initial notices have been sent.
3. Philomath, Silverton, and Cottage Grove are examples of WVR communities experiencing serious inflow/infiltration and sewage bypassing problems. Unfortunately, the shortage of construction grant monies is hindering progress since improvement costs are high in relation to ability to pay.

Philomath and Cottage Grove may have developed ways to phase in some I/I construction improvements without federal grants. Silverton also faces a 1976 mandatory health hazard annexation for areas northeast of town.

4. In Grand Ronde, Polk County, a 208 study was completed in the unincorporated area based upon a sanitary survey conducted by DEQ, Polk and Yamhill Counties. Grand Ronde is served by a community subsurface disposal system, which fails and allows sewage to enter the South Yamhill River by overland flow. Areas outside Grand Ronde use individual subsurface systems, which have a 50% failure rate average. The Polk County Commissioners have budgeted \$5000 to prepare a sewage facilities plan.
5. The River Road-Santa Clara matter is before the Commission in a separate agenda item.
6. Drapersville-Century Drive area has been surveyed by the Linn County Health Department. Their Health Board referred a petition to the Oregon State Health Division to determine whether a danger to public health exists. The City of Albany may be ordered to prepare plans to sewer Drapersville.

Multiple Environmental Concerns

1. Proposed DEQ municipal sludge disposal guidelines are under review. One aspect not addressed in the proposal is guidance on use of existing animal waste treatment and disposal facilities for emergency or long-term disposal of municipal sludge. Since there are increasing amounts of municipal sludge, and since there are several hundred animal waste facilities in the Willamette Valley Region, a mutual benefit might be possible. WVR has begun meetings with the State Department of Agriculture to identify such benefits. A memorandum of understanding between the two agencies may follow.
2. WVR is reacting to many oil spills in municipal storm sewers or drainageways. Often major clean-up expense could be avoided if parties first on the scene had oil containment training and small quantities of containment materials available. To improve the situation, DEQ and City of Salem officials met to determine what could be done. Salem may now stockpile a few absorbent pads and booms. If this proves effective, WVR will schedule meetings along the same lines with other cities.

Summation

Other significant activities or problems will be brought before the Commission.

Director's Recommendation

None. This report is for information only.

John E. Borden/wjr
378-8240, Salem
April 18, 1978



DEPARTMENT OF JUSTICE

PORTLAND DIVISION
500 Pacific Building
520 S.W. Yamhill
Portland, Oregon 97204
Telephone: (503) 229-5725

April 14, 1978

Mr. Peter McSwain
Hearings Officer
Dept. of Environmental Quality
522 S.W. 5th
Portland, OR 97201

Re: DEQ v. Sam Davis, et al
Before the Environmental Quality Commission

Dear Mr. McSwain:

Enclosed for filing is the Department's Brief on
Commission Review with certificate of service attached in
the subject case.

Sincerely,

A handwritten signature in cursive script that reads "Robert L. Haskins".

Robert L. Haskins
Assistant Attorney General

pm
Enclosure

cc/enc: William H. Young, Portland DEQ
T. Jack Osborne, Portland DEQ
Fred Bolton, Portland DEQ
Rich Reiter, Roseburg DEQ
Dave Couch, Medford DEQ
Kerry Lay, Jackson Co. Dept. of Planning
Sidney Ainsworth, Attorney at Law
Jack Davis, Attorney at Law

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DEPT. OF ENVIRONMENTAL QUALITY

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

3 DEPARTMENT OF ENVIRONMENTAL QUALITY)
4 of the STATE OF OREGON,)
5 Department,) No.
6 v.)
7 SAM DAVIS, et al,)
8 Respondent.)

9 I. PROCEEDINGS BELOW

10 This matter was commenced by the Department through its
11 agent Jackson County by the filing and serving upon each Respon-
12 dent separate letter notices of intent to revoke sewage disposal
13 system construction permits held by Respondents. Respondents
14 filed a joint written answer and a consolidated contested case
15 hearing was held before the Commission's Hearing Officer, Peter
16 McSwain.

17 On January 24, 1978, Hearing Officer McSwain served and
18 filed his Proposed Findings of Fact, Conclusions of Law, and
19 Final Orders in which he proposed that the Commission revoke one
20 of the permits (held by William D. Paulsen and JoAnn A. Paulsen)
21 and refuse to revoke the remaining permits.

22 The Paulsens filed a timely request that the Commission re-
23 view the Hearing Officer's ruling as it pertained to their lot.
24 The Department filed a timely request that the Commission review
25 the Hearing Officer's ruling regarding the remaining lots.
26 Subsequently, the owners (Harlon Trent and Diane Trent, permit

James A. Redden
Attorney General
500 Pacific Building
Portland, Oregon 97204
Telephone 229-5725

1 15-450-74N) of one of the remaining lots changed attorneys. The
2 Trents' new attorney requested and was given additional time to
3 review the transcripts and prepare a brief and therefore the
4 Trents' case was severed from the remaining cases.

5 In this brief the Department will present its arguments,
6 exceptions and proposed alternative findings of fact, conclusions
7 of law and final order regarding, first the Department's appeal,
8 and second, the Paulsens' appeal. The Department's exceptions
9 and proposed alternative findings, conclusions and final order
10 are attached hereto marked "Appendix".

11 II. ARGUMENT

12 A. THE COMMISSION SHOULD GIVE THE SETTLEMENT AGREEMENTS
13 THEIR FULL EFFECT BY DISMISSING THESE PROCEEDINGS WITHOUT FURTHER
14 CONSIDERATION OF THE MERITS.

15 These proceedings to revoke twelve subsurface sewage dispos-
16 al system construction permits were commenced on or about May 12,
17 1975, by the Department's letter notices of intent to revoke per-
18 mits. Respondents filed a timely request for a hearing and an
19 answer claiming rights to the permits. Thereafter, by a letter
20 dated July 7, 1975, from Director Loren Kramer to Respondents'
21 attorney of record Sidney Ainsworth (an unmarked exhibit in the
22 record hereof) the Department offered Respondents two options
23 for compromising and settling these proceedings. These options
24 were as follows:

25 "1. The proposed revocation will be rescinded and
26 this Department will issue you a permit to install your
proposed subsurface sewage disposal system, containing

1 the following express conditions:

2 "(a) A deed restriction running with the
3 land shall be filed in the Jackson
4 County deed records and appear in the
5 record title of the subject property
6 which will provide notice that the
7 permit was originally issued in vio-
8 lation of the rules of the Environ-
9 mental Quality Commission then in ef-
10 fect and that it is the opinion of the
11 Department of Environmental Quality
12 that the system will fail; and

13 "(b) You will give written notice of (a)
14 to any purchaser prior to sale of the
15 property; and

16 "(c) You will agree to hold harmless and
17 indemnify the Department of Environ-
18 mental Quality, the Environmental
19 Quality Commission, Jackson County,
20 and all of their agents and employees
21 for any judicial or administrative
22 proceeding which might result from
23 the failure of the system.

24 "2. The second optional form of settlement that I
25 offer you is as follows: The hearing in this matter will
26 be delayed indefinitely in order to give you an opportunity
to file an application for a variance to install a modified
engineered system pursuant to Oregon Laws 1975, Chapter 309
and Environmental Quality Commission rules proposed for
adoption at its July 10, 1975 meeting, and you will prompt-
ly file such an application. The variance application fee
will be waived. If a variance should not be granted, then
the requested hearing shall be scheduled."

27 In summary, in the first option the parties would both agree
28 to abandon the then pending contested case administrative pro-
29 ceeding and the permit would be reissued containing certain con-
30 ditions. In the alternative, under the second option the parties
31 would agree to delay the contested case administrative hearing
32 indefinitely in order to allow Respondent an opportunity to file
33 an application for a variance. However, if a variance did not

1 issue then both parties would be free to prosecute the contested
2 case administrative hearing to a final order.

3 On May 4, 1976, evidence was heard in this matter. Within
4 three months thereafter, but prior to the filing of any post hearing
5 briefs or the proposed decision by the Hearing Officer, Respondents
6 holding seven of the permits in this case accepted settlement
7 option number one. They did so by each executing a separate
8 but substantially identical document entitled "Permit Conditions"
9 (unmarked exhibits in this case, a copy of one of which is at-
10 tached as Attachment F, p. 1 to the Hearing Officer's Proposed
11 Findings of Fact, Conclusions of Law and Final Orders (herein-
12 after "Proposed Findings etc."), and by each executing another
13 separate but substantially identical document entitled "Deed
14 Restrictions" before a notary public. A copy of the Deed Res-
15 trictions (an unmarked exhibit in the record) is also attached
16 to the Proposed Findings etc. as Attachment F, p. 2.

17 By executing those documents the Respondents consummated their
18 settlement agreements, and the Hearing Officer so found. (E.g.,
19 Proposed Findings etc., p. 7, lines 9-17) They immediately re-
20 ceived their permits, subject to certain conditions, and by doing
21 so they thereby waived any rights they may have had to seek final
22 determinations on the merits of these proceedings to revoke those
23 permits and thereby obtain possible reinstatements of the origi-
24 nal permits without the special conditions. Each of those
25 Respondents chose the option involving the immediate receipt of
26 a permit and abandonment of the appeal, rather than the second op-

1 tion which would have saved their right to appeal if a variance were
2 not issued.

3 However, Respondents did not ever inform the Hearing Officer
4 of the existence of these settlement agreements.¹ Instead, it is
5 evident that Respondents through their counsel consciously chose
6 to keep the Hearing Officer ignorant of those settlements. Note
7 that Respondents' counsel was the notary public on many of the
8 documents. Respondents thereby allowed the Hearing Officer and
9 the Department of Justice to invest great amounts of time on cases
10 which had been settled.

11 In his opinion, the Hearing Officer indicated that such settle-
12 ments were authorized by ORS 183.415 and that the Department and
13 Respondents have taken advantage of the statute. (Proposed Find-
14 ings etc. p. 25) However, he refused to enforce those agreements
15 by dismissing the proceedings without examining the other evi-
16 dence, as the parties had agreed. Instead, he proposed to rule
17 that the Department failed to prove any grounds for revoking
18 the permits, which could have the effect of reinstating the ori-
19 ginal permits without the special conditions. In other words,
20 the Hearing Officer refused to give the agreements their agreed
21 upon effect. In fact, the Hearing Officer, although purporting
22 to issue a proposed final order, invited Respondents to reopen
23 the case by challenging the agreed upon permit terms. (Proposed

24 1

25 Department's counsel was not made aware of them until
26 after briefing the case whereupon he offered them for the re-
cord on August 5, 1977.

1 Findings etc., pp. 26, 28)

2 As indicated above, those Respondents chose to settle their
3 cases by immediately obtaining permits with special conditions in
4 exchange for their abandonment of their contested cases (option
5 number 1), rather than applying for a variance (option number 2)
6 and/or defending their contested cases with the possibility that
7 sometime in the future the Hearing Officer, Commission and the
8 courts would rule in their favor and grant them permits without
9 special conditions. Apparently those Respondents were of the
10 opinion that one bird in the hand was better than two in the
11 bush. Those Respondents made their bargains. It should be noted
12 that not all the Respondents accepted the Department's offer.
13 Holders of five of the permits did not accept the offer. In
14 spite of this solemn contract between the parties, the Hearing
15 Officer proposes that the Commission allow each Respondent to
16 avoid the burden of his contract (dismissal of the case without
17 consideration of the merits i.e., waiver of right to seek rein-
18 statement of original permit without special conditions) after
19 having accepted the benefits of the contract (immediate receipt
20 of a permit with special conditions). Such action would under-
21 mine these settlements and the settlement process generally.
22 Settlement of cases prior to hearing or prior to the issuance of
23 a final order should be encouraged, not discouraged as the Hear-
24 ing Officer proposes.

25 Such a refusal to recognize executed settlement agreements
26 has no basis in law. Regarding the analagous matter of a con-

1 sent decree, the Oregon Supreme Court has stated in the early
2 case of Stites v. McGee, 37 Or 574, 61 P 1129 (1900):

3 "* * * [A] consent decree is not, in a strict
4 legal sense, a judicial sentence or judgment of the
5 court, but is in the nature of a solemn contract bet-
6 ween the parties. When a decree is made by the con-
7 sent of the parties, the court does not inquire into
8 the merits or equities of the case. The only questions
9 to be determined by it are whether the parties are
10 capable of binding themselves by consent, and have
11 actually done so. These two facts appearing, the court
12 orders a decree to be entered, and when thus entered,
13 showing on its face that it is by consent, it is ab-
14 solutely conclusive upon the consenting parties. It
15 cannot be amended or varied in any way without the
16 consent of all the parties affected by it; nor can it
17 be reheard, vacated, or set aside by the court render-
18 ing it, especially after the expiration of the term;
19 nor can it be appealed from or reviewed upon a writ
20 of error. The only way it can be attacked or impeached
21 after the expiration of the term, whatever the rule may
22 be during the term, is by an original bill on the
23 ground of fraud or mutual mistake * * *." 37 Or 576-77.

24 More recently that court has stated:

25 "* * * An attempt to set aside a consent judgment
26 or decree * * * is governed by an additional 'fixed
27 legal principal' * * *. That principle is that a
28 judgment or decree entered by consent of the parties
29 is in the nature of a contract, approved by the court,
30 and cannot be set aside except on grounds adequate to
31 justify the rescission of a contract. Wershow v. McVeety
32 Machinery, 263 Or 97, 102-103, 500 P2d 696 (1972). In
33 Wershow we held that a unilateral mistake was not grounds
34 for opening a consent judgment under ORS 18.160 where
35 the mistake was neither actually or constructively
36 known to the other party." Neiminen et ux v. Pitzer,
37 281 Or 53, ___ P2d ___ (1978).

38 The most Respondents have claimed is unilateral mistake. How-
39 ever, before such a claim could be adjudicated, evidence would
40 have to be offered on the matter. No evidence has been heard on
41 the Respondents' assention of invalidity, and the Hearing Officer
42 proposes that the Commission rule on the merits of the Depart-

1 ment's case for revocation without ruling on the Respondents'
2 assertions. That is a proper procedure. Should any Respondent
3 wish to attempt to rescind his settlement agreement, that should
4 not affect the validity of the agreement, unless and until a forum
5 of competent jurisdiction has actually rescinded the agreement.
6 "The modification proceedings must be carried out on the * * *
7 [permitter's] time, not at the expense of the general public."
8 Pennsylvania v. Bethlehem Steel Corp., ___ Pa ___, ___ A2d ___,
9 9 ERC 2014, 2018 (1976). Therefore, the possibility of the
10 commencement of such a proceeding to rescind should not be a
11 part of the Commission's ruling, let alone be invited thereby.
12 As the proposed ruling now stands there is some question as to
13 the finality thereof.

14 Based on the above, the Department is entitled to a final
15 order dismissing these proceedings against those Respondents who
16 entered into settlement agreements, based on those agreements,
17 and not on the merits.² The Commission may effectuate that re-
18 sult by adopting the Department's Proposed Alternative found in
19 the Appendix at paragraph I.1.C.

20 / / /

21 / / /

22 ²

23 If for any reason the merits of the Department's cases
24 against those Respondents should be considered, then the findings
25 and conclusions should include findings and conclusions that
26 those permits were issued in violation of the laws of the Com-
mission, as was recited in the settlement documents. ORS 41.350(3)
(a conclusive presumption). See Appendix at paragraph II for spe-
cific proposal.

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1 B. THE DEPARTMENT ESTABLISHED THAT THE SOILS ON FOUR LOTS
2 WERE UNSUITABLE FOR SUBSURFACE SEWAGE DISPOSAL.

3 The Hearing Officer proposes that the Commission find that
4 except for one lot (permit No. 15-533-74N) the Department failed
5 to prove that the soils in the permitted area on each lot were
6 unsuitable.

7 Although the uncontroverted testimony of Jackson County
8 Soil Scientist Steve Shade was that the soils that he examined
9 on each lot were unsuitable (generally impervious or restrictive
10 clay soils closer than allowed to the ground surface), the
11 Hearing Officer concluded that except on one lot, Mr. Shade's
12 investigations were of different locations on each lot than the
13 areas approved for drainfields on the permits. The Hearing
14 Officer so concluded based on a comparison of the drawings by
15 Mr. Shade of the areas on the lots which he inspected to the
16 drawings by Sanitarian Ronald Slater on the plot plans and locater
17 maps accompanying the permits which he issued. See Proposed
18 Findings etc., pp. 21-22, and Attachments A, B, D and E thereto.

19 However, a comparison of those drawings regarding lot 13
20 (permit 15-532-74N), lot 2 (permit 15-447-74N) and lot 11 (permit
21 15-435-74N) disclose that Mr. Shade investigated the same area
22 that Mr. Slater permitted. See Attachments A, B and C to the
23 Appendix hereto in order to compare those drawings.

24 Therefore, the Department established that the soils on
25 those lots was unsuitable and consequently that the permits should
26 be revoked therefor. That result can be accomplished by the Com-

1 mission by adopting the Department's Proposed Alternatives found
2 in the Appendix at paragraphs I.6.B., I.7.B., I.8.B., I.10.B.
3 and I.11.B.

4 C. NONE OF THE RESPONDENTS HAD A VALID PRIOR APPROVAL UNDER
5 OAR 340-71-015(8).

6 In its notices commencing these proceedings the Department
7 stated its intent to revoke Respondents' permits because each:

8 "was not issued in accordance with the applicable
9 rules of D.E.Q. (Sec. 71-015(8), Ch 340, Oregon Admini-
10 strative Rules, a copy of which is enclosed) for the
11 following reason. There is not sufficient evidence
12 in our files of express written approval, prior to
13 January 1, 1974, of the subsurface sewage disposal
14 system for the above-described property by the legally
15 authorized agency in accordance with the applicable
16 subsurface sewage disposal rules in effect at that
17 time."

18 Each Respondent answered jointly, alleging among other things,
19 as an affirmative defense:

20 "2. * * * there was written approval, by an appro-
21 priate governmental entity, given prior to January 1,
22 1974, for installation of sub-surface sewage disposal
23 systems on each of the properties involved and that
24 based thereon, each of the permits for sub-surface
25 sewer systems were properly issued."

26 Thus the basic issues were joined. Briefly, the Department
alleged that Respondents did not have sufficient written prior
approvals, OAR 340-71-015(8), for satisfactory sites under prior
rules. Respondents answered, in essence, that there were such
written approvals.

A party has the burden of proving its allegations (and
suffers the burden of a failure of proof), even if as a matter of

1 law the burden would have been on the other party in the absence
2 of the allegation. 31A CJS 175, 176, Evidence §104 (1964);
3 29 Am Jur 2d 162-163, Evidence §129 (1967). In other words, a
4 party may assume the burden or shift the burden of proof to it-
5 self, by the way it frames its own allegations. Here, Respondents
6 plead the above affirmative defense, rather than merely plead-
7 ing a general denial. Respondents have thereby assumed the bur-
8 den of proving that defense.

9 It is clear that the Department and Respondents approached
10 the case through their pleadings and proof on the assumption
11 that the issue was whether purported prior approvals were valid.
12 Here, as the Hearing Officer implied, the permits were applied
13 for as, or were issued as "prior approvals". Of course a prior
14 approval is only relevant if the existing rules cannot be com-
15 plied with. In other words non-compliance with the existing rules
16 is assumed.

17 On the face of it, it might appear that Respondents would
18 not have had the burden of proving their affirmative defense had
19 they merely denied the Department's contrary allegation. How-
20 ever, such a simple analysis is not apt. Indeed, in view of the
21 nature of the matter to be proved it would clearly legally and
22 logically be Respondents' burden to prove the affirmative (that
23 a written prior approval existed) rather than the Department's
24 burden to prove a negative (that such a written prior approval
25 did not at any time exist. ORS 41.240 demands that result. That
26 statute provides:

1 "Each party shall prove his own affirmative alle-
2 gations. Evidence need not be given in support of a
3 negative allegation, except when the negative alle-
4 gation is an essential part of the statement of the
5 right or title on which the cause of action or defense
6 is founded, nor even then if the allegation is the
7 denial of the existence of a document, the custody
8 of which belongs to the adverse party." (Emphasis supplied)

9 At the hearing Respondents clearly took the burden of attempt-
10 ing to prove that a valid prior approval document existed. They
11 offered a June 30, 1970, letter "To Whom It May Concern" from
12 Orrie Moore, Senior Sanitarian of Jackson County (Respondents'
13 Exhibit 4) as such an approval. However, that letter does not
14 satisfy the requirements of the rule. The letter provides in
15 total that:

16 "A series of 24 test holes were made on the proposed
17 Rolling Hills Subdivision near Ashland, Oregon.

18 "These test holes revealed soil formations which
19 appear to be suitable for sub-surface sewage disposal
20 installations."

21 The "prior approval" rule, OAR 340-71-015(8) provides in
22 pertinent part as follows:

23 "Prior Construction Permits or Approvals. All
24 permits or written approvals involving site evaluations
25 issued prior to January 1, 1974 shall be accepted
26 under these rules as valid for construction of a
27 subsurface sewage disposal system providing they
28 expressly authorize use of such facilities for an
29 individual lot or for a specific lot within a sub-
30 division; they were issued by a representative of
31 the state or local agency authorized by law to
32 grant such approval; and they were issued in accord-
33 ance with all rules in effect at that time."

34 Thus, in order for a lot to have prior approval status, the rule
35 requires that six criteria be present: (1) that there be a

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1 prior permit or written approval; (2) involving a site evaluation;
2 (3) issued prior to January 1, 1974; (4) that it expressly
3 authorize use of such facility for an individual lot or for a
4 specific lot within a subdivision; (5) that it be issued by a
5 representative duly authorized by law; and (6) that it be issued
6 in accordance with all rules in effect at the time.

7 As the Hearing Officer stated in his opinion:

8 "It can be inferred from the 'blanket approval'
9 of Orrie [sic] Moore (see General Finding number two)
10 that such approval was for an entire subdivision,
11 not express authorization for a system for Lot 8A,
12 and not in conformance with the requirement of III(H)
[OAR 340-71-015(8)] of the rule as it existed at
the time the permit was granted." Proposed Findings
etc. pp. 19-20.

13 Furthermore, its effectiveness is belied by the subsequent Non-
14 Feasibility Statements for some of the lots in question (Depart-
15 ment's Exhibits 10, 11; Respondents' Exhibits 5, 6), by the
16 January 16, 1974 action of the Jackson County Sewage Disposal
17 Ordinance Appeals Committee (Proposed Findings etc. number 6 at
18 p. 2) and by the site evaluation made by Mr. Shade in October of
19 1973 indicating unacceptable soil conditions on some of the lots.
20 (See part II.B. hereof)

21 Respondents also offered certain Feasibility Statements as
22 prior approval writings. (Respondents' Exhibits 7, 8, 9, 10, 11,
23 12, 14(a), 14(b), 14(c), 14(d), 14(e)) However, even those lots
24 for which Feasibility Statements were issued fail to satisfy the
25 prior approval rule. Feasibility Statements do not constitute

26 / / /

1 a "written approval". OAR §333-41-022(3)(a), in effect at the
2 time the Feasibility Statements were issued, specifically so pro-
3 vides, as follows:

4 "The feasibility statement of the health officer
5 hereunder is of a preliminary and non-specific nature
6 addressed only to the feasibility of the proposed
7 method of sewage disposal under the general conditions
8 and circumstances of the property as a whole. The
feasibility statement shall not be considered as an
approval of any specific subsurface sewage disposal
system or systems, number of systems or location or
locations of systems." (Emphasis supplied)

9 Substantially the same language was on the Feasibility Statements
10 themselves. (Proposed Findings etc., number 9 at p. 3) The
11 Feasibility Statements were also subsequently undermined by
12 Jackson County Sewage Disposal Ordinance Appeals Committee action
13 (Proposed Findings etc., number 6 at p. 2) and by Mr. Shade's
14 inspections. (See Part II.B. hereof)

15 Furthermore, the Hearing Officer did not find, and there is
16 no evidence in the record that the Moore letter or any of the
17 Feasibility Statements was preceded by a site evaluation of the
18 soils and other conditions on each lot, as was required by OAR 340-
19 71-015(8) ("involving site evaluations").

20 However, in spite of stating in his opinion at pages 19-20,
21 that the Moore letter could be inferred as not being in compliance
22 with OAR 340-71-015(8), the Hearing Officer refused to make any
23 such specific conclusion of law and instead relied on the bur-
24

3

25 It is unclear why the Hearing Officer refused to make
26 any conclusions of law regarding the merits of Respondents'
claim that the 1970 Orle Moore letter (Respondents' Exhibit 4)

1 den of proof and a presumption that official duty was performed
2 regularly, ORS 41.350(15), making his ruling for the Respondents.

3 The presumption that official duty was performed regularly
4 is not a conclusive presumption. It is by law a rebuttable pre-
5 sumption. ORS 41.350. It is clear that all the Department's
6 actions taken after the issuance of Respondents' permits tend to
7 rebut the presumption of regularity. For example, the systematic
8 study and discovery of the absence of soils logs in the Depart-
9

10 (3 cont'd.)

11 constituted a valid written prior approval under OAR 340-71-015(8).
12 It is apparent however that he was influenced to some extent by
13 the EQC case of Lahti and Son, Inc. v. DEQ, because he cited
14 that case for the proposition that:

15 "the Commission has, in effect, ruled that even
16 an unfavorable report of evaluation of site suitability
17 (See ORS 454.755) should not be issued based on evi-
18 dence going directly to the nature of the soils and
19 landscape in questions [sic]." Proposed Findings etc.,
20 p. 20.

21 However, the Hearing Officer misreads that case. That case
22 also involved a claim of prior approval under OAR 340-71-015(8)
23 for part of a subdivision. In that case the Hearing Officer
24 proposed that the Commission deny the claim of prior approval
25 based solely on a finding that the writing claimed to be a
26 prior approval was not sufficient. The Commission, after taking
27 further evidence regarding water tables and soils, in effect re-
28 versed the Hearing Officer's ruling that the writing was insuffi-
29 cient. The Commission found as its first conclusion of law that
30 the writing was sufficient as a prior approval, and granted a
31 prior approval feasibility statement on two lots although it
32 went on to deny the possibility of prior approval permits for
33 the other lots because of water table conditions which violated
34 the prior rules.

35 Therefore the Lahti case is not authority for refusing to
36 make a conclusion of law regarding the validity, or lack thereof,
37 of a writing as a prior approval under OAR 340-71-015(8). Such
38 conclusions should be made.

