

9/22/1978

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
Department of
Environmental
Quality

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ENVIRONMENTAL QUALITY COMMISSION MEETING
September 22, 1978

Room 602, Multnomah County Courthouse
1021 S. W. Fourth Avenue
Portland, Oregon

- 9:00 am A. Minutes of the August 16, 1978 Special Meeting and the August 25, 1978 regular meeting.
- B. Monthly Activity Report for August 1978.
- C. Tax Credit Applications
- PUBLIC FORUM - Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.
- 9:30 am D. Contested Case Review - DEQ vs. Ladd Henderson, SS-CR-77-136.
- E. Indirect Source Rule - Proposed issuance of Indirect Source Permit to Beaverton Mall Phase II, C. E. John, Developer.
- F. City of Seaside - Request for extension of time to comply with Stipulation and Final Order No. WQ-SNCR-77-159.
- G. City of Prairie City - Modification to City of Prairie City Stipulated NPDES Consent Order.
- 10:00 am H. Open Burning - Treasure Valley Opportunities, Ontario - Request for variance from open burning regulations.
- 10:15 am I. Open Burning Dumps - Request by Curry County for extension of variances from rules prohibiting open burning dumps, OAR 340-61-040(2)(c).
- J. Hazardous Waste Rules - Proposed amendments to the Administrative Rules governing the procedures for licensing hazardous waste management facilities, OAR Chapter 340, Division 6, Subdivision 2.
- K. Used Oil Recycling - Request for authorization to hold public hearing on proposed rules for used oil recycling.
- 10:30 am L. Vehicle Emission Testing Rules - Public hearing and consideration for adoption of housekeeping changes to vehicle emission testing rules, OAR 340-24-340(10) and OAR 340-24-350(5)(b).
- M. Vehicle Emission Testing Program - Status report on contractor operation vs. state operation of the DEQ motor vehicle emission testing program.
- ~~N. Emergency Action Rules - Status report on proposed amendments to the Statewide Emergency Action Rules.~~ **DELETED**
- O. Volatile Organic Chemical Rules - Request for authorization for public hearing to consider proposed statewide rules for controlling emissions of volatile organic chemicals (VOC) and modification of the Oregon State Clean Air Implementation Plan (SIP).
- P. Lane Regional Air Pollution Authority (LRAPA) - Request for Commission approval of Lane Regional Air Pollution Authority requests for state and federal financial assistance.
- Q. Conflict of Interest Rule - Proposed adoption of rules pertaining to conflict of interest by state boards as required by Section 125 of the Federal Clean Air Act and modification of the Oregon State Clean Air Implementation Plan (SIP).
- R. Kraft Mill Study - Staff report on pulp and paper industry kraft mill particle size distribution and chemical composition study.
- S. Indirect Source Rule - Proposed Settlement of litigation relative to Indirect Source Rule.

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

The Commission will breakfast (7:30 am) in Conference Room A of the Standard Plaza Building, 1100 S. W. Sixth, Portland. Lunch will be catered in the DEQ Offices, Room 511, 522 S. W. Fifth Avenue, Portland.

MINUTES OF THE ONE HUNDRED FIRST MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

September 22, 1978

On Friday, September 22, 1978, the one hundred first meeting of the Oregon Environmental Quality Commission convened in Room 602 of the Multnomah County Courthouse, 1021 S. W. Fourth Avenue, Portland, Oregon.

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

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

AGENDA ITEM A - MINUTES OF THE AUGUST 16, 1978 SPECIAL MEETING

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR AUGUST 1978

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Minutes of the August 16, 1978 special EQC meeting, and the August 1978 monthly activity report be approved.

AGENDA ITEM C - TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the following portions of the Director's Recommendation regarding Tax Credit Applications be adopted:

- Issue Pollution Control Facility Certificate to Application T-1014 (Gray & Company).
- Revoke Pollution Control Facility Certificates 96, 481, 517, 518, 626, 627, 628, 789, 790, and 831, issued to Kaiser Gypsum Company, Inc. because certified facilities have been sold.
- Revoke Pollution Control Facility Certificate 916, issued to Weyerhaeuser Company because the certified facility had been destroyed by fire.

PUBLIC FORUM

No one wished to speak on any subject.

AGENDA ITEM F - CITY OF SEASIDE - REQUEST FOR EXTENSION OF TIME TO COMPLY WITH STIPULATION AND FINAL ORDER NQ WQ-SNCR-77-159

Commissioner Somers asked Mr. Fred Bolton, Administrator of the Department's Regional Operations, if the statements made in the staff report were true to the best of his knowledge. Mr. Bolton replied they were.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the Director's Recommendation to approve a Final Order amending Stipulation and Final Order No. WQ-SNCR-77-159, DEQ v. City of Seaside, Clatsop County, Oregon, be approved.

AGENDA ITEM G - CITY OF PRAIRIE CITY - MODIFICATION TO CITY OF PRAIRIE CITY STIPULATED NPDES CONSENT ORDER

Mr. Fred Bolton, Administrator of the Department's Regional Operations, said that it appeared the City was going to go ahead with this project and therefore the infiltration problems and the problems with the sewer plant would be solved in the immediate future. In response to Commissioner Somers, Mr. Bolton said that the facts contained in the staff report were true to the best of his knowledge.

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

Director's Recommendation

I recommend that Stipulation and Final Order WQ-ER-78-29 be modified as follows:

1. That the date on page 3, line 21 be changed to October 30, 1978 [A(1)(a)].
2. That paragraph A(4) (the sewer connection moratorium) be deleted and replaced with a time schedule requiring Prairie City to eliminate excessive infiltration into its sewerage collection system by replacing the sewers along one block on East Sixth and one block on Railroad Street on or before June 1, 1979.

I further recommend that the Commission consider reinstating a sewer connection moratorium at its June 1979 meeting should Prairie City fail to comply with all of the conditions of Stipulation and Final Order No. WQ-ER-78-29.

AGENDA ITEM E - INDIRECT SOURCE RULE - PROPOSED ISSUANCE OF INDIRECT SOURCE PERMIT TO BEAVERTON MALL PHASE II, C. E. JOHN, DEVELOPER

Chairman Richards asked if this item would affect Agenda Item S on the proposed settlement of litigation relative to the Indirect Source Rule. Mr. John Kowalczyk of the Department's Air Quality Division, and Mr. Robert Haskins, Department of Justice, replied that they believed the two matters were separate. Chairman Richards said it was his intention that these matters be separate and nothing the Commission would do under this agenda item would bind them in dealing with Agenda Item S.

In response to Commissioner Somers, Mr. Kowalczyk said that the facts stated in the staff report on this matter were true. Mr. Kowalczyk submitted a revised recommendation for the Commission's consideration. The recommendations were, he said, to (1) provide some justification for approving the additional 177 spaces for the Beaverton Mall on the grounds that the project would incorporate all reasonable mitigating measures; (2) that needed traffic flow improvements would be made if the project went forward in full development; and (3) that the project is in conformance with local planning and zoning rules. Mr. Kowalczyk said they felt that type of reasoning should be applied to other projects in the future and the second recommendation would be to follow this type of rationale for all future indirect sources.

After some discussion, Chairman Richards asked where a developer would look to find out that after this meeting the Department would be taking a closer look at indirect source applications. Mr. Kowalczyk replied that this policy could be put into the application for permit and instruction materials, and they would make an effort to notify those consultants in the area dealing with these applications. Chairman Richards requested that those forms be submitted to the Commission for their review and comment. Mr. Kowalczyk said that the policy could also be made a part of the rule. In response to Chairman Richards, Mr. Kowalczyk said that by putting this policy in the rule, it would not be a rule change but a clarification of the existing rule.

Commissioner Hallock asked about considering allowing the additional 177 spaces to the Beaverton Mall as a variance until there was time to change the policy formally. Mr. Kowalczyk replied that he did not think a variance to the rule was needed to approve the 177 spaces.

Ms. Melinda Renstrom, Oregon Environmental Council, said they were opposed to the Director's recommendation. They felt, she said that it would make the indirect source rule interpretation dangerously broad. Ms. Renstrom said they felt DEQ was avoiding responsibility by refusing to control indirect sources and that the wording of this recommendation was an attempt to evade the rule making procedures of the Oregon Administrative Procedures Act. The recommendation, she said, should be viewed as an amendment to the regulations and appropriate rule making procedures should be followed.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the additional 177 spaces for the Beaverton Mall be approved on the grounds that the project would incorporate all reasonable mitigating measures; that needed traffic flow improvements would be made if the project went forward in full development; and that the project was in conformance with local planning and zoning rules.

Commissioner Hallock said she felt the matter should go to hearing and the mitigating factors referred to in the recommendation should be better defined. Commissioner Hallock said she was concerned that by facilitating the administration of the rule they were weakening the rule without offsetting it in any way.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried with Commissioner Densmore desenting that the remaining part of the Director's recommendation be deferred for action until the next meeting.

AGENDA ITEM D - CONTESTED CASE REVIEW - DEQ v. LADD AND LARRY HENDERSON, SS-CR-77-136

Chairman Richards said they were considering the appeal of Ladd Henderson and the two matters to be considered were (1) the motion received on September 14, 1978 asking that the Hendersons be allowed to submit additional evidence and (2) a determination on the merits.

Commissioner Somers said that after considering the Motion, he found it irrelevant to the issue of whether Mr. Henderson did or did not obtain a permit to establish a subsurface sewage system before construction was commenced.

Mr. Ladd Henderson testified that the reason for the Motion was stated in the affidavit supporting the Motion. Basically, he said, the beginning of their problem was February 28, 1977 when a representative of the Department rejected an application for a subsurface disposal system based on an administrative rule which stated that the Department or its representatives shall not issue a permit if a community or areawide sewerage system was available which would be operated in compliance with a waste discharge permit issued by the Department.

At the time of hearing, Mr. Henderson said they attempted to ask the Department representative if the City of Hood River had a notice of violation filed against it, which would then indicate it was not being operated in compliance. However, he said, they were not allowed to ask the staff because that question was considered irrelevant and immaterial. At the close of the hearing, Mr. Henderson said it was stipulated that they be allowed the daily monitoring reports of the Hood River treatment plant and a copy of the wastewater discharge permit. However, he said, the permit was not supplied to them until the day before this meeting. He said the Hearing Officer made his recommendations in the proposed order based on a lack of the waste discharge permit. Based on this, Mr. Henderson said he felt there was a basis for bringing in additional information which would indicate (1) that the treatment plant was not being operated in compliance so the Department could not deny a permit, and (2) that the same people that were filing the notice of violation against them also were filing a notice of violation against the City of Hood River, and at the same time.

Chairman Richards said he would vote to deny the Motion because whether the City was or was not in compliance did not constitute a legal defense to constructing a system without a permit. He said the narrow issue at this hearing was whether or not a system was constructed. If no system was constructed, he said, then the Commission would rule in favor of the Hendersons. If a system was constructed, he said, and a permit was issued in advance of construction, the Commission would rule in favor of the Hendersons. If a system was constructed without a permit, Chairman Richards continued, then he would be prepared to rule against the Hendersons.

Chairman Richards asked Mr. Henderson if he thought the issue was different than that which he stated. Mr. Henderson replied that it was different because the remedial action called for in the Notice of Violation was to (1) obtain a permit which they had attempted to do for four months preceding the Notice of Violation or (2) abandon the system. He said that anything which determined the basis for the Department's denial of a permit was relevant.

Commissioner Somers said that the question before the Commission was did Mr. Henderson install a subsurface sewage disposal system without a permit. Mr. Henderson asked if that issue could be expanded to include if the permit was issued, if the permit was not issued and on what basis it was not issued, and whether or not that basis was legal. In response to Commissioner Somers, Mr. Henderson said that that defense was in his Answer which he was only allowed 10 days to submit. If the Hearing Officer had allowed this defense, he said, there would be no problem.

Mr. Robert Haskins, Department of Justice, said that the matter of additional evidence was irrelevant to the issue of whether or not a subsurface disposal system was constructed without a permit. He recommended that the Commission deny the Motion.

After some discussion, Chairman Richards said that to allow the Motion would mean that a violation by a governmental agency would justify another violation. Commissioner Somers said that what Mr. Henderson was trying to say was that the original Notice of Violation was incorrect because at the time there was not an approved system which met the rules that they could hook up to. Chairman Richards said that assuming that was true, it still was not relevant to the final determination as to whether there was a system installed without a permit.

It was MOVED by Commissioner Hallock, seconded by Commissioner Densmore and carried with Commissioner Somers desenting that the Motion to submit additional evidence be denied.

Mr. Ladd Henderson said that unless he could change the basis of the issue any defense would be useless and the time he had spent on this case would have been wasted. He said that the burden of proof was on the Department to determine if a subsurface disposal system had been constructed with or without a permit. Mr. Henderson continued that by examining the record there was no way the Department could prove that a subsurface disposal system was constructed with or without a permit.

Mr. Henderson said they felt there were many issues to this matter and if they couldn't bring out affirmative defense issues they would bring out the legal points which the Department had missed on. He cited the fact that they had been allowed 10 days instead of 20 to file an Answer. Chairman Richards asked what the issues were that they could not present at the hearing because they were not allowed 20 days to prepare an Answer. Mr. Henderson replied that he could not operate on what he could have presented, and did not have the time to waste on looking into what he could have presented had he had the time to prepare.

Mr. Henderson said their case had been fairly well set out in the record before the Commission and they felt the main problems were the February 28, 1977 denial by the Department; that a system was not available to them; and the reason for the whole problem was if a permit was not issued, why it wasn't issued. He said he thought the Commission would find that the Department denied them a permit when there was not a system in compliance that they could hook up to and they were restricted by court order.

Chairman Richards asked Mr. Henderson if he had any other testimony to present. Mr. Henderson requested that the Commission review the complete record, including the arguments and exceptions to the Hearing Officer's rulings and the alternate Proposed Order and Conclusions of Law and Findings of Fact.

Chairman Richards then swore in Mr. Henderson and asked him under oath if a tank was installed on the premises at any time. Mr. Henderson said it was not proper to request information beyond the time of the Notice of Violation, which was June 13, 1977. In answer to Chairman Richards, Mr. Henderson said a tank was not installed June 13, 1977. Chairman Richards asked if one had been installed prior to that date. Mr. Henderson replied no. Chairman Richards asked if one had been installed after June 13, 1977. Mr. Henderson declined to answer, saying he respectfully refused during this proceeding to answer questions about the time after June 13, 1977.

Mr. Robert Haskins, Department of Justice, appeared representing the Department in this matter. He said that the case was simple and the Department only alleged that respondents had constructed a subsurface sewage disposal system without a permit and the Department had ordered respondents to obtain a permit or to abandon the system. He said the Department did not allege that respondents had used the system.

Mr. Haskins said that Hearing Officer Wayne Cordes found that respondents had constructed a system without a permit. He said Mr. Cordes ruling was well based on the evidence in the record.

Mr. Haskins said it would be difficult to imagine what additional evidence respondents would have come up with had they been given an additional ten days to file their Answer. He said respondents answer during this meeting indicated they could not think of anything additional to add.

In response to issues raised by respondents, Mr. Haskins said Mr. Cordes had replied to many more issues than were really involved in the case. Mr. Cordes found in favor of the Department in all of them, he said, so the Department did not object, but it was a simpler case than the ruling would indicate.

Mr. Haskins said the issue was not whether or not the respondents' application was properly denied because respondents never applied for a subsurface sewage disposal system construction permit and never paid any application fee for such a permit. On two occasions, he continued, respondents had applied for site suitability evaluations but never followed up with an application for a construction permit. The negative site suitability evaluation which respondents received, he said, did not give them the right to a contested case hearing as the Hearing Officer had previously ruled.

Mr. Haskins said the important point was had the respondents actually applied for a construction permit and paid the necessary application fee and then been denied a permit, they would have then been entitled to a contested case hearing on that denial. Respondents failed to follow the due processes which the Legislature and the courts had set up for review of this type of action, he said.

In response to Commissioner Somers, Mr. Haskins said he agreed with Chairman Richards that a violation committed by the City provided no defense for the respondents unlawful construction of a subsurface sewage disposal system without a permit.

Chairman Richards asked if Joint Exhibit I was done at the time of the hearing. Mr. Haskins replied that it was an exhibit that was actually drawn in the hearing with participation of both parties. In review, Chairman Richards said the basic things being relied on as evidence that a tank was installed as well as a drainfield, were (1) in early June a tank and some rock were seen on the premises and then were not seen, and that the soil had been disurbed; and (2) some judicial admissions such as an exhibit in which respondents said if they were not permitted to install a tank and drainfield they would do it anyway.

Chairman Richards asked if Mr. Haskins agreed there would need to be proof that the tank and drainfield were installed prior to June 10, the date of Mr. Bolton's Notice of Violation. Mr. Haskins replied that what evidence there was in the record showed that a subsurface sewage disposal system or part thereof was constructed on or about June 8 or 9, 1977, between the period of June 3 when the Department inspected the site and June 8, when it was reinspected. He said he did not see that it was important that the whole system be completed or be used at any time to constitute a violation.

Commissioner Somers said he had given the matter considerable thought; reviewed the exhibits; reviewed the contentions of the respondent and the Department; and had considered oral arguments on behalf of Mr. Henderson; and could arrive at no other conclusion than that of the Hearing Officer, which was that the system was constructed without a permit in violation of the rule, and that the Notice of Violation was correct. He further noted that the entire matter could be resolved by Mr. Henderson signing a waiver of remonstrance and hooking up the rest of his property to the City sewer.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Hearing Officer's recommendation in this matter be sustained.

After a Commission recess, Commissioner Somers MOVED, Commissioner Hallock seconded and it was carried unanimously that the previous motion be reconsidered.

Commissioner Somers said that the reason for reconsidering his motion to support the Hearing Officer's findings and conclusions was that he felt his motion should be inclusive to direct the staff to make a final remedial order to bring before the Commission at its next regular meeting. In response to Chairman Richards, Commissioner Somers said his motion would include that the Henderson's be immediately notified of the action taken.

It was MOVED by Commissioner Somers to support the findings of the Hearing Officer and the Final Order issued by the Commission shall be prepared and brought before the Commission at its next regular meeting, October 27, 1978, in Salem. The motion was seconded by Commissioner Densmore and carried unanimously.

AGENDA ITEM H - TREASURE VALLEY OPPORTUNITIES, ONTARIO - REQUEST FOR VARIANCE FROM OPEN BURNING REGULATIONS

Chairman Richards noted for the record that there was no one from Treasure Valley Opportunities, Inc. present at the meeting to testify.

Mr. Fred Bolton, Regional Operations Administrator, said they had determined that the cost to haul the material to a nearby dump site in Idaho would be \$2.00/10 yards. He said the Company had a 10 yard dump truck and there was about 120 yards of material to be disposed of. So, he continued, for about \$25, using their truck, the Company could dispose of the material. He said the Department had done a lot to stop open burning in the Ontario area and there were other companies nearby waiting for the decision of the Commission and if the variance were approved they would also be asking for permission to burn waste material.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation to deny the request for variance be approved.

AGENDA ITEM I - REQUEST BY CURRY COUNTY FOR EXTENSION OF VARIANCES FROM RULES PROHIBITING OPEN BURNING DUMPS, OAR 340-61-040(2)(c)

Mr. Michael Fitzgerald, Curry County Commissioner, said they wanted the Commission to understand they were serious in their attempt to find a solution to the Brookings area solid waste site. He said they had budgeted over 1/2 million dollars for this project but at the moment the delay was caused by an attempt to work the private sector into the solution. Mr. Fitzgerald said it should be the last need for an extension of the variance and in any event a permanent site would be found and activated within a short time.

In response to Commissioner Somers, Mr. Fitzgerald said that the dates proposed in the extension met with their approval.

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

1. Variances for the Brookings Disposal Site and Nesika Beach Disposal Site in Curry County be extended until August 1, 1979. This date will allow for continued open burning through the winter and spring when heavy rains would hinder construction of an alternative facility.
2. The County be required to adopt a solid waste management plan and obtain a suitable alternative disposal site by January 1, 1979. The Department shall be notified in writing by not later than January 15, 1979 that these requirements have been met.
3. The Brookings Disposal Site and Nesika Beach Disposal Site be closed prior to the expiration date of the variance if a suitable alternative becomes available.
4. The EQC find that the variance request meets the intent of ORS 459.225(3)(c) in that strict compliance would result in closing of the disposal sites and no alternative facility or alternative method of solid waste management is available.

AGENDA ITEM L - PUBLIC HEARING AND CONSIDERATION FOR ADOPTION OF HOUSEKEEPING CHANGES TO VEHICLE EMISSION TESTING RULES, OAR 340-24-340(1) and OAR 340-24-350(5) (b)

Mr. William Jasper, DEQ Vehicle Inspection Program, said this matter covered an omission made during the last major review and revision of the vehicle emission testing rules. He said basically the purpose of the proposed changes was to keep a uniform operation of the fleet inspection program.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the proposed rule amendments be adopted.

AGENDA ITEM J - PROPOSED AMENDMENTS TO THE ADMINISTRATIVE RULES GOVERNING THE PROCEDURES FOR LICENSING HAZARDOUS WASTE MANAGEMENT FACILITIES, OAR CHAPTER 340, DIVISION 6, SUBDIVISION 2

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried with Commissioner Densmore dissenting that the Procedures for Licensing Hazardous Waste Management Facilities, as amended, OAR 340-62-005 through 62-100 inclusive, be adopted.

In response to Commissioner Phinney, Mr. Fred Bromfeld of the Department's Hazardous Waste Section, said it was correct that approximately 60% of the wastes now received at Arlington were from out of state. He said of that 60%, at least 95% were from the State of Washington, which does not have a disposal site for hazardous wastes.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that as a part of the regular Monthly Activity Report the Commission continue to be notified of the out of state wastes being disposed of at Arlington.

AGENDA ITEM K - REQUEST FOR AUTHORIZATION TO HOLD PUBLIC HEARING ON PROPOSED RULES FOR USED OIL RECYCLING

It was MOVED by Commissioner Hallock, seconded by Commissioner Phinney and carried unanimously that the Director's recommendation to authorize a public hearing on the proposed rule for sign posting be approved.

AGENDA ITEM M - STATUS REPORT ON CONTRACTOR OPERATION VERSUS STATE OPERATION OF THE DEQ MOTOR VEHICLE EMISSION TESTING PROGRAM

Commissioner Somers asked if it would be beneficial to put the matter up for a prospective bid so that the Commission would know whether or not they could save money by going to a private contractor. Mr. Ron Householder DEQ's Vehicle Inspection Program, replied that it was their suggestion that that not be done because of the upcoming Legislative Session. He said the cost and effort of preparing a request for proposal were extensive.

Commissioner Densmore said that one of the proposals being carried to the next Legislative Session was that the Medford-Ashland AQMA have a vehicle emission testing program. He asked if this type of proposal would fit an area where there was not an existing testing program. Mr. Householder replied that this was one of the reasons why the Department wished to delay on going ahead and reviewing the contractor approach. He said if the Legislature directed the Department to operate a testing program in another area it would reduce the total cost of a contractor program by increasing the number of vehicles which would be affected. This would also decrease the individual cost to the customer, he said. Mr. Householder said there were not contractors interested in a program which would test cars every other year until the volume were higher.

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

Director's Recommendation

I recommend that the Commission enter a finding on the matter of private contractor operation in comparison with state operation of the I/M program that given the indicators available and within the current statutory struction of the inspection program there is (1) indication that cost to the public might be higher, (2) that the Department would have inadequate resources to monitor the maintenance of program quality, (3) that there would be no deterioration of program efficiency, (4) that the costs involved in the issuance and evaluation of an RFP are not justified at this time because of statutory limitations on program operation, (5) that the concept of a contractor operation is still a viable alternative to state operation, (6) and that following the 1979 Legislative Session, the Department shall reevaluate for the Commission's consideration the alternative of a private contractor operation of the motor vehicle emission inspection program.

AGENDA ITEM O - REQUEST FOR AUTHORIZATION FOR PUBLIC HEARING TO CONSIDER PROPOSED STATEWIDE RULES FOR CONTROLLING EMISSIONS OF VOLATILE ORGANIC CHEMICALS (VOC) AND MODIFICATION OF THE OREGON STATE CLEAN AIR IMPLEMENTATION PLAN (SIP)

Commissioner Somers MOVED, Commissioner Hallock seconded, and it was carried unanimously that the Director's recommendation to authorize a public hearing for the VOC rules for October 16, 1978 in Portland, and to consider the rules for adoption at the Commission's December 1978 meeting be approved.

AGENDA ITEM P - REQUEST FOR COMMISSION APPROVAL OF LANE REGIONAL AIR POLLUTION AUTHORITY REQUESTS FOR STATE AND FEDERAL FINANCIAL ASSISTANCE

It was MOVED by Commissioner Somers that the Director's Recommendation be approved based on the following findings:

1. That LRAPA's boundaries constitute an appropriate air quality control area considering the geographic and demographic factors.
2. That LRAPA program is adequately staffed and funded and is operating effectively to control air pollution.
3. The air pollution problems within the LRAPA area are being adequately addressed and that the Commission certifies the LRAPA application and the Director is authorized to disperse such funds as may be subsequently appropriated.

The Motion was seconded by Commissioner Hallock and carried unanimously.

AGENDA ITEM Q - PROPOSED ADOPTION OF RULES PERTAINING TO CONFLICT OF INTEREST BY STATE BOARDS AS REQUIRED BY SECTION 125 OF THE FEDERAL CLEAN AIR ACT AND MODIFICATION OF THE OREGON STATE CLEAN AIR IMPLEMENTATION PLAN (SIP)

Mr. Mike Ziolko, DEQ's Air Quality Division, said the proposed rules had been sent to EPA to see if they would be approvable as an SIP revision. He said EPA responded with some changes to make the rule approvable. Mr. Ziolko explained the rule changes to the Commission.

After some discussion among members of the Commission, it was MOVED by Commissioner Somers, seconded by Commissioner Phinney, and carried unanimously that the Director's recommendation to approve the proposed rule, amended as follows, be adopted.

Amendments to Conflict of Interest Rules, OAR Chapter 340-20-200 through 20-215.

1. 340-20-2-5 - Definitions

- (1) [Adequately] "Disclose" means explain in detail in a signed written statement prepared at least annually and available for public inspection at the Office of the Director, or the Oregon Ethics Commission.

(4) "Persons subject in Oregon to permits or enforcement orders under the Clean Air Act"...

(7) "Significant portion of income" means [25] 10 percent...

2. 340-30-210 - Public Interest Representation

"At least [~~three-(3)~~] a majority of the members of the Commission and the Director..."

3. 340-20-215 - Disclosure of Potential Conflicts of Interest

"Each member of the Commission and the Director shall [~~adequately~~] disclose any potential conflict of interest."

AGENDA ITEM R - STAFF REPORT ON PULP AND PAPER INDUSTRY KRAFT MILL PARTICLE SIZE DISTRIBUTION AND CHEMICAL COMPOSITION STUDY

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock, and carried unanimously that the Director's Recommendation to accept this report as adequately fulfilling the commitment made by the pulp and paper industry to the Environmental Quality Commission on May 27, 1977, be adopted. Commissioner Somers complimented the staff on their report.

AGENDA ITEM S - PROPOSED SETTLEMENT OF LITIGATION RELATIVE TO INDIRECT SOURCE RULE

The Commission went into Executive Session for the purpose of discussing this pending litigation.

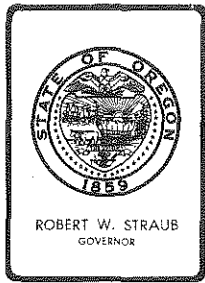
In regular session, Commissioner Somers MOVED, Commissioner Densmore seconded, and it was carried with Commissioner Hallock desenting, that the settlement agreement be adopted.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol A. Spletstaszer
Recording Secretary



Environmental Quality Commission

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MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item B, September 22, 1978, EQC Meeting
August Program Activity Report

Discussion

Attached is the August Program Activity Report.

ORS 468.325 provides for Commission approval or disapproval of plans and specifications for construction of air contaminant 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 the State 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 2 of the report, and approval for disposal of environmentally hazardous wastes listed on page 22 of the report.

WILLIAM H. YOUNG



M. Downs:ts
229-6485
9-13-78

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

August 1978

Month

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air, Water and Solid
Waste Division
(Reporting Unit)

August 1978
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	Fis.Yr.	Month	Fis.Yr.	Month	Fis.Yr.	
<u>Air</u>							
Direct Sources	26	43	27	46	1	2	38
Total	26	43	27	46	1	2	38
<u>Water</u>							
Municipal	180	306	183	315			60
Industrial	13	31	14	27			25
Total	193	337	197	342			85
<u>Solid Waste</u>							
General Refuse	2	5	2	4	1	1	7
Demolition	1	2					2
Industrial	1	3	2	6			3
Sludge			1	1			
Total	4	10	5	11	1	1	12
<u>Hazardous Wastes</u>							
<u>GRAND TOTAL</u>	223	390	229	399	2	3	135

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

August 1978
(Month and Year)

PLAN ACTIONS COMPLETED (28)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources</u>			
Washington (NC1052)	DG Shelter Carter Day baghouse	7/28/78	Approved
Lane (NC1072)	Lane Plywood Inc. New hog fuel boiler	8/16/78	Approved
Lane (NC1123)	Johnson Rock Products 102 Pioneer asphalt plant	8/1/78	Approved
Clackamas (NC1173)	Oregon Portland Cement Co. Enclosed clinker conveyor	8/15/78	Approved
Clackamas (NC1174)	Oregon Portland Cement Co. Replacement baghouse	8/15/78	Approved
Jackson (NC1182)	Spra-Mulch Wood fiber mulch	7/28/78	Approved
Baker (NC1186)	Oregon Portland Cement Secondary rock crusher	7/5/78	Approved
Lane (NC1187)	Trus Joist Corp. Veneer dryer and presses	8-78	Denied
Multnomah (NC1188)	Oregon Steel Mills Melt shop ladle system	8/15/78	Approved
Lane (NC1189)	Weyerhaeuser Co., Cottage Grove Flue gas oxygen analyzer	8/2/78	Approved
Jackson (NC1191)	Tru-Mix Leasing Co. Pave yard	8/16/78	Approved
Coos (NC1193)	Weyerhaeuser Co. Preheater and oven fire air control	8/21/78	Approved
Douglas (NC1196)	Roseburg Lumber Co. Hogged fuel boiler	7/18/78	Approved
Josephine (NC1199)	Southern Oregon Plywood Veneer dryer, Burley scrubber	7/18/78	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division

August 1978

(Reporting Unit)

(Month and Year)

PLAN ACTIONS COMPLETED (28 continued)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources</u> (cont.)			
Douglas (NC1200)	Sun Studs, Inc. Standby oil fired boiler	7/18/78	Approved
Linn (NC1203)	Teledynd Wah Chang Central gas boiler	7/28/78	Approved
Jackson (NC1204)	Earnest Orchard and Packing Co. One orchard fan	7/19/78	Approved
Linn (NC1206)	Champion International Sander and baghouse	8/8/78	Approved
Klamath (NC1207)	Weyerhaeuser Co., Bly Replacement draft fan	8/9/78	Approved
Jackson (NC1208)	Crystal Springs Packing Co., Inc. Holding pond for overtree sprinkler system	7/31/78	Approved
Lane (NC1209)	Weyerhaeuser Co. Baghouses on particleboard plant	8/16/78	Approved
Linn (NC1213)	Teledyne Wah Chang Sand chlorination modification	8/9/78	Approved
Marion (NC1215)	Miller Brewing Co. Hops extract	8/14/78	Approved
Clackamas (NC1216)	Eagle Foundry Co. Induction melt furnace	8/22/78	Approved
Coos (NC1217)	Alder Pacific, Inc. Dry kilns and planer	8/21/78	Approved
Baker (NC1221)	Ellingson Lumber Co. Fly ash utilization furnace	8/16/78	Approved
Josephine (NC1222)	Rough & Ready Lumber Co. Hog boiler and dry kiln	8/18/78	Approved
Washington (NC1225)	Southwest Readymix Co. Ready mix concrete plant	8/22/78	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

August 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	6	12	3	5	27		
Existing	10	16	14*	13	31		
Renewals	5	10	5	5	80		
Modifications	12	18	5	10	27		
Total	33	56	26	33	165	1,848	1,910
<u>Indirect Sources</u>							
New	3	37	2	36	15		
Existing							
Renewals							
Modifications	1	10	2	10	0		
Total	4	47	4	46	15	92	
<u>GRAND TOTALS</u>	<u>37</u>	<u>103</u>	<u>30</u>	<u>79</u>	<u>180</u>	<u>1,940</u>	

*One application was withdrawn.