1 ment's files to support many of the permits issued by Mr. Slater,
2 including all those issued in this case, is direct evidence that
3 in this case Mr. Slater did not act regularly and that therefore
4 the presumption is not apt. It is evidence that in the regular
5 course of a sanitarian's official duties soils are personally
6 examined and findings are recorded in the Department's records.
7 The absence of those records is significant and in this case
8 prompted the massive examination of previously permitted lots,
9 clearly an extraordinary undertaking. Furthermore, the Hearing
10 Officer's findings with respect to permit No. 15-533-74N defeat
11 the presumption with respect to the other permits. Additionally,
12 there were prior Non-Feasibility Statements in the files re-
13 garding some of the lots. In total, the above evidence easily
14 defeats the absurd presumption that Ronald Slater regularly per-
15 formed his duties in this case.

16 A disputable presumption, as we have here, is not difficult
17 to defeat. Standard Prod. Co. v. LCN United Med. Labs, 279 Or
18 633, ___ P2d ___ (1977). There is such a presumption because
19 it is ordinarily reasonable to assume that official duty is re-
20 gularly performed. However, the presumption applies only so long
21 as it is a reasonable assumption. The burden of proof to defeat
22 the presumption is light because an elimination of the presump-
23 tion from the case is not necessarily determinative of the issue
24 in question. To defeat the presumption only means that then evi-
25 dence must be offered on the issue. Neither should the presump-
26 tion of regularity apply when the very issue to decide is whether

1 the official regularly performed his duties. In the absence of
2 the presumption, then the burden falls on the person having the
3 burden of proof on the issue to present evidence in support of
4 his contention.

5 In light of the Hearing Officer's ruling in Conclusion of
6 Law Number 5 (page 17) that based on the presumption the permits
7 are valid as a prior approval under "OAR 71-020(8) sic [presum-
8 ably 340-71-015(8)]" and in light of this refusal to expressly
9 conclude that any writing in the record constituted a valid
10 written prior approval thereunder, therefore the hearing offi-
11 cer must be ruling that even though no one has offered a valid
12 written prior approval in evidence in this case, it will be pre-
13 sumed that there is such a writing somewhere that Mr. Slater knew
14 about. Of course the consequence of this analysis is that it
15 becomes the Department's burden to disprove that such a writing
16 exists in order to prevail. Obviously such a burden is impossible;
17 for every Orié Moore letter or Non-Feasibility Statement that you
18 can introduce into the record you can also presume a subsequent
19 valid written prior approval. Equally obvious is that that
20 sort of impossibility is exactly why the law requires Respon-
21 dents to prove the existence of a document, rather than require
22 the Department to disprove its existence. ORS 41.240. Addi-
23 tionally, Respondents have affirmatively assumed that burden
24 as an affirmative defense.

25 Therefore, the Commission should make findings and conclu-
26 sions denying Respondents' claim that the 1970 Orié Moore letter

1 (Respondents' Exhibit 4) and Feasibility Statements constitute
2 valid written prior approvals under OAR 340-71-015(8) in effect
3 at the time of application, and revoking those permits. The
4 Department's specific requests are contained in all of the
5 Appendix except paragraph I.1.C.

6 D. REQUEST FOR COMMISSION REVIEW BY THE PAULSENS (PERMIT
7 15-533-74N).

8 1. THE DEPARTMENT IS NOT ESTOPPED FROM ENFORCING THE LAW.

9 The Hearing Officer ruled correctly that the Department
10 is not estopped from revoking permit 15-533-74N held by William D.
11 Paulsen and JoAnn A. Paulsen. Proposed Findings etc., number 2
12 at p. 18.

13 The Paulsens purchased their lot on October 28, 1973.
14 (Paulsens' Exceptions etc. at p. 7) However, they contend that be-
15 cause the developers of Rolling Hills Subdivision (Pompadour Estates)
16 spent approximately \$80,000 developing 4 1/2 miles of roads
17 throughout the subdivision, rezoned the subdivision and granted
18 utility easements throughout the subdivision, allegedly in reli-
19 ance on a 1970 letter from a Jackson County employe (Respondents'
20 Exhibit 4), that somehow the State, through its DEQ, is estopped
21 from enforcing the State's EQC rules pertaining to issuance of
22 a State DEQ permit for construction of a subsurface sewage dis-
23 posal system on the Paulsens' lot.

24 Such a proposition contravenes the long-established rule
25 that a permit issued under mistake of fact or in violation of
26 law gives the permittee no vested right and is revocable by the

1 State at any time. See, Giordano v. Mayor and Council of
2 Borough of DuMont, 137 NJL 740, 61 A2d 245, 6 ALR 2d 956 (1948);
3 Nolan v. Blackwell, 123 Wash 504, 212 P 1048 (1923). The State
4 cannot be estopped from enforcing its police powers by the un-
5 authorized acts of its agents, employes or officers. Bankus
6 v. City of Brookings, 252 Or 257, 259-260, 449 P2d 646 (1969);
7 Public Market Co. of Portland v. City of Portland, 171 Or 522, 593,
8 130 P2d 624 (1942); Tuttle v. Beem, 144 Or 145, 24 P2d 12, 16
9 (1933); Smith v. State Ind. Acc. Comm., 144 Or 480, 483, 23 P2d
10 904, 25 P2d 1119 (1933); Multnomah County v. Mittleman, 24 Or App
11 237, 241, ___ P2d ___ (1976), rev'd on other grounds, 275 Or 545,
12 ___ P2d ___ (1976); Clackamas County v. Emmert, 14 Or App 493,
13 499-503, 513 P2d 532 (1973). Other jurisdictions have held simi-
14 larly. Giordano v. Mayor and Council of Borough of DuMont, supra,
15 61 A2d at 246-247; City of Milwaukee v. Leavitt, 31 Wis 2d 72,
16 142 NW2d 169, 171-173 (1966). This is true even where there have
17 been substantial expenditures based on the officer's unauthorized
18 act. City of Molalla v. Coover, 192 Or 233, 250-253, 235 P2d 142
19 (1951); Mutual Irrigation Co. v. Baker City, 58 Or 306, 325, 110
20 P 392 (1911) (dictum); City of Milwaukee v. Leavitt, supra. In
21 other words, a public employe has no authority to waive the manda-
22 tory requirements of law. Bankus, supra, 252 Or at 259-260. This
23 applies to good faith erroneous interpretations and applications of
24 the law, as well. Kays v. McCall, 244 Or 361, 372-373, 418 P2d
25 261 (1966).

26 / / /

1 In Palm Gardens Inc. v. OLCC, 15 Or App 20, 35, 514 P2d 888
2 (1973), the Court stated that "[t]he only Oregon cases applying
3 the doctrine [estoppel] against the state, however, involve tax
4 assessment or tax related situations". This is not a tax case.

5 As a general rule, the government cannot be estopped from
6 exercising its powers. 2 Davis, Administrative Law Treatise,
7 §17.01 at 491 (1958). This is particularly true when the powers
8 it exercises are intended to further important public policies.
9 Clackamas County v. Emmert, supra, 14 Or App at 502-503. 2 Davis,
10 Administrative Law Treatise, supra, §17.04 at 511-512. It is
11 apparent from the broad rule making power that the Legislature
12 vested in the Environmental Quality Commission that the preserv-
13 ation of the quality of the State's water resources and the pro-
14 tection of the people of the State of Oregon from public health
15 hazards is a matter of great legislative concern. See, ORS 454.
16 625, 468.015, 468.020, and 468.705 through 468.715.

17 Neither is this a case where Respondents have gained a
18 "vested right" such as in the case of Clackamas County v. Holmes,
19 265 Or 193, 508 P2d 190 (1973), and the other authorities cited
20 by the Paulsens. That doctrine applies only when a person in
21 good faith has taken substantial steps to develop property for
22 a particular use, which use was authorized at the time of acting,
23 but subsequently is prohibited. In such a case, the prior non-
24 conforming use, if substantially undertaken, is recognized as
25 a "vested right" which a subsequent prohibition cannot affect.
26 Id. In our case, the approvals, if any, were not authorized

1 when given. The Paulsens admit as much by their acceptance of
2 Proposed Findings etc., number 3 at p. 18 to the effect that
3 "there was an impervious layer of soil to the surface in the
4 drainfield area * * *". This of course violated the EQC rule
5 in effect at the time of application in 1974, OAR 340-71-030(1)(a),
6 Proposed Findings etc., number 12 at p. 4, line 20 through p.5,
7 line 1. It also violated the Oregon State Board of Health
8 rule in effect when Mr. Moore wrote his letter in 1970, and when
9 the Feasibility Statement was issued in February 1973, OAR 333-
10 41-030(1), Respondents' Exhibit 3.

11 Furthermore, estoppel, as an affirmative defense, must be
12 carefully pleaded. Haun v. Martin, 48 Or 304, 307, 86 P 371
13 (1906); Abrahamson v. Brett, 143 Or 14, 25, 21 P2d 229 (1933).

14 "To constitute an equitable estoppel, or
15 estoppel by conduct, (1) there must be a false re-
16 presentation; (2) it must be made with knowledge of
17 the facts; (3) the other party must have been ignor-
18 ant of the truth; (4) it must have been made with
the intention that it should be acted upon by the
other party; and (5) the other party must have
been induced to act upon it." Earls et ux v. Clarke,
233 Or 527, 530-531, 355 P2d 213 (1960).

19 Respondents have failed to plead and prove the necessary ele-
20 ments sufficient to constitute estoppel. For example, the re-
21 presentations were not made by the State, but rather by an
22 employe of the County at times when the County had no relation-
23 ship with the DEQ. They were not made with the full knowledge
24 of the facts, in contravention of condition (2). Finally,
25 there is no evidence in the record that the Paulsens were in-
26 duced to act upon the alleged representations. Neither of the

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1 Paulsens testified. In fact, it appears that it was not the
2 Paulsens at all who may have relied to their detriment, but
3 rather, if anyone, it was Pompadour Estates, the previous owner
4 and developer of the lots. Pompadour Estates is not a party
5 to this hearing.

6 The only representations which the Department could con-
7 ceivably be responsible for would be those made by its agent
8 Ronald Slater in issuing the permit in 1974. Any reliance upon
9 which an estoppel could be based would have to arise after is-
10 suance of the permit in 1974. The Paulsens only point to act-
11 ion taken by Pompadour Estates prior to issuance of the permit.
12 That does not support the Paulsens' estoppel argument.

13 Even if Pompadour Estates were a party in this case and claimed
14 an estoppel based on the Moore letter (Respondents' Exhibit 4) and
15 the Feasibility Statement, estoppel would not arise for even an-
16 other reason. This is that those "approvals" were allowed to
17 expire under the rules in effect at the time. The section en-
18 titled "Water Carried Subsurface Sewage Disposal System" of
19 the Health Division's Rules Governing the Subsurface Disposal
20 of Sewage was amended July 5, 1973, to read in pertinent part,
21 as follows:

22 "(20) (a) Installation of a subsurface sewage
23 disposal system is allowable under the rules govern-
24 ing the subsurface disposal of sewage in effect bet-
25 ween January 11, 1972 to May 1, 1973* in the following
instances, provided that conditions on the site are
in conformance with such rules and that construction
is completed by January 1, 1974.

26 " * * *

1 "3. Where pursuant to OAR Chapter 333 Section 41-
2 022 effective May 1, 1972, a feasibility statement
3 was issued or a previous approval was given that effect.

4 "* * *"

5 Obviously, construction was not completed prior to January 1,
6 1974. Additionally, the Feasibility Statement issued for Res-
7 pondents' lot was subsequently reversed by the Jackson County
8 Sewage Disposal Ordinance Appeals Committee. Proposed Findings
9 etc. at number 6, p. 2. Thus, those "approvals" were allowed
10 to expire and therefore could not support an estoppel argument.
11 It is only by subsequent action of the EQC in adopting the
12 "prior approval" rule, OAR 340-71-015(8), that the Moore letter
13 (Respondents' Exhibit 4) or the Feasibility Statement (Respon-
14 dents' Exhibit 12) might be given a new breath of life. However,
15 as was pointed out above at part II.C. hereof, those statements
16 do not satisfy all the requirements of the prior approval rule.

17 In summary, estoppel therefore will not lie against the
18 Department in this case. See Clackamas County v. Emmert, supra,
19 14 Or App at 503; Multnomah v. Mittleman, supra, 24 Or App 237,
20 at 243.

21 2. THE DEPARTMENT HAS CLEAR AUTHORITY TO REVOKE THE PAUL-
22 SENS' PERMIT WHICH WAS ISSUED IN VIOLATION OF THE
23 COMMISSION'S RULES.

24 The Paulsens contend that the Department of Environmental
25 Quality acted outside its statutory authority when it proposed
26 to revoke the Paulsens' subsurface sewage disposal system permit.
They assert that the Department failed to plead and prove any

1 of the four statutory grounds for revocation contained in
2 ORS 468.070(1)(a) through (d). The Hearing Officer concluded
3 that the permit should be revoked. The Hearing Officer was
4 correct.

5 ORS 468.070(1) provides in pertinent part as follows:

6 "(1) At any time, the department may * * *
7 revoke any permit * * * if it finds:

8 * * * *

9 "(d) violation of any applicable rule * * *
10 of the commission."

11 In its notice commencing the case, the Department clearly
12 stated its grounds for revocation as follows:

13 "* * * The subsurface disposal permit numbered
14 as above listed was not issued in accordance with
15 the applicable rules of the D.E.Q. (Sec. 71-015(8),
ch 340, Oregon Administrative Rules, a copy of which
is enclosed)" (See Joint Exhibit 2, May 12,
1975, letter from Kerry Lay and stipulation relating
thereto).

16 The Department has clearly pleaded and proved that the Paulsens'
17 permit was issued in violation of the rules. The Paulsens'
18 contention to the contrary is inconsistent with their previous
19 statement made on page 3 of their post hearing "Appeal Brief"
20 filed with the Hearing Officer in February 1977 where they said:

21 "In his letters of May 12, 1975, Mr. Lay in-
22 dicated that the permits were revoked for failure
23 to satisfy the requirements of the 'prior approval'
rule of the Department."

24 Additionally, there is common law authority to the effect
25 that the Department may revoke a permit which is issued in vio-
26 lation of legal standards or requirements. In Bankus v. City

1 of Brookings, 252 Or 257, 449 P2d 646 (1969), plaintiff sued
2 to restrain defendant municipality from reneging on a permit
3 allowing street excavation to facilitate plaintiff's installation
4 of a water line. Plaintiff's agreement with a cemetery associa-
5 tion required it to excavate a ditch 2,000 feet long by two feet
6 wide along a city street. A city ordinance required plaintiff
7 to pay a deposit of two dollars per running foot of excavation
8 (to guarantee the backfill of the ditch) in order to obtain a
9 permit for excavation. The city recorder issued plaintiff a
10 permit, but required a deposit of only \$500, on the theory that
11 plaintiff would repeatedly excavate and refill a ditch approxi-
12 mately 135 feet in length until he had completed the total
13 length of the ditch. After plaintiff had completed about 135
14 feet of ditch, the City ordered plaintiff to cease excavation,
15 until he had obtained a permit issued by the correct authority
16 and had tendered the proper deposit. The City appealed from the
17 trial court's injunction.

18 The Supreme Court reversed the trial court and denied the
19 injunction. In doing so, the Court stated that ". . . [t]he
20 decisive question is whether or not the responsible city offi-
21 cial could have waived the clear requirement of the ordinance
22 relative to the amount of the deposit required." 252 Or at 259.
23 The Court held that the trial court could not in effect rewrite
24 the ordinance so as to give it requirements clearly different
25 than those on its face. The Court said:

26 / / /

1 "The ordinance is specific as to the authority
2 of the officer who has the responsibility to issue
3 the permit and equally emphatic in regard to the de-
4 posit required. The ordinance would not permit a city
5 officer to ignore the deposit requirement nor would
6 the city be estopped or otherwise bound because the
7 city official fails to conform to the ordinance.
8 Whatever may be the right of a city official to waive
9 the requirements of a nonmandatory ordinance when the
10 official is acting within a general grant of author-
11 ity, the authorities are uniform that the mandatory
12 requirements of an ordinance specifically stated can-
13 not be waived. Tuttle v. Beem, 144 Or 145, 24 P2d 12
14 (1933); Public Market Co. v. Portland, 171 Or 522,
15 130 P2d 624, 138 P2d 916 (1943); Lane County v. Heintz
16 Const. Co., et al., 228 Or 152, 364 P2d 627 (1961)"
17 252 Or at 259-260.

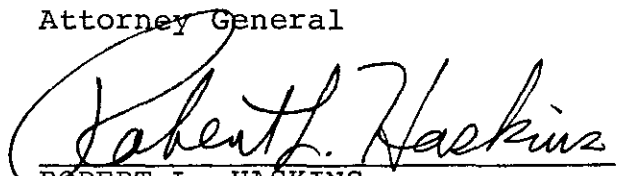
18 As the Hearing Officer found, the soil conditions present
19 on the Paulsens' lot will not allow the installation of a sub-
20 surface sewage disposal system under the rules of the Commission,
21 the Oregon State Board of Health or the Oregon State Health Divi-
22 sion. Therefore, revocation of the Paulsens' permit is authorized
23 by law.

24 III. CONCLUSIONS

25 For all the above reasons, all the proposed alternative
26 findings of fact, conclusions of law and final order set forth
in the Appendix should be adopted by the Commission, except, at
this time, as they reflect upon the Trents' case which has been
severed.

Respectfully submitted,

JAMES A. REDDEN
Attorney General


ROBERT L. HASKINS

Assistant Attorney General
Of Attorneys for Department of
Environmental Quality

1 APPENDIX

2
3
4 DEPARTMENT'S EXCEPTIONS AND PROPOSED ALTERNATIVE FINDINGS OF
5 FACT, CONCLUSIONS OF LAW AND FINAL ORDER.
6
7

8 I. The Department takes exception with:

9 1.A. All the proposed general and specific findings of fact,
10 conclusions of law and final order regarding the following
11 permits:

12 15-532-74N
13 15-515-74N
14 15-514-74N
15 15-488-74N
16 15-450-74N
17 15-448-74N
18 15-435-74N

19 except as follows:

- 20 (1) Re 15-532-74N - p. 6, lines 16-20, and
21 p. 7, lines 9-17;
22 (2) Re 15-515-74N-p. 7, lines 20-24, and p.8,
23 lines 9-16;
24 (3) Re 15-514-74N-p. 8, lines 20-24, and p.9,
25 lines 13-22;
26 (4) Re 15-488-74N- p. 10, lines 21-26, and p.11,
lines 15-22;
(5) Re 15-450-74N - p. 11, line 25 through p. 12,
line 4, and p. 12, line 20 through p. 13,
line 1;
(6) Re 15-448-74N - p. 13, lines 4-9, and p. 13,
line 23 through p. 14, line 4; and

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1 (7) Re 15-435-74N - p. 15, lines 13-19, and p. 16,
2 lines 15-22.

3 B. Reason - Each of those Respondents executed written
4 contracts settling these contested case proceedings.
5 The settlement provided in essence that these
6 contested case proceedings were then terminated, and
7 in exchange therefor Respondents were then issued
8 permits containing certain special conditions. Those
9 permits containing special conditions are in the record
10 of this case. Therefore, the contracts should be
11 given their full effect by dismissing these proceedings
12 without making any findings on the merits, as the
13 parties agreed.

14 C. Proposed Alternative - Regarding the permits listed
15 in 1.A. above, delete all the general and special
16 findings of fact, conclusions of law and final order
17 except the findings enumerated in 1.A.(1) through
18 (7) above, and substitute the following conclusions
19 of law and final order:

20 "CONCLUSIONS OF LAW

21 "(1) Regarding permits:

22 15-532-74N
23 15-515-74N
24 15-514-74N
25 15-488-74N
15-450-74N
15-448-74N
15-435-74N

26 "(a) These proceedings to revoke each of those permits

1 were each compromised and settled by Respondents
2 and Department on the following terms:

3 "(i) The proposed revocation of each permit was
4 rescinded;

5 "(ii) Each respondent waived his or her right to a
6 hearing and an appeal thereof;

7 "(iii) Each permit was issued containing three special
8 conditions requiring each Respondent to:

9 "(A) Execute and deliver for filing in the Jackson
10 County Deed Records a deed restriction
11 running with the land which will appear
12 in the chain of record title of the subject
13 real property and which will provide notice
14 that the permit was originally issued in
15 violation of the rules of the Environmental
16 Quality Commission then in effect and that
17 it is the opinion of the Department of
18 Environmental Quality that the system will
19 fail;

20 "(B) Give written notice of the contents of
21 that condition to any purchaser prior to sale;
22 and

23 "(C) Hold harmless and indemnify the State,
24 County and its employes for any judicial
25 or administrative proceeding which might
26 result from the failure of the system.

1 " (b) The Department and Respondents have agreed to
 2 informal settlement of these proceedings pur-
 3 suant to ORS 183.415(4). That settlement shall
 4 be given its full force and effect by dismissing
 5 these proceedings to revoke permits, without
 6 further consideration of the merits of the
 7 Department's grounds for revoking and of the
 8 Respondents' defenses thereto.

9 "FINAL ORDER

10 "These proceedings to revoke the following permits are hereby
 11 dismissed:

- 12 15-532-74N
- 13 15-515-74N
- 14 15-514-74N
- 15 15-488-74N
- 15-450-74N
- 15-448-74N
- 15-435-74N."

16 2. General Finding No. 6 (p. 2, lines 18-22)

17 A. Reason - It fails to include lots 9 and 27, which
 18 were included in Department's Exhibit 15, which
 19 exhibit is the basis for the finding.

20 B. Proposed alternative - Add lots 9 and 27 on p. 2,
 21 line 20.

22 3. General Finding No. 7 (p. 2, lines 23-35)

23 A. Reason - Official notice cannot be taken of the
 24 contents of a court file in another case.

25 B. Proposed Alternative - Delete finding in total.

26 / / /

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1 4. General Finding No. 8 (p. 2, line 26 through p. 3, line 9)

2 A. Reason - The finding omits important facts that were
3 established in the record.

4 B. Proposed Alternative - Add at the end of General
5 Finding No. 8 the following new language:

6 "At all material times it was the official duty of
7 Jackson County employees to make and keep in the
8 county's files written records of the findings
9 made regarding site evaluations (soil logs) and to
 not issue permits in the absence of favorable
 written findings on file. Ronald Slater did not
 perform his official duties in a regular manner."

10 5. General Finding No. 12 (the part thereof at p. 4, lines
11 5-19)

12 A. Reason - The Commission's rule "DEQ 68" quoted there-
13 in was amended by "DEQ 73 (Temp.)" filed and effect-
14 ive on June 24, 1974, which was prior to the dates
15 in which the permits were applied for by Respondents,
16 that is, August and September 1974.

17 B. Proposed Alternative - Substitute the following for
18 the excepted material:

19 "III. H. [OAR 340-71-015(8)] Prior Construc-
20 tion Permits or Approvals - All permits or written
21 approvals involving site evaluations issued prior to
22 January 1, 1974 shall be accepted under these rules
23 as valid for construction of a subsurface sewage
24 disposal system providing they expressly authorize
25 use of such facilities for an individual lot or for
26 specific lots within a subdivision, they were issued
 by a representative of a state or local agency
 authorized by law to grant such approval, and they
 were issued in accordance with all rules in effect
 at the time. No person having a valid prior permit
 or approval meeting the above requirements shall
 commence construction of a subsurface sewage dis-
 posal system until he has made application for a

1 construction permit required by ORS 454.655, has
2 paid the permit fee required by ORS 454.745 and
3 has received a construction permit from the Depart-
4 ment. Construction shall conform as nearly as
5 possible with the current rules of the Commission.
6 Before operating or using the system the permittee
7 shall obtain a 'Certificate of Satisfactory Comple-
8 tion' as required by ORS 454.665. If it is not
9 possible for construction to be in full compliance
10 with the current rules of the Commission the Certi-
11 ficate of Satisfactory Completion must contain a
12 statement notifying the permittee or owner that
13 the system is substandard and therefore, may not
14 operate satisfactorily and that if it fails and
15 necessary repair cannot be made in accordance with
16 current rules of the Commission the system may have
17 to be abandoned.

18 "Application for construction permits under
19 this rule shall be made prior to July 1, 1975 and
20 construction shall be completed by July 1, 1976.
21 All permits and written approvals issued prior to
22 January 1, 1974 shall expire on July 1, 1975."

23 6. Findings Regarding Permit No. 15-532-74N (the part there-
24 of at p. 6, line 23 through p. 7, line 1)

25 A. Reason - It is apparent from comparing Department's
26 Exhibit 3 and the plot plan accompanying Respondents'
27 permit application (copies of the pertinent parts
28 thereof are attached hereto marked "Attachment A"),
29 That the area examined by Jackson County Soil
30 Scientist Steven Shade in October 1973 and
31 found to be unsuitable was the same area for
32 which Jackson County Sanitarian Ronald Slater issued
33 a subsurface sewage disposal system construction per-
34 mit in 1974. It was not a different area as the
35 Hearings Officer proposes to find.

36 / / /

1 B. Proposed Alternative - Revise that paragraph to read
2 as follows (material deleted is shown in brackets;
3 new material is underlined):

4 "In October 1973, a Jackson County soil scient-
5 ist evaluated soil and landscape conditions on two
6 sites on lot 13 and concluded these two sites to be
7 unacceptable for a standard subsurface sewage
8 disposal system. [It is unapparent that either
9 of these two sites was within the area where the
10 plot plan of permit 15-532-74N indicated a drainfield
11 should be installed.] They had restrictive layers
12 beginning at the ground surface and extending at
13 least 36 inches below. The "sites" are at or near
14 the two "pits" designated on the above-mentioned
15 "plot plan".

16 7. Findings Regarding Permit No. 15-447-74N (the part
17 thereof at p. 14, lines 17-21

18 A. Reason - It is apparent from comparing Respondents'
19 Exhibit 7 and the plot plan accompanying Respondents'
20 permit application (copies of the pertinent parts
21 thereof are attached hereto marked "Attachment B")
22 that the area examined by Soil Scientist Shade in
23 October 1973 and found to be unsuitable was the same
24 area for which Mr. Slater issued a permit in 1974.
25 It is not a different area as the Hearing Officer
26 proposes to find.

27 B. Proposed Alternative - Revise that paragraph to read
28 as follows (material deleted is in brackets; new
29 material is underlined):

30 "In October of 1973 a Jackson County soil sci-
31 entist evaluated two sites on Lot 2 to see if soil
32 and landscape conditions would accomodate a standard

1 subsurface sewage disposal system. The slopes were
2 [concluded to be] 13 and 14%. The sites had restri-
3 ctive soil layers beginning at the ground surface
4 and extending beyond 36 inches therefrom. It was
concluded the sites were unacceptable. One of the
sites [may well be] is within the area designated
for a drainfield on the plot plan for the permit."

5 8. Findings Regarding Permit No. 15-435-74N (the part there-
6 of at p. 15, line 22 through p. 16, line 9)

7 A. Reason - It is apparent from comparing Department's
8 Exhibit 6 and the plot plan accompanying Respondents'
9 permit application (copies of the pertinent parts
10 thereof are attached hereto marked "Attachment C")
11 that the area examined by Soil Scientist Shade in
12 October 1973 and found to be unsuitable was the
13 same area for which Mr. Slater issued a permit in
14 1974. It is not a different area as the Hearings
15 Officer proposes to find.