<u>Number of Pending Permits</u>	<u>Comments</u>
15	To be drafted by Northwest Region Office
12	To be drafted by Willamette Valley Region Office
34	To be drafted by Southwest Region Office
0	To be drafted by Central Region Office
0	To be drafted by Eastern Region Office
8	To be drafted by Program Operations
2	To be drafted by Program Planning & Development
71	
20	Permits awaiting next public notice
8	Permits being typed
66	Permits awaiting end of 30-day public notice period
94	Permits pending

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)August 1978
(Month and Year)PERMIT ACTIONS COMPLETED (30)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources</u>			
Benton	Hendrix Lumber Co. 02-0004, Renewal	8/15/78	Permit issued
Clackamas	Parker Northwest Paving 03-2032, Renewal	8/15/78	Permit issued
Clackamas	E. C. Gravel 03-2668, New	8/15/78	Permit issued
Clackamas	R. Jorgensen Construction 03-2669, New	8/15/78	Permit issued
Grant	Grant County Redi Mix 12-0027, Existing	8/15/78	Permit issued
Grant	Dixie Creek Mill 12-0030, Existing	8/15/78	Permit issued
Jackson	Payless Drug Store 15-0117, Existing	8/15/78	Permit issued
Jackson	Jackson County Courthouse 15-0118, Existing	8/15/78	Permit issued
Jackson	Jackson County Farm Home 15-0119, Existing	8/15/78	Permit issued
Jackson	Little Butte Elem. School 15-0120, Existing	8/15/78	Permit issued
Jackson	White City Elem. School 15-0121, Existing	8/15/78	Permit issued
Jackson	Eagle Point High School 15-0122, Existing	8/15/78	Permit issued
Jackson	Eagle Point Jr. High School 15-0123, Existing	8/15/78	Permit issued
Linn	Mt. Jefferson Lumber Co. 22-6005, Renewal	4/21/78	Permit issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

August 1978
(Month and Year)

PERMIT ACTIONS COMPLETED (30 continued)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Direct Stationary Sources</u> (cont.)			
Malheur	Amalgamated Sugar Co. 23-0002, Modification	8/4/78	Addendum issued
Marion	Oregon Wood Products 24-4979, New	8/15/78	Permit issued
Multnomah	General Services Admin. 26-1825, Existing	8/15/78	Permit issued
Multnomah	Acme Trading & Supply 26-2070, Modification	8/15/78	Permit issued
Multnomah	Great Northern Products 26-2991, Existing	8/15/78	Permit issued
Polk	Gould Inc. 27-8012, Modification	8/15/78	Permit issued
Tillamook	Louisiana Pacific (Tillamook) 29-0019, Modification	8/15/78	Permit issued
Yamhill	Cascade Steel Rolling Mills 36-5034, Renewal	8/15/78	Permit issued
Yamhill	Martin & Wright Paving 36-5377, Renewal	8/15/78	Permit issued
<u>Portable Plants</u>			
Portable	Dale's Sand & Gravel Co. 37-0130, Modification	8/15/78	Permit issued
Portable	Sham-Rock Crushing 37-0165, Existing	8/15/78	Permit issued
Portable	Horger Wood Products 37-0206, Existing	8/15/78	Permit issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division

August 1978

(Reporting Unit)

(Month and Year)

PERMIT ACTIONS COMPLETED (30 continued)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Indirect Sources</u>			
Washington	Floating Point Systems (Murray at Millikan) 600 spaces File No. 34-8021	8/2/78	Final permit issued
Multnomah	Wacker Siltronic Corp. 950 spaces File No. 26-8020	8/4/78	Final permit issued.
Washington	Washington Square Shopping Center File No. 34-6022 Addendum II	8/2/78	Final Addendum issued.
Clackamas	Clackamas Town Center 6500 spaces File No. 03-4001 Addendum I	8/14/78	Final Addendum I issued

DEPARTMENT OF ENVIRONMENTAL QUALITY
 Monthly Activity Report
 Water Quality Division August 1978

PLAN ACTIONS COMPLETED - 197

Engineer	County	Name of Source/Project/Site & Type of Same	Rec'd	Date of Action	Action	Time to Complete Action
		<u>Municipal Sources - 183</u>				
		1 BAKER FAULL'S ADDITION-REVISED	K080778	072578	PROV APP	00
		29 TILLAMOOK TILLAMOOK SEWERAGE IMPROV	V042778	072778	PROV APP	90
19	29	TILLAMOOK CONTRACT DOCUMENTS STP	V080478	072778	PROV APP	00
	25	BOARDMAN SUNRIDGE TERRACE	K071378	080178	PROV APP	19
	23	ONTARIO SHUNN SUBD NO 3	K071378	080178	PROV APP	19
	20	LOWELL SHANNON	K071478	080178	PROV APP	18
	26	PORTLAND SW 60TH & SW TEXAS	J073178	080178	PROV APP	01
	31	ELGIN GRANDE RONDE	K071378	080278	PROV APP	20
	31	ELGIN HUTSON TERRACE	K071378	080278	PROV APP	20
	20	EUGENE HOLLINGER SUBD	K071478	080278	PROV APP	19
84	20	JUNCO CITY BLUE RIBBON ESTATES	K071478	080278	PROV APP	19
43	03	CRESHAM VERACRUZ NO-2	K071478	080278	PROV APP	19
	03	MILWAUKIE WAVERLY TERRACE	K071478	080278	PROV APP	19
51	15	NEEDHORN LAWNVIEW SUBD	J071778	080278	PROV APP	16
62	24	SALEM SMOKETREE PHASE II	J071378	080378	PROV APP	17
	24	SALEM GLENHAVEN NO 2	J071978	080378	PROV APP	15
18	24	EAST SALEM ATLANTHUS ACRES	J072778	080378	PROV APP	07
61	20	EUGENE N SHASTA LOOP	K071378	080478	PROV APP	22
	24	SALEM AIRPORT RD TR	J071478	080478	PROV APP	21
	24	SALEM GEORGETOWN SUBD	J071978	080478	PROV APP	16
	24	SALEM BATTLE CREEK MEADOWS	J071978	080478	PROV APP	16
	27	DALLAS RIVERWEST SUBDIV	J072878	080478	PROV APP	07
	26	CRESHAM ORE TRAIL SHOPPING CNTR	K080478	080778	PROV APP	03
69	09	JANUARY MOUNTAIN HIGH	V061478	080878	PROV APP	54
90	03	WILSONVILLE EDWARDS BUSINESS	J071078	080878	PROV APP	29
	36	WILLAMINA THIRD ADD TO OAKEN HILLS	K071978	080878	PROV APP	20
99	03	WEST LINN SELLERS ADDITION	K071978	080878	PROV APP	20
	20	SPRINGFIELD SPRUCE RIDGE	K072478	080878	PROV APP	14
	20	SPRINGFIELD MCKENZIE 1ST ADD	K072478	080878	PROV APP	14
	20	SPRINGFIELD IMPROVEMENTS FOR J PENKEN	K072478	080878	PROV APP	15
	09	BEND CONT NO 4 PLANS & SPECS	K072478	080878	PROV APP	15
	26	PORTLAND NW SERLAR DR	K072478	080878	PROV APP	15
	22	LEBANON WADE ADDITION	K072478	080878	PROV APP	15
70	16	MADRAS GOODSON AND BEAN SUBD	K072678	080878	PROV APP	13
	13	BURNS CARY MARSHALL SUBD	K072678	080878	PROV APP	13
82	03	WILSONVILLE BOECKMAN	J071078	080978	PROV APP	30
11	10	ROSEBURG FOUR SEASONS SUBD PHW	J071378	080978	PROV APP	27
48	26	TROUTDALE W COLUMBIA TRUNK EXT	J072478	080978	PROV APP	16
27	24	SALEM WOLFFEL PARK MARION CO	J072478	080978	PROV APP	16
20	21	WALPORT FAIRWAY HEIGHTS	K072578	080978	PROV APP	15
	30	HERMISTON LINDA ESTATES SUBD	K072778	080978	PROV APP	13
25	03	CANBY CLARK'S FIRST ADDITION	K072778	080978	PROV APP	13
	20	SPRINGFIELD MIKE VILLAGE	K080178	080978	PROV APP	08
	20	SPRINGFIELD ANTHONY HEIGHTS	K080778	080978	PROV APP	02
25	03	CANBY WEBER'S ACRES SUBD	J072478	081078	PROV APP	17
25	03	OREGON CITY BARCLAY HILLS #2 REPLAT	J072478	081078	PROV APP	17
69	17	GRANTS PASS GARDEN HOMES ESTATES	J072478	081078	PROV APP	17
26	34	USAHER CR WALOTI MEADOWS	K070178	081078	PROV APP	10
23	24	USA SCHECKLA PARK ESTATES	K080378	081078	PROV APP	07
	24	USA TIGARD FRIENDS CHURCH-TIGARD	K080378	081078	PROV APP	07
	20	SPRINGFIELD INDUSTRIAL AVENUE	K080378	081078	PROV APP	07
	20	SPRINGFIELD BAYWOOD	K080778	081078	PROV APP	03

DEPARTMENT OF ENVIRONMENTAL QUALITY
Monthly Activity Report

Water Quality Division

August, 1978

PLAN ACTIONS COMPLETED (Continued)

Engineer	County	Name of Source/Project/Site and Type of Same	Rec'd	Date of Action	Action	Time to Complete Action
	20	SPRINGFIELD CONNIE SUBD	K080778	081078	PROV APP	03
77	34 USA	BRIDLE HILLS	K080778	081078	PROV APP	03
	34 USA	SORRENTO RIDGE NO 5	K080878	081078	PROV APP	02
41	18 KLAMATH FALLS	CITY VIEW ESTATES	J071978	081178	PROV APP	23
	26 PORTLAND	SE COOPER	K080378	081178	PROV APP	08
	20 EUGENE	FOX HOLLOW ESTATES	K080778	081178	PROV APP	04
	26 PORTLAND	WESTOVER RD-RET NW25 & NW 26	K080778	081178	PROV APP	04
	26 PORTLAND	SW 41ST AVE	K080778	081178	PROV APP	04
	26 PORTLAND	SW 54TH AVE	K080778	081178	PROV APP	04
28	26 GRESHAM	NE 29TH ST	K080278	081378	PROV APP	11
14	23 ONTARIO	SPRINGBROOK ADDITION	K080778	081378	PROV APP	06
	1 BAKER	C STREET BETWEEN CLARK & FLEMING	K080378	081478	PROV APP	11
	20 EUGENE	LINDLEY LANE	K080778	081478	PROV APP	07
	20 EUGENE	GARDEN MEADOWS SUBD	K080778	081478	PROV APP	07
	20 EUGENE	OSU ESTATES & ALBAN-TATE	K080778	081478	PROV APP	07
	20 EUGENE	KEESTON TERRACE SUBD	K080778	081478	PROV APP	07
	20 EUGENE	COMMERCE WEST BUSINESS PARK	K080778	081478	PROV APP	07
8	02 CORVALLIS	VILLA SOUTH SUBD	K080778	081478	PROV APP	07
	34 USA	CASTLEWOOD & JENKINS PUMPSTAK	K080978	081478	PROV APP	05
25	03 OREGON CITY	BARCLAY HILLS NO 2	J081078	081478	PROV APP	04
25	03 CANDY	WEBER'S ACRES	J081078	081478	PROV APP	04
1	34 USA	GENESIS NO 2	J081478	081478	PROV APP	01
77	34 USA	RURLWOOD ST EXT	J081478	081478	PROV APP	01
51	08 BROOKINGS	SUNDOWN SUBD REVISED	J081478	081578	PROV APP	01
	8 BROOKINGS	SUNDOWN SUBD	J071478	081678	PSPXTAP*ONE	02
	26 MULTNOMAH CO	NE 152ND	J071978	081678	PROV APP	88
	26 PORTLAND	SE 131 & SE COOPER ST	J071978	081678	PROV APP	28
18	24 SALEM	CAMBRIDGE WOODS NO 2	J080178	081678	PROV APP	15
18	24 SALEM	DEER HAVEN ESTATES	J080378	081678	PROV APP	13
40	06 COOS BAY	AUGUSTINE & BENWICK ST IMPR	J080778	081678	PROV APP	00
12	24 SALEM	JOHN MILLER PROPERTY	J080778	081678	PROV APP	09
	2 CLACKAMAS CO	VERDE VALLEY SUBD CCSD #1	K080778	081678	PROV APP	09
	36 NEWBERG	JARIN APARTMENTS	J080778	081678	PROV APP	09
46	15 BCVSA	W OF ROSSANLEY DRIVE BCVSA	K080878	081678	PROV APP	08
	24 SALEM	SUNNYSIDE RD CONTRACT DOC	J080878	081678	PROV APP	08
	34 FOREST GROVE	22ND & HANTHORN	J081078	081678	PROV APP	06
	15 CENTRAL POINT	LAWRENCE LEONARD SAN SEWER	J081078	081678	PROV APP	06
	15 CENTRAL PT	GARY YOST	J081478	081678	PROV APP	02
	15 MEDFORD	LE ROY ESTATES	J072578	081778	PROV APP	23
25	03 LAKE OSWEGO	COUNTRY COMMONS SUBD	J072678	081778	PROV APP	23
46	15 MEDFORD	LA LOMA SUBD	J073178	081778	PROV APP	17
	10 MULTNOMAH	WHITESPELL ESTATES	J073178	081778	PROV APP	17
	15 ASHLAND	SUNNYVIEW HEIGHTS SUBD	J080178	081778	PROV APP	16
	24 TUALATIN	SW 104TH AVE	J080178	081778	PROV APP	16
	22 ALBANY	FERRY STREET	J080278	081778	PROV APP	15
	22 ALBANY	DORRIS ADDITION	J080278	081778	PROV APP	15
	22 ALBANY	16TH AVE	J080278	081778	PROV APP	15
62	27 GALLAS	KINGSBOROUGH	J080778	081778	PROV APP	10
73	02 WEST LINN	HIDDEN SPRINGS COND	J080778	081778	PROV APP	10
14	22 SWEET HOME	CARLA PLACE	J080778	081778	PROV APP	10
10	04 ASTORIA	BLOCK 163 NIAGARA-ARLISON	K080778	081778	PROV APP	10
10	17 CRANFORD	SAN SUBDIVISION	K081078	081778	PROV APP	07
14	24 SALEM	CLOUD 2 VILLAGE	J081078	081778	PROV APP	07

DEPARTMENT OF ENVIRONMENTAL QUALITY
Monthly Activity Report

Water Quality Division

August, 1978

PLAN ACTIONS COMPLETED (Continued)

Engineer	County	Name of Source/Project/Site and Type of Same	Rec'd	Date of Action	Action	Time to Complete Action
	20	SPRINGFIELD BEL-MAR E R STREET	K081178	081778	PROV APP	06
11	10	ROSEBURG FOUR SEASONS SUBD	K081478	081778	PROV APP	03
	15	ASHLAND MEADOWBROOK SUBD	J081478	081778	PROV APP	02
20	34	USA EVERGREEN TERRACE NO 3	K081578	081778	PROV APP	02
	34	USA HYLAND HILLS	K081678	081778	PROV APP	01
6	10	MYRTLE CREEK TRI-CITY ESTATES 1ST ADD	K080178	081878	PROV APP	17
	9	REDMOND REINDEER WOODS SUBD	K081478	081878	PROV APP	04
	9	REDMOND ARNETT ADDITION NO 2	K081478	081878	PROV APP	04
	9	REDMOND ARNETT ADDITION NO 1	K081478	081878	PROV APP	04
	9	REDMOND FASTSIDE CITY DEVELOP	K081478	082178	PROV APP	07
	21	HAYDEN ISLAND N TOMAHAWK ISLAND DRIVE	K081678	082178	PROV APP	05
27	24	SALEM KOSTENBORGER	K081778	082178	PROV APP	04
	7	PRINCEVILLE HILLCREST UNIT-2	K081778	082278	PROV APP	05
00		REDMOND RD RIVER HAVEN MOBILE ESTATES	K081878	082278	PROV APP	04
	13	HINES REFLER ADDITION	K081878	082278	PROV APP	04
	29	ROCKAWAY BLKS 12&13-SEWER PUMP STA	K080778	082378	PROV APP	16
	24	TROUTDALE STD EXPANSION	V081078	082378	PROV APP	13
12	34	USA GRABAR SUBD	K081678	082378	PROV APP	07
	24	USA KOLBERG	K081778	082378	PROV APP	06
	34	USA MERLO STATION BUSINESS CENTRK	K082178	082378	PROV APP	02
2	34	USA TRACHSEL MEADOWS	K082178	082378	PROV APP	02
	10	DOUGLAS CO WINSTON INTERCEPTORS F/W	V072678	082478	PROV APP	29
9	31	LA CHANDE CONTRACT DOCUMENTS	V072778	082478	PROV APP	32
41	20	CRESHWELL QUEEN'S ADDITION 1ST ADD	K081478	082478	PROV APP	10
8	09	CHURRIVER KITTY HAWK	K081478	082478	PROV APP	10
8	09	CHURRIVER WILDELOWER SITES ABC	K081478	082478	PROV APP	10
	20	EUGENE LEAHY PLAT	K081778	082478	PROV APP	07
	20	EUGENE 5TH AVENUE	K081778	082478	PROV APP	07
	20	EUGENE PANORAMA VIEW IV SUBD	K081778	082478	PROV APP	07
	20	EUGENE 1ST ADDITION SWEETBRIAR	K081778	082478	PROV APP	07
	20	EUGENE DILLARD RD	K081778	082478	PROV APP	07
	23	ONTARIO VALLEY VISTA ESTATES	K082178	082478	PROV APP	03
61	20	CRESHWELL QUEENS HILLTOP	K082178	082478	PROV APP	03
	20	EUGENE BEST LANE	K082378	082478	PROV APP	01
	10	ROSEBURG CHURCH OF CHRIST	K082378	082478	PROV APP	01
	14	ODELL S D WHITESELL ESTATES SUBD	K081578	082578	COMMENTS	
		GOV CAMP S D ALPENGLADE PARK SUBDIV	K082278	082578	PROV APP	03
38	34	USA FAMILY ACRES	K082278	082578	PROV APP	03
2	24	USA HILLBORO BLKS CLUB	K082278	082578	PROV APP	03
61	20	SPRINGFIELD CORBLESTONE	K082378	082578	PROV APP	02
25	03	CANBY PINE STREET PUMP STATION	K082378	082578	PROV APP	02
	26	PORTLAND SE 114TH AVE & SE BROOKSIDE	K082478	082578	PROV APP	01
38	34	USA SW 177TH AVENUE EXT	K082478	082578	PROV APP	01
93	03	WILSONVILLE DAY DREAM RANCH	J072478	082878	PROV APP	35
	34	FOREST GROVE MELISSA ANNE SUBD	J080778	082878	PROV APP	21
28	03	GRESHAM BINEFORD FARMS	J081078	082878	PROV APP	18
51	15	MEDFORD CLEARBROOK SUBD	J081478	082878	PROV APP	14
	18	KLAMATH FALLS DAGGETT AVENUE	J081478	082878	PROV APP	14
	20	MULT CO GLENWOOD & 135	J081778	082378	PROV APP	11
25	15	SHADY COVE TREATMENT PLAN	V082178	082878	CONF W/ ENGR	07
	34	USA ROCK CREEK RANCH NO 1	K082278	082878	PROV APP	06
	34	TUALATIN SW AVENUE ST	K082478	082878	PROV APP	04
	4	SEASIDE WHISPERING PINES SUB	J082478	082978	PROV APP	05

DEPARTMENT OF ENVIRONMENTAL QUALITY
 Monthly Activity Report

Water Quality Division

August, 1978

PLAN ACTIONS COMPLETED (Continued)

Engineer	County	Name of Source/Project/Site and Type of Same	Rec'd	Date of Action	Action	Time to Complete Action
14	15	CENTRAL PT STONECREEK SUBD	J081478	083078	VERB COMM	
61	20	EUGENE FLAT BUSH	K082178	083078	PROV APP	09
	9	BEND WESTPINE SUBD	K081678	083178	PROV APP	15
64	24	SALEM BRECKENRIDGE NO 2	J082178	083178	PROV APP	10
22	00	BEND VALLEY VIEW ESTATES	K082178	083178	PROV APP	10
90		REDWOOD SD DUN ROVIN COURT	K082578	083178	PROV APP	06
	22	ALBANY WOODY'S WOODS	K082878	083178	PROV APP	03
	22	ALBANY MENNONITE	K082878	083178	PROV APP	03
	22	ALBANY INVESTORS	K082878	083178	PROV APP	03
	22	ALBANY CEDARBROOK	K082878	083178	PROV APP	03
	22	ALBANY 53RD AVE-VALLEY VILLA SANTI	K082878	083178	PROV APP	03
	22	ALBANY LAWDALE PUMP STATION	K082878	083178	PROV APP	03
	22	ALBANY LAWDALE SANITARY SEWER	K082878	083178	PROV APP	03
	22	ALBANY DERRINGER SUBD	K082878	083178	PROV APP	03
	22	ALBANY MEADOWVIEW SAN SEWER	K082878	083178	PROV APP	03

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality

August 1978

(Reporting Unit)

(Month and Year)

PLAN ACTIONS COMPLETED (197 continued)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>INDUSTRIAL WASTE SOURCES (14)</u>			
Yamhill	Neoma Reynolds - Sherman Animal Waste	6-21-78	Approved
Marion	Agripac - Salem Chlorinator	7-18-78	Approved
Linn	Teledyne Wah Chang Albany Sludge Drying Pond Increase	7-27-78	Approved T.C. Denied
Polk	Denny Hog Farm - Independence Holding Pond Flush System	8-9-78	Approved
Hood River	Champion International - Dee Backwash Control System	8-14-78	Approved
Douglas	Clarke's Branch Water Assn. Myrtle Creek, Recirculation Filter Backwash Water	8-14-78	Approved
Linn	Willamette Industries - Sweet Home, Veneer Dryer Washdown Water Recirculation	8-15-78	Approved
Linn	Oregon Metallurgical Corp. Albany, Additional Waste Water Lagoon	8-16-78	Approved
Clatsop	Warrenton Lumber - Warrenton Log Wash System	8-16-78	Approved
Linn	Teledyne Wah Chang Albany Ammonium Chloride Storage Tank	8-17-78	Approved T.C. Denied
Lane	Agripac, Inc. - Eugene Stationary Screens Primary Effluent	8-21-78	Approved
Linn	Leo Johnson - Scio Liquid Manure Tank	8-24-78	Approved
Multnomah	Oregon Steel Mills - Portland Slab Immersion Cooling Facility	8-29-78	Approved No T.C. Request
Douglas	International Paper - Gardiner Pulp Mill Expansion	8-31-78	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

August 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	0	0	1	1	0	0	0	0	1	3	
Existing	0	0	0	0	0	0	0	0	0	0	
Renewals	0	0	4	0	4	3	10	3	30	4	
Modifications	1	0	2	0	1	0	1	0	5	1	
Total	1	0	7	1	5	3	11	3	36	8	243 80 244 83
<u>Industrial</u>											
New	2	1	4	1	1/1	4	3	4	9	3	
Existing	0	0	0	0	4/4	0	4	0	3	0	
Renewals	4	1	5	3	5	3	15	5	50	9	
Modifications	2	0	2	3	1	1	3	1	6	2	
Total	8	2	11	7	11	8	25	10	68	14	396 123 408 126
<u>Agricultural (Hatcheries, Dairies, etc.)</u>											
New	2	0	2	0	0	3	1	3	3	0	
Existing	0	0	0	0	0	0	0	0	0	0	
Renewals	0	0	0	0	0	1	0	1	2	0	
Modifications	0	0	0	0	0	0	0	0	0	0	
Total	2	0	2	0	0	4	1	4	5	0	61 17 64 17
<u>GRAND TOTALS</u>	11	2	20	8	16	15	37	17	109	22	700 220 716 226

* NPDES Permits
** State Permits

1/ Includes one NPDES Application Canceled

4/ Includes four NPDES Permits cancelled because discharge eliminated

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

1978
(Month and Year)

PERMIT ACTIONS COMPLETED (31)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Union	Robert H. Becker Hog Operation	8-8-78	State Permit Issued
Malheur	Joseph A. Albertson Feed Lot	8-8-78	State Permit Renewed
Sherman	City of Rufus Sewage Disposal	8-8-78	State Permit Renewed
Jefferson	Warm Springs Forest Products Runoff Drainage	8-8-78	State Permit Issued
Coos	Coos Head Timber Log Handling	8-8-78	State Permit Modified
Deschutes	Rimrock West Sewage Disposal	8-14-78	State Permit Renewed
Linn	Willamette Industries Duraflake-Particleboard	8-14-78	NPDES Permit Renewed
Lane	Pope & Talbot Wood Processing	8-14-78	NPDES Permit Renewed
Multnomah	Oregon Parks Foundation Royal Highlands	8-14-78	NPDES Permit Renewed
Lane	Borden Chemical Eugene	8-14-78	NPDES Permit Renewed
Multnomah	Oregon Steel Mills Division Gilmore Steel Corporation	8-14-78	NPDES Permit Modified
Coos	City of Myrtle Point Sewage Disposal	8-14-78	NPDES Permit Modified
Linn	Georgia Pacific Millersburg-Resin Plant	8-30-78	State Permit Renewed
Multnomah	Pennwalt Corp. Industrial Chemicals	8-30-78	NPDES Permit Renewed

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)August 1978
(Month and Year)PERMIT ACTIONS COMPLETED (31 continued)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Wasco	Martin Marietta Corp. Aluminum Manufacture	8-30-78	NPDES Permit Renewed
Union	City of Elgin Sewage Disposal	8-31-78	NPDES Permit Renewed
Douglas	City of Sutherlin Sewage Disposal	8-31-78	NPDES Permit Renewed
Umatilla	City of Stanfield Sewage Disposal	8-31-78	NPDES Permit Renewed
Clackamas	Glen L. Althausen Gravel Operation	8-31-78	State Permit Issued
Umatilla	Athena Cattle Feeders Rieth Feedlot	8-31-78	State Permit Issued
Linn	Atlantic Richfield Domestic Sewage (V.I.P. Restaurant)	8-31-78	State Permit Renewed
Jackson	Bristol Silica Co. Rock Washing	8-31-78	State Permit Renewed
Marion	LDS Church Food Cannery	8-31-78	State Permit Issued
Linn	North Santiam Sand & Gravel Aggragate	8-31-78	State Permit Renewed
Baker	David P. Sirotzki Placer Mine.	8-31-78	State Permit Issued
Union	Byron W. Hawkins Hog Farm	8-31-78	State Permit Issued
Jackson	Reter Fruit Co. Fresh Fruit Packing	8-1-78	NPDES Application Canceled - Discharge Eliminated

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

August 1978
(Month and Year)

PERMIT ACTIONS COMPLETED (31 continued)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Douglas	City of Myrtle Creek Water Filtration Plant		NPDES Permit Cancelled Discharge Eliminated
Marion	Castle & Cook Foods Food Processing		NPDES Permit Cancelled Discharge Eliminated
Multnomah	Portland General Electric Station L		NPDES Permit Cancelled Discharge Eliminated
Washington	Conrad Veneer Tualatin		NPDES Permit Cancelled Discharge Eliminated

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste
(Reporting Unit)

August 1978
(Month and Year)

PLAN ACTIONS COMPLETED (6)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Jackson	Prospect Landfill Existing Sanitary Landfill Revised Operational Plan	7/31/78*	Approved
Lane	O.A.T. Composting Project Proposed Experimental Composting Facility Operational Plan	8/16/78	Letter Authoriza- tion approved.
Lane	Holly Sludge Site Proposed Sludge Spreading Site Operational Plan	8/17/78	Approved.
Jackson	Burrill Lumber New Industrial Landfill Operational Plan	8/17/78	Conditional approval.
Coos	Joe Ney Existing Modified Landfill Construction and Operational Plan	8/22/78	Conditional approval.
Klamath	Weyerhaeuser-Klamath Falls Proposed Industrial Landfill Operational Plan	8/23/78	Approved.

*Not shown on July Activity Report

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste
(Reporting Unit)

August 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					
Existing					20	*	
Renewals	1	8	3	4	12		
Modifications	1	1	1	1	1		
Total	2	10	4	5	33	181	187
<u>Demolition</u>							
New	1	1			1		
Existing							
Renewals							
Modifications							
Total	1	1	0	0	1	21	21
<u>Industrial</u>							
New		3		3	1		
Existing				1	11		
Renewals	1	3	1	2			
Modifications		1		2			
Total	1	7	1	8	12	104	105
<u>Sludge Disposal</u>							
New							
Existing					3		
Renewals							
Modifications							
Total	0		0	0	3	9	9
<u>Hazardous Waste</u>							
New							
Authorizations	10	29	14	29	0		
Renewals							
Modifications							
Total	10	29	14	29	0	1	1
<u>GRAND TOTALS</u>	14	47	19	42	49	316	323

* Seventeen (17) sites operating under temporary permits until regular permits are issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste
(Reporting Unit)

August 1978
(Month and Year)

PERMIT ACTIONS COMPLETED (5)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
--------	---	-------------------	--------

General Refuse Facilities (4)

Malheur	Harper Landfill Existing facility	8/9/78	Permit renewed.
Malheur	Juntura Landfill Existing facility	8/9/78	Permit renewed.
Deschutes	Negus Landfill Existing facility	8/9/78	Permit amended
Lane	Lane County Solid Waste Processing Center Existing facility	8/30/78	Letter Authoriza- tion renewed.