16 B. Proposed Alternative - Delete the paragraph in ques-
17 tion in its entirety and replace with the following:

18 "In October 1973 a Jackson County soil scientist
19 examined two sites on Lot 11 to determine whether
20 a standard subsurface sewage disposal system could
21 be accommodated by the soil and landscape conditions.
22 The slope at both sites was 18%. The site identi-
23 fied as number '1' on Department's Exhibit 6 had
restrictive soil layers beginning at 23 inches
below the ground surface and extending more than
30 inches below the ground surface. Site number '1'
was in the same area as designated in the permit for
location of the 'septic system'."

24 9. Conclusions of Law Regarding Permits Other than Permit
25 No. 15-533-74-N (p. 17, Nos. 1 through 7, lines 6-25)

26 A. Reason - The proposed conclusions of law do not

1 reflect the Department's theory of the case.

2 B. Proposed Alternatives - Those conclusions of law
3 (including the heading) should be deleted in their
4 entirety and be replaced by the following:

5 "CONCLUSIONS OF LAW

6 "(1) Each permit except permit Nos.
7 15-427-74N and 15-445-74N was issued purportedly
8 as a 'prior approval' under OAR 340-71-015(8).

9 "(2) The Orié Moore letter (Respondent's Ex-
10 hibit 4; General Finding No. 2) and the Feasibility
11 Statements referred to above are the only writings
12 that exist that could conceivably be claimed to be
13 a 'permit or written approval' within the terms of
14 OAR 340-71-015(8).

15 "(3) There is no evidence in the record that
16 the Orié Moore letter or the Feasibility Statements
17 were issued following on site evaluations of the
18 particular soils and other conditions on each lot,
19 as required by OAR 340-71-015(8) ('involving site
20 evaluations').

21 "(4) The 'blanket approval' of Orié Moore was
22 for the entire subdivision, and was not an express
23 authorization for a particular system on any parti-
24 cular lot, as required by OAR 340-71-015(8) for a
25 valid 'prior approval'.

26 "(5) The Feasibility Statements provided on
27 their face that they should not be considered as an
28 approval for any specific subsurface sewage disposal
29 system or systems, number of systems or location
30 of systems. Therefore the Feasibility Statements
31 did not satisfy OAR 340-71-015(8).

32 "(6) The Non-Feasibility Statements (unfavor-
33 able Feasibility Statements) were not 'permits or
34 written approvals' under OAR 340-71-015(8).

35 "(7) None of the Respondents satisfied all
36 the requirements of OAR 340-71-015(8) and therefore
37 all the permits except 15-445-74N, and 15-427-74N,
38 should be revoked.

39 / / /

1 "(8) The Department failed its burden of prov-
2 ing any grounds for the revocation of permits
15-445-74N and 15-427-74N."

3 10. Conclusions of Law Regarding Permit 15-533-74N (p. 17,
4 line 26 through p. 18, line 10)

5 A. Reason - The conclusions failed⁴ to include the other
6 three lots where the soil conditions violated the
7 applicable rules.

8 B. Proposed Alternative - Those conclusions, including
9 the heading should be revised to read as follows
10 (deletions are shown by brackets, new material is
11 underlined):

12 "CONCLUSIONS OF LAW REGARDING [PERMIT] PERMITS
13 15-533-74N, 15-532-74N, 15-447-74N, and 15-435-74N

14 "1. The Commission has jurisdiction both over
the [Respondent] Respondents and the subject matter.

15 "2. The Department and Commission are not
16 estopped to revoke the [permit] permits here in
issue.

17 "3. The Department has met its burden by prov-
18 ing by a preponderance of the evidence there was
an impervious layer of soil [to] beginning at
19 the surface and extending at least 36 inches
below on the lots in the drainfield area noted on
20 the 'locator' map and plot plans accompanying the
permit applications for permits 15-533-74N,
21 15-532-74N, and 15-447,74N, and beginning 23 inches
from the ground surface and extending more than 36
22 inches from the ground surface in the drainfield
area noted on the plot plan accompanying the permit
23 application for permit 15-435-74N, in violation
of OAR 333-41-030(1) (in effect 1970 through May,
24 1973).

25 "4. The Department has met its burden by
proving by a preponderance of the evidence there
26 was a restrictive layer of soil beginning at the
surface and extending at least 36 inches below

1 on the lots in the drainfield area noted on the
2 'locator' map and plot plans accompanying the
3 permit applications for permits 15-533-74N,
4 15-532-74N, and 15-447-74N, and beginning 23
5 inches from the ground surface and extending more
6 than 36 inches from the ground surface in the
7 drainfield area noted on the plot plan accompanying
8 the permit application for permit 15-435-74N, in
9 violation of OAR 340-71-030(1)(b).

6 "[4]5. The [Respondent] Respondents may not
7 be allowed to construct a drainfield in the area
8 indicated on the 'locator' map and plot plans
9 accompanying the permit [application] applications.

9 "[5]6. The [permit] permits should be
10 revoked."

10 11. Proposed Final Order (the parts thereof at p. 28,
11 lines 3-8)

12 A. Reason - The proposed final order does not
13 comport with the Department's theory of the
14 case.

15 B. Proposed Alternatives - With respect to the
16 permits which have been settled, the Department
17 has stated its exceptions and alternatives above
18 at paragraph I.1. Regarding the remaining
19 permits, (or should the Commission, for some
20 reason, not adopt our proposed alternatives at
21 paragraph I.1. above, then regarding all
22 permits) the Department proposes that the
23 following be substituted for the above excepted
24 language:

25 "All the permits except 15-445-74N and
26 15-427-74N are hereby revoked."

26 ///

1 II. Should the Commission, for some reason, not adopt our
2 proposed alternative final order (at paragraph I.1.B. above)
3 regarding the settled permits, then the Department proposes
4 the following additional finding of fact and conclusion of law
5 pertaining to those permits listed at paragraph I.1. above:

6 "FINDING OF FACT

7 "Each of those Respondents signed a document
8 before a notary public in which it was recited that
9 their permit was issued in violation of the laws of
10 the Commission in effect at the time, and in which
11 they convenanted and agreed that the recital was true.

12 "CONCLUSION OF LAW

13 "The above referred to recitals are conclusive,
14 ORS 41.350(3), and therefore those permits shall be
15 revoked."
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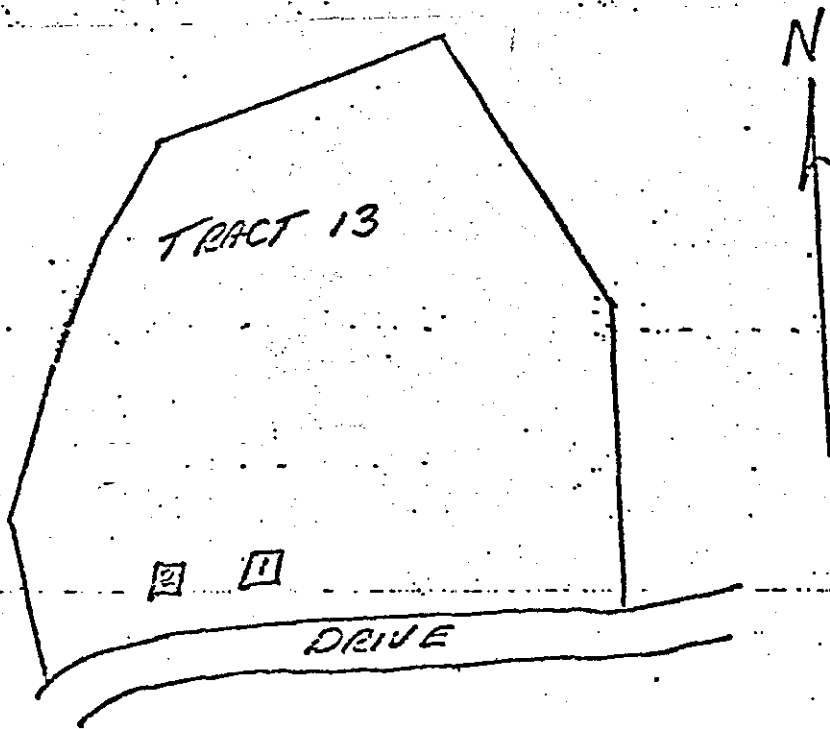
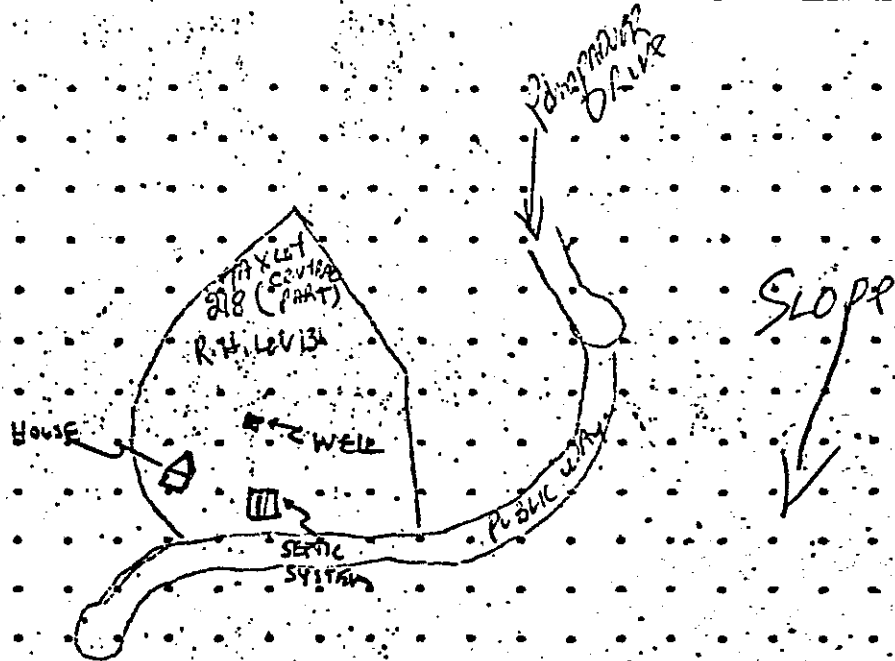
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PILOT PLAN

OWNER Frank Seely

Please use scale of 1/4 inch equals 100 feet

PERMIT NO. _____



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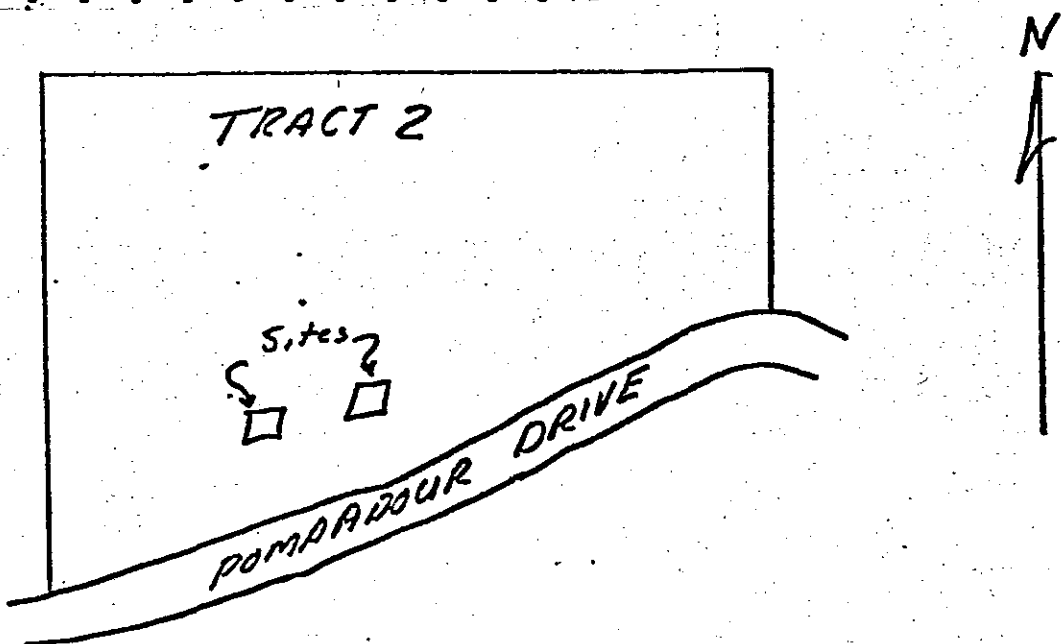
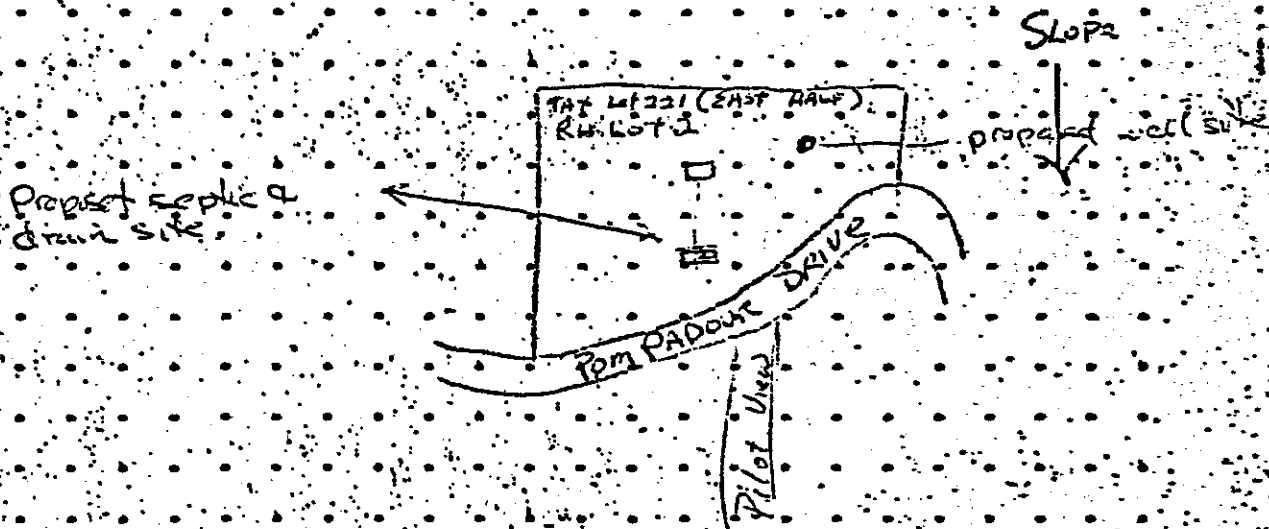
Attachment "A"

PLOT PLAN

Please use scale of 1/4 inch equals 100 feet

OWNER Watson Matteson

PERMIT NO. 15-447-74N

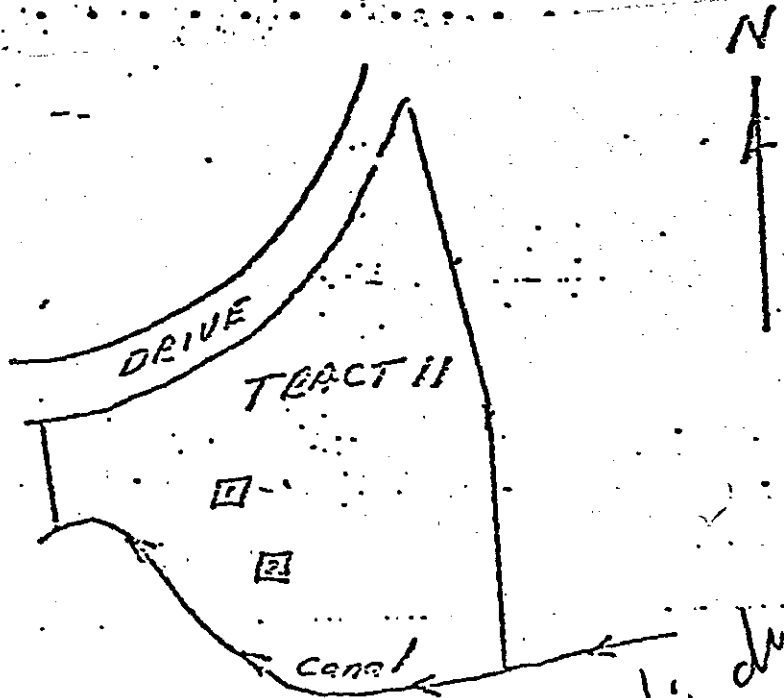
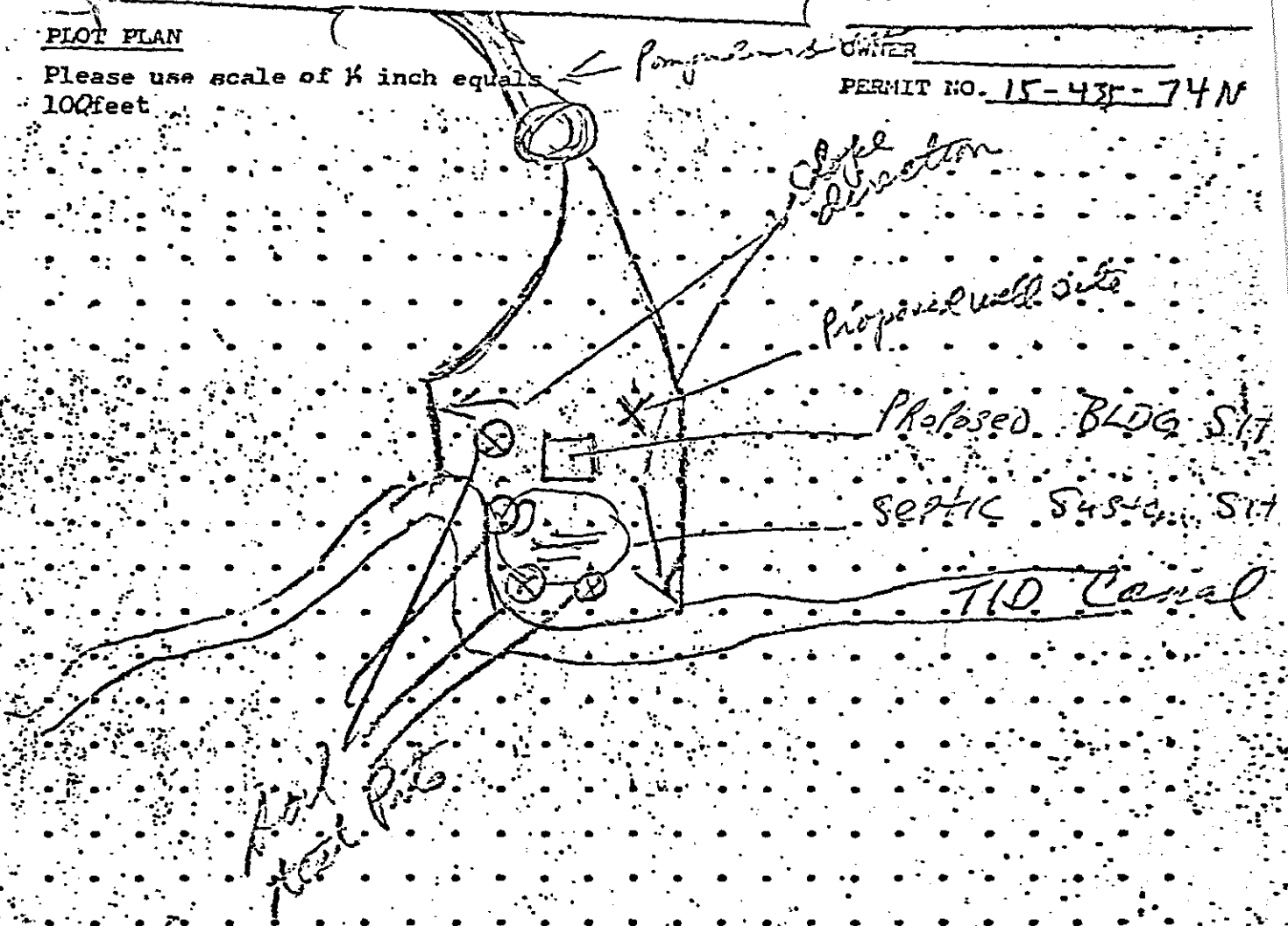


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PLOT PLAN

Please use scale of 1/4 inch equals 100 feet

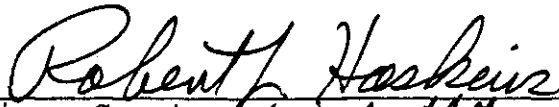
PERMIT NO. 15-435-74N

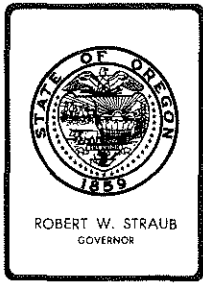


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 exhibit 6
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1 CERTIFICATE OF SERVICE

2 I hereby certify that I served the foregoing Brief in
3 Support of Petition for Hearing Officer Reconsideration upon
4 Jack Davis and Sidney E. Ainsworth, Attorneys for Respondents, on
5 April 14, 1978, by mailing to them copies in a sealed envelope
6 addressed to Jack Davis and Sidney E. Ainsworth, Attorneys at
7 Law, 515 East Main Street, P.O. Box 609, Ashland, Oregon 97520,
8 their last known address. I further certify that I placed same
9 in the U.S. Mail at Portland, Oregon on April 14, 1978, prepaying
10 the postage thereon.

11
12 
13 ~~Diane Courter~~ *Assistant Attorney General*
14 ~~Clerical Specialist~~
15 Oregon Justice Department
16 Of Attorneys for Department
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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. F, April 28, 1978, EQC Meeting

Continuation of Public Hearing on Proposed Order Prohibiting
or Limiting Installation of Subsurface Sewage Disposal Systems
Within the River Road - Santa Clara Area, Lane County

Background

The Commission initiated a public hearing at its March 31, 1978 meeting in Eugene on the question of imposing a moratorium on the issuance of construction permits for new subsurface disposal systems and favorable reports of site suitability in the River Road - Santa Clara area of Lane County. The hearing was continued to this meeting. The Department's staff report of March 31, 1978 failed to specifically address, in order, those factors required by statute, to be considered by the Commission whenever a moratorium is imposed. Each of those eleven (11) statutory factors is addressed below under evaluation.

Statement of Need for Rule Making

1. Oregon Revised Statutes (ORS) 454.625 requires the Commission to adopt such rules as it considers necessary for the purpose of carrying out ORS 454.605 to 454.745.

Orders limiting or prohibiting construction of subsurface sewage systems under ORS 454.685 are imposed by the Commission through adoption of an amendment or Oregon Administrative Rules (OAR) 340-71-020.

2. A resolution received from Lane County Board of Commissioners requests imposition of a moratorium to prevent further degradation of groundwater pending a resolution of the problem.

The Department's evaluation (discussed below) supports conclusion that a problem exists and that a moratorium is the only apparent way to prevent further degradation while a plan for resolving the problem is being developed.



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Materials

3. Document relied upon in considering the need for the proposed rule is:

Santa Clara - River Road
Groundwater Contamination Evaluation 1978
By: Environmental Geology & Groundwater
H. Randy Sweet
Consulting Geologist/Hydrogeologist

Evaluation

"Order Limiting or Prohibiting Construction"

Factors to be considered, in accordance with ORS 454.685(2) are as follows:

(A) Present and projected density of population

The present population of the River Road - Santa Clara area is approximately 27,500. By the year 2000 the population is projected to reach 40,000.

(B) Size of building lots

The residential parcel size in the area north of Beltline Road indicates 58 percent of the parcels to be 10,000 square feet or less, 33 percent of the parcels to be between 10,000 and 20,000 square feet in size, and 8 percent to be larger than 20,000 square feet.

In the area south of Beltline Road, 52 percent of the parcels are 10,000 square feet or less in size, 40 percent are between 10,000 and 20,000 square feet in size, and 7 percent are greater than 20,000 square feet in size.

(C) Topography

The area topography is virtually flat (0 - 3% slope) with several filled river meander channels cutting through the area oriented to the north - northwest.

(D) Porosity and Permeability of the Soils

The soils dominant in the area have moderate to high permeability in the upper profile of 36 to 48 inches from the ground surface. Absorbency is good, with silty clay loam textures with good pore size and distribution. Some areas have restrictive silty clays occurring at 36 to 48 inches from the ground surface. In these areas the soils may be somewhat restrictive to water movement.

Throughout the area, gravel beds occur at depths ranging from 3 to 9 feet from the ground surface. These gravel strata vary from clay cemented gravels to very clean, rapidly permeable material.

On the west and north sides of the area, restrictive clays occur at 12 to 30 inches from the ground surface. Water perches on the ground surface in these areas.

(E) Any geological formations which may adversely affect the disposal of sewage effluent by subsurface means

Highly porous and permeable substrata materials, a seasonably high and locally recharged groundwater table, and excessively to moderately well-drained soils (including clean gravels), adversely effect the suitability of the River Road - Santa Clara area for the installation of high density subsurface sewage disposal systems.

The area is underlain by geologically recent, unconsolidated, valley-filled alluvium that consists primarily of discontinuous layers and lenses of porous and permeable sands and gravel with minor amounts of silt and clay.

These deposits are part of the Willamette River Valley alluvial aquifer that is the primary source of groundwater for industrial, domestic, and agricultural uses in the Willamette Valley Region.

(F) Ground and surface water conditions and variations therein from time to time

A major source of recharge to this groundwater system is the infiltration and downward percolation of precipitation that falls directly on the valley floor. As a result, the water table beneath the River Road - Santa Clara area fluctuates in response to seasonal variations in precipitation, with the late winter-early spring water table rising to within 5 to 10 feet of land surface. This recharge is enhanced by moderately well to excessively drained soils that offer little impedance to the downward percolation of soil moisture.

Once in the groundwater flow system, water beneath the River Road - Santa Clara area moves generally northward toward downgradient discharge points such as wells, streams, rivers, and other surface water bodies. There is a direct hydraulic connection between surface and groundwater in the River Road - Santa Clara area. The nature of the connection (the discharging of groundwater to surface water bodies, or the infiltration of surface water into the groundwater system) is dependent on site specific characteristics and/or seasonal variations in ground and/or surface water levels.

Surface water drainage is not well defined, and is limited to the old river meander channels in the area. Some of the more western and northern channels have been excavated to improve flow conditions. (Amazon Flat Creek Project Flood Control). Some of the channel flows are intercepting perched water tables and the upper surface of the regional water table.

(G) Climatic conditions

"Typical" climate conditions of the River Road - Santa Clara (Eugene Area) produce mild wet winters and warm dry summer seasons. Seasonal changes in rainfall are gradual with about 50% of total annual precipitation falling in the months of November to January. The "average" rainfall is about 42 inches per year.