Demolition Waste Facilities - noneIndustrial Waste Facilities (1)

Columbia	Camp 8 Disposal Site Existing facility	8/8/78	Permit renewed.
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Sewage Sludge Disposal Facilities - none

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste
(Reporting Unit)

August 1978
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

Date	Type	Source	Quantity	
			Present	Future
Disposal Requests Granted (14)				
<u>Oregon (7)</u>				
1	Clean-up debris from a spill of Tordon 22K pesticide	Pesticide dealer	1 drum	none
9	PCB capacitors and spill clean-up debris	Electric utility	2 wooden boxes	200 capacitors & 20 drums of spill clean-up a year.
11	Metal plates with insulation contaminated with 2,4D herbicide	Pesticide manufacturer	Several drums	none
11	Toxic chemicals consisting of NaCN, AgCN, chromic acid, soda ash, etc.	Saw mill	Small quantities	none
11	PCB capacitor	Electrical manufacturer	1 unit	none
18	Unwanted herbicide	City government	17 gals.	none
21	PCB capacitors	Chemical plant	2 units	none
<u>Washington (7)</u>				
2	Ammonium nitrate and sodium azide cartridges	Aircraft parts manufacturer	3,362 lbs.	Periodic
7	Defective epoxy resin product	Electrical equipment manufacturer	580 gals.	none

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste
(Reporting Unit)

August 1978
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

Date	Type	Source	Quantity	
			Present	Future
9	PCB contaminated containers, rags & articles.	Steel mill	3 drums	15 drums/yr.
25	PCB transformers, capacitors, & spill clean-up debris.	Electric utility	none	10 transformers, 31 capacitors, & several drums of spill clean-up a year.
25	Unwanted chemical stocks consisting of glue, paint pigments, starch, etc.	Building materials manufacturer	140,000	none
25	Unwanted pesticide product in aerosol cans	Pesticide dealer	30 cu.ft.	none
25	Clean-up debris from a spill of chlorobenzene	Traffic accident	2 drums	none

NOTE:

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

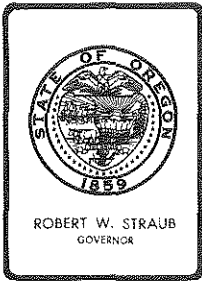
<u>TOTALS</u>	<u>LAST</u>	<u>PRESENT</u>
Settlement Action	11	11
Preliminary Issues	18	17
Discovery	4	4
To be Scheduled	3	1
To be Rescheduled	0	0
Set for Hearing	3	2
Briefing	2	0
Decision Due	6	7
Decision Out	2	2
Appeal to Commission	3	6
Appeal to Court	0	1
Transcript	1	1
Finished	<u>2</u>	<u>1</u>
	55	53

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 Rfrrl The date when the enforcement and compliance unit requests the hearings unit to schedule a hearing.
Hrng Rqst The date the agency receives a request for hearing.
LQ Land Quality
McS McSwain
MWV The Mid-Willamette Valley Region
NP Noise Pollution
NPDES National Pollutant Discharge Elimination System wastewater discharge permit
P At the beginning of a case number means litigation over a permit or its conditions.
PR Portland Region
PNCR Portland/North Coast Region
Prtys All parties involved
Rem Order Remedial Action Order
Resp Code The source of the next expected activity on the case.
SNCR Salem/North Coast Region (now MWV)
SSD Subsurface Sewage Disposal
SWR Southwest Region
T At the beginning of a case number means litigation over a tax credit matter.
Trancr Transcript being made.
Underlined Different status or new case since last contested case log.

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 & No.	Case Status
Davis et al	5/75	5/75	Atty	McS	5/76	Resp	6/78	12 SSD Permits	Appeal to Court
Paulson	5/75	5/75	Atty	McS		Resp		1 SSD Permit	Settlement Action
Trent	5/75	5/75	Atty	McS		Resp		1 SSD Permit	Settlement Action
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
Labarty	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		Hrngrs		ACD Permit Denial	Preliminary Issues
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		Dept		\$10,000 WQ-PR-76-196	Preliminary Issues
Ellsworth	10/76	10/76	Atty	McS		Resp		WQ-PR-ENF-76-48	Appeal to Comm
Silbernagel	10/76	10/77	Atty	Cor		Resp		AQ-MWR-76-202 \$400	Discovery
Jensen	11/76	11/76	Atty	Cor	12/77	Resp	6/78	\$1500 Fld Brn AQ-SNCR-76-232	Appeal to Comm
Mignot	11/76	11/76	DEQ	McS	2/77	Resp	2/77	\$400 SW-SWR-288-76	Settlement Action
Perry	12/76	12/76	DEQ	Cor	1/78	Hrngrs		Rem Order SS-SWR-253-76	Decision Due
Jones	4/77	7/77	DEQ	Cor	6/9/78	Hrngrs		SSD Permit SS-SWR-77-57	Decision Due
Beaver State et al	5/77	5/77	Atty	Cor	10/77	Resp		\$150 AQ-SNCR-77-84	Decision Out
Sundown et al	5/77	6/77	Atty	McS		Prtys		\$11,000 Total WQ Viol SNCR	Settlement Action
Wright	5/77	5/77	Atty	McS		Dept		\$250 SS-MWR-77-99	Preliminary Issues
Henderson	6/77	7/77	Atty	Cor	1/77	Dept		Rem Order SS-CR-77-136	Appeal to Comm
Lowe	7/77	7/77	DEQ	Cor		Resp		\$1500 SW-PR-77-103	Settlement Action
Magness	7/77	7/77	DEQ	Cor	11/77	Hrngrs		\$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	Atty	Lmb	10/77	Dept		\$500 AQ-SNCR-77-143	Appeal to Comm
Sun Studs	8/77	9/77	DEQ			Prtys		\$300 WQ-SWR-77-152	Settlement Action
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	Hrngrs		\$1000 AQ-SNCR-76-178 Fld Brn	Decision Due
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	Hrngrs		SSD Permit App	Decision Due
Trussell et al	9/77	9/77	DEQ	Cor	10/77	Resp		\$150 AQ-SNCR-77-185	Decision Out
Califf	10/77	10/77	DEQ	Cor	4/26/78	Prtys		Rem Order SS-PR-77-225	Settlement Action
McClincy	10/77	12/77	Atty	McS		Resp		SSD Permit Denial	Preliminary Issues
Zorich	10/77	10/77	Atty	Cor		Dept		\$100 NP-SNCR-77-173	Preliminary Issues
Powell	11/77	11/77	Atty	Cor		Prtys		\$10,000 Fld Brn AQ-MWR-77-241	Preliminary Issues
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
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
Steckley	12/77	12/77	DEQ	McS	6/9/78	Hrngrs		\$200 AQ-MWR-77-298 Fld Brn	Decision Due
Wah Chang	1/78	2/78	Atty	Cor		Dept		\$5500 WQ-MWR-77-334	Preliminary Issues
Gray	2/78	3/78	DEQ			Dept		\$250 SS-PR-78-12	Settlement Action
Hawkins	3/78	3/78	Atty			Dept		\$5000 AQ-PR-77-315	Preliminary Issues
Hawkins Timber	3/78	3/78	Atty			Dept		\$5000 AQ-PR-77-314	Preliminary Issues
Knight	3/78		DEQ			Dept		\$500 SS-SWR-78-33	Settlement Action
Langston	3/78	3/78	DEQ	Cor	8/23/78	Prtys		\$1000 AQ-NWR-78-31	Finished
Avery	4/78	5/78	DEQ	McS	9/13/78	Hrngrs		\$500 AQ-SNCR-78-05	Decision Due
Wah Chang	4/78	4/78	Atty	McS		Prtys		NPDES Permit	Settlement Action
Abiqua	5/78		DEQ			Resp		P-SS-WVR-78-01	Preliminary Issues
*Stimpson	5/78		Atty	McS		Dept		Tax Credit Cert. T-AQ-PR-78-01	Set for Hearing
*Vogt	6/78	6/78	DEQ	Cor	11/1/78	Dept		SSD Permit	Set for Hearing
Hogue	7/78		DEQ			Dept		P-SS-SWR-78	Preliminary Issues
B & M	8/78	8/78	DEQ	McS	8/78	Hrngrs			Preliminary Issues
St. Helens	7/78		Atty	McS		Resp		P-WQ-SWR-78-03	Preliminary Issues
Champion	8/78	2/78	DEQ			Prtys		P-WQ-CR-78-04	To be Scheduled



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, September 22, 1978, EQC Meeting

TAX CREDIT APPLICATIONS

Attached are six (6) requests for tax credit action.

Director's Recommendation

1. Issue Pollution Control Facility Certificate to application T-1014 (Gray & Company).
2. Deny tax credit applications T-1006 and T-1007 (Boise Cascade Corporation) per the Director's recommendation in the review reports (attached).
3. Deny Preliminary Certification for Tax Credit request of Teledyne Wah Chang Albany per the Director's Recommendation in the review report and the informal opinion of the Attorney General (attached).
4. Revoke Pollution Control Facility Certificates 96, 481, 517, 518, 626, 627, 628, 789, 790, and 831 issued to Kaiser Gypsum Company, Inc. because the certified facilities have been sold (see attached review report).
5. Revoke Pollution Control Facility Certificate 916 issued to Weyerhaeuser Company because the certified facility has been destroyed by fire (see attached review report).

WILLIAM H. YOUNG

MJDowns :cs
229-6485
9/11/78
Attachments



Contains
Recycled
Materials

Proposed September 1978 Totals:

Air Quality	-0-
Water Quality	\$ 123,985
Solid Waste	-0-
	<u>\$ 123,985</u>

Calendar Year Totals to Date
(excluding September 1978 totals)

Air Quality	\$ 2,052,699
Water Quality	6,542,671
Solid Waste	13,653,159
	<u>\$ 22,248,529</u>

Total Certificates Awarded (monetary values)
Since Beginning of Program (excluding September 1978 totals):

Air Quality	\$114,239,784
Water Quality	85,837,837
Solid Waste	28,081,788
	<u>\$228,159,409</u>

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

1. Applicant

Gray & Company
P. O. Box 218
Forest Grove, OR 97116

Dayton Plant

The applicant owns and operates a plant at Dayton for receiving, brining, pitting and sorting cherries to be further processed to marischino and glazed at the Forest Grove Plant.

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

2. Description of Claimed Facility

The facility consists of a building covering an area 100 ft. by 150 ft., an asphalt paved lot (100 ft. by 260 ft.) and a drainage collection system for the tote storage area.

Request for Preliminary Certification for Tax Credit was made November 7, 1977 and approved for construction and Preliminary Tax Credit Certification on December 5, 1977. Construction was initiated on the claimed facility in November, 1977, completed and placed into operation in April, 1978.

Facility Cost: \$123,985. (Certified Public Accountant's statement was provided.)

3. Evaluation

Inspections by DEQ staff of the Dayton operation August 9, 1976, indicated that process water from totes stored outside was contaminating storm runoff. In violation of State Water Pollution Control Facilities Permit No. 2416. DEQ letter to the company of August 26, 1976, directed that corrective action be taken. The claimed facilities were proposed by the company and were later constructed. Staff verifies that the claimed facilities were completed in accordance with Preliminary Certification and for the purpose of water pollution control.

4. Summation

- A. Facility was constructed after requesting approval to construct and Preliminary Certification pursuant to ORS 468.175.
- B. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).

- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling or reducing water pollution.
- D. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- E. Applicant claims 100% of costs allocable to pollution control.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facility claimed in Application T1014, such Certificate to bear the actual cost of \$123,985. with 80% of more allocable to pollution control.

WDL:nrj

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

1. Applicant

Boise Cascade Corporation
Paper Group
P. O. Box 14201
Salem, OR 97309

The applicant owns and operates a pulp and paper mill in Salem, Oregon. Treated waste is discharged to the Willamette River.

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

2. Description of Claimed Facility

The claimed facility consists of two extra aerators which were purchased, installed, and operated during the critical low flow period during the summer of 1977.

Request for Preliminary Certification for Tax Credit was not made. Therefor no plan approval or preliminary certification for tax credit was granted by the Department of Environmental Quality.

Construction was initiated on the claimed facility in February 1977, completed and placed into operation in June 1977.

Facility Cost: \$51,608 (Certified Public Accountant's statement was provided)

3. Evaluation

The applicant claims that with the two additional aerators and other internal improvements in the operation, BOD discharge to the Willamette River was reduced from 6,000 pounds per day down to 3,600 pounds per day. The Department did ask that summer discharges be reduced and did commend the company and its employees for outstanding efforts to minimize waste water discharges during that time.

4. Summation

- A. Facility was constructed without first receiving approval to construct and Preliminary Certification 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. Applicant claims 100% of costs allocable to pollution control.

Appl. No. T-1006
July 31, 1978
Page 2

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be denied for the facility claimed in Application T-1006. Boise Cascade's letter of May 31, 1978 acknowledges failure to request for preliminary certification as they "were not aware of the change in procedures".

C. K. Ashbaker/W. D. Leshner:em
229-5309
July 28, 1978



Boise Cascade

Paper Group

P.O. Box 14201
Salem, Oregon 97309
(503) 362-2421

May 31, 1978

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
MAY 5 1978

WATER QUALITY CONTROL

Department of Environmental Quality
Post Office Box 1760
Portland, Oregon 97207

Attn: Harold L. Sayer

RE: TAX RELIEF APPLICATION NO. T-1006

Gentlemen:

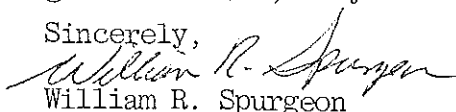
Last spring, the Department requested a BOD reduction of 30% from the Salem mill. Increased aeration was the surest way of helping to meet this lower interim goal. Without delay, funds were authorized and purchase orders issued for two additional aerators. Justification for the expenditure was on the basis that this was a valid pollution abatement project, and in due course after the audit was completed would be accepted by the Department for tax credit. Instead, we learn that because we failed to file for a "Request for Preliminary Certification for Tax Credit", it cannot be recommended to the EQC for approval.

The reason we did not request "Preliminary Certification" was that we were not aware of the change in procedure. It has been our Company's policy to submit tax credit applications for all pollution abatement programs over \$10,000. It was not until last winter when we submitted a request for "Construction Approval" for an air pollution control installation that we were informed of the procedural change. It is our belief that DEQ was informed of our plans for increased aeration through our meetings and telephone conversations on the low river flow. The original plans developed by Bryan Johnson in his special study was to have only eighteen aerators installed in the ponds. (See attached progress report). Aerators 19 & 20 were installed specifically to satisfy the 5500 lbs./day interim goal.

We believe you will agree that in this particular case, additional aeration was the best choice and would have been granted preliminary approval had we filed an application. We, therefore, request that the requirement for "Preliminary Certification" be waived and that our application for tax credits be considered on the basis of what was actually accomplished. Mr. Young's letter of commendation, attached, indicates that our efforts were successful.

We would be most happy to meet with you in Portland to explain our position in greater detail, if you wish.

Sincerely,


William R. Spurgeon

Environmental Engineer

WRS

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

1. Applicant

Boise Cascade Corporation
Paper Group
P. O. Box 14201
Salem, OR 97308

The applicant owns and operates a pulp and paper mill in Salem, OR. Treated waste water is discharged to the Willamette River.

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

2. Description of Claimed Facility

The claimed facility consists of improvements recommended by the company's consulting engineer. They are as follows:

- A. Acid filter pump out system.
- B. Spill prevention retaining walls.
- C. Improved effluent ph control system.
- D. New primary effluent pump.
- E. Cooling water discharge line.
- F. Spare aerator installation.

Request for Preliminary Certification for Tax Credit was not made, therefore, no Preliminary Certification for Tax Credit was granted by the Department of Environmental Quality. The Waste Treatment Improvement Program was, however, approved by DEQ letter of August 16, 1976. Construction was initiated on the claimed facility in September '76, completed and placed into operation in June '77.

3. Evaluation

Staff has been generally pleased with the improved performance of waste water treatment facilities at the Salem mill. The applicant claims that the improvements contributed to the reduction of BOD from 8,000 pounds per day to 5,000 pounds per day and the reduction of ammonia nitrogen in the effluent to 6,000 pounds per day.

4. Summation

- A. Facility was constructed after receiving approval to construct. However, Preliminary Certification was not requested nor 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, with the exception of the Preliminary Certification Requirement.
- E. Applicant claims 100% of costs allocable to pollution control.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be denied for the facility claimed in Application T1007, as no Preliminary Certification for Tax Credit was requested by the applicant.

Charles K. Ashbaker:nrj
229-5325
August 1, 1978

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

REVOCATION OF POLLUTION CONTROL FACILITY CERTIFICATES
REVIEW REPORT

1. Certificate Issued to:

Kaiser Gypsum Company, Inc.
Kaiser Center
300 Lakeside Drive
Oakland, California

The Pollution Control Facility Certificates were issued for air and water pollution facilities at the Company's insulating products plant in St. Helens, Oregon.

2. Discussion

Pollution Control Facility Certificates as follows were issued to Kaiser Gypsum Company, Inc.

<u>Certificate No.</u>	<u>Date Issued</u>	<u>Amount</u>
96 (WQ)	4/24/70	\$ 54,331.00
481 (WQ)	6/21/74	278,124.00
517 (AQ)	11/22/74	71,324.00
518 (AQ)	11/22/74	67,283.00
626 (AQ)	12/12/75	4,740.00
627 (AQ)	12/12/75	28,315.00
628 (WQ)	12/12/75	3,423.00
789 (WQ)	4/22/77	25,846.00
790 (WQ)	4/22/77	32,025.00
831 (WQ)	9/23/77	24,175.00

On August 21, 1978, the Company notified the Department that the facilities certified in the above certificates had been sold to Owens-Corning Fiberglas Company as of August 16, 1978 (see attached letter).

3. Summation

Pursuant to ORS 317.072(10), Certificates 96, 481, 517, 518, 789, 790 and 831 should be revoked. Pursuant to ORS 307.405(4), Certificates 626, 627 and 628 should be revoked.

4. Director's Recommendation

Revoke Pollution Control Facility Certificates 96, 481, 517, 518, 626, 627, 628, 789, 790 and 831 in the above stated amounts.

MJDowns:cs
229-6485
9/11/78
Attachment (1)

KAISER GYPSUM COMPANY, INC.

KAISER CENTER - 300 LAKESIDE DRIVE
OAKLAND, CALIFORNIA 94604

August 21, 1978

Tax Credits Section

Appl. No.

Received **AUG 23 1978**

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

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Re: Sale of St. Helens Plant

Gentlemen:

As required, we are hereby giving notice of the sale of our St. Helens insulating products plant on August 16, 1978. The buyer was Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, Ohio 43659, Attention: Mr. Thurman W. Bretz.

The following Pollution Control Facility Certificates are currently in effect:

<u>Certificate No.</u>	<u>Tax Election</u>		<u>Description</u>
	<u>Date</u>	<u>Type</u>	
96	5/15/74	Excise	Primary settling pond
481	7/18/74	Excise	Secondary settling basin
517	12/16/74	Excise	Ducon wet scrubber
518	12/16/74	Excise	Baghouse dust collector
626	12/30/75	Ad valorem	Baghouse sprinklers
627	12/30/75	Ad valorem	Ducon wet scrubber
628	12/30/75	Ad valorem	Sump pit and pump
789	6/1/77	Excise	Waste water system
790	6/1/77	Excise	Plant outfall system
831	10/5/77	Excise	Containment dyke

We will advise Owens-Corning of their need to apply for new certificates for available remaining excise tax credits and property tax exemptions.

Yours very truly,

KAISER GYPSUM COMPANY, INC.



A. E. Steffe
Director, Corporate Taxes

AES:pc

cc: Mr. Henry Hudson
Assessor, Columbia County
Courthouse
St. Helens, Oregon

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

REVOCATION OF POLLUTION CONTROL FACILITY CERTIFICATE.
REVIEW REPORT

1. Certificate Issued to:

Weyerhaeuser Company
Tacoma, Washington 98401

The Pollution Control Facility Certificate was issued for an air pollution control facility.

2. Discussion

A Pollution Control Facility Certificate was issued to Weyerhaeuser Company in the amount of \$321,428 on June 30, 1978 for a veneer dryer emission control device at their plant in Springfield, Oregon.

On August 17, 1978, the Company notified the Department that the certified facility had been destroyed by fire (see attached letter).

3. Summation

Pursuant to ORS 317.072 (10), Certificate 916 should be revoked.

4. Director's Recommendation

Revoke Pollution Control Facility Certificate 916 issued to Weyerhaeuser Company in the amount of \$321,428.

MJDowns:cs
229-6485
9/11/78
Attachment (1)



Weyerhaeuser Company

Tax Credits Section
Appl. No: T-994
Received AUG 21 1978

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

P.O. Box 275
Springfield, Oregon 97477
A/C 503 • 746-2511

August 17, 1978

Ms. Carol A. Splettstaszer
Management Services Division
Department of Environmental Quality
P.O. Box 1760
Portland, Oregon 97207

Re: Tax Relief Application No. T-994

Dear Ms. Splettstaszer:

In the confusion of a recent vacancy in our Tax Accountant position, an application for certification of a pollution control facility was filed after the facility was destroyed in a fire.

This facility was certified on June 30, 1978 on Certificate No. 916 (Application No. T-994).

The fire that destroyed the facility occurred on March 15, 1978.

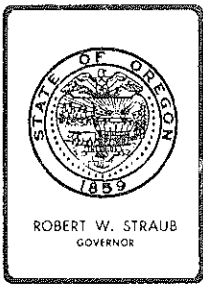
If you need further information, please contact me.

Sincerely,

B. D. Anderson
Tax Accountant

jd

cc: J. R. Bollen - Salem
J. P. Dodson - CH 2-24
R. A. Crabb
G. J. Thatcher



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Hearings Section

Subject: Agenda Item No. D, September 22, 1978, EQC Meeting

Contested Case Review - DEQ v. Ladd Henderson, et al
SS-CR-77-136

Attached for your consideration are the following documents:

1. Notice of Violation (June 13, 1977)
2. Respondents' Answer, Affirmative Defense, Request for Exception and Stay of Civil Penalty (Exhibits to Answer are not attached but will be available at time of argument)
3. Department's Post-Hearing Brief
4. Respondents' Answer to Department's Post-Hearing Brief and Respondents' Post-Hearing Brief
5. Proposed Findings of Fact, Conclusions of Law and Final Order
6. Respondents' Exceptions and Argument to Proposed Order, and Alternative Proposed Findings of Fact, Conclusions of Law and Final Order

Also attached are copies of Respondents' request for Commission review, and Order authorizing oral argument and permission to file written statements or summaries of proposed oral arguments.

Respectfully submitted,

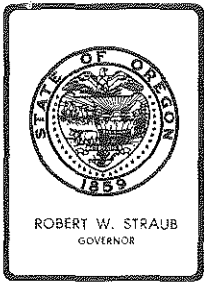
Wayne Cordes
Hearing Officer

WC:cs
229-5829
9/12/78
Attachments



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*See hearing file for
Attachments*



Environmental Quality Commission

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

Memorandum

To: Environmental Quality Commission

From: Director

Subject: Agenda Item E, September 22, 1978, Environmental Quality Commission Meeting
Indirect Source Rule -- Proposed Issuance of Indirect Source Permit
to Beaverton Mall Phase II, C. E. John Company, Developer

Background

At its August 25, 1978 meeting the Department proposed to issue a permit to the C. E. John Co. for 398 of the requested 575 parking spaces. The Commission received written and oral testimony from the developer's attorney, Mr. Steven R. Schell, objecting to the proposed staff action. After hearing all arguments, the Commission adopted the following motion:

"I think a proper course of action for us to take would be to refer the matter to the Director, taking into account what has taken place today and ask him whether or not there are factors that would dictate or would warrant the additional 177 spaces in this case, and he could come back to us with an answer of whether or not a) he could do it, and b) if he could, how he could justify it."

Evaluation

Three factors which might serve as a basis for warranting the additional 177 parking spaces requested by the developer are discussed below.

1. Inconsistent Treatment of the Indirect Source Application

The applicant's attorney, Mr. Steven R. Schell, left the impression that: 1) inconsistent treatment was applied to nearby large projects such as Tektronix and Floating Point Systems; 2) a simplified methodology approved for use at Valley West (Fred Meyer), if applied to the Beaverton Mall project, would have resulted in approval of the full project as proposed.

In the cases of the Tektronix, Floating Point Systems, and Beaverton Mall projects, the same consultant (air quality and traffic), the same model and analysis techniques, and the same air monitoring data were used for all



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three Indirect Source applications. The air monitoring, conducted last winter by Seton, Johnson & Odell (SJO), measured violations of the 8 hour average carbon monoxide standard of 10 mg/m^3 . The modeling analysis for both Tektronix and Floating Point Systems showed violations of the CO standard in 1984. However, both projects were approved on the basis of falling below the 0.5 mg/m^3 8 hour average significant impact criterion.

Regarding the second point made by Mr. Schell, his supporting calculations are, in fact, erroneous and directly conflict with his statement that the project would have been approved. The chart in support of his statement (Attachment #5 in the original presentation) is erroneous because: 1) a 5.5 mg/m^3 background was applied to the model used for Valley West whereas, in fact, the approved Valley West methodology used a background of $6 \text{ ppm} = 6.9 \text{ mg/m}^3$; 2) the revised calibrated SJO calculation, accepted by the Department, should have been presented for comparative purposes--not the original calibration. A valid comparison shown on revised Attachment #5 (Attachment 1 of this report) clearly shows that using either the SJO or Valley West technique to analyze the Beaverton Mall impact results in identical conclusions: that is, the impact would result in a violation of standards (11.3 mg/m^3 SJO projection versus 11.5 mg/m^3 Valley West methodology projection) and that the project impact would be 0.8 mg/m^3 in both analysis cases.

The foregoing corrections and interpretations were reviewed with Candee Hatch of SJO on August 29, 1978 and no subsequent objections were raised by her or SJO. It therefore appears that inconsistent treatment would not be a justifiable reason to approve the additional 177 spaces.

2. All Possible Reasonable Mitigation Measures Proposed

The mitigating measures, as embodied in the applicant's Indirect Source Emission Control Program (ISECP), probably represent all that can be reasonably done to reduce the air quality impacts of the proposed project, short of downscoping its size or reducing its trip generation by changing the character of the development.

Specifically, the widening of Jenkins Road to five lanes and accompanying signalization could improve the present evening peak hour performance of that roadway. However, analysis of the consultant's peak day forecast volumes in 1984 shows that operation of the intersection of Jenkins Road with Cedar Hills Boulevard would still be at a poor level of service (level of service "D"). Therefore, even with this improvement, some peak hour congestion could be expected during the Christmas shopping season by 1984. Furthermore, the consultant's quantification of the reduction in total emissions due to the roadway improvement for 1984 results in only a 1.3 percent decrease in center generated emissions.

Facilitating Tri-Met service expansion in the Beaverton area could have significant beneficial air quality impacts. However, the benefits are not easily quantified.

3. Impracticality of Denying Projects in Conformance with Local Land Use and Zoning Requirements

Even though the Department has in some cases recommended permit denial, the EQC has overruled that recommendation each time. The reason for this is the impracticality and undesirability of denying projects which conform to all planning and zoning and land use requirements, are well along in financial commitment, and are otherwise desirable development for the community. Also, it is somewhat unfair to hold an individual source developer responsible for the existence of or solution to an existing area CO problem. The Department has concluded many times that the most effective way of dealing with proposed development is at the planning stage before substantial financial commitments have been made. This can be accomplished through the implementation of comprehensive Parking and Traffic Circulation Plans (P&TCP's).

Such a P&TCP is currently being developed by the City of Beaverton. The proposed plan boundary includes the Beaverton Mall property. The P&TCP will have to provide a means for solving air quality problems that have been projected.

4. Justification

The present Indirect Source Rule allows the Director discretion to approve or disapprove an indirect source.

Of the three factors or topics addressed in the foregoing, only numbers 2 and 3 could provide definitive justification for granting the additional 177 parking spaces.

The following change in administration of the I/S program is proposed as a means of providing definitive criteria for approving the additional 177 spaces for the Beaverton Mall Phase II and insuring similar and equitable treatment to future applicants:

1. Continue to use the 0.5 mg/m^3 significant impact criterion, but only as a number that determines whether an applicant shall develop an Indirect Source Emission Control Program (ISECP).
2. Issue permits for all the parking spaces requested provided the applicant submits an ISECP which incorporates all reasonable and practicable mitigating measures.

The above criteria incorporate the two justification factors previously discussed and would allow the full expansion of the Beaverton Mall. The above criteria in fact depict how the program is actually operating, lacking the ability to deny a project. Such criteria can be incorporated in a rule change which will be needed soon to cover agreements in the settlement of the lawsuit against the program. This will insure clear understanding of Department policy regarding indirect sources.

Summation

1. Three factors were considered as a basis for warranting the additional 177 parking spaces requested by the developer of the Beaverton Mall Phase II. They are:
 - a) Inconsistent Treatment of the Indirect Source Application
 - b) All Possible Reasonable Mitigation Measures Proposed
 - c) Impracticality of Denying Projects in Conformance with Local Land Use and Zoning Requirements

Only factors 1b and 1c could provide a justification for approving the additional 177 parking spaces, as it has been concluded upon further review that consistent treatment was applied to the processing of the Beaverton Mall application.

2. The following change in administration of the I/S program could be made immediately which incorporates the foregoing sections 1b and 1c:
 - a) Continue to use the 0.5 mg/m^3 significant impact criterion, but only as a number that determines whether an applicant shall develop an Indirect Source Emission Control Program (ISECP).
 - b) Issue permits for all the parking spaces requested provided the applicant submits an ISECP which incorporates all reasonable and practicable mitigating measures.
3. The above procedure could be implemented immediately and further formalized as part of a Rule revision which is needed to incorporate lawsuit settlement issues. As a result, the Beaverton Mall would be issued a permit for its additional 177 spaces, as the Department believes its ISECP incorporates all reasonable and practicable mitigating measures.

Director's Recommendation

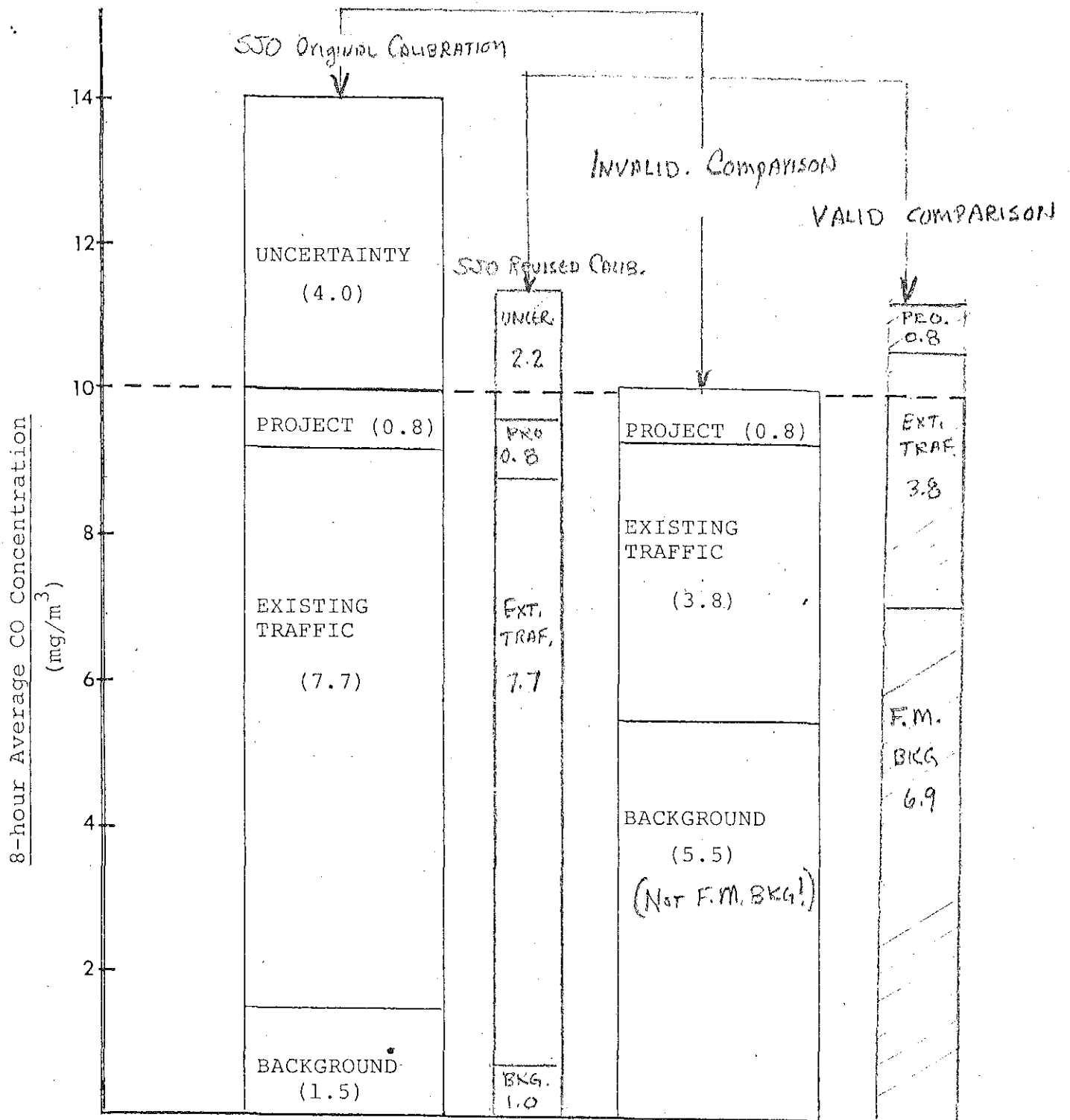
Having found the foregoing facts to be true, I recommend that the Commission approve the proposed change in the administration of the I/S program which would justify allowing full site development of the Beaverton Mall.