Temperature norms range from mean daily maximums of 63° F and a minimum of 43° F.

Relative to evaporation potential, most authorities agree that, normally, annual precipitation exceeds annual evaporation.

(H) Present and projected availability of water from unpolluted sources

Presently, water supply to the River Road - Santa Clara area is provided through two water districts which purchase water from the Eugene Water and Electric Board.

Water supplies north and northwest of the River Road - Santa Clara are taken directly from the underlying flow system in the River Road - Santa Clara area.

Numerous shallow wells exist in the subject area with usage predominately for irrigation purposes. However, it is possible that some wells may, or are being used, as potable water supplies.

(I) Type of, and proximity to, existing domestic water supply sources

Water supply to the River Road - Santa Clara area is provided through two water districts which purchase water from the Eugene Water and Electric Board. The River Road Water District is located south of Beltline Road with the Santa Clara Water District serving northerly of Beltline Road.

(J) Type of, and proximity to, existing surface waters

The River Road - Santa Clara area is bordered on the eastern boundry by the Willamette River and its meanders.

Spring Creek, which flows all or most of the year, has its origin from spring action in the mid-eastern portion of the area. Spring Creek is located east of River Road and west of the Willamette River and flows in a northerly direction to discharge into the Willamette River.

Numerous small surface drainage ways (intermittent streams) are located in the western portion of the area and flow in the northwest direction along with the total net water flow systems. These intermittent drainage ways originate as rainfall and discharge to lower land, ultimately flowing into the Long Tom and Fern Ridge Reservoir systems.

(K) Capacity of existing subsurface sewage disposal systems

Estimated subsurface sewage discharge:

3 million gal/day (1.1 billion gal/yr.); individual septic tank-
drainfield systems

in addition to

.2 million gallons per day from Lynnbrook subdivision lagoon
3.2 million gallons per day TOTAL

Approximately: 30% of total annual aquifer recharge within
the area*

(* from Table 8, page 24, H. Randy Sweet
Report)

Other points to consider*

(A) Due to natural development and structure of the soils in the River Road - Santa Clara area, the local groundwater aquifer is particularly susceptible to contamination.

(B) About 30 percent of the shallow aquifer recharge in River Road - Santa Clara may be attributed to water imported for domestic use. Most of this water is discharged (wasted) as sewage into the ground.

(C) On-site disposal of sanitary wastes is the major source of nitrogen (and eventually nitrate-nitrogen) to the shallow alluvial aquifer in the River Road - Santa Clara area.

(D) Areas downgradient from the River Road - Santa Clara area are now, and are projected to be, solely dependent upon groundwater for domestic supply. Therefore, assurance of a long-term potable water supply must be considered in any continuing or future evaluation of groundwater quality in the River Road - Santa Clara area.

(E) The significance of NO₃-N in drinking water has been discussed for many years. It is supposed that excessive nitrate ingestion in infants and/or nursing mothers may result in methemoglobinemia (blue babies). Other recent studies have questioned this relationship. However, the fact remains that the Environmental Protection Agency Drinking Water Standards prohibit the use of water for drinking purposes when the nitrate-nitrogen (NO₃-N) concentration is in excess of 10 mg/l.

The following individuals will be available for additional testimony or to respond to questions:

Mr. Roy Burns, Director
Lane County Water Pollution Control Division

Mr. Kent Mathiot, Hydrogeologist
State Water Resources Department

Mr. Larry Lowenkron, Engineer
Eugene Branch Office, DEQ

Long-Range Solution To Problem

Because much of the River Road - Santa Clara area is already developed at urban-level densities, the ultimate solution to the identified groundwater contamination problem is the installation of sanitary sewers. Even now the design of new sewage treatment facilities for the Eugene-Springfield area, including capacity for the River Road - Santa Clara area, is underway.

The present service for the new facilities is essentially coterminous with the city limits of Eugene and Springfield. The Southern Pacific railroad and a few residences located along the interceptors between the cities and their sewage treatment plants receive sewage services even though they are currently outside of the Cities.

Since design is now underway for an improved system, and funding is available from the EPA Construction Grant Program, now would be an opportune time to look towards areawide sewerage services. This would require a method of bringing the unincorporated areas either into the County Service District or forming a separate entity contracting for sewage services with the other entities.

ORS 454.685 provides, in part, that whenever the Environmental Quality Commission finds that the construction of subsurface sewage disposal systems should be limited or prohibited in an area, it shall issue an order limiting or prohibiting such construction. The order shall issue only after public hearing for which more than 30 days notice is given.

Such order would issue in the form of an amendment to OAR 340-71-020 by adding a new subsection (9) as shown on Attachment "A".

Summation

1. Lane County Board of Commissioners has requested imposition of a moratorium on new subsurface sewage system construction permits and favorable reports of site suitability within the River Road - Santa Clara area.
2. ORS 454.685 provides that whenever the Commission finds that the construction of subsurface sewage disposal systems should be limited or prohibited in an area, it shall issue an order limiting or prohibiting such construction. The order shall be issued only after public hearing for which more than 30 days notice is given.
3. Proper notice was given and published within the affected area.
4. Testimony was received at a public hearing by the Commission on March 31, 1978 in Eugene. That hearing was continued to this date to receive additional testimony.
5. Factors required by statute (ORS 454.685) to be considered by the Commission in imposing a moratorium have been addressed in the "evaluation" section of this report.
6. Evidence indicates probable groundwater pollution in the River Road - Santa Clara area and areas down gradient. There is a likelihood of increased pollution if subsurface disposal of sewage is expanded.
7. A moratorium is the only apparent way to temporarily stop increase of pollution pending development of a plan for prevention and reduction of groundwater pollution.

Director's Recommendation (restated with revisions)

1. Impose a moratorium on issuance of construction permits for new subsurface sewage disposal systems and favorable reports of site suitability in the River Road - Santa Clara area of Lane County by adopting the proposed amendment to OAR 340-71-020 as shown in Attachment "A".
2. Impose a moratorium on approval of any pending new, or modified sewage disposal facility which would use subsurface injection.
3. Direct Department staff to work with the staffs of the Metropolitan Wastewater Management Commission, Lane County, the Cities of Eugene and Springfield, and the Lane County Local Government Boundary Commission to obtain development and implementation of a plan for preventing and reducing groundwater pollution in the River Road - Santa Clara area.
4. Direct Department staff to provide the Commission with a status report within the six months period proposed by the Lane County Board of Commissioners regarding investigation progress.

Bill
WILLIAM H. YOUNG

John Borden:aes
378-8240
April 18, 1978

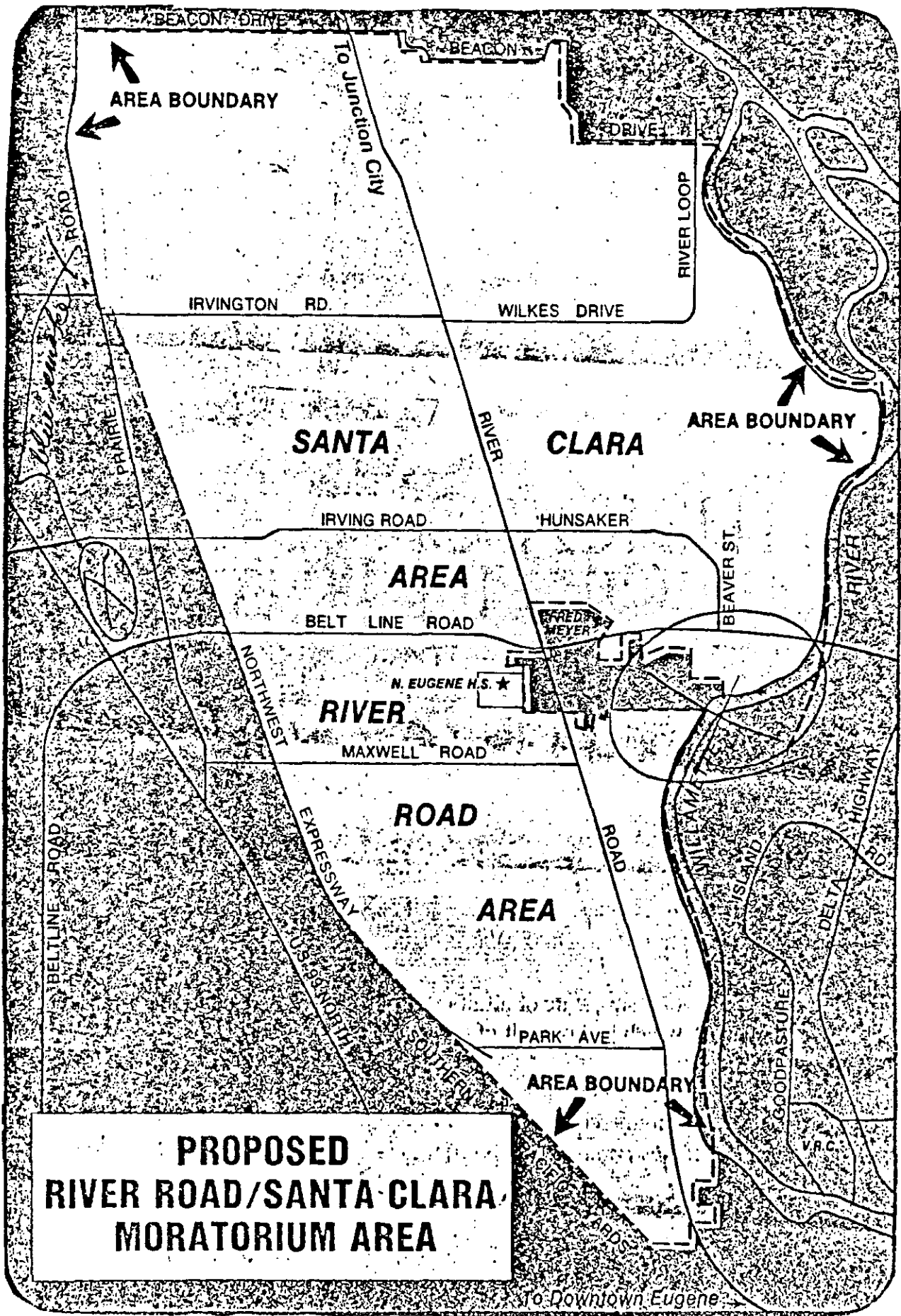
Attachments: "A" Proposed Amendment to OAR 340-71-020
"B" Map, Proposed River Road - Santa Clara Moratorium Area

PROPOSED

Amend Oregon Administrative Rules 340-71-020 by adding a new subsection (9) to read as follows:

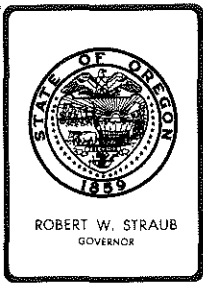
"(9) Pursuant to ORS 454.685, neither the Director nor his authorized representatives shall issue either permits for any pending, new, or modified sewage disposal facility which would use subsurface injection, or construction permits or favorable reports of evaluation of site suitability for new subsurface sewage disposal systems, within the boundaries of the following described geographic area of the State:

The area generally known as River Road-Santa Clara, and defined by the Boundary submitted by the Board of County Commissioners for Lane which is bounded on the South by the City of Eugene, on the West by the Southern Pacific Railroad, on the North by Beacon Drive, and on the East by the Willamette River, and containing all or portions of T-16S, R-4W, Sections 33, 34, 35, 36, T-17S, R-4W, Sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, and T-17S, R-1E, Sections 6, 7, 18, Willamette Meridian."



**PROPOSED
RIVER ROAD/SANTA CLARA
MORATORIUM AREA**

To Downtown Eugene



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission
From: Director, DEQ
Subject: Agenda Item No. G, April 28, 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 Dundee is unable to consistently treat sewage to the required level of secondary treatment at its municipal treatment facility. The Department has reached agreement with the City on a consent order which provides for an orderly construction/modification of the existing facilities and interim treatment limitations.

The Williamsport area of the City of Astoria is currently unsewered. Some of the septic tank and drainfield systems in that area are failing. The City proposes to construct an interceptor sewer line to serve the Williamsport Area.

Director's Recommendation

I recommend that the Commission approve the following Stipulated Final Orders:

1. Department of Environmental Quality v. City of Dundee, Stipulation and Final Order No. WQ-SNCR-77-261, Yamhill County.
2. Department of Environmental Quality v. City of Astoria, Stipulation and Final Order No. WQ-NWR-78-26, Clatsop County.

William H. Young

FMB:gcd
229-5373
April 14, 1978
Attachments: The above listed Orders.



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1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3	DEPARTMENT OF ENVIRONMENTAL QUALITY,)	STIPULATION AND
	of the STATE OF OREGON,)	FINAL ORDER
4)	WQ-SNCR-77-261
	Department,)	YAMHILL COUNTY
5	v.)	
)	
6	CITY OF DUNDEE,)	
)	
7	Respondent.)	

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 as assigned upon issuance of the Permit) to CITY OF DUNDEE
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,
15 control and disposal facilities and discharge adequately treated waste waters into
16 waters of the State in conformance with the requirements, limitations and conditions
17 set forth in the Permit. The Permit expires on June 30, 1982.

18 2. Condition 1 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	Daily Maximum
	Monthly	Weekly	kg/day (lb/day)	kg (lbs)
Jun 1 - Oct 31:	NO DISCHARGE TO PUBLIC WATERS PERMITTED			
Nov 1 - May 31:				
BOD	30mg/1	45mg/1	34 (75)	51 (113)
TSS	50mg/1	80mg/1	57 (125)	91 (200)
				68 (150)
				114 (250)

25 3. Respondent proposes to comply with all the above effluent limitations of its
26 Permit by constructing and operating a new or modified waste water treatment facility.

1 Respondent has not completed construction and has not commenced operation thereof.

2 4. Respondent presently is capable of meeting the following limitations:

3 a. During the period June 1 to October 31, discharge to public
4 waters is prohibited.

5 b. During the period November 1 to May 31:

6 (1) Effluent shall not exceed an average effluent
7 concentration of 200 fecal coliform bacteria
8 per 100 ml as a monthly average and/or 400 per
9 ml as a weekly average.

10 (2) Operate all waste water treatment facilities as
11 efficiently as possible to minimize the effluent
12 concentrations and amounts of biochemical oxygen
13 demand (BOD) and total suspended solids (TSS)
14 discharged to public waters.

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

16 a. Until the proposed new or modified waste water treatment
17 facility is completed and put into full operation,
18 Respondent will violate the effluent limitations set
19 forth in Paragraph 2 above the vast majority, if not
20 all, of the time any effluent is discharged.

21 b. Respondent has committed violations of its NPDES Waste
22 Discharge Permit No. 2466-J and related statutes and
23 regulations.

24 1) Effluent violations have been disclosed in Respondent's
25 waste discharge monitoring reports to the Department,
26 covering the period from August 30, 1976 through the

1 date which the order below is issued by the
2 Environmental Quality Commission.

- 3 2) Respondent did not submit final engineering
4 plans and specifications by March 1, 1977 and
5 begin construction by June 1, 1977, as required
6 by Condition 1.

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

13 7. The Department and Respondent intend to limit the violations which this
14 stipulated final order will settle to all those violations specified in Paragraph
15 5 above, occurring through (a) the date that compliance with all effluent limita-
16 tions is required, as specified in Paragraph A(1) below, or (b) the date upon
17 which the Permit is presently scheduled to expire, whichever first occurs.

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

23 NOW THEREFORE, it is stipulated and agreed that:

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

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

- 26 a. Submit complete and biddable final plans and

1 specifications and a proper and complete Step III
2 grant application within six (6) months of Step II
3 grant offer.

4 b. Start construction within four (4) months of Step III
5 grant offer.

6 c. Submit a progress report within nine (9) months of
7 Step III grant offer.

8 d. Complete construction within fourteen (14) months of
9 Step III grant offer.

10 e. Demonstrate compliance with the final effluent limita-
11 tions specified in Schedule A of the Permit within
12 sixty (60) days of completing construction.

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

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

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

23 C. Respondent acknowledges that it has actual notice of the contents and
24 requirements of this stipulated and final order and that failure to fulfill any
25 of the requirements hereof would constitute a violation of this stipulated final
26 order. Therefore, should Respondent commit any violation of this stipulated final

1 order, Respondent hereby waives any rights it might then have to any and all ORS
2 468.125(1) advance notices prior to the assessment of civil penalties for any and
3 all such violations. However, Respondent does not waive its rights to any and all
4 ORS 468.135(1) notices of assesemnt of civil penalty for any and all violations
5 of this stipulated final order.

6 DEPARTMENT OF ENVIRONMENTAL QUALITY

7
8 Date: APR 17 1978

By William H. Young
WILLIAM H. YOUNG
Director

9
10 RESPONDENT

11
12 Date: _____

By [Signature]
Name
Title

13
14 FINAL ORDER

15 IT IS SO ORDERED:

16 ENVIRONMENTAL QUALITY COMMISSION

17
18 Date: _____

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

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,
of the STATE OF OREGON,

Department,

v.

CITY OF ASTORIA,

Respondent.

STIPULATION AND
FINAL ORDER
WQ-NWR-78-26
CLATSOP COUNTY

WHEREAS the City of Astoria ("Respondent") and the Department of Environmental Quality ("Department") stipulate as follows:

1. That according to the Department, the septic tank and drainfield disposal systems serving about 50 homes in the Williamsport area of the City of Astoria are failing and present hazards to the public health and waters of the State, and Respondent admits the situation exists, and has for many years.
2. Respondent should proceed in an orderly, timely fashion to bring about the complete cessation of discharge of untreated or inadequately treated sewage to public waters, and is ready to proceed as soon as the necessary financing is available from the pending federal grant.
3. The Department is charged with enforcement of the laws prohibiting unpermitted discharges into public waters and the operation of septic tank and drainfield systems in a manner which causes degradation of the waters or hazards to the health of the public.
4. Respondent proposes to eliminate the above-described discharges by constructing an interceptor sewer line from Respondent's existing sewerage system to serve the Williamsport area, and will do so as soon as federal

DEQ North Coast Branch
Dept. of Environmental Quality
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JH/10/78

- 1 funds are available.
- 2 5. Respondent proposes to meet the following construction schedule:
- 3 a. Submit a proper and complete facility plan report and Step II
- 4 grant application by March 31, 1978, which is now in process.
- 5 b. Submit complete and biddable final plans and specifications
- 6 and a proper and complete Step III grant application within
- 7 six (6) months of Step II grant offer.
- 8 c. Complete construction of main Interceptor sewer line within
- 9 eighteen (18) months of Step III grant offer.
- 10 d. Eliminate all untreated sewage discharges thereafter as soon
- 11 as practicable.
- 12 6. The Environmental Quality Commission has the power to issue an abatement
- 13 order under ORS 468.090 for the violations specified in paragraph 1 above.
- 14 Therefore, pursuant to ORS 183.415(4), the Department and Respondent wish
- 15 to resolve and eliminate the discharge problem. The Department and Respondent
- 16 intend to limit the extent of their concern to discharges in the Williamsport
- 17 area.

18 NOW THEREFORE, IT IS STIPULATED AND AGREED THAT:

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

20 Respondent to comply with the schedule set forth in paragraph 5 above.

21 B. Respondent acknowledges that it has actual notice of the contents and

22 requirements of this stipulated final order and that failure to fulfill

23 any of the requirements hereof would constitute a violation of this

24 stipulated order.

25

26 Date: APR 17 1978

DEPARTMENT OF ENVIRONMENTAL QUALITY

By William H. Young

WILLIAM H. YOUNG, Director

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RESPONDENT

CITY OF ASTORIA, OREGON

Date: 11/7/78

By Robert Chopping
Name: Robert Chopping
Title: Mayor

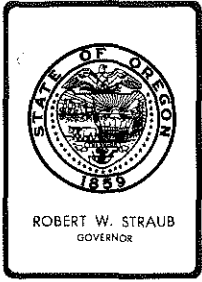
FINAL ORDER Ronald D. Caton
Name: Ronald D. Caton
Finance Director

IT IS SO ORDERED:

ENVIRONMENTAL QUALITY COMMISSION

Date: _____

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



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. H, April 28, 1978, EQC Meeting

Lots 1, 2, 3, and 4, Laurel Street and Robbins Avenue in
Meadowbrook Orchard Co's Subdivision, Rogue River,
Jackson 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 Rogue River on December 20, 1977. The order, finding that a danger to public health exists, covers 40.12 acres - within Meadowbrook Orchard Co.'s Subdivision, contiguous to the City of Rogue River. The area was surveyed in March 1977, and a 40% subsurface 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 plans and a schedule for the removal of the health hazard in the Meadowbrook Orchard Co.'s subdivision annexation area by the construction of gravity sewers were prepared by the City of Rogue River and submitted to DEQ on February 16, 1978 and April 11, 1978 respectively. The plans were routinely approved on February 23, 1978 by the Department as final construction plans since they were not identified as part of an annexation certification request. Receipt of the schedule on April 11, 1978 completes the certification package. 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

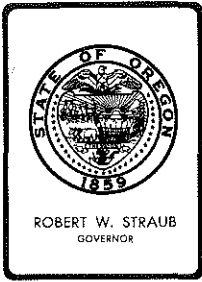
1. Pursuant to the provisions of ORS 222.850 and 222.915 the State Health Division issued an annexation order to the City of Rogue River on December 20, 1977.
2. The City submitted preliminary plans and specifications together with a time schedule to the DEQ for review.
3. ORS 222.898(1) requires the Commission to review the preliminary plans and other documents submitted by the City within 60 days of receipt. Plans were reviewed and approved by the staff within 60 days. Submittal of the schedule on April 11, 1978 completes the package for Commission certification.
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 Rogue River and certify said approval to the City.


WILLIAM H. YOUNG

Clarence P. Hilbrick:em
229-5311
April 18, 1978



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. H, April 28, 1978, EQC Meeting

Eleventh Street Area, Gold Beach, Curry 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 Gold Beach on May 16, 1977. The order, finding that a danger to public health exists, covers the area known as Eleventh Street area. The area was surveyed in March 1976, and a 58% subsurface 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. A 60 day time extension for this submittal was granted by the Oregon Health Division by letter of September 16, 1977.

Evaluation

The preliminary plans and specifications and a schedule for the removal of the health hazard in the Eleventh Street area by the construction of gravity sewers were prepared by the City of Gold Beach and submitted to DEQ on October 12, 1977 and March 2, 1978 respectively. Detailed preliminary construction plans and specifications were approved by the Department on October 27, 1977 after routine technical review. There was no indication that the plans related to a health hazard annexation. Thus, this approval was an oversight and should have followed Commission certification of adequacy. Plans prepared for certification are usually more general in detail. 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.



Contains
Recycled
Materials

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 Gold Beach, May 16, 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. Plans were reviewed and approved by staff within 60 days. Submittal of the schedule on March 2, 1978 completes the package for Commission certification.
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.

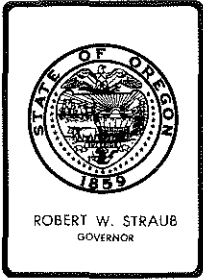
Director's Recommendation

It is recommended that the Commission approve the proposal of the City of Gold Beach and certify said approval to the City.



WILLIAM H. YOUNG

Clarence P. Hilbrick:em
229-5311
April 18, 1978



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. 1, April 28, 1978, EQC Meeting

Authorization to Conduct a Public Hearing on the Question of Amending Administrative Rules Governing Subsurface and Alternative Sewage Disposal; Subsurface Fees to be Charged by Clackamas County

Background

Subsurface and Alternative Sewage Disposal Systems Permit Fees are established under Oregon Administrative Rules (OAR) Chapter 340, Section 72-005 to Section 72-025. These rules, adopted by the Commission, are provided for by statute, Oregon Revised Statutes (ORS) 454.745(1). Further, ORS 454.745(4) provides, "Notwithstanding the requirements of subsections (1) and (2) of this section, the Environmental Quality Commission, upon the request of any county which pursuant to ORS 454.725 has entered into an agreement with the Department of Environmental Quality, may by rule require or permit fees in that county which are lower than those required under subsections (1) and (2) of this section, if that county can show, to the satisfaction of the Environmental Quality Commission, that with the requested lower fees it can otherwise finance the duties required of it by the Agreement with the Department of Environmental Quality."

Evaluation

Under the provisions of ORS 454.745(4) the Commission has established subsurface fees for Clackamas County at a level less than provided for in ORS 454.745(1). Clackamas County has determined that in order to continue to provide an adequate level of service within the subsurface sewage disposal program, an increase in fees charged is necessary. The Department has received such a request, in writing. (Attachment "A") The fee schedule proposed by Clackamas County is still within the maximums established by statute.



Contains
Recycled
Materials

Summation

1. ORS 454.625 provides that the Commission, after public hearing, may adopt rules it considers necessary for the purpose of carrying out ORS 454.605 to 454.745.
2. ORS 454.745(4) provides that the Commission may by rule establish fees, within the maximums allowed under ORS 454.745(1), upon request of a contract county.
3. Clackamas County has requested a fee schedule rule amendment.

Director's Recommendation

It is the Director's recommendation that the Commission authorize a public hearing, before a hearing officer, to take testimony on the question of amending the Administrative Rules governing Subsurface Sewage Disposal Fees to be charged by Clackamas County. Such hearing to be held at a location in Clackamas County.


WILLIAM H. YOUNG

T. J. Osborne:aes
229-6218
April 18, 1978

Attachment "A"
Request for fee schedule rule amendment

JOHN C. MCINTYRE
DIRECTOR

DON D. BROADSWORD
Operations Director

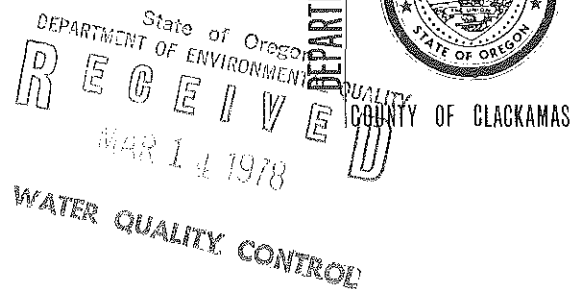
WINSTON W. KURTH
County Engineer

DAVID J. ABRAHAM
Utilities Director

RICHARD L. DOPP
Development
Services
Administrator

March 10, 1978

Mr. T. J. Osborne
Supervisor, Subsurface and
Alternate Sewage Systems Section
Department of Environmental Quality
PO Box 1760
Portland, Oregon 97207



RE: Change of Fees - Clackamas County

Clackamas County is hereby requesting that an Environmental Quality Commission Hearing be scheduled as soon as possible to consider amendments to Division 72 of the Standards for Subsurface and Alternative Sewage and Non-Water Carried Waste Disposal pertaining to fees for permits and evaluation reports in Clackamas County. We are requesting that Section 340-72-010, Subsection 4 be amended as follows:

(b) The fees to be charged by the County of Clackamas shall be as follows:

- (A) New Construction Installation \$50.00 (in addition to evaluation report fee)
- (B) Alteration, Repair or Extension Permit \$25.00
- (C) Evaluation Report
 - (i) Applicant provides soil information obtained by registered sanitarian or professional engineer \$40.00
 - (ii) Applicant provides test holes for evaluation by County. \$50.00

These changes are noted on a copy of Page 447 of the Rules which I have enclosed. Changes in the proposed Rules are outlined in red. Please notify this office when the hearing date has been set so that we may present testimony and answer questions.

Thank you for your assistance in this matter.

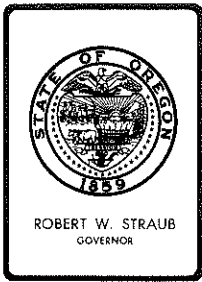
JOHN C. MCINTYRE - Director of Public Works

BY 

RICHARD L. DOPP - Development Services Administrator

/fh
Encl.





Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subj: Agenda Item No. K, April 28, 1978, EQC Meeting

Motor Vehicle Emission Testing Rules -- Request for Authorization for Public Hearing for Rules Update to Incorporate Standards for 1978 Model Year Motor Vehicles. OAR 340-24-300 through 24-350.

Background

At the Environmental Quality Commission Meeting of May 27, 1977, amendments to OAR 340-24-300 through 24-350, which effectively updated the inspection criteria to include the 1977 model year vehicles, were approved. This was part of the annual review and update required to keep the rules current. Review of the 1978 model year vehicles is complete, and it is time to update the inspection criteria to include these vehicles.

Evaluation

The actions proposed in the attached rule amendments (Appendix A) provides for the following:

1. Housekeeping changes in the definitions.
2. The updating of the specific emission criteria for various vehicle classes.

The changes in the definitions provide for similar interpretation as to the meaning of "owner" with Oregon statute (ORS 481.040). There is a housekeeping modification for electric vehicles and for inspection license expiration. The major changes in the inspection standards sections involve the updates for all vehicle classes for the 1978 model year.

Summation

The changes proposed for the inspection program rules are reasonable and maintain equity. The standards are updated for the current model year.



Contains
Recycled
Materials

Director's Recommendation

It is the Director's recommendation that the Department be granted authorization to schedule a public hearing to receive testimony on these proposed amendments to the inspection program rules. It is proposed that a hearing be held before a Hearings Officer in the Portland metropolitan area.



WILLIAM H. YOUNG

William P. Jasper:mg
229-5081
April 7, 1978
Attachment: Appendix A

340-24-305 is amended as follows.

24-305 DEFINITIONS. As used in these rules unless otherwise required by context:

(1) "Carbon dioxide" means a compound consisting of the chemical formula (CO₂).

(2) "Carbon monoxide" means a compound consisting of the chemical formula (CO).

(3) "Certificate of compliance" means a certification issued by a vehicle emission inspector that the vehicle identified on the certificate is equipped with the required functioning motor vehicle pollution control systems and otherwise complies with the emission control criteria, standards, and rules of the Commission.

(4) "Certificate of inspection" means a certification issued by a vehicle emission inspector and affixed to a vehicle by the inspector to identify the vehicle as being equipped with the required functioning motor vehicle pollution control systems and as otherwise complying with the emission control criteria, standards, and rules of the Commission.

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

(6) "Crankcase emissions" means substances emitted directly to the atmosphere from any opening leading to the crankcase of a motor vehicle engine.

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

(8) "Diesel motor vehicle" means a motor vehicle powered by a compression-ignition internal combustion engine.

(9) "Director" means the director of the Department.

(10) "Electric vehicle" means a motor vehicle which uses a propulsive unit powered exclusively by electricity.

(11) "Exhaust emissions" means substances emitted into the atmosphere from any opening downstream from the exhaust ports of a motor vehicle engine.

(12) "Factory-installed motor vehicle pollution control system" means a motor vehicle pollution control system installed by the vehicle or engine manufacturer to comply with federal motor vehicle emission control laws and regulations.

(13) "Gas analytical system" means a device which senses the amount of contaminants in the exhaust emissions of a motor vehicle, and which has been issued a license by the Department pursuant to section 24-350 of these regulations and ORS 468.390.

(14) "Gaseous fuel" means, but is not limited to, liquefied petroleum gases and natural gases in liquefied or gaseous forms.

(15) "Gasoline motor vehicle" means a motor vehicle powered by a spark-ignition internal combustion engine.

(16) "Heavy duty motor vehicle" means a motor vehicle having a combined manufacturer vehicle and maximum load rating to be carried thereon of more than 3855 kilograms (8500 pounds).

(17) "Hydrocarbon gases" means a class of chemical compounds consisting of hydrogen and carbon.

(18) "Idle speed" means the unloaded engine speed when accelerator pedal is fully released.

(19) "In-use motor vehicle" means any motor vehicle which is not a new motor vehicle.

(20) "Light duty motor vehicle" means a motor vehicle having a combined manufacturer vehicle and maximum load rating to be carried thereon of not more than 3855 kilograms (8500 pounds).

~~[(21) "Motor vehicle fleet operation" means ownership, control, or management, or any combination thereof, by any person of 100 or more Oregon registered, in-use, motor vehicles, excluding those vehicles held primarily for the purposes of resale.]~~

~~[(22)]~~ (21) "Model year" means the annual production period of new motor vehicles or new motor vehicle engines designated by the calendar year in which such period ends. If the manufacturer does not designate a production period, the model year with respect to such vehicles or engines shall mean the 12 month period beginning January of the year in which production thereof begins.

~~[(23)]~~ (22) "Motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground and having a mass of 680 kilograms (1500 pounds) or less with manufacturer recommended fluids and nominal fuel capacity included.

~~[(24)]~~ (23) "Motor vehicle" means any self-propelled vehicle used for transporting persons or commodities on public roads.

(24) "Motor vehicle fleet operation" means ownership by any person of 100 or more Oregon registered, in-use, motor vehicles, excluding those vehicles held primarily for the purposes of resale.

(25) "Motor vehicle pollution control system" means equipment designed for installation on a motor vehicle for the purpose of reducing the pollutants.

(26) "New motor vehicle" means a motor vehicle whose equitable or legal title has never been transferred to a person who in good faith purchases the motor vehicle for purposes other than resale.

(27) "Non-Complying imported vehicle" means a motor vehicle of model years 1968 through 1971 which was originally sold new outside of the United States and was imported into the United States as an in-use vehicle prior to February 1, 1972.

(28) "Owner" means the person having all the incidents of ownership in a vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of a vehicle under a security agreement, or a lease for a term of 10 or more successive days.

[~~(28)~~] (29) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

[~~(29)~~] (30) "PPM" means parts per million by volume.

[~~(30)~~] (31) "Public roads" means any street, alley, road, highway, freeway, thoroughfare, or section thereof in this state used by the public or dedicated or appropriated to public use.

[~~(31)~~] (32) "RPM" means engine crankshaft revolutions per minute.

[~~(32)~~] (33) "Two-stroke cycle engine" means an engine in which combustion occurs, within any given cylinder, once each crankshaft revolution.

[~~(33)~~] (34) "Vehicle emission inspector" means any person possessing a current and valid license issued by the Department pursuant to section 24-340 of these regulations and ORS 468.390.

340-24-320(7) is amended as follows.

(7) Electric vehicles are presumed to comply with all requirements of these rules and those applicable provisions of ORS 468.360 to 468.405, 481.190 to 481.200, and 483.800 to 483.825, and may be issued the required certificates of compliance and inspection [~~upon payment of the required fee-~~] at no charge.

340-24-330 is corrected as follows.

24-330 LIGHT DUTY MOTOR VEHICLE EMISSION CONTROL IDLE EMISSION STANDARDS.

(1) Carbon monoxide idle emission values not to be exceeded:

	<u>%</u>	<u>Enforcement Tolerance Through June, 1979</u>
<u>ALFA ROMEO</u>		
1978	<u>0.5</u>	<u>0.5</u>
1975 through 1977	1.5	1.0
1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.5
pre-1968	6.0	0.5
<u>AMERICAN MOTORS CORPORATION</u>		
1975 through [1977] <u>1978</u> Non-Catalyst	1.5	0.5
1975 through [1977] <u>1978</u> Catalyst Equipped	0.5	0.5
1972 through 1974	2.0	1.0
1970 through 1971	3.5	1.0
1968 through 1969	5.0	0.5
pre-1968	6.0	0.5
Above 6000 GVWR, 1974 through [1977] <u>1978</u>	2.0	1.0

ARROW, Plymouth - see COLT, Dodge

AUDI

1975 through [1977] <u>1978</u>	1.5	0.5
1971 through 1974	2.5	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

AUSTIN - see BRITISH LEYLAND

BMW

1975 through [1977] <u>1978</u>	1.5	0.5
1974, 6 cyl.	2.5	1.0
1974, 4 cyl.	2.0	1.0
1971 through 1973	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

BRITISH LEYLAND

Austin, Austin Healey, Morris, America, and Marina		
1975	2.0	0.5
1973 through 1974	2.5	1.0
1971 through 1972	4.0	1.0
1968 through 1970	5.0	1.0
pre-1968	6.5	0.5

Jaguar		
1975 through [1977] <u>1978</u>	0.5	0.5
1972 through 1974	3.0	1.0
1968 through 1971	4.0	1.0
pre-1968	6.0	0.5

MG		
1976 through [1977] <u>1978</u> MG	0.5	0.5
1975 MG, MG Midget and 1976 MG Midget	2.0	0.5
1973 through 1974 MGB, MGBGT, MGC	3.0	1.0
1971 through 1974 Midget	3.0	1.0
1972 MGB, MGC	4.0	1.0
1968 through 1971, except 1971 Midget	5.0	1.0
pre-1968	6.5	0.5

Rover		
1971 through 1974	4.0	1.0
1968 through 1970	5.0	0.5
pre-1968	6.0	0.5
Triumph		
<u>1978</u>	<u>0.5</u>	<u>0.5</u>
1975 through 1977	2.0	0.5
1971 through 1974	3.5	1.0
1968 through 1970	4.0	1.0
pre-1968	6.5	0.5

BUICK - see GENERAL MOTORS

CADILLAC - see GENERAL MOTORS

CAPRI - see FORD MOTOR COMPANY

CHECKER

1975 through [1977] <u>1978</u> Catalyst Equipped	0.5	0.5
1973 through 1974	1.0	1.0
1970 through 1972	2.5	1.0
1968 through 1969	3.5	1.0
pre-1968	6.0	0.5

CHEVROLET - see GENERAL MOTORS

CHEVROLET L.U.V. - see L.U.V., Chevrolet

CHRYSLER - see CHRYSLER CORPORATION

CHRYSLER CORPORATION (Plymouth, Dodge, Chrysler)

1975 through [1977] <u>1978</u> Non-Catalyst	1.0	0.5
1975 through [1977] <u>1978</u> Catalyst Equipped	0.5	0.5
1973 through 1974	1.0	1.5
1970 through 1972	1.5	1.5
1968 through 1969	2.0	2.5
pre-1968	6.0	0.5
Above 6000 GVWR, 1968 through 1971	4.0	1.0
Above 6000 GVWR, 1972 through [1977] <u>1978</u>	2.0	1.0

CITROEN

1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

COLT, Dodge

<u>1978</u>	<u>0.5</u>	<u>0.5</u>
1975 through 1977	3.0	0.5
1971 through 1974	5.0	1.0
pre-1971	6.0	0.5

COURIER, Ford

1975 through [1977] <u>1978</u>	1.5	0.5
1973 through 1974	2.0	1.0
pre-1973	4.0	1.0

CRICKET, Plymouth

1973 through 1974 (twin carb. only)	3.0	1.0
1972 (twin carb. only)	4.5	1.0
pre-1972 (and 1972 through 1973 single carb. only)	7.5	0.5

DATSUN

<u>1978 Catalyst Equipped</u>	<u>0.5</u>	<u>0.5</u>
1975 through [1977] <u>1978 Non-Catalyst</u>	2.0	0.5
1968 through 1974	2.5	1.0
pre-1968		

DE TOMASO - see FORD MOTOR COMPANY

DODGE - see CHRYSLER CORPORATION

DODGE COLT - see COLT, Dodge

FERRARI

1978	0.5	0.5
1975 through 1977	[0.5] 2.0	0.5
1971 through 1974	2.5	1.5
1968 through 1970	4.0	1.5
pre-1968	6.0	0.5

FIAT

1975 through [1977] 1978 Non-Catalyst	1.5	0.5
1975 through [1977] 1978 Catalyst Equipped	0.5	0.5
1974	2.5	1.0
1972 through 1973 124 Spec. sedan & wgn.	4.0	1.0
1972 through 1973 124 sport coupe & spider	3.0	1.0
1972 through 1973 850	3.0	1.0
1971 850 sport coupe and spider	3.0	1.0
1971 850 sedan	6.0	0.5
1968 through 1970, except 850	5.0	0.5
1968 through 1970 850	6.0	0.5
pre-1968	6.0	0.5

FIESTA - see FORD MOTOR COMPANY.

FORD - see FORD MOTOR COMPANY

FORD MOTOR COMPANY (Ford, Lincoln, Mercury, Capri, except Courier)

1975 through [1977] 1978 Non-Catalyst	1.0	0.5
1975 through [1977] 1978 Catalyst Equipped	0.5	0.5
1974, except 4 cyl.	1.0	1.0
1973, except 4 cyl.	1.0	1.5
1972, except 4 cyl.	1.0	2.0
1972 through 1974, 4 cyl., except 1971-1973 Capri	2.0	1.0
1971 through 1973 Capri only	2.5	1.0
1970 through 1971	2.0	1.0
1968 through 1969	3.5	1.0
pre-1968	6.0	0.5
Above 6000 GVWR, 1968 through 1971	4.0	1.0
Above 6000 GVWR, 1972 through 1973	3.0	1.0
Above 6000 GVWR, 1974 through [1977] 1978	2.0	1.0

GENERAL MOTORS (Buick, Cadillac, Chevrolet, GMC, Oldsmobile, Pontiac)

1975 through [1977] 1978 Non-Catalyst	1.0	0.5
1975 through [1977] 1978 Catalyst Equipped	0.5	0.5
1973 through 1974	1.0	1.0
1971 through 1972, except 4 cyl.	1.5	1.0
1970, except 4 cyl.	1.5	1.5
1970 through 1971, 4 cyl.	2.5	1.0
1968 through 1969	3.5	1.0
pre-1968	6.0	0.5
Above 6000 GVWR, 1968 through 1971	4.0	1.0
Above 6000 GVWR, 1972 through 1973	3.0	1.0
Above 6000 GVWR, 1974 through [1977] 1978	2.0	1.0

GMC - see GENERAL MOTORS

HONDA AUTOMOBILE

1975 through [1977] 1978 CVCC	1.0	0.5
1975 through [1977] 1978, except CVCC engine	1.5	0.5
1973 through 1974	3.0	1.0
pre-1973	5.0	1.0

INTERNATIONAL HARVESTER

1975 through [1977] 1978	2.5	0.5
1972 through 1974	3.0	1.0
1970 through 1971	4.0	1.0
1968 through 1969	5.0	1.0
pre-1968	6.0	0.5

JAGUAR - see BRITISH LEYLAND

JEEP - see AMERICAN MOTORS

JENSEN-HEALEY

1973 and 1974	4.5	1.0
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JENSEN INTERCEPTOR & CONVERTIBLE - see CHRYSLER CORPORATION

LAND ROVER - see BRITISH LEYLAND, Rover

LINCOLN - see FORD MOTOR COMPANY

L.U.V., Chevrolet

1974 through [1977] <u>1978</u>	1.5	1.0
pre-1974	3.0	1.0

MAZDA

<u>1978 Catalyst Equipped</u>	<u>0.5</u>	<u>0.5</u>
1975 through [1977] <u>1978 Non-Catalyst</u>	<u>1.5</u>	<u>0.5</u>
1968 through 1974, Piston Engines	4.0	1.0
1974, Rotary Engines	2.0	0.5
1970 through 1973, Rotary Engines	3.0	0.5

MERCURY - see FORD MOTOR COMPANY

MERCEDES-BENZ

1975 through 1977 Non-Catalyst, 4 cyl.	1.0	0.5
1975 through [1977] <u>1978</u> , all other	0.5	0.5
1973 through 1974	2.0	1.0
1972	4.0	1.0
1968 through 1971	5.0	1.0
pre-1968	6.0	0.5
Diesel Engines (all years)	1.0	0.5

MG - see BRITISH LEYLAND

OLDSMOBILE - see GENERAL MOTORS

OPEL

1975 through [1977] <u>1978</u>	1.5	0.5
1973 through 1974	2.5	1.0
1970 through 1972	3.0	1.0
1968 through 1969	3.0	1.0
pre-1968	6.0	0.5

PANTERA - see FORD MOTOR COMPANY

PEUGEOT

1975 through [1977] <u>1978</u>	1.5	0.5
1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5
Diesel Engines (all years)	1.0	0.5

PLYMOUTH - see CHRYSLER CORPORATION

PLYMOUTH CRICKET - see CRICKET, Plymouth

PONTIAC - see GENERAL MOTORS

PORSCHE

<u>1978 Catalyst Equipped</u>	<u>0.5</u>	<u>0.5</u>
1975 through [1977] <u>1978 Non Catalyst</u>	2.5	0.5
1972 through 1974	3.0	1.0
1974 Fuel Injection 1.8 liter (914)	5.0	1.0
1968 through 1971	5.0	1.0
pre-1968	6.5	0.5

RENAULT

1977 <u>through 1978</u>	1.5	0.5
1976 Carbureted	1.5	0.5
1975 and 1976 Fuel Injection	1.5	0.5
1975 Carbureted	0.5	0.5
1971 through 1974	3.0	1.0
1968 through 1970	5.0	1.0
pre-1968	6.0	0.5

ROLLS-ROYCE and BENTLEY

1975 through [1977] <u>1978</u>	0.5	0.5
1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

ROVER - see BRITISH LEYLAND

SAAB

1975 through [1977] <u>1978</u>	1.5	0.5
1968 through 1974, except 1972 99 1.85 liter	3.0	1.0
1972 99 1.85 liter	4.0	1.0
pre-1968 (two-stroke cycle)	3.0	3.5

SAPPORO, Plymouth - see COLT, Dodge

SUBARU

1975 through [1977] <u>1978</u>	1.5	0.5
1972 through 1974	3.0	1.0
1968 through 1971, except 360's	4.0	1.0
pre-1968 and all 360's	6.0	0.5

TOYOTA

1975 through [1977] <u>1978</u> Catalyst Equipped	0.5	0.5
1975 through [1977] <u>1978</u> , 4 cyl.	2.0	0.5
1975 through [1977] <u>1978</u> , 6 cyl.	1.0	0.5
1968 through 1974, 6 cyl.	3.0	1.0
1968 through 1974, 4 cyl.	4.0	1.0
pre-1968	6.0	0.5

TRIUMPH - see BRITISH LEYLAND

VOLKSWAGEN

<u>1977 and 1978 Rabbit and Scirocco</u>	<u>2.0</u>	<u>0.5</u>
Diesel Engines (all years)	1.0	0.5
1976 [and-1977] Rabbit and Scirocco	0.5	0.5
1976 through [1977] <u>1978</u> All Others	2.5	0.5
1975 Rabbit, Scirocco, and Dasher	0.5	0.5
1975 All Others	2.5	0.5
1974 Type 4 Fuel Injection 1.8 liter	5.0	0.5
1972 through 1974, except Dasher	3.0	1.0
1972 through 1974 Dasher	2.5	1.0
1968 through 1971	3.5	1.0
pre-1968	6.0	0.5

VOLVO

1978	0.5	0.5
1975 through 1977, 6 cyl.	1.0	0.5
1975 through 1977, 4 cyl.	2.0	0.5
1972 through 1974	3.0	1.0
1968 through 1971	4.0	1.0
pre-1968	6.5	0.5

NON-COMPLYING IMPORTED VEHICLES

All	6.5	0.5
-----	-----	-----

DIESEL POWERED VEHICLES

All	1.0	0.5
-----	-----	-----

ALL VEHICLES NOT LISTED and VEHICLES FOR WHICH NO VALUES ENTERED

1975 through [1977] 1978 Non-Catalyst, 4 cyl.	2.0	0.5
1975 through [1977] 1978 Non-Catalyst, except 4 cyl.	1.0	0.5
1975 through [1977] Catalyst Equipped	0.5	0.5
1972 through 1974	3.0	1.0
1970 through 1971	4.0	1.0
1968 through 1969	5.0	1.0
pre-1968 and those engines less than 820 cc (50 cu. in.)	6.5	0.5

(2) Hydrocarbon idle emission values not to be exceeded:

	<u>Enforcement Tolerance</u>	
<u>PPM</u>	<u>Through June 1979</u>	
No HC Check	--	All two-stroke cycle engines & diesel ignition
1500	100	Pre-1968 4 or less cylinder engines, 4 or less cylindered non-complying imports, and those engines less than 820 cc (50 cu. in.) displacement
1200	100	Pre-1968 with more than 4 cylinder engines, and non-complying imports with more than 4 cylinder engines

800	100	1968 through 1968, 4 cylinder
600	100	All other 1968 through 1969
500	100	All 1970 through 1971
400	100	All 1972 through 1974, 4 cylinder
300	100	All other 1972 through 1974
200	100	1975 through [1977] <u>1978</u> without catalyst
125	100	1975 through [1977] <u>1978</u> with catalyst

(3) There shall be no visible emission during the steady-state unloaded and raised rpm engine idle portion of the emission test from either the vehicle's exhaust system or the engine crankcase. In the case of diesel engines and two-stroke cycle engines, the allowable visible emission shall be no greater than 20% opacity.

(4) The Director may establish specific separate standards, differing from those listed in subsections (1), (2), and (3), for vehicle classes which are determined to present prohibitive inspection problems using the listed standards.

340-24-335 is corrected as shown.

24-335 HEAVY DUTY GASOLINE MOTOR VEHICLE EMISSION CONTROL EMISSION STANDARDS.

(1) Carbon monoxide idle emission values not to be exceeded:

	<u>Base Standard</u> %	<u>Enforcement Tolerance</u> Through June, 1979
<u>ALL VEHICLES</u>		
Pre-1970	6.0	0.5
1970 through 1973	4.0	1.0
1974 through [1977] <u>1978</u>	3.0	1.0

(2) Carbon monoxide nominal 2,500 RPM emission values not to be exceeded:

	<u>Base Standard</u> %	<u>Enforcement Tolerance</u> Through June, 1979
<u>ALL VEHICLES</u>		
Pre-1970	3.0	1.0
1970 through [1977] <u>1978</u>	2.0	1.0
Fuel Injected	No Check	

(Hydrocarbon idle emission values not to be exceeded:

	<u>Base Standard</u> PPM	<u>Enforcement Tolerance</u> Through June, 1979
<u>ALL VEHICLES</u>		
Pre-1970	700	200
1970 through 1973	500	200
1974 through [1977] <u>1978</u>	300	200

(4) There shall be no visible emission during the steady-state unloaded engine idle and raised rpm portion of the emission test from either the vehicle's exhaust system or the engine crankcase.

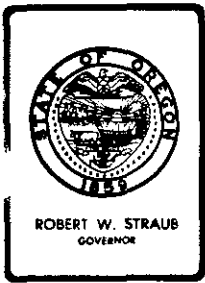
(5) The Director may establish specific separate standards, differing from those listed in subsections (1), (2), (3), and (4) for vehicle classes which are determined to present prohibitive inspection problems using the listed standard.

340-24-340(3) is amended as follows.

(3) Each license shall be valid for 12 months following the end of the month of issuance [~~7~~] unless revoked, suspended, or returned to the Department.

340-24-350(1)(b) is amended as follows.

(b) [~~Be under the ownership, control, or management, or any combination thereof, of a licensed motor vehicle fleet operation or the department.~~] Be owned by the licensed motor vehicle fleet operation or the Department.



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. M, April 28, 1978, EQC Meeting

Brown's Island Sanitary Landfill, Marion County,
Request for Expansion.

BACKGROUND

The Brown's Island Sanitary Landfill is located in the NE 1/4 Section 31 and the NW 1/4 Section 32 of Township 7 South, Range 3 West, W.M., on Brown's Island in Marion County. It is the major solid waste disposal site in Marion County, serving the City of Salem, the southern portions of Marion County, and the eastern portions of Polk County. It is of major concern to the Department of Environmental Quality, since it is located in the flood plain of the Willamette River, between the flood plain relief channel and the main River.

At the December 20, 1974, Environmental Quality Commission meeting, a status report on the site was presented indicating, the Department planned to issue a permit for a 21-acre expansion of the site. (Attachment A) In conjunction, Marion County and the Chemeketa Region Solid Waste Management Program were encouraged to make alternative long-range plans to phase out Brown's Island Landfill. Over approximately a year period beginning August 1975, I.C. Thomasson and Associates carried out a limited (\$32,000) long-range solid waste resource recovery study. Marion County, the City of Salem, Polk County, and our Department provided the planning funds. Of several alternatives investigated, the consultant recommended a regional incineration/steam processing plant in Salem as the most feasible. However, a special committee appointed by the Marion/Polk Solid Waste Committee to evaluate the study determined that implementation was not feasible due to:

1. Construction costs probably greatly exceeding the \$18 million figure suggested in the study.
2. Unavailability of suitable site locations in Salem.
3. Potential creation of air quality problems.
4. Lack of a market for process steam.



Contains
Recycled
Materials

Implementation of the study was based on the sale of process steam, and it was generally declared not feasible in September, 1976, when prospective buyers stated they would not be interested. There remains some question to DEQ staff as to how objective and complete the study was relative to the complexity of the solid waste management problem in the Mid-Willamette Valley.

The Department requested that Marion County initiate an immediate study for an alternate long-range disposal site to replace Brown's Island. At that time, it was estimated that Brown's Island would be full by February, 1979. In October, 1976, the Marion/Polk Solid Waste Committee appointed a special Technical Site Search Subcommittee to locate potential disposal sites. The Subcommittee was comprised of private citizens and individuals from federal, state, and county agencies who had expertise in solid waste management, land use planning, soils, and groundwater.

After two months of extensive field study, 19 potential sites were submitted to the Marion/Polk Solid Waste Committee for consideration. These sites were narrowed down to the top five; two in Polk County and three in Marion County. Due to early public and political opposition, the two sites in Polk County were eliminated.

In March, 1977, the Marion County Solid Waste Committee held a public meeting regarding the three remaining sites. Public opposition was overwhelming, with an estimated 800 to 1,000 persons in attendance voicing strong opposition. Due to this opposition, efforts to locate a new site diminished and attention again focused on expanding Brown's Island.