WILLIAM H. YOUNG

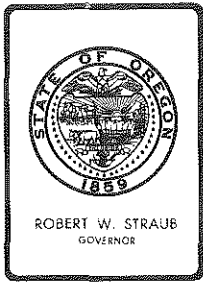
JFKowalczyk:as
(503)229-6459
9-7-78

Comparison of Two Modeling Approaches
for Beaverton Mall Phase II



DMISE-calibrated
(as approved for use
in Beaverton Mall
study)

AIRPOL-4A-uncalibrated
(as approved for use in
Fred Meyer Valley West
study)



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 , September 22, 1978 EQC Meeting

City of Seaside, Proposed Amendment to Stipulation and Final Order, Clatsop County

Background

The City of Seaside has not been able to comply with all the conditions of Stipulation and Final Order No. WQ-SNCR-77-159 (Attachment No. 1) and has requested a time extension by letter of August 28, 1978 (Attachment No. 2).

Summation

1. That Order required the City of Seaside to submit a facilities plan and Step II grant application by July 1, 1978.
2. The July 1, 1978 date for submission of the facilities plan report was negotiated in August 1977, before it was determined that a Sewer System Evaluation Study (SSES) was required.
3. The increase in the Step I grant to provide for the SSES was not approved until November 29, 1977, thus setting back the City's time schedule for completion of the facility plan report.
4. The City proposes to submit the completed facilities plan and Step II grant application by November 1, 1978.

Director's Recommendation

Having found the foregoing facts to be true, I recommend that the Commission approve a Final Order (Attachment No. 3) amending Stipulation and Final Order No. WQ-SNCR-77-159, DEQ v. City of Seaside, Clatsop County, Oregon.

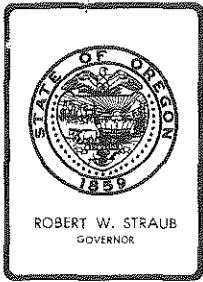
Bill
WILLIAM H. YOUNG

REG:mkw
229-5209
9/6/78

- Attachments:
1. Stipulation and Final Order No. WQ-SNCR-77-159
 2. August 28, 1978 letter from City of Seaside
 3. Final Order amending No. WQ-SNCR-77-159



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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, June 30, 1978 EQC Meeting

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

Background

The Department is continuing its enforcement actions against NPDES permittees in violation of the July 1, 1977 compliance deadline requiring secondary treatment of domestic sewage. The City of Woodburn and the Department have reached agreement on a stipulated consent order (Attachment No. 1) which provides for the orderly construction of a new facility to replace the existing lagoon system and trickling filter plant. The City of Wheeler has not been able to comply with all the conditions of Stipulation and Final Order No. WQ-SNCR-77-244 and has requested a time extension by letter of June 1, 1978 (Attachment No. 2).

Summation

1. Stipulation and Final Order No. WQ-SNCR-77-244 (Attachment No. 3) required the City of Wheeler to complete construction of a sewer collection system and connect to North Tillamook County Sanitary Authority's sewage treatment facility by May 31, 1978.
2. The City has been unable to complete the project by that date because of construction delays and delays in the delivery of lift station equipment.
3. Construction of the collection system is underway and the lift station equipment is on order. The City of Wheeler expects to have all construction completed by August 31, 1978.

Director's Recommendation

I recommend that the Commission approve:

1. Stipulation and Final Order No. WQ-WVR-78-75, DEQ v. City of Woodburn, Marion County, Oregon.



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2. A Final Order (Attachment No. 4) amending Stipulation and Final Order No. WQ-SNCR-77-244, DEQ v. City of Wheeler, Tillamook County, Oregon.

Bill
WILLIAM H. YOUNG

FMB/gcd

229-5373

June 16, 1978

- Attachments:
1. Stipulation and Final Order No. WQ-WVR-78-75
 2. June 1, 1978 letter from the City of Wheeler
 3. Stipulation and Final Order No. WQ-SNCR-77-244
 4. Final Order amending No. WQ-SNCR-77-244



Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

MAILING ADDRESS: P.O. BOX 1760, PORTLAND, OREGON 97207

Willamette
Valley Region,
Salem Office
796 Winter St. NE
Salem, OR 97310

April 28, 1978

Mr. Frank Tiwari, Public Works Director
City of Woodburn
270 Montgomery
Woodburn, OR 97071

RE: WQ-City of Woodburn
Marion County
Willamette Valley Region

Dear Mr. Tiwari:

Enclosed is the final draft of the Stipulation and Final Order for the City of Woodburn.

As we recently discussed, you plan to present the Order to the City Council at their May 8 meeting. I believe all of the items of concern have been adequately addressed, but I will gladly answer any questions the Council may have relative to the Order at that meeting.

The first compliance date is June 30, 1978, by which the City must submit complete and biddable final plans and specifications to the Department for the new sewage treatment facility.

If you would like to have me attend the Council meeting, or if you have any questions, please call me at 378-8240.

Sincerely,

Mary M. Halliburton
Regional Engineer

MMH/wr

Attachment: Stipulation and Final Order (final draft).
cc: Max Pope, City Administrator, City of Woodburn w/att
cc: Honorable Stan Less, Mayor, City of Woodburn w/att
cc: Gordon F. Koblitz, CH2M/Hill, Portland w/att
cc: Van Kollias, Regional Operations w/att
cc: Clarence Hilbrick, WQ Division w/att

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

3 DEPARTMENT OF ENVIRONMENTAL QUALITY)
4 of the STATE OF OREGON,)
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Parameter	Average Effluent Concentration		Effluent Loadings			
	Monthly	Weekly	Monthly Average	Weekly Average	Daily Maximum	
	kg/day	(lb/day)	kg/day	(lb/day)	kg	(lbs)
<u>Outfall Number 001 (Domestic Sewage Lagoon Outfall)</u>						
Jun 1 - Oct 31: No discharge to public waters without prior DEQ approval.						
BOD	30 mg/l	45 mg/l	88	(193)	131	(289)
TSS	50 mg/l	75 mg/l	146	(321)	219	(482)
Nov 1 - May 31:						
BOD	30 mg/l	45 mg/l	182	(400)	272	(600)
TSS	50 mg/l	75 mg/l	303	(667)	454	(1001)
<u>Outfall Number 002 (Trickling Filter Outfall)</u>						
Jun 1 - Oct 31:						
BOD	30 mg/l	45 mg/l	72.6	(160)	109	(240)
TSS	30 mg/l	45 mg/l	72.6	(160)	109	(240)
Nov 1 - May 31:						
BOD	30 mg/l	45 mg/l	109	(240)	163	(360)
TSS	30 mg/l	45 mg/l	109	(240)	163	(360)

3. Respondent proposes to comply with all the above effluent limitations of its permit by constructing and operating a new wastewater treatment facility. Respondent has not completed construction and has not commenced operation thereof.

4. The Department and Respondent recognize that the new wastewater treatment facility will be constructed on land which contains Respondent's existing primary domestic sewage lagoon. When the primary lagoon is drained to accommodate construction of the new treatment facility, the entire sewage load from the City of Woodburn will be treated by the remaining lagoon and the trickling filter plant. Neither the Department nor Respondent can predict at this time the best operational mode of the trickling filter plant/one-lagoon interim facility or the best and most practicable interim effluent limitations for BOD and TSS discharges from

1 outfall 001 to the Pudding River and outfall 002 to Mill Creek. Specific
2 effluent limits can be determined and will be established by an addendum
3 to this order following a grace period of trial and error operation.

4 5. Therefore, from the date that the order is issued by the
5 Environmental Quality Commission ("Commission") and until the Commission
6 modifies the interim effluent limitations set forth herein by issuing an
7 addendum to this stipulated final order, the Respondent shall carefully
8 monitor the effluent discharges from outfalls 001 and 002 and regulate
9 the influent flows to Respondent's trickling filter plant and lagoon
10 such that:

11 All wastewater treatment facilities are operated as efficiently
12 as possible to minimize the effluent concentrations and amounts
of BOD and TSS discharged to public waters.

13 6. The Department and Respondent further recognize and admit
14 that:

15 a. Until the proposed new wastewater treatment facility is
16 completed and put into full operation, Respondent will:

17 (1) Violate the effluent limitations set forth in para-
18 graph 2 above the vast majority, if not all, of the
19 time that any effluent is discharged from outfalls
20 001 and 002.

21 (2) Violate the water quality standards of the Willamette
22 River Basin the vast majority, if not all, of the
23 time that any effluent is discharged from outfall
24 001 to Pudding River and outfall 002 to Mill Creek
25 during low stream flow periods.

26 b. Respondent has committed violations of its previous NPDES

1 Waste Discharge Permit Number 1771-J and its current
2 permit and related statutes and regulations. Those
3 violations have been disclosed in Respondent's waste
4 discharge monitoring reports to the Department, covering
5 the period from October 31, 1974 through the date which
6 the order below is issued by the Commission.

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

14 8. The Department and Respondent intend to limit the violations
15 which this stipulated final order will settle to all those violations
16 specified in paragraph 6 above, occurring through (a) the date that
17 compliance with all effluent limitations is required, as specified in
18 paragraph 1c6 below, or (b) the date upon which the permit is presently
19 scheduled to expire, whichever first occurs.

20 9. This stipulated final order is not intended to settle any
21 violation of any effluent limitations set forth in paragraph 5 above.
22 Furthermore, this stipulated final order is not intended to limit, in
23 any way, the Department's right to proceed against Respondent in any
24 forum for any past or future violation not expressly settled herein.

1 NOW THEREFORE, it is stipulated and agreed that:

2 I. The Commission shall issue a final order:

3 a. Requiring the Respondent to meet the interim effluent limitations
4 set forth in paragraph 5 above until such time as the Commission
5 changes those limitations.

6 b. Requiring Respondent to:

7 1. Determine the best interim operational mode of the trickling
8 filter plant and lagoon,

9 2. Evaluate the wastewater flow and treatment data, and

10 3. Submit proposed interim effluent limitations to the
11 Department by January 31, 1978, which can be best practicably
12 achieved until the new treatment facility is constructed.

13 c. Requiring Respondent to comply with the following schedule:

14 1. Submit complete and biddable final plans and specifications
15 by June 30, 1978.

16 2. Submit proper and complete Step III grant application by
17 July 31, 1978.

18 3. Start construction within four (4) months of Step III
19 grant offer.

20 4. Submit a progress report within twelve (12) months of
21 Step III grant offer.

22 5. Complete construction within twenty (20) months of Step III
23 grant offer.

24 6. Demonstrate compliance with the final effluent limitations
25 specified in Schedule A of the permit within sixty (60)
26 days of completing construction.

1 d. Requiring Respondent to comply with all the terms, schedules
2 and conditions of the permit, except those modified by paragraph 1
3 above.

4 II. Regarding the violations set forth in paragraph 6 above, which are
5 expressly settled herein, the parties hereby waive any and all of
6 their rights under United States and Oregon Constitutions, statutes
7 and administrative rules and regulations to any and all notices,
8 hearings, judicial review, and to service a copy of the final order
9 herein.

10 III. Respondent acknowledges that it has actual notice of the contents
11 and requirements of this stipulated and final order and that failure
12 to fulfill any of the requirements hereof would constitute a violation
13 of this stipulated final order. Therefore, should Respondent
14 commit any violation of this stipulated final order, Respondent
15 hereby waives any rights it might then have to any and all ORS
16 468.125(1) advance notices prior to the assessment of civil penalties
17 for any and all such violations. However, Respondent does not
18 waive its rights to any and all ORS 468.135(1) notices of assessment
19 of civil penalty for any and all violations of this stipulated
20 final order.

21 DEPARTMENT OF ENVIRONMENTAL QUALITY

22
23 Date: _____

By William H. Young
WILLIAM H. YOUNG
Director

24
25
26 Date: 2/15/78

By _____
Name _____
Title _____

FINAL ORDER

IT IS SO ORDERED:

ENVIRONMENTAL QUALITY COMMISSION

Date: _____

By _____
WILLIAM H. YOUNG, Director
Department of Environmental Quality
Pursuant to OAR 340-111-136(1)

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CITY OF WHEELER
WHEELER, OREGON 97147

June 1, 1978

DEPARTMENT OF PUBLIC WORKS
RECEIVED
JUN 3 1978

Mr. Van Kollias
Regional Operations, D.E.Q.
P. O. Box 1760
Portland, Oregon 97207

RE: City of Wheeler Stipulation and Final Order
WQ-SNCR-77-244, Tillamook County

Dear Mr. Kollias:

No. 5(b), Page 2 of the Stipulation and Final Order gives May 31, 1978, as the construction completion date for the City of Wheeler sewer, but the City will not be able to meet this date at the present rate of construction.

Therefore, the City of Wheeler requests an extension of time to the 31st of August, 1978, as the completion date. Due to delays in construction and the acquiring of lift station equipment, the City feels that the August 31st date would be more realistic for having the sewer operational.

We hope you will approve our extension request, and if the sewer should become operational sooner, all the better.

Yours truly,

Virgil L. Staben

Virgil L. Staben
Mayor

VLS:zcs

OCT 19 1977

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

1			
2			
3	DEPARTMENT OF ENVIRONMENTAL QUALITY)	STIPULATION AND
4	of the STATE OF OREGON,)	FINAL ORDER
5)	WQ-SNCR-77-244
6)	Tillamook County
7	Department,)	
8)	
9	v.)	
10)	
11	CITY OF WHEELER)	
12)	
13	Respondent;)	

WHEREAS

1. On September 3, 1976, the Department of Environmental Quality ("Department") issued the City of Wheeler ("Respondent") National Pollutant Discharge Elimination System Waste Discharge Permit Number 2469-J ("Permit"). The Permit expired on September 30, 1977. The Permit will not be renewed.
2. Respondent and Department stipulate to and find the facts to be as follows:
 - a. Respondent did not complete a sewage collection system and connect to the North Tillamook County Sanitary Authority's sewage treatment facility by July 1, 1977 as required by Condition 1 of the Permit.
 - b. Respondent's present combined sewer system receives sewage from about 60 homes and discharges by way of a single out-fall to Nehalem Bay, waters of the State.