The Department responded by stating that no consideration for expansion would be given until:

1. A hydraulic analysis had been completed showing that an expansion could be made that would not create flood hazards to adjacent properties, nor create erosive velocities that would threaten the landfill during all flood stages up to the 100-year flood.
2. A groundwater study had been made which could show that the beneficial use of groundwater on Brown's Island would not be impacted, nor any measurable degradation to the Willamette River occur from future filling activities.
3. Marion County would commit to renew their efforts to establish and implement a sound long-range solid waste management plan and phase out the Brown's Island Landfill as soon as possible.

The Department has received an application and a completed groundwater study from Mr. William Schlitt, operator of the Brown's Island Landfill, requesting an expansion of the site. We have also received a completed hydraulic analysis prepared by the U.S. Army Corps of Engineers, and a letter of support and future planning commitments from the Marion County Board of Commissioners (Attachment B).

EVALUATION

1. COUNTY NEEDS

Brown's Island is the major landfill in Marion County, and has an estimated remaining life of approximately 10 to 12 months. Once this site is full, the only alternative immediately available is direct transfer to the Marion County Landfill at Woodburn. The volume now coming into Brown's Island averages approximately 50,000 cubic yards per month, which is about 25% more than the 1974 estimates. Currently, the Brown's Island operation requires more than five acres of land a year (sanitary wastes only). Diverting these wastes to Woodburn would sharply increase hauling and other operational costs. The Woodburn traffic patterns and operational areas would have to be significantly upgraded to accommodate the excess refuse; more significantly, the operational life at the Woodburn site would be cut from an estimated ten years to an estimated three years. Overall this alternative appears impractical.

2. HYDRAULIC ANALYSIS

On September 26, 1977, the U.S. Army Corps of Engineers submitted a hydraulic analysis regarding potential expansion of the Brown's Island Landfill for a given configuration. Their analysis for the 100 year peak flow condition indicates that the landfill could expand in certain designated areas without significantly affecting flood levels or velocities. The calculated velocities around the landfill during peak flows would be low, 2.5 feet per second or less.

The report is qualified by identifying the unnatural "all weather access" road as a barrier to the natural flood relief channel, causing higher velocities around the western end of the landfill and, in turn, magnifying the potential for creating erosive velocities.

The staff concurs with the Corps' analysis that expansion could occur in certain areas with proper design. We strongly agree that any expansion must be predicated upon Marion County's removal of the "all weather access" road down to natural ground elevation.

3. WATER QUALITY EVALUATION

On January 20, 1978, H. Randy Sweet, Consulting Geologist/Hydrogeologist, submitted an in-depth water quality evaluation report on Brown's Island in relation to a proposed expansion. The report identifies the primary beneficial uses of groundwater at Brown's Island to be water supply and bank storage for dry weather augmentation of the Willamette River. The report shows that all local domestic and irrigation wells are located upgradient from the site, and these wells would not be threatened by the landfill in terms of reduced water quantity or quality. The report indicates that contaminants are probably reaching the Willamette River; however, due to natural leachate attenuation, dilution by underlying groundwaters, and dilution by the Willamette River, no measurable degradation is presently occurring.

The report concludes that from a water quality standpoint a landfill expansion is feasible and recommends that it be located to the northwest of the existing operation. The reasons given for expanding in this direction are:

1. The flood impact would be minimized in this area.
2. Groundwater effects would be held to a smaller area, including the present area already affected by the existing landfill.
3. Current setbacks from the River could be maintained or increased.
4. Improvements in landfill design, construction, and closure techniques could reduce leachate production and discharge, as well as improve leachate treatment.

The staff agrees with most of the conclusions in the Sweet report. Improvements in design, such as trench liners, elevated trench bottoms, and increasing slope in finished grades, would decrease leachate production and discharge. Final design criteria remains to be developed pending Commission action on this report.

Based on data from the monitoring well located nearest the River, it appears obvious that the groundwaters between the landfill and the River are being impacted, and contamination is migrating toward the River. However, as noted in the Sweet report, the Department has not detected any measurable degradation of the Willamette River to date.

4. MARION COUNTY SUPPORT OF EXPANSION

On April 6, 1978, the Marion County Commissioners submitted a letter of support in regard to a Brown's Island expansion. In that letter, the Commissioners advised that the following commitments toward establishing a long-range solid waste management program for Marion County were being considered:

1. Marion County will try by July 1, 1978 to hire a qualified consultant or qualified County staff to do the short- and long-range planning for the County.
2. Based on hiring qualified staff, Marion County will target July 1, 1979, as a date to submit a plan for implementation of an alternate method of regional solid waste management.
3. By 1983, Marion County expects to be in the implementation stage of their plan. They believe closure of Brown's Island, in accordance with RCRA requirements, will not adversely affect the County.

The staff believes these proposals are being submitted in good faith toward establishing a sound long-range solid waste management program in Marion County.

5. POTENTIAL HAZARDS

As a matter of policy, the Department does not encourage development of landfills in flood plains for obvious reasons. If Marion County had any viable alternative at this time, the Department would not consider this expansion request. This position is also reflected in the Federal Resource Conservation and Recovery Act (RCRA) of 1976. It proposes that any landfill located in a known flood plain must be listed on a state inventory and placed on a compliance schedule to close within five years. Public hearings are now in progress regarding the RCRA requirements, and we expect them to become effective in the near future. We also expect the Brown's Island Landfill to be placed on the state "open dump" inventory for closure.

Initial studies by the Corps of Engineers have indicated that the landfill can be expanded to some degree. There is concern that at some time in the future the river may change course or otherwise act on the landfill causing erosion and possible washout of the solid waste.

At present, contamination to the river cannot be measured. By adding an additional five-year accumulation of solid waste there may be enough increase to produce a measurable effect on the river.

SUMMATION

1. The Brown's Island Sanitary Landfill is the major solid waste disposal site in Marion County. The public, commercial, and industrial interests in the City of Salem, the southern part of Marion County, and the eastern part of Polk County are directly dependent upon its operation to accommodate their solid waste disposal needs. The Landfill has a remaining life expectancy of approximately 10 - 12 months.
2. The only immediate alternative to an expansion of Brown's Island is to divert the wastes to the Woodburn Sanitary Landfill. This would appear to create a hardship for the public and hinder sound long-range solid waste planning in Marion County.
3. The U.S. Army Corps of Engineers' hydraulic analysis for an expansion at Brown's Island indicates that the 100-year peak flow condition would not significantly affect flood levels or velocities.
4. The U.S. Army Corps of Engineers' hydraulic analysis identifies the "all weather access" road as a barrier to the natural flood relief channel. Staff observations have confirmed this. During smaller floods, the road diverts flows at higher velocities around the western end of the site and maximizes erosion potential.
5. Because of its flood plain location, the Federal Resource Conservation and Recovery Act of 1976 will, in all probability, place the Brown's Island Landfill on the state inventory for closure. Once placed on the inventory, the site must be terminated within five years.
6. The Brown's Island Sanitary Landfill Water Quality Evaluation, prepared by H. Randy Sweet, Consulting Geologist/Hydrogeologist, concludes that from a water quality standpoint an expansion can occur to the northwest of the existing site without impacting any current beneficial uses of groundwater on Brown's Island. The report further concludes that with improvements in landfill design, leachate production can be reduced and leachate attenuation improved.
7. Marion County supports the landfill expansion. Along with their letter of support, they have submitted a proposal which, if carried out, will provide a sound long-range solid waste management program in Marion County, including phase-out of the Brown's Island Landfill by 1983.

8. Complete hydraulic analysis of the final proposed landfill configuration have not yet been completed. Additional studies are now being conducted by the Corps of Engineers and the private landfill operator's consultant. If these studies do not provide an acceptable margin of safety the expansion permit should not be issued. There are certain inherent potential hazards associated with landfilling and expansion at this location. It cannot be guaranteed that future erosion of the landfill and contamination of the river will not occur.

DIRECTOR'S RECOMMENDATION

The request for expansion of the Brown's Island Sanitary Landfill be approved, subject to the following:

1. The permit for a sanitary landfill expansion be issued for up to a maximum of five years terminating on or before July 1, 1983; with no sanitary waste disposal being allowed at Brown's Island after that date.
2. Approvable final engineering plans for proper site engineering design to ensure against flood and erosion hazards be submitted to the Department prior to construction. These plans shall also include provisions for reducing leachate production and discharge, and for improving attenuation to ensure that the beneficial use of groundwaters on Brown's Island or in the Willamette River will not be threatened.
3. Prior to September 1, 1978, Marion County remove the "all weather access" road down to natural ground elevation to remove the restriction to the natural flood relief channel.

It is further recommended that Marion County be directed to submit annual progress reports starting August 1, 1978, which show progress toward replacement of Brown's Island and development of a long-range solid waste management program. If at any time it is deemed by the Director that sufficient progress is not being made by the County, the Director should bring it to the immediate attention of the Commission.

Bill

WILLIAM H. YOUNG

Gary W. Messer
378-8240
April 14, 1978
Attachments (2)

Agenda Item No. 1, December 20, 1974 meeting - Attachment A
Marion County letter dated April 6, 1978 - Attachment B

MARION COUNTY

BOARD OF COMMISSIONERS

COMMISSIONERS
Pat McCarthy, Chairman
Walter R. Heine
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LEGAL COUNSEL
Frank C. McKinney

TELEPHONE 588-5212
AREA CODE 503

COURTHOUSE, SALEM, OREGON, 97301

April 6, 1978



Gary Messer, R.S.
Assistant Manager
Department of Environmental Quality
P.O. Box 1760
Portland, Oregon 97207

Dear Mr. Messer:

This is to advise that the Marion County-City of Salem Solid Waste Committee took under advisement for discussion and early action the following matters, at its meeting on April 6, 1978.

1. To determine the earliest date that Marion County can advise DEQ when it will either designate a qualified consultant or will hire qualified staff to do the short and long range planning for solid waste management in the Salem urbanizing area. This will include a search for a possible replacement for Brown's Island landfill site. Hopefully this will be no later than July 1, 1978.
2. To determine, based on the answer to No. 1, when Marion County can submit to DEQ a short and long range plan for solid waste management that will lead to implementation of an alternate method of regional operation of solid waste disposal. This could include an alternate landfill site as well as increased resource recovery. Subject to any new system or recovery methods that are discovered, and our ability to obtain a competent consultant or staff, this could be by July 1, 1979.
3. Marion County would request DEQ to give technical advice and assistance to the implementation of the proposed plan and to meet periodically with the staff and the Solid Waste Committee.
4. The Marion County-City of Salem Solid Waste Committee supports Brown's Island, Inc. in its application for an expansion to the existing landfill site.

It is anticipated at this time that, if the above planning is on schedule, the implementation of the short and long range plan might be done by 1983. In any event, it would appear we could meet the proposed, but yet unadopted,

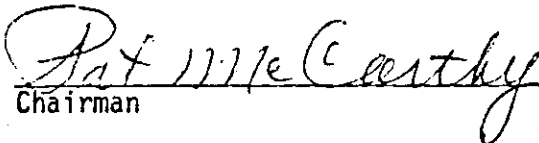
Gary Messer, R.S.
April 6, 1978
Page 2

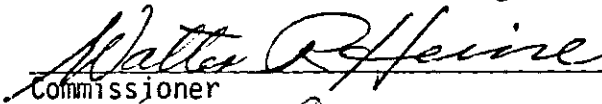
rules or criteria of the EPA. The proposed criteria is not required to be met until at least five years after the EPA has published an inventory showing our facility unacceptable.

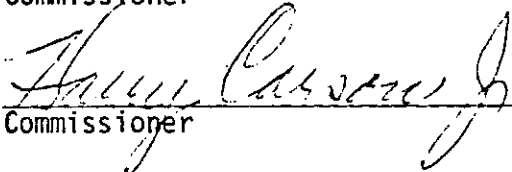
It is our understanding that the EPA has up to one year after they finally adopt their criteria to publish such an inventory. As you probably know, public comments on their proposed criteria have been extended for several weeks past the original May 8, 1978 deadline.

Sincerely,

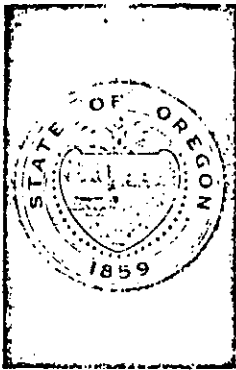
BOARD OF COMMISSIONERS


Chairman


Commissioner


Commissioner

BOC:if
cc: Solid Waste Committee



ENVIRONMENTAL QUALITY COMMISSION

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

TOM McCALL
GOVERNOR

To: Environmental Quality Commission

B. A. McPHILLIPS
Chairman, McMinnville

From: Director

GRACE S. PHINNEY
Corvallis

SUBJECT: Agenda Item No. I, December 20, 1974, EQC Meeting

JACKLYN L. HALLOCK
Portland

Brown's Island Sanitary Landfill, Marion County - Status Report

MORRIS K. CROTHERS
Salem

RONALD M. SOMERS
The Dalles

KESSLER R. CANNON
Director

The Brown's Island Sanitary Landfill is located in the NE 1/4 Section 31 and the NW 1/4 Section 32 of Township 7 South, Range 3 West, W.M. on Brown's Island in Marion County (see attached map fig. 1).

This landfill is the major solid waste disposal site in the Chemeketa 5-county region, serving some 117,000 people who generate approximately 240 tons of solid wastes for disposal each day.

The actual site is owned and operated respectively, by two different private individuals; however, the wastes disposed therein are collected under franchises issued by the City of Salem and Marion and Polk counties and the landfill is operated under a solid waste disposal site permit issued by the DEQ and a conditional land use permit issued by Marion County. The Chemeketa Regional Solid Waste Management Plan has designated the Brown's Island site as a major solid waste regional landfill for a 5 to 10 year period.

The site lies in the floodplain of the Willamette River, between the old Willamette River channel and the present river channel. The old channel is usually dry, but during annual high flood flows it becomes an important flood flow channel.

The original access road, Homestead Road South (Brown's Island Road) has two low sections at approximately elevation 128 (USGS datum) which are inundated at river stages in excess of 19 feet (Salem gage) and thereby rendered non-usable for varying periods almost every year. During these periods of nonaccess to Brown's Island, in past years, the solid wastes have been hauled to Marion County's Macleay site for disposal. The Macleay site is now essentially filled to capacity, has serious leachate and other environmental problems and is not an adequate back-up site.

In order to make the Brown's Island Sanitary Landfill available for use year-round, Marion County, in 1973, constructed an allweather access road to the island. The new road is an extension of Roberts' Road and crosses the old river channel with a rock and earth fill to an elevation of approximately 140 (USGS datum) so as not to be overtopped by floods that would ordinarily be expected to occur not more than once in 10 years. The Department, by its letter of June 19, 1973, supported Marion County's request to FHA for funding construction of an all-weather access road to Brown's Island; however, the design criteria and construction plans were not submitted to or reviewed or approved by the Department. Detailed plans for County roads are normally not reviewed by the Department.

In January 1973, extreme high flood flows of the Willamette River (attenuated by dams to an effective 24year flood according to the U. S. Corps of Engineers) washed out the new allweather access road and two sections of the landfill dikes. Substantial solid wastes were washed downstream and if the road had not washed out, thereby relieving the pressures on the landfill, undoubtedly a much greater portion of the landfill would have been washed away. In spite of objections by the Department, Marion County has rebuilt the washed out section of the allweather access road thereby again placing the landfill in jeopardy of being eroded or washed out by floods that might be expected to occur with a frequency as often as once in five years and which, in fact, could occur any given year.

The Brown's Island landfill has been operated under a series of short term permits issued by the Department since State jurisdiction of solid waste disposal was transferred from the State Health Division to the Department by the 1971 Oregon Legislature. Short term permits were used as a mechanism to require and obtain needed improvements in the construction and operation of the landfill. Also, since the landfill was located in the Willamette River floodplain, the Department restricted operation to the 30-acre area then under lease unless and until it could be shown by a comprehensive engineering study and flood flow analysis that further expansion into the floodplain could be safely done.

The construction of the all-weather access road and the subsequent wash out and temporary closure of the Brown's Island landfill in January, 1974, increased the urgency for a detailed flood flow study to determine what needed to be done to protect the landfill from further washout and to determine the extent and the conditions under which the landfill might be expanded.

On May 3, 1974, Department staff and a representative of the U. S. Corps of Engineers made a field inspection and evaluation of the landfill, and Marion County, City of Salem, Sanitary Services Co., Inc., and Chemeketa Region were advised by our letter of May 9, 1974, and at a meeting held on May 22, 1974, of actions and conditions necessary to continue use of the Brown's Island Landfill. These included:

1. Cutback the upstream dike of the landfill to ease interference with Willamette River flow.
2. Repair exterior dikes to withstand 100 year flood flows.
3. No further expansion of the landfill toward the main river channel unless it could be shown by a hydraulic study that further expansion could be safely accomplished.
4. Removal or modification of the all-weather access road so as not to further jeopardize the landfill.

It was also suggested that the landfill might be expanded immediately without further study into the high ground area to the east and downstream of the landfill if proper authorizations from BOR and Marion County could be obtained. This area could be used because it is located immediately downstream from the present landfill and would cause no further restriction of flood flows. The area is also at a high enough elevation that it can be worked during high river flow periods of the year. BOR approval is necessary because these 21 acres were purchased for the Willamette Greenway with BOR funds. A conditional use permit from Marion County and a new or modified solid waste disposal permit from the Department would also be necessary before this area could be used.

Subsequently, Chemeketa and Marion County financed preparation of a detailed flood flow analysis by Mr. John McDonald of Clark and Groff, Consulting Engineers. The analysis indicates that the Brown's Island landfill could be safely expanded further into the Willamette River floodplain, provided the new all-weather access road is removed or modified so as not to substantially restrict flood flows in the old channel.

The Department is generally inclined to agree, on the basis of the Clark and Groff study and a preliminary evaluation of the study results by the U. S. Soil Conservation Service, that the Brown's Island landfill probably could be expanded further into the floodplain to some yet undetermined limit if (1) the road is removed or substantially modified and (2) the exterior dikes of the landfill are properly designed and constructed to assuredly withstand maximum expected flood flows. Location of landfills in flood plains is not generally recommended; however, the Chemeketa regional solid waste planning group and its consultants were unable to locate a better site in almost 3 years of intense planning activity.

In order not to risk having the landfill washed out again this winter, a request was made to Marion County by letter dated October 2, 1974, "...that this road be removed or modified by no later than December 1, 1974, such that it will not interfere with flood flows in the Willamette River in a manner to jeopardize the integrity of the landfill." So far, Marion County Has not agreed to remove or modify the new road. Mr. McDonald has advised Marion County that in his opinion the new road could be used until such time a 5-year flood is forecasted and then a section of the road "...MUST be weakened so that it is carried away before the landfill is eroded."

The Department is not satisfied that the "flood forecast, road weakening" procedure suggested by Mr. McDonald, could be carried out in a manner to afford adequate assurances against wash-out of the landfill. Also, if the road is left to wash out at the whim of Mother Nature, the area could be suddenly faced with a solid waste disposal crisis. The Department is of the opinion the road should be removed or modified on a planned basis with alternative disposal plans made to assure continuous and adequate solid waste disposal for the area.

A possible solution to the Brown's Island access problem might be to raise the old road 3 to 5 feet to an elevation of 131 or 133 feet (USGS datum). It appears that this could be done without seriously restricting flood flow passage at the higher river stages. A rough analysis of river stage data by the Department indicates that raising the old road from its present elevation of 128 to elevation 131, would have made it usable for all but 13 days during the high flow period of 1973-74 and if raised to elevation 133, this road would have been passable all but 6 days during 1973-1974. Most years the old road would appear to be operable year-round if elevated 3 to 5 feet in its lowest sections. Lowering the new road from its present elevation of approximately 140 to elevations 131 or 133 might produce somewhat similar results; however raising the old road would appear to cause less flood flow pressures on the landfill than would be the case if the new road were to be left in place at a lowered elevation. Both of these possibilities appear worthy of further study; however, neither should be done without a thorough engineering analysis of the potential benefits and hazards. Alternative disposal procedures would have to be developed for the short periods when Brown's Island might not be accessible with such a modified road system. Of course, Brown's Island could be made safely accessible during any river flow conditions by construction of a properly designed bridge; however, this is believed to be prohibitively expensive, at least on a short term basis.

The Department has been notified by the site operator, Sanitary Services Co., Inc., that the present operating area will be filled to capacity by February 1, 1975. The operator also indicated that it would take between 30 and 45 days to prepare the Greenway land for receipt of solid waste. Since the Greenway land has not yet been acquired, possible short term alternatives were explored and a letter outlining possible alternatives was directed to Marion County on December 6, 1974. Interim hauling to the Coffin Butte Landfill in Benton County or to Rossman's Landfill in Clackamas County are possible short-term alternatives, subject to local approval. Construction of another lift at Brown's Island is not considered a practical alternative because:

- a) Cover material would have to be imported.
- b) Mounding of the solid wastes would be unsightly.
- c) Mounding would tend to produce more leachate discharge.

Conclusions

1. The Brown's Island Sanitary Landfill is the major solid waste disposal site in Marion County and serves the entire City of Salem and portions of Marion and Polk Counties.
2. The present landfill area will be filled by February 1, 1975, and the only usable area available for short-term expansion of the landfill is the 21-acre parcel to the east of the present landfill which was purchased with BOR money for the Willamette Greenway.
3. Use of the 21 acres of Willamette Greenway lands requires the acquisition and trade of equivalent lands acceptable to BOR, a conditional use permit from Marion County and a modified solid waste disposal permit from DEQ.
4. In order for the 21-acre parcel to be made ready for use by February 1, 1974, when the present landfill will be full, preparation of the site should start no later than January 1, 1974. Every effort should be made to acquire and make this area available for use by February 1; however, contingency plans should be made now for alternative disposal sites in the event this schedule cannot be met.
5. The new all-weather access road places the landfill in jeopardy of being seriously damaged or washed away by once in 5 years expectancy, or greater, flood flows. The new road should immediately be removed or modified such that flood flows in the old channel will not be substantially restricted.

6. An immediate analysis should be made to determine if the old road, or perhaps the new road, could be modified so as to greatly improve reliability of access to Brown's Island during high-water periods and still not restrict flood flows to the point of jeopardizing the landfill.
7. Marion County or the Chemeketa group should act immediately and positively to assure that the area's solid wastes will be disposed of in an acceptable manner on a continuous basis.

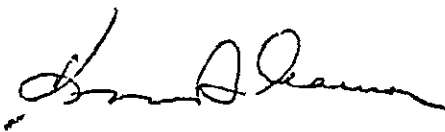
Proposed Action

Based on information on hand to date, the Department proposes as follows:

- 1) The Department proceed to issue a renewal permit to Sanitary Service Co., Inc., allowing continued disposal of solid waste within the present confines of the Brown's Island Sanitary Landfill until February 1, 1975. Additional time will be incorporated to allow completion of specified site closure procedures including the provision of adequate exterior dike protection. (The extent of dike protection needed will be dependent upon the final disposition of the new road.)
- 2) The Department proceed to issue, subject to BOR and local land-use approval, a solid waste disposal permit to either Sanitary Services Co., Inc., or to Marion County to allow immediate expansion of the Brown's Island landfill into the 21-acre area to the east.

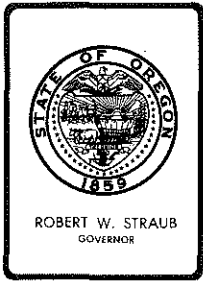
Such action will require submission of an application to expand the landfill together with detailed site preparation and operational plans.

- 3) Marion County be encouraged to either remove or modify the new road in order to remove the serious threat of washout of the landfill by anticipated high river flows.
- 4) The old access road be raised to provide essentially year-round access to Brown's Island, except during unusually high water periods, provided a more detailed study verifies that this can be accomplished without jeopardizing the landfill.
- 5) Chemeketa make immediate alternative plans for disposal of solid wastes for both the immediate future, in the event the Greenway lands may not be available by the time the present landfill is full, and for the longer-term future periods when Brown's Island may not be accessible due to exceptionally high waters.



KESSLER R. CANNON
Director

Attachments
Figure 1
Letters (4)



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. N, - April 28, 1978, EQC Meeting

Proposed Agreement Between the Department of Environmental Quality and The Oregon State Department of Forestry (OSFD)

Background

As part of the 208 funded planning project, the Department has completed a review of the Oregon Forest Practice Rules. This review has been carried out by a Multi-agency Technical Task Force through an Interagency Agreement with the OSFD. The primary purpose of the review was to determine if Forest Practice Rules are adequate to protect water quality.

The technical study is complete, public involvement is complete, and the Department's review is complete. The OSFD concluded that the Forest Practice Rules are generally adequate to protect water quality, but that more detailed data is needed and, over time, the rules may have to be modified and new rules may be adopted. The Department concurs in the OSFD conclusion.

Proposed Agreement

The Department and OSFD have concluded negotiation on an Interagency Agreement (attached). This agreement will govern relations between the two agencies pertinent to the Forest Practice Rules as they affect water quality.

Salient features of the agreement are as follows:

1. The Department will continue to be the "lead" agency for water quality programs. The Department will recommend that the Governor designate OSFD as the "implementing" agency for nonpoint source pollution control on state and private forest lands.
2. The Department will recommend that the Governor certify the Forest Practice Rules as "State of the Art" Best Management Practices, subject to periodic update.



Contains
Recycled
Materials

3. The OSFD will update the rules as experience and new information becomes available. The OSFD will carry out a review of the rules on an annual basis.
4. After review and concurrence, the Department will, on an annual basis, recommend that the Governor certify the adequacy of the Forest Practice Rules which benefit water quality.
5. Both agencies agree to cooperate in developing and carrying out a process to better identify problems and assess progress.
6. The Department will be responsible for designating federal agencies as management agencies on federal land and for certifying that federal programs are equivalent to the programs for state and private lands. The OSFD will assist the Department by assuming primary coordination responsibilities, evaluating federal practices, and making recommendations to the Department regarding designation and annual certification.
7. The OSFD will carry out an extensive public involvement program through its annual review process.

Certification

Following signature of the agreement, the Department will forward recommendation to the Governor for designation of OSFD as the implementing agency and certification of the Forest Practice Rules as Best Management Practices.


208 Program Status Report

The 208 program came before the Commission in April 1977 when a brief presentation was given on the various projects. In addition the designation of the Metropolitan Wastewater Management Commission (Eugene Area) to construct and operate a regional Sewage Treatment Plant in Eugene was presented as an informational item at the July 29, 1977 meeting.

A status report on the 208 Program will be presented at the next Commission meeting. Emphasis will be given to the Agricultural projects.

Director's Recommendation

No action is required since this item is presented for informational purposes only. Comments will be welcomed however.


WILLIAM H. YOUNG

Thomas J. Lucas:em
229-5284
April 18, 1978

Attachments: 1. - OSFD Memorandum of Agreement

MEMORANDUM OF AGREEMENT

BETWEEN

THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

AND

THE OREGON STATE FORESTRY DEPARTMENT

April 14, 1978

This memorandum of Agreement is entered into by and between the Oregon Department of Environmental Quality, hereinafter referred to as the DEQ, and the Oregon State Forestry Department, hereinafter referred to as OSFD, for the purpose of delineating the responsibilities and activities to be performed by each agency pursuant to the implementation of the element of the statewide Water Quality Management Plan relating to state and private forest lands.

The Statewide Water Quality Management Plan is being developed to meet the requirements of state law and Federal law (PL 92-500 as amended).

Preamble

ORS Chapter 527 vests authority in the Board of Forestry to develop and enforce regional Forest Practice rules designed to assure the continued growing and harvesting of forest tree species and to protect the soil, air, and water resources. The Board also has the responsibility to achieve coordination among State agencies which are concerned with the forest environment. Pursuant to these responsibilities, the Board has been granted the authority to provide technical assistance, promulgate rules, and enforce said rules.

ORS Chapter 468 gives the DEQ, under direction from the Environmental Quality Commission, broad authority and responsibility to protect beneficial use of water, identify sources of water pollution, develop plans, promulgate and enforce rules, implement pollution control measures, and levy fines.

DEQ is required to use all available and reasonable methods necessary to carry out the public policy and specifically, to work on a cooperative basis with people, industry, and other governmental agencies to control pollution.

DEQ has been designated by the Governor as the lead agency for Water Quality Management planning in the state for purposes of implementing the applicable provisions of Public Law 92-500. ORS 468.730 gives DEQ the authority to take such actions as are necessary to carry out the provisions of PL 92-500.

Mutual Agreements

Under this memorandum of agreement, OSFD and DEQ mutually agree to the following:

A. Agency Roles

OSFD will exercise its statutory authority and responsibility as the lead agency for implementing and enforcing the State Forest Practices Act and rules adopted thereunder.

DEQ will recommend that the Governor formally designate OSFD as the implementing agency for non-point source pollution control on state and private forest lands, so as to prevent duplication of effort and achieve coordination necessary to meet the requirements of PL 92-500.

DEQ will exercise its statutory authority and responsibility as the lead agency for coordinating state and federal water quality programs.

B. Best Management Practices

Non-point source impacts on water quality are best controlled through the development, adoption and implementation of sound resource management practices, commonly referred to as 'best management practices' (BMPs). The Forest Practices Act rules adopted by the Board of Forestry, upon certification by the governor, will be recognized as "state of the art" Best Management Practices subject to update as experience and new information becomes available. The Forest Practices Act Rules will be reviewed annually and revised as necessary by the Board of Forestry through the procedures explicitly described in the OSFD program statement (Attachment A).

Following review and concurrence, DEQ will on an annual basis, recommend that the Governor certify the adequacy of the Forest Practice rules which benefit water quality to EPA to meet the ongoing requirements of PL 92-500.

C. Public Involvement

The OSFD carries out public involvement in accordance with the "Administrative Rules Procedure" and "Scheduling Regional Forest Practice Committee Meetings," described in Appendices II and III of the OSFD program statement. PL 92-500 emphasizes the need to insure public involvement in the development and implementation of standards, plans and programs within the Act. Section 101(e) of PL 92-500 describes the basic framework for public participation which is further delineated in federal regulations (40 CFR 105). The OSFD and DEQ mutually agree to meet the intent of public involvement requirements of both ORS Chapter 183 and 40 CFR 105. Key provisions of the public involvement process as applicable to the promulgation of rules or rule revisions under the Forest Practices Act are described in Attachment B.

D. Problem Assessment

A continuing process for assessing problems and evaluating progress is needed for any successful program. DEQ is developing a stream oriented water quality problem assessment process for continuing application generally across the state. OSFD is pursuing a process to identify areas or terrain units that because of their physical features have a high risk for erosion if disturbed.

The DOF and DEQ mutually agree to coordinate the work carried out in the assessment process for the purpose of integrating them into a better problem identification process for management purposes.

E. Federal Lands Coordination

OSFD has a continuing need and process for coordinating activities with the Federal Forest Land Management agencies in Oregon. DEQ must insure that BMPs are implemented on Federal Forest Lands. To efficiently accomplish this, DEQ must designate the Federal agencies as management agencies for their respective lands and certify to EPA that federal programs are equivalent to the programs for state and private lands.

To prevent duplication of effort, OSFD will assist DEQ by 1) assuming responsibility for primary coordination with Federal Forest agencies, 2) evaluating federal practices to insure that they meet or exceed the practices required on state and private forest lands, and 3) making recommendations to DEQ regarding designation and annual certification.

F. Reporting

DEQ must report annually to EPA regarding progress in meeting the requirement of PL 92-500.

OSFD will provide a report on the work described in this agreement for incorporation by DEQ into its report to EPA. The report should be submitted to DEQ by October 15 each year (for the federal fiscal year ending September 30) unless otherwise specified.

G. Coordination

The OSFD and DEQ mutually agree to assign a contact person within each agency to coordinate the execution of this agreement.

DEPARTMENT OF FORESTRY

DEPARTMENT OF ENVIRONMENTAL QUALITY

State Forester

Director

Assistant State Forester
Forest Practices Act

Administrator of the Water Quality
Division

NJM/HLS/TJL:ak/aes

ATTACHMENT B

PUBLIC INVOLVEMENT

April 14, 1978

The promulgation of rules or rule revisions under the Forest Practices Act requires two levels of agency development. The first is with the Regional Forest Practices Committees where new rules or rule revisions are introduced and considered for recommendations to the Board of Forestry. The second level is the Board of Forestry consideration and action on the proposed new rules or rule revisions. Each of the two levels require adequate public involvement.

Public involvement requirements are met through the steps that are outlined below:

I. The Regional Forest Practices Committees

A. Meeting Schedule.

Notice of scheduled Regional Forest Practices Committee meetings will receive wide distribution to agencies and the interested public on both the OSFD and DEQ mailing lists and to the news media, at least thirty days prior to the initial meeting of a series. Notice of subsequent meetings will be given as appropriate, based on a meeting schedule. An adequate number of meetings will be scheduled to allow:

1. Full study of problems and alternative solutions.
2. Coordination with other natural resource agencies.
3. Opportunity for input from all interested organizations and the general public.

B. Agenda and Accompanying Material.

An agenda will be distributed at least two weeks prior to a scheduled meeting to committee members, the current OSFD mailing list, and other interested public agencies, private organizations and associations and members of the general public who clearly specify an interest in receiving the agenda.

The agenda will contain the following information:

1. Time and place of meeting.
2. Topics scheduled for consideration by the committee.

3. A statement that written comments to the OSFD and oral comments at the committee meetings are welcome.

Any pertinent information, working papers, and other supporting data for discussion of agenda topics will be made available as soon as practicable prior to the Forest Practices Committee meetings at the Office of the Oregon State Forester, and will be available at the meetings.

A copy of the agenda will be distributed by the OSFD information and education section to the news media at least two weeks prior to each scheduled meeting. The copy must be in writing, and should include the following:

1. Name of committee (Northwest, Southwest or Eastern).
2. Time, place, and if available, expected duration of the meeting.
3. Three or four major topics scheduled for discussion.
4. Statement that the general public is welcome to attend.

C. Utilization of Public and Agency Input

The Forest Practices Committees will fully consider public and other agency input in formulating recommendations for new rules or modification of existing rules. Such input may be received as follows:

1. Pertinent written comments sent to the OSFD will be compiled and distributed to the committees.
2. Oral comments may be presented at the committee meetings.

OSFD will specifically solicit comments from DEQ and the Oregon Department of Fish and Wildlife and will transmit any comments or recommendations received to the Forest Practices Committees.

D. Minutes

Minutes of Forest Practices Committee meetings will be prepared in a timely manner and distributed to committee members, the current OSFD mailing list, and other interested public agencies, private organizations and associations and members of the general public who clearly specify an interest in receiving the minutes. The minutes of the meetings will contain a summary of written and oral comments as well as committee actions and rationale relative to those comments.

II. The Board of Forestry

A. Recommendations Submitted to Environmental Protection Committee

The Forest Practices Committees recommendations for new rules or modifications of existing rules are received by the Environmental Protection Committee of the Board of Forestry, along with OSFD staff recommendations. The Environmental Protection Committee will consider staff recommendations and make recommendations to the Board of Forestry for Action.

B. Public Hearing

The Board of Forestry or State Forester may schedule a public hearing on proposed rules or rule modifications. A minimum of thirty days notice, prior to adoption, is normally given. The notice of the hearing is given broad distribution. A hearing is held, public input is received and all comments are consolidated and summarized. The comments, along with the State Forester's recommendations, are received by the Environmental Protection Committee. This committee makes recommendation for Board of Forestry action.

C. Board of Forestry

The Board of Forestry will consider the Committee's recommendations and may approve new rules or rule modifications.

TJL:aes/ak

ET 27 Apr 78

EPA will let 180,000 acres burn

By Michael Bradley
Of The Gazette-Times

Willamette Valley farmers will be able to burn up to 180,000 acres of grass fields this year without interference by the federal Environmental Protection Agency if the state takes steps aimed at stricter control of the smoke, a spokesman for the agency said today.

Donald P. Dubois, Seattle regional director of the agency, released details of the agency's position in Portland this afternoon.

The agency's new position alters a stance it took earlier. It had insisted the state hold to a 50,000-acre burning limit as it said it would when it filed an air quality plan in 1973.

In easing its stance, the federal agency cited the economic value of the grass seed industry to Oregon.

The agency previously had approved a proposal by the 1973 state Legislature that would have reduced the acreage that could be burned this year to 50,000. However, grass seed growers — who burn their fields after harvesting the seed to kill disease and insects and increase production — said the limitation would drive them out of business.

The 1977 Legislature increased the limit for this year to 195,000 acres, with the presumption that about 180,000 acres would be burned.

The environmental agency said it felt the state's proposals for smoke control will be beneficial to the Eugene-Springfield area, where air pollution concentrates and is aggravated by field burning. However, the agency said the state should consider other steps too. These included requiring farmers to backtill their fields elsewhere in the

valley rather than just the Eugene area. If this is good for the Eugene area, it should be good for the rest of the valley, the agency said. Backfiring means setting the fires so they burn against the wind rather than with the wind. This tends to create less smoke, tests have indicated.

Also, the federal agency wants the state to consider prohibiting burning when the moisture content in the field straw is high any time during the season rather than only after September as proposed by the state. Damp straw creates more smoke.

The state also must give serious consideration to reducing the number of acres to be burned, the agency said. However, it said this should be balanced with the economic effects decreased burning of the grass seed industry.

What all that means, the spokesman

said in a telephone interview, "is that the burden is back on the state to solve its own air pollution problems."

While the state is not required to implement any of the agency's recommendations, it must give serious consideration to them. If the agency thinks the state has not given them serious consideration, the agency could go to court to enforce its 50,000-acre limit on burning. Such a suit could bring state officials and, perhaps, some farmers into court, the spokesman indicated.

The federal agency also suggested that the state consider getting the written consent of all who are involved in the field burning controversy to accept the field burning program. This might include the city of Eugene, which has opposed field burning, as well as representatives of the grass seed industry.

(Continued on page 8)

CLATSOP COUNTY PLANNING DEPARTMENT
5th Street
Astoria, Oregon 97101

FOR DEPARTMENT USE ONLY

Sewage Disposal Permit # 15-496-74N
Water Well Permit # 4102-74W

3

Owner Clyde W. Hunter & Fern P. Hunter Twp. 39S Range 1E Section 2
Tax Lot 230 Code 5-2 Acreage 5
Westerly Portion

Address/Directions to Property _____
Property within Rolling Hills Estates, situated Easterly of Ashland on the
west end of Nevada Street, on approved public way, as an extension of
Mapadour Drive, a County Road.

ALL FEES ARE NON-REFUNDABLE

Site Evaluation Application No. of Sites _____
Fee _____ Receipt No. _____ Date _____
Sewage Disposal Application New Alteration _____ Sewage Connection _____
Fee \$50.00 Receipt No. 9387 Date _____
Water Well Application
Fee \$500 Receipt No. 9387 Date _____
Zoning Info. Sheet Attached _____ Locator Plot Plan Attached _____
Notified Regarding Test Holes _____ Test Holes Ready _____

Proposed Use of Property Single family residence Number of Bedrooms 3
Comments: (Request sent to Assessor office 8-28-74 for new tax lot & verification)

- PRIOR APPROVAL -

I certify that the information given is true and correct to the best of my knowledge.
8-28-74 Signature CW Hunter

808 Mackey Lane, Fallbrook, California 92028
Mailing Address City State Zip Code Phone

***** DO NOT WRITE BELOW THIS LINE *****

Site Evaluation _____
Resp. #14

By _____ Date _____
Sewage/Cesspool Worker _____

PERMIT: Approved yes Not Approved _____ Date 30 Aug 74 Sanitarian R. H. Slater AD
Comments: As Per Submitted Plat & Meeting all State Code Requirements. Dug to Callings for Inspection

PERMIT: Installation Specification 900 Gallon Septic Tank _____
Square Feet of Drainfield 875 Comments: Serial Distribution System

Recommended 3' trench assigned average depth of excavation & backfill shall be backfilled to match land topography. Generally fertilized and seeded with Broadleaf Clover & Ryegrass

PERMIT: Approved yes Not Approved _____ (Sanitarian) R. H. Slater AD
(DATE) 30 Aug 1974 (EXPIRES) _____

CERTIFICATE OF COMPLETION ISSUED _____ BY _____

(b) 5/19/77 PWTM

Resps Ex 1
5/4/76 PWR

THE PERMIT MUST BE POSTED ON THE PREMISES

JACKSON COUNTY HEALTH DEPARTMENT
1313 MAPLE GROVE DRIVE
MEDFORD, OREGON 97501

391E 2213

This Certifies That Jackson County Sewage Disposal Permit No. 15-449-74N

Was ISSUED 8-18-74 And EXPIRES 8-18-75

For a New Sewage Disposal System , Alteration , Sewerage Connection

At EAST END OF NEVADA STREET, ON PDM PADOUR DRIVE
ADDRESS LOCATION

Owner L. RIFFE Installer _____

INSTALLATION 900 Gallon Septic Tank, 825 Square Feet of Drain Field

SERIAL DISTRIBUTION SYSTEM AUTHORIZED - RECOMMENDED

DEPTH 24 INCHES FROM GROUND SURFACE LEVEL - (OVER)

Inspected and APPROVED Yes NOT APPROVED _____
as installed Sanitarian Steve J. Schmidt

10 June 1975
Date

ALL WORK MUST BE INSPECTED AND APPROVED BEFORE IT MAY BE COVERED

ALL EXCAVATED SOILS TO BE RECONToured
EVENLY OVER TOTAL SUBSURFACE DISPOSAL
AREA.

JAN 19 1968

1000 1000

1000

1000

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State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

To: Environmental Quality Commission

Date: April 26, 1978

From: Hazardous Waste Section

Subject: Out-of-State Wastes to be Considered for Disposal at Arlington

The Department has received 12 disposal requests from Chem-Nuclear involving out-of-state wastes that it proposes to consider for disposal at Arlington. These consist of the following:

<u>Disposal Request No.</u>	<u>Waste Type/Origin</u>	<u>Quantity Requested for Disposal</u>	
		<u>Present</u>	<u>Future</u>
<u>WASHINGTON</u>			
38, Add.1	Three types: 1) Unwanted waste water treatment chemicals and pesticide 2) Flammable equipment cleanings consisting of lacquer, thinner, varnish, and ink sludge 3) Sump sludge with small quantities of bactericide	13 drums 8 drums 13 drums	13 drums/year 8 drums/year 13 drums/year
147	Flammable sludge (acetone, paint, resin)	50 drums	50 drums/year
Verbals 4/4/78	PCB spill cleanup and used capacitors	3 drums	none
4/4/78	PCB spill cleanup	5 drums	none
4/4/78	PCB contaminated rags and other articles	5 drums	none
4/6/78	PCB spill cleanup and one used capacitor	1 drum	none
4/24/78	Two items: 1) Miscellaneous lab chemicals 2) PCB wastes	3 drums 3 drums	none none
145	Coal tar epoxy coating waste	24 drums	24 drums/year
<u>IDAHO</u>			
Verbals 4/17/78	Small capacitors	3 units	none

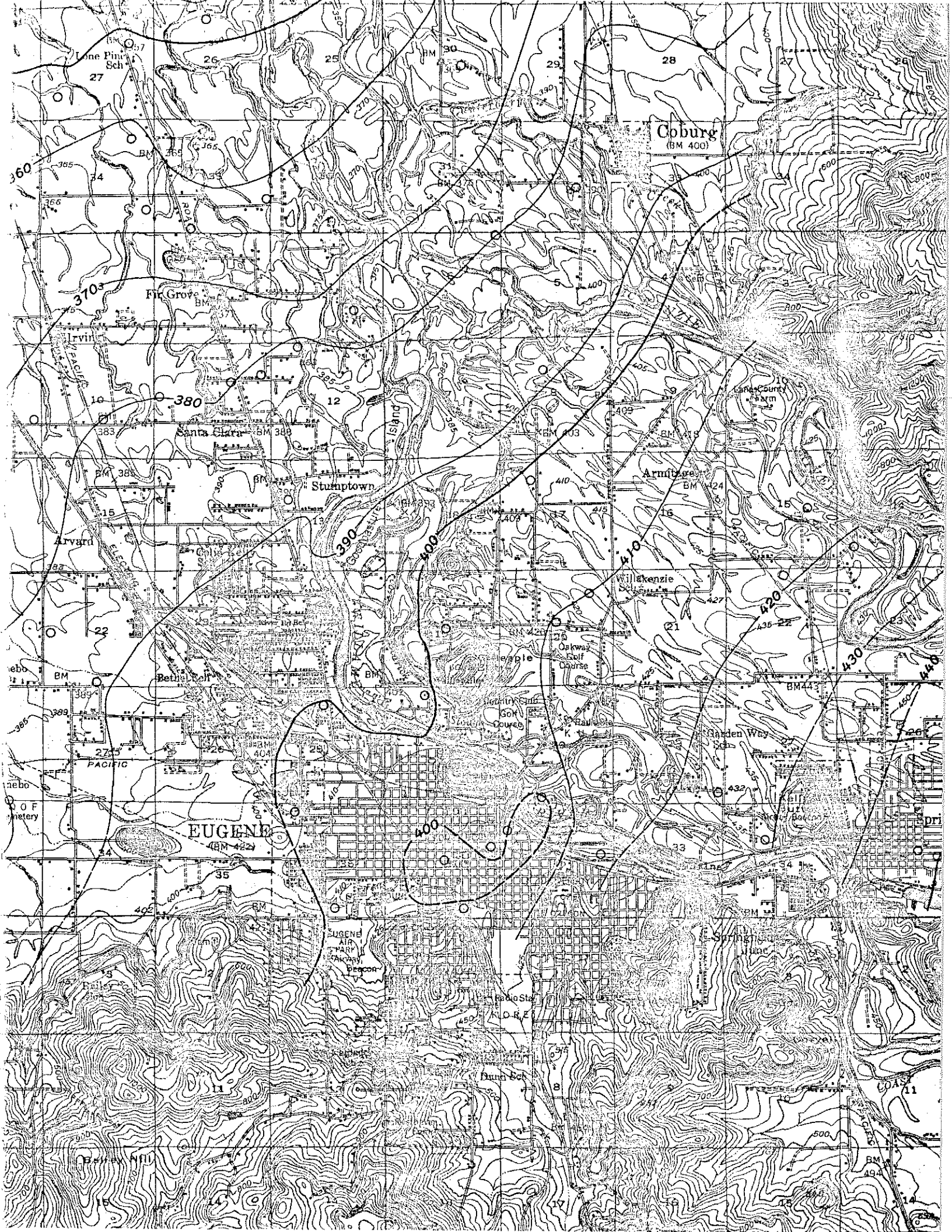
Out-of-State Wastes to be Considered for Disposal at Arlington

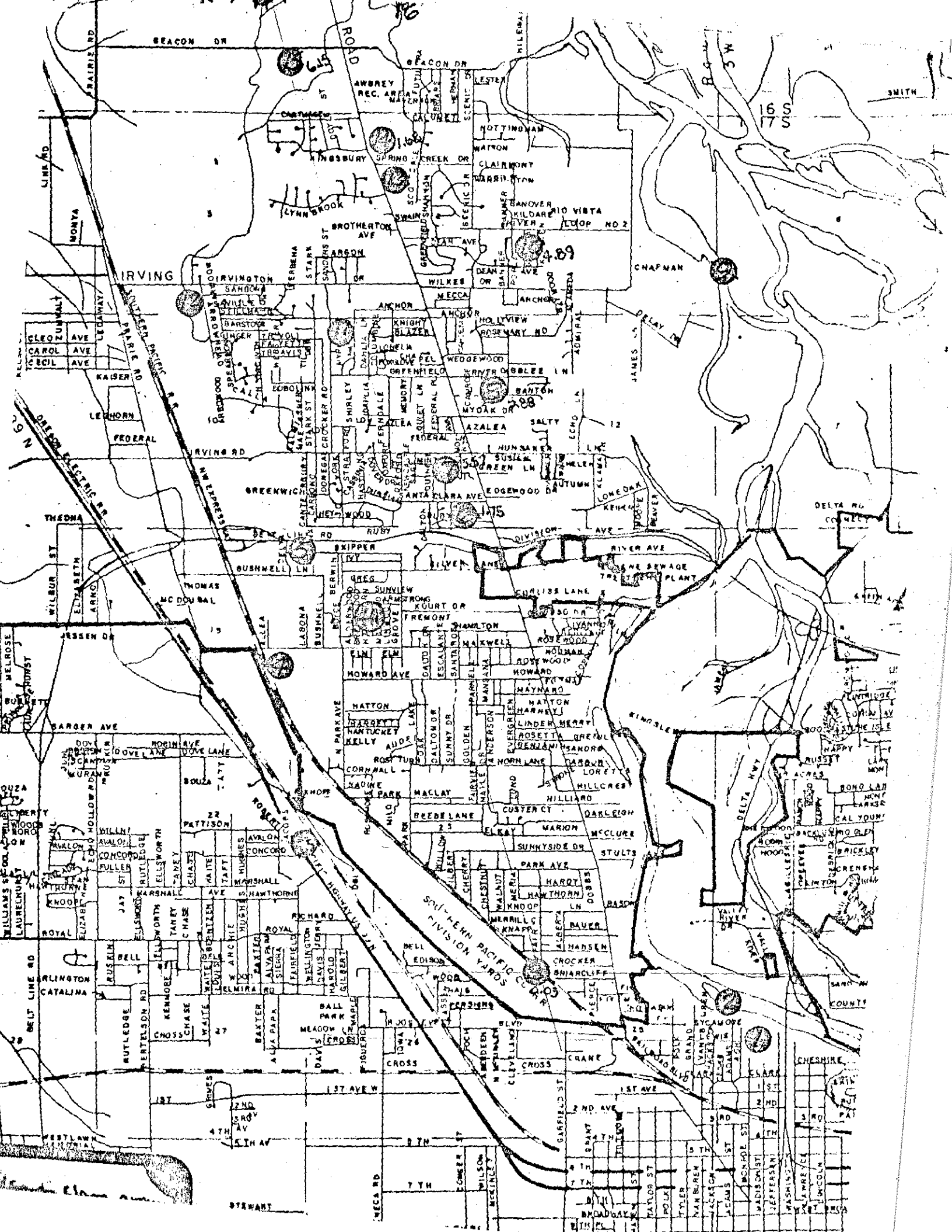
April 26, 1978

Page 2

<u>Disposal Request No.</u>	<u>Waste Type/Origin</u>	<u>Quantity Requested for Disposal</u>	
		<u>Present</u>	<u>Future</u>
<u>CANADA</u>			
Verbals 4/14/78	Ruptured capacitors and PCB spill cleanup	5 drums	none
146	Three Types: 1) Cadmium sulfide 2) Creosote salts 3) Oily sludge	1,400 lbs. 50 drums 40 drums	none none none
101, Add.1	PCB contaminated rags, clothing, and soil	8 drums	2 drums/year

EGC:ps





River Rd / Santa Clara *4/14/78*

↑
mg/l NO₃ →

Miles Downgradient
 Station NB
 • Run 1 4/4/78
 x Run 2 4/11/78
 S Surface Water

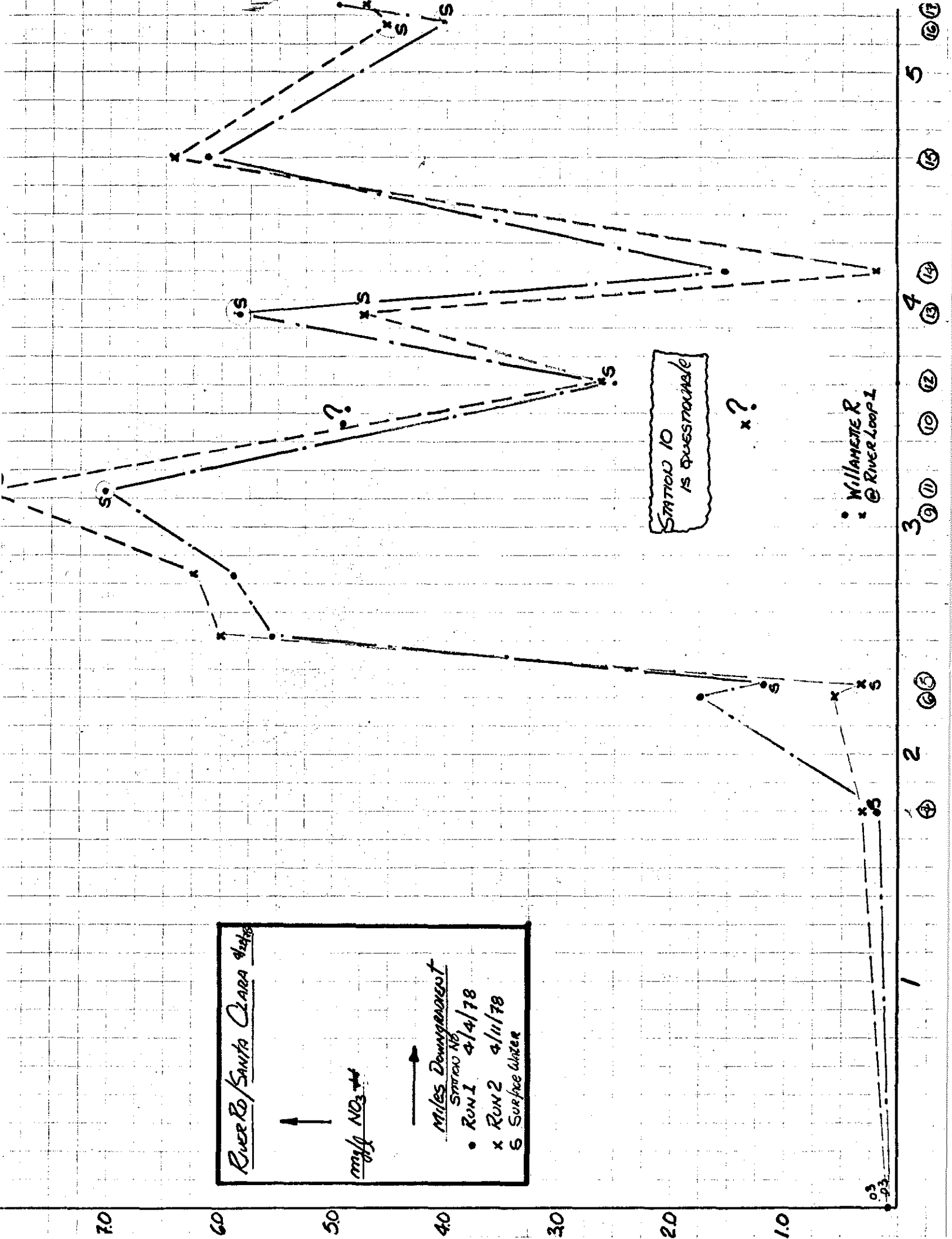


Table 1

River Road/Santa Clara Residential
and
Parcel Size

I. Net Residential Density

A. River Road/Santa Clara (Above Beltline)

Area - 910.31 acres
No. - of - units - 3,268
= 3.59 Units/Acre

B. River Road (Below Beltline)

Area - 918.20 acres
No. - of - Units - 3,929
= 4.28 Units/Acre

II. Residential Parcel Size

A. River Road/Santa Clara (Above Beltline)

<u>Square Feet</u>	<u>No.</u>	<u>% of Total</u>
< 5,000	5	0.1
< 7,000	72	2.3
<10,000	1,747	55.6
<20,000	1,043	33.2
20,000+	276	8.8
		<u>100.0</u>

B. River Road (Below Beltline)

<u>Square Feet</u>	<u>No.</u>	<u>% of Total</u>
< 5,000	54	1.6
< 7,000	157	4.6
<10,000	1,595	46.5
<20,000	1,372	40.0
20,000+	249	7.3
		<u>100.0</u>

Residential Parcel Size
River Road/ Santa Clara

▨ River Road
▩ Santa Clara

Graph 1

NUMBER OF PARCELS

1700
1500
1000
500

Less Than 500 5001 to 7000 7001 to 10,000 10,001 to 20,000 20,001 and Over

PARCEL SIZE SQUARE FEET

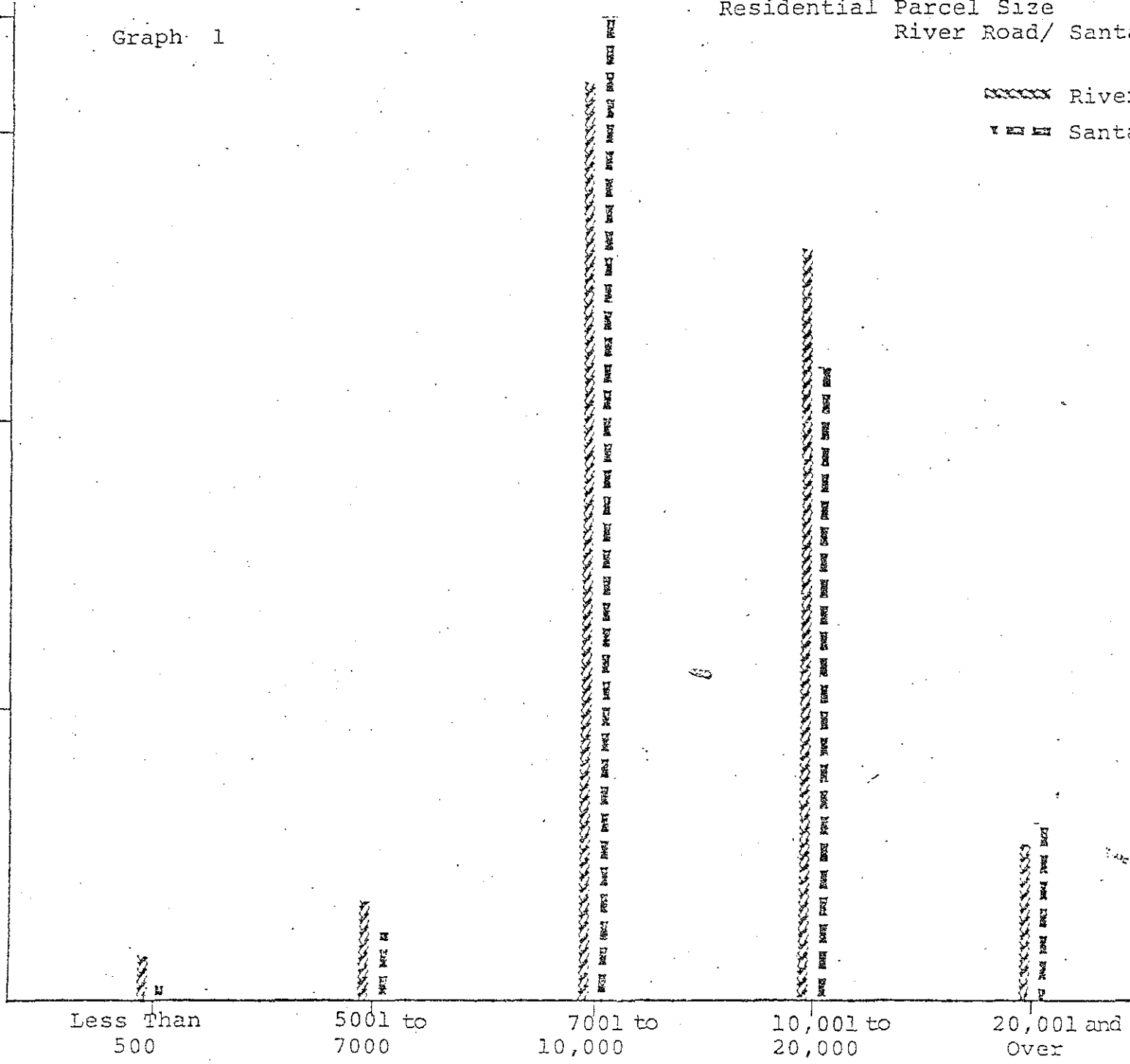


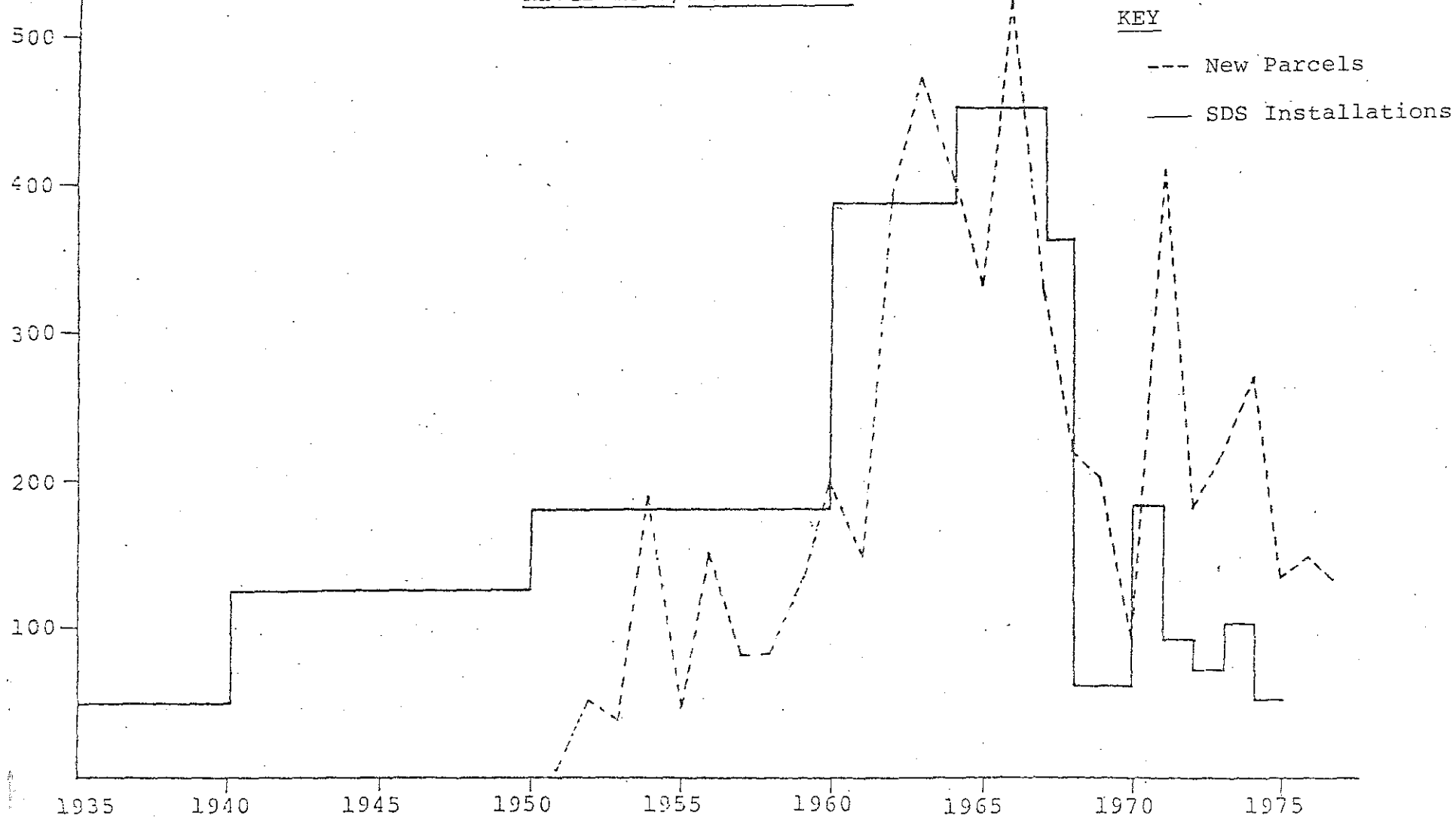
Table 2

RIVER ROAD/SANTA CLARA SEPTIC TANK STUDY
NEW PARCELS CREATED

<u>Year</u>	<u>No. of Parcels</u>
1977	134 (Projected)
1976	149
1975	137
1974	273
1973	49 (+173 in Lynbrook)
1972	184
1971	420
<hr/>	
1970	97
1969	206
1968	226
1967	334
1966	539
<hr/>	
1965	339
1964	414
1963	482
1962	403
1961	148
<hr/>	
1960	201
1959	137
1958	85
1957	84
1956	152
<hr/>	
1955	48
1954	193
1953	38
1952	54
1951	7
<hr/>	

Graph 2

New Parcels Created
Yearly Septic Tank and Drainfield Installation
River Road/Santa Clara



PROPOSED

Amend Oregon Administrative Rules 340-71-020 by adding a new subsection (9) to read as follows:

"(9) Pursuant to ORS 454.685, neither the Director nor his authorized representatives shall issue either permits for any ~~pending, new, or modified~~ sewage disposal facility which would use subsurface injection, or construction permits or favorable reports of evaluation of site suitability for new subsurface sewage disposal systems, within the boundaries of the following described geographic area of the State:

The area generally known as River Road-Santa Clara, and defined by the Boundary submitted by the Board of County Commissioners for Lane which is bounded on the South by the City of Eugene, on the West by the Southern Pacific Railroad, on the North by Beacon Drive, and on the East by the Willamette River, and containing all or portions of T-16S, R-4W, Sections 33, 34, 35, 36, T-17S, R-4W, Sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, and T-17S, R-1E, Sections 6, 7, 18, Willamette Meridian."

STAFF REPORT
RIVER ROAD - SANTA CLARA AREA
LANE COUNTY, OREGON

HISTORY

The River Road - Santa Clara area is located north of the City of Eugene and is generally bounded on the South by the City, on the West by the Southern Pacific Railroad, on the North by Beacon Drive, and on the East by the Willamette River. The area contains approximately 7,000 acres of which just over one-half (3,550 acres) has been developed for residential/commercial uses and attendant roads and streets.

Significant development and population growth in the River Road - Santa Clara area began in the 1940's and 1950's and reached a peak in the 1960's. Between 1940 and 1976 the estimated population of the area increased from approximately 3,000 to 27,500. The current estimate of dwelling unit equivalents in the area is approximately 8,500 and essentially all of the population in the area disposes of sewage wastes through individual subsurface sewage disposal systems.

For several years now, public health officials have been expressing concerns that the extensive, dense development of the River Road - Santa Clara area might be causing contamination of the shallow ground water in the area. Specifically, the concerns have been related to the large number and density of subsurface sewage disposal systems in use in the area, and to the possibility that certain pollutants from the septic tank effluent could be significantly contaminating the ground water. Several reports addressing various aspects of the ground water situation in the area have been published, as follows:

1. A.M. Piper, 1942: The Eugene area was included in this early reconnaissance level investigation of geology and ground water in the Willamette Valley.
2. R.G. Dickinson, 1972: The ground water quality in the River Road - Santa Clara area was evaluated in this detailed study. This study specifically indicated that the widespread use of subsurface sewage disposal systems in the area was resulting in contamination of the ground water.
3. F.J. Frank, 1973: The ground water situation in the Eugene-Springfield area was discussed in this report. Although the evaluation was primarily intended as an aid in future development of ground water supplies, it did indicate that subsurface sewage disposal activities in the River Road - Santa Clara area could result in contamination of the ground water.

4. 208 Update, 1977: As part of the '208' Wastewater Management Project administered by the Lane Council of Governments (L-COG) an attempt was made to re-establish the monitoring well network used by Dickinson (1972). Although wells at sites approximating those used by Dickinson were located and monitored, the test results were inconclusive as a result of the drought conditions prevalent during the 1976-77 winter.
5. H.R. Sweet, 1978: This report presents an evaluation of the relationship between ground water quality in the River Road - Santa Clara area and the use of subsurface sewage disposal systems based upon a detailed review of previous monitoring results. The conclusions reached during this evaluation will be discussed later in this report.

Land use and sewerage planning activities within the Eugene-Springfield metropolitan area have long anticipated that the River Road - Santa Clara area would ultimately receive sewer service. For almost 30 years now, the provision of sewer service to the area has been a central issue in numerous sewerage studies, including a 1950 regional study by CH₂M, a 1970 regional study by CH₂M, another 1970 study by DMJM, and 1975 and 1977 regional studies by CH₂M HILL. In 1972, residents of the Santa Clara area even tried to establish a Sanitary District, but were unsuccessful when their request for approval was denied by the Lane County Local Government Boundary Commission. An adopted facility plan involving a regional sewerage system with capacity for serving the River Road - Santa Clara area is now being implemented for the Eugene - Springfield metropolitan area.

DEMOGRAPHY

The population and development density of the River Road - Santa Clara area is already unique for unincorporated areas within Lane County. Since the area contains a substantial amount of presently vacant land, it may logically be concluded that the population and development density will continue to increase in the absence of any limits on development. Following is a brief summary of information describing the existing and projected 1990 characteristics of the area assuming development is permitted to continue:

<u>PARAMETER</u>	<u>ESTIMATED EXISTING</u>	<u>PROJECTED 1990</u>
Land Area (acres)	7,060	7,060
Population (# people)	27,500	32,500
Equivalent Dwelling Units (#DU)	8,500	10,050
Development Density (# people/acre)	3.9	4.6
Development Density (#DU/acre)	1.2	1.4

Property sizes in the River Road - Santa Clara area vary from very small lots (less than 5,000 square feet) to parcels of over 100 acres. Over one-half (55.3%) of the properties in the area are smaller than 10,000 square feet, and more than one-third (36.7%) are between 10,000 and 20,000 square feet in size. Less than 10% of the properties in the area contain in excess of 20,000 square feet.

Most of the soils in the River Road - Santa Clara area can readily accept septic tank effluent. However, subsurface sewage disposal of sewage in the well-drained soils can result in rapid movement and inadequate treatment of septic tank effluent as it percolates from the disposal system to the shallow underlying alluvial aquifer. This shallow ground water is widely used by residents of the area, primarily for yard irrigation. Essentially all River Road - Santa Clara residents utilize imported water supplied through water districts serving the area for potable purposes.

LOCAL GOVERNMENTAL ACTIONS

- As a result of concerns related to the impact of intensive development in the River Road - Santa Clara area on the shallow ground water, the Lane County Board of Commissioners have taken a number of increasingly severe actions to limit unrestrained land development in the area. Following is a summary list of these actions:

1. High Waste Load Prohibition: Preventing approval of multiple family residential and other developments which would generate high waste loads, except when sewer service is available.
2. Moratorium on Major Subdivision: Preventing approval of new major subdivisions (4 or more lots) in the River Road - Santa Clara area effective June 9, 1971.
3. EQC Moratorium Request: If approved, would essentially stop development in the River Road - Santa Clara area. This request is being considered at this meeting.
4. Partition and Re-Zoning Moratorium: Preventing the creation of additional parcels and increased density through zone changes in the River Road - Santa Clara area. Lane County took this action to supplement the requested EQC action discussed in #3 above, to limit speculative permit applications pending a decision on the moratorium question.

While recognizing the potential ground water contamination problem in the River Road - Santa Clara area and taking the discussed steps to alleviate it, the Board of Commissioners still recognizes the need to more fully address the problems of the area. To this end, the Board recently created a Task Force of the area residents to provide guidance on the waste disposal matter and other issues of concern to the area. In addition, the Board has recently asked the Lane Council of Governments to seek a Section 208 Water Quality Management Grant from the U.S. Environmental Protection Agency for a detailed ground water study in the River Road - Santa Clara area.

H.R. SWEET'S GROUND-WATER EVALUATION

Lane County recently hired H. Randy Sweet, a consulting ground-water geologist, to evaluate available existing information pertaining to the ground water quality in the River Road - Santa Clara area and its relationship to development in the area. In his report, dated February 28, 1978, Mr. Sweet concludes that:

1. A highly permeable and productive aquifer underlies the study area, and this shallow aquifer is readily accessible for development as well as surface contaminants.
2. Disposal of sanitary wastes via on-site disposal systems is the primary source of nitrogen in the study area, and as the population increases, a proportional increase in $\text{NO}_3\text{-N}$ can be expected.
3. Theoretical and measured $\text{NO}_3\text{-N}$ concentrations have been shown to locally exceed E.P.A. primary drinking water standards.
4. Area-wide verification and/or calibration of ground water flow model is not possible given the paucity of available acceptable data.
5. Quantification of the extent of $\text{NO}_3\text{-N}$ contamination in the study and down-gradient areas require an improved data base.

COUNTY POSITION

In summary, Lane County's position on the River Road - Santa Clara area may be stated by the following brief comments:

1. Substantial portions of the River Road - Santa Clara area are already developed at urban-level residential densities and continuation of such development patterns may be expected in the future in the absence of limits on development.
2. Urban services, including sewers, must be provided in areas where extensive development to urban-level densities is occurring.
3. While available ground water quality information may not demonstrate that a public health hazard presently exists, it certainly provides sufficient evidence that effluent from subsurface sewage disposal systems is entering the ground water in the River Road - Santa Clara area and is degrading the water quality.

4. Issuance of subsurface sewage disposal systems in compliance with existing E.Q.C. regulations and in accordance with adopted comprehensive plans in the River Road - Santa Clara area will not protect the shallow aquifer from degradation.
5. Continued development in the River Road - Santa Clara area utilizing subsurface sewage disposal systems will increase the extent of degradation of the ground water.
6. A moratorium on the issuance of construction permits and favorable reports of evaluation of site suitability for new subsurface sewage disposal systems is warranted as a result of the factors previously discussed.

GCS:dk1

MEMORANDUM

lane county



TO Environmental Quality Commission
FROM Roy L. Burns, Director - Water Pollution Control Division
SUBJECT Request for Establishment of a Moratorium DATE April 24, 1978
on Subsurface Sewage Disposal Systems in
the River Road/Santa Clara Area, Lane County, Oregon

On February 22, 1978 the Lane County Board of Commissioners approved Resolution No. 78-2-22-3 which requests that you "...place a moratorium upon the issuance of construction permits and favorable reports of evaluation of site suitability for new subsurface sewage disposal systems within the boundaries of River Road - Santa Clara, Oregon...". The Board further resolved to aggressively pursue a solution to the waste disposal needs of the area, and to re-assess the situation after six months to ascertain whether or not the moratorium should be continued.

At your commission hearing regarding the matter, conducted on March 31, 1978 at Harris Hall in Eugene, Oregon, additional information was requested in support of the County request of both EQC staff and Lane County.

Attached for your information is a Lane County report that summarizes the River Road - Santa Clara status and County position.

The County's position is:

1. Substantial portions of the River Road - Santa Clara area are already developed at urban-level residential densities and continuation of such development patterns may be expected in the future in the absence of limits on development.
2. Urban services, including sewers, must be provided in areas where extensive development to urban-level densities is occurring.
3. While available ground water quality information may not demonstrate that a public health hazard presently exists, it certainly provides sufficient evidence that effluent from subsurface sewage disposal systems is entering the ground water in the River Road - Santa Clara area and is degrading the water quality.
4. Continued development in the River Road - Santa Clara area utilizing subsurface sewage disposal systems, will increase the extent of degradation of the ground water.
5. A moratorium on the issuance of construction permits and favorable reports of evaluation of site suitability for new subsurface sewage disposal systems is warranted as a result of factors existing in the River Road - Santa Clara area.

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Memo to EQC
April 24, 1978

- 6) Issuance of subsurface sewage disposal systems in compliance with existing EQC regulations and in accordance with adopted comprehensive plans in the River Road - Santa Clara area will not protect the shallow aquifer from degradation.

Requested Action:

- 1) Adopt the requested moratorium.
- 2) Direct DEQ staff to assist in defining the extent of ground water degradation.
- 3) Direct DEQ staff to assist the County and River Road - Santa Clara citizens in solving sewerage needs.

RLB:dk1

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101



REPLY TO
ATTN OF: M/S 629

APR 26 1978

Mr. William H. Young, Director
State of Oregon
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

Dear Mr. Young:

The purpose of this letter is to advise you of the position of the U. S. Environmental Protection Agency (EPA) regarding the State of Oregon's proposals for control of air pollution problems associated with grass seed field burning. We have completed our review of the state's proposed interim strategy dated April 7, 1978 and submitted to me by your letter of April 10. I conclude that the measures proposed in the strategy will have a beneficial effect on air quality in the Eugene/Springfield area, as well as elsewhere in the Willamette Valley, and I urge that the state implement the proposal.

While encouraged, I do, however believe that there are additional measures which should be more thoroughly considered by the state and affected parties in Oregon before EPA can conclude that all reasonable measures have been taken. Included are the following: (1) tighter control of "south priority" acreage under north wind conditions, (2) increased reliance on backfiring and strip-lighting techniques, (3) greater reliance on the moisture content concept, and (4) a reduction in the total number of acres burned.

The first of these, tighter control of south priority acreage under north wind conditions, could be particularly significant to the Eugene/Springfield area. We disagree with the argument that north wind burns in the south valley are needed for use in this year's monitoring study. First, we expect that unpredicted wind shifts will inevitably result in smoke intrusions into the Eugene/Springfield area which, if monitored, would provide meaningful data. Second, experience gained through monitoring elsewhere in the valley can be translated to the south valley. At the same time, we are mindful of the burden that could be placed on seedgrowers in the

south valley priority areas if inflexible controls are placed on burning in those areas and thus we will consider emergency exemptions designed specifically to alleviate this problem.

Increased reliance on backfiring and strip-lighting are recommended for further consideration because of the potentially significant emission reductions available through these techniques while still allowing the burning currently needed by seedgrowers. We urge that during this summer's monitoring study, careful evaluation be made of the comparative emission rates between traditional burning techniques, backfiring and strip-lighting. This information will be useful for development of the 1979 SIP revision.

The benefit of the moisture control measures as currently proposed is limited to burning after September 1, 1978. We believe you should consider applying the measure throughout the season and that you should also consider alternate proposals for control in relation to rainfall as well as moisture content.

EPA action to formally disapprove the previously proposed SIP revision, discussed below, should relieve the state of the constraints defined in the recent State Attorney General's opinions (February 28 and March 16, 1978) and allow the Environmental Quality Commission (EQC) to consider a field burning acreage limitation less than 180,000 acres as a part of the 1978 interim control strategy. To assess the reasonableness of such a measure, we assume you will evaluate the air quality benefits of different acreage limits against the adverse economic impact upon the seed-growing industry.

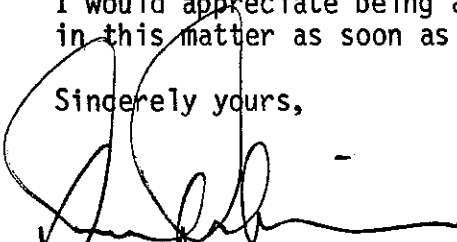
Some consideration should be given to the method by which the interim strategy, with the additional changes that you may adopt, will be formulated. One approach, but perhaps not the only one, would be a formal written agreement among all interested parties for use by EPA to seek a Consent Decree and Injunction which judicially sanctions the interim strategy outlined hereinabove. Please keep me informed of any efforts to that end.

I am today initiating formal action to disapprove the October 1977 request for revision in the State Implementation Plan (SIP). The basis for this action is twofold: (1) procedural and substantive deficiencies as cited in my letter to you dated January 27, 1978; and (2) the state's decision not to develop a new SIP revision for submission prior to the 1978 burning season, but instead to develop an interim strategy for control of field burning and other air pollution sources during the 1978 field burning period. The effect of this action, subject to the ultimate scope and disposition of the interim strategy, is that the existing provisions of the Oregon SIP, including the 50,000 acre limitations on field burning remain in effect in 1978 and until such time as a SIP revision for this areas is approved. I stress this point to make sure that it is understood by all concerned with this issue.

Nevertheless, it is within my authority to exercise prosecutorial discretion and not enforce the 50,000 acre limitation if there is justification. I am prepared to exercise this authority during the 1978 burning season if I am convinced the state will implement all reasonable measures to alleviate the Willamette Valley particulate problem. I am confident that the state can and will act on these requests in time to achieve our mutual objective which is orderly treatment of the problem this summer in conjunction with your commendable efforts to develop a SIP revision for submission in early 1979. We will assist you in any way we can in that effort.

I would appreciate being advised of the state's further intentions in this matter as soon as you are in a position to do so.

Sincerely yours,



Donald P. Dubois
Regional Administrator