- 1 3. The Department is charged with enforcement of the laws
2 prohibiting discharges of untreated sewage into waters
3 of the State.
- 4 4. Respondent proposes to eliminate the violations specified
5 in paragraph 2 above by constructing a sewage collection
6 system and connecting it to the North Tillamook County
7 Sanitary Authority's sewage treatment facility. Respondent
8 has begun construction of that system.
- 9 5. Respondent proposes to meet the following construction
10 schedule:
- 11 (a) Submit a construction progress report by January 1,
12 1978.
- 13 (b) Complete construction and connect to North Tillamook
14 County Sanitary Authority's sewage treatment facility by
15 May 31, 1978.
- 16 6. The Department and Respondent recognize that the Environmental
17 Quality Commission ("Commission") has the power to issue an
18 abatement order under ORS 468.090 for the violations specified
19 in paragraph 2 above. Therefore, pursuant to ORS 183.415(4),
20 the Department and Respondent wish to resolve and settle those
21 violations by stipulated final order requiring certain action,
22 and waiving certain legal rights by notices, answers, hearings
23 and judicial review on the matters. Department and Respondent
24 intend to limit the violations which this stipulated final order
25 will settle to only those past known violations specified in
26 paragraph 2 above. Furthermore, this stipulated final order

1 is not intended to limit, in any way, the Department's
2 right to proceed against Respondent in any forum for any
3 past or future violation not expressly settled herein.

4 NOW THEREFORE, it is stipulated and agreed that:

5 A. The Environmental Quality Commission shall issue a
6 final order requiring Respondent to comply with the
7 schedule set forth in paragraph 5 above.

8 B. Regarding the violations expressly settled herein,
9 the parties hereby waive any and all of their rights
10 under United States and Oregon constitutions, statutes
11 and administrative rules and regulations to any and all
12 notices, answers, hearings, judicial review, and to
13 service of a copy of the final order herein.

14 C. Respondent acknowledges that it has actual notice of the
15 contents and requirements of this stipulated final order
16 and that failure to fulfill any of the requirements hereof
17 would constitute a violation of this stipulated final
18 order. Therefore, should Respondent commit any violation
19 of this stipulated final order, Respondent hereby waives
20 any rights it might then have to any and all ORS 468.125(1)
21 advance notices prior to the assessment of civil penalties
22 for any and all such violations of this stipulated final
23 order and for any continuation of the violations specified
24 in paragraph 2 of the stipulation portion hereof. However,
25 Respondent does not waive its rights to any and all
26 ORS 468.135(1) notices of assessment of civil penalty for

1 for any and all those violations.

2 DEPARTMENT OF ENVIRONMENTAL QUALITY

3
4 Date: _____

By William H. Young
WILLIAM H. YOUNG, Director

5
6 RESPONDENT

7
8 Date Dec. 5, 1977

By Virgil L. Staben
Name: Virgil L. Staben
Title: Mayor, City of Wheeler

9
10 FINAL ORDER

11 IT IS SO ORDERED:

12 ENVIRONMENTAL QUALITY COMMISSION

13
14 Date: _____

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

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

3 AMENDMENT OF THE
4 DECEMBER 20, 1977
5 COMMISSION ORDER NO.
6 WQ-SNCR-77-244 TO THE
7 CITY OF WHEELER

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F I N A L O R D E R

6 WHEREAS the Commission finds the facts to be as follows:

- 7 1. The City of Wheeler was unable to complete construction of a
8 sewer collection system and connect to North Tillamook Sanitary
9 Authority's sewage treatment facility by May 31, 1978.
- 10 2. The City of Wheeler experienced construction delays and delays
11 in receiving lift station equipment.
- 12 3. The City proposes to complete construction and connect to the
13 treatment facility by August 31, 1978.

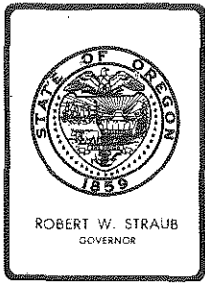
14 NOW THEREFORE, it is hereby ordered that the date specified in Paragraph
15 5(b) of Final Order No. WQ-SNCR-77-244 is extended from May 31, 1978 to August 31,
16 1978.

17 IT IS SO ORDERED:

18
19 Date: _____

20 ENVIRONMENTAL QUALITY COMMISSION

21
22 By _____
23 William H. Young, Director, DEQ
24 Pursuant to OAR 340-11-136(1)
25
26



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. G, September 22, 1978 EQC Meeting

Request to Modify Stipulation and Final Order WQ-ER-78-29
Prairie City, Grant County.

Background

On June 5, 1978 the EQC and Prairie City signed a Stipulated and Final Order WQ-ER-78-29. The Order contained two items that Prairie City has requested to be modified. These items are as follows:

1. Submit a proper and complete facility plan report and step II grant application by September 1, 1978. (line 20, page 3)
2. Requiring respondent to stop connecting new sewer connections to the sewer collection system (line 1, page 5).

Prairie City was put on a compliance schedule with an NPDES Permit issued on January 28, 1974 requiring that secondary treatment be achieved year-round by July 1, 1976.

Prairie City did not comply, but did submit a Step I report on July 21, 1976.

A new NPDES permit was issued on November 30, 1976 that required final plans to be submitted by June 1, 1977.

Due to a lack of progress on the project, grant funds had to be reallocated and the treatment plant and disposal sites selected in the report were no longer available.

The stipulated order contains the new compliance schedule.

There are three problems in Prairie City that will be solved with the new facilities. They are:

1. Massive infiltration into the sewer system because of high ground water which is greatest during the flood irrigation season.
2. The treatment plant is old, has an unheated digester, disinfection only in the final clarifier, and severe freezing of the trickling filter



Contains
Recycled
Materials

in the wintertime. Secondary treatment is not possible in the winter-time due to freezing and not possible during the high infiltration period.

3. The southwest area of town sits over a high water table. There are no sewers available. A 1974 survey found 17 out of 26 homes with surface failing systems. Sewage literally flows in the ditches at times. An interseptor and new collection sewers in planned for this area under this project.

Since the signing of the consent order, the city has done the following:

1. Purchased sewer pipe materials to eliminate excessive infiltration. Summer sewer flows are up to six times winter flows and three times the capacity of the treatment plant.

Fifty percent of the infiltration can be eliminated by replacing one block on East Sixth and one block on Railroad Street.

The city had planned to replace these sewers, but unfortunately local farmers began irrigating before the city could install the pipe. The high ground water renders sewer installation impractical. The lines can be replaced after the irrigation season.

The city plans to correct these two sewers prior to next irrigation season. The city also plans to request a Step III grant for other infiltration reduction.

2. The city conducted a poll on local support for a bond election for the sewer project. Out of 132 respondents, 110 indicated they would support the election with full knowledge of cost burden.
3. The city has not allowed new sewer connections to the sewer system.
4. The city has investigated three new treatment and disposal sites. This investigation of sites and selection is sensitive and time consuming. One site has been selected.

Therefore, the facilities plan report can now be completed. The city estimates that it can be done by October 30, 1978, which is the new date that they are requesting for the Stipulation Order.

The city has submitted a schedule for all phases of the project which is in accordance with the Order except the September 1, 1978 date.

In addition, the city has stated that they will hold a bond election by December 10, 1978 for the project.

Prairie City is number 66 on the priority list and can be funded for Step II and parts of Step III in FY '78.

(A) (4) (b) of WQ-ER-78-29 states that the Environmental Quality Commission shall review in six months the city's progress.

(A) (4) (b) of WQ-ER-78-29 states that respondent may petition the Commission prior to six months to lift the connection restrictions if the city has made progress.

Evaluation

Prairie City should proceed with Step I and complete the facilities plan report by October 30, 1978. The detailed cost estimates will allow the city to hold a bond election for the project.

Fifty percent of the infiltration can be eliminated by repairing two blocks of sewer line (one block on East Sixth and one block on Railroad Street). If these lines are repaired prior to next year's flood irrigation season, new connections would not impact the hydraulic load on the treatment plant.

Summation:

1. Prairie City has requested that Stipulation and Final Order WQ-ER-78-29 be modified to allow them until October 30, 1978 to complete Step I and to submit a Step II application and to lift the sewer connection restriction.
2. Prairie City has made progress recently by investigating treatment plant and disposal sites that will enable the facility plan report to be completed by October 30, 1978.
3. Prairie City has purchased sewer pipe to eliminate massive infiltration. Because of flood irrigation and resulting high ground water, the city cannot install the pipe until early next year. If the city replaces two blocks of sewer line, infiltration will be reduced by 50%, which will allow the treatment plant to function more efficiently. Then new sewer connections will not be significant.
4. The city has conducted a poll on support of a bond election for the sewer project. Out of 132 respondents, 110 indicated support (survey and results attached).
5. Prairie City is number 66 on the priority list and can be funded for Step II and parts of Step III in FY '78.
6. The existing treatment plant cannot meet treatment standards due to infiltration and winter freezing conditions.
7. The project will correct existing deficiencies and will sewer an area of town where there are documented SSD failures.
8. Prairie City has shown a good faith effort this summer in attempting to proceed with their project as fast as possible. A bond election is planned for this fall.
9. Lifting the connection moratorium will not impact the treatment plant discharge next summer if the infiltration is reduced as planned.

10. Housing in Prairie City is short. The Council feels that a continued moratorium may be counter-productive in terms of community support.

Director's Recommendation

Having found the foregoing facts to be true, I recommend that Stipulation and Final Order WQ-ER-78-29 be modified as follows:

1. That the date on page 3, line 21 be changed to October 30, 1978 [A(1)(a)].
2. That paragraph A(4) (the sewer connection moratorium) be deleted and replaced with a time schedule requiring Prairie City to eliminate excessive infiltration into its sewerage collection system by replacing the sewers along one block on East Sixth and one block on Railroad Street on or before June 1, 1979.

I further recommend that the Commission consider reinstating a sewer connection moratorium at its June 1979 meeting should Prairie City fail to comply with all of the conditions of Stipulation and Final Order No. WQ-ER-78-29.

Bill

WILLIAM H. YOUNG

Steven F. Gardels: jlj

276-4063

September 5, 1978

Attachments: 1. Stipulated Order
2. Letter from Prairie City's Consultant
3. Sewer Bond Survey
4. Amendment to Stipulation and Final Order
No. WQ-ER-78-29

S - Prairie City

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,
of the STATE OF OREGON,

Department,

v.

CITY OF PRAIRIE CITY,

Respondent.

STIPULATION AND FINAL ORDER

WQ-ER-78-29

GRANT COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY
State of Oregon

RECEIVED
MAR 7 1978

WHEREAS:

PENDLETON DISTRICT OFFICE

1. The Department of Environmental Quality ("Department") will soon issue National Pollutant Discharge Elimination System Waste Discharge Permit ("Permit") Number _____ (to be assigned upon issuance of the Permit) to City of Prairie City ("Respondent") pursuant to Oregon Revised Statutes ("ORS") 468.740 and the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500. The Permit authorizes the Respondent to construct, install, modify or operate waste water treatment, control and disposal facilities and discharge adequately treated waste waters into waters of the State in conformance with the requirements, limitations and conditions set forth in the Permit. The Permit expires on January 31, 1983.

2. Condition 1 of Schedule A of the Permit does not allow Respondent to exceed the following waste discharge limitations after the Permit issuance date:

Parameter	Average Effluent Concentrations		Effluent Loadings			
	Monthly		Monthly Average	Weekly Average		Daily Maximum
	Monthly	Weekly	kg/day (lb/day)	kg/day (lb/day)	kg (lbs)	
June 1 - Oct 31:						
BOD	30mg/1	45mg/1	23 (50)	34 (75)	46 (100)	
TSS	30mg/1	45mg/1	23 (50)	34 (75)	46 (100)	
Nov 1 - May 31:						
BOD	30mg/1	45mg/1	23 (50)	34 (75)	46 (100)	
TSS	30mg/1	45mg/1	23 (50)	34 (75)	46 (100)	

///

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

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

Parameter	Average Effluent Concentrations		Effluent Loadings					
	Monthly	Weekly	Monthly Average	Weekly Average	Daily Maximum			
	kg/day	(lb/day)	kg/day	(lb/day)	kg	(lbs)		
May 1 - Oct 31:								
BOD	50mg/l	50mg/l	38	(83)	38	(83)	76	(166)
TSS	50mg/l	50mg/l	38	(83)	38	(83)	76	(166)
Nov 1 - Apr 30:								
BOD	70mg/l	70mg/l	53	(117)	53	(117)	106	(234)
TSS	70mg/l	70mg/l	53	(117)	53	(117)	106	(234)

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

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

20 b. Respondent has committed violations of its NPDES Permit No.
21 2520-J and related statutes and regulations. Those violations
22 have been disclosed in Respondent's waste discharge monitoring
23 reports to the Department covering the period from November 30,
24 1976 through the date which the order below is issued by the
25 Environmental Quality Commission.

26 ///

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

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

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

17 NOW THEREFORE, it is stipulated and agreed that:

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

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

20 (a) Submit a proper and complete facility plan report
21 and Step II grant application by September 1, 1978.

22 (b) Submit complete and biddable final plans and specific-
23 cations and a proper and complete Step III grant
24 application within six (6) months of Step II grant
25 offer.

26 (c) Begin construction within three (3) months of Step III

1 grant offer.

2 (d) Submit a progress report within eleven (11) months
3 of Step III grant offer.

4 (e) Complete construction within eighteen (18) months of
5 Step III grant offer.

6 (f) Demonstrate compliance with the final effluent
7 limitations specified in Schedule A of the Permit
8 within thirty (30) days of completing construction.

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

12 (3) Requiring Respondent to comply with all the terms, schedules and conditions
13 of the Permit, except those modified by Paragraphs A(1) and (2) above.
14 (4) See insert, next page.

15 B. Regarding the violations set forth in Paragraph 5 above, which are expressly
16 settled herein, the parties hereby waive any and all of their rights to any and all
17 notices, hearings, judicial review, and to service of a copy of the final order herein

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

1 A. (4) Requir. of Respondent to immediately stop connecting any new sewer
2 connections to the sewer collection system until Respondent has demonstrated
3 compliance with the final effluent limits specified in Schedule A of the Permit
4 or as modified as follows:

- 5 a. That the Environmental Quality Commission shall review in six (6)
6 months the Respondent's progress towards making temporary corrections
7 to the collection or treatment system and progress towards permanent
8 compliance specified in Schedule A of the Permit.
- 9 b. That Respondent may petition the Environmental Quality Commission
10 prior to six months if they have made temporary corrections to the
11 collection and treatment system and progress towards final compliance
12 specified in Schedule A of the Permit.
- 13 c. That homes or establishments under construction on April 26, 1978
14 be allowed to connect to the collection system
- 15 d. That connections that do not add additional sewage load to the
16 system be allowed to connect to the system.
- 17 e. That established residences are allowed to connect to the sewer
18 collection system if the residence is served by a failing non-
19 repairable subsurface disposal system which creates a public
20 health hazard.

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DEPARTMENT OF ENVIRONMENTAL QUALITY

1 Date: MAY 12 1978

By William H. Young
William H. Young, Director
Director

2

3

RESPONDENT

4

5 Date: _____

By _____
Name:
Title: Mayor

6

7

FINAL ORDER

8 IT IS SO ORDERED:

9

ENVIRONMENTAL QUALITY COMMISSION

10

11 Date: JUN 5 1978

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

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WALLULIS & ASSOCIATES, INC.

Engineering — Planning — Surveying

 * 5 S.E. NYE (BOX 398) PENDLETON, OR 97801 — (503) 276-1598
 108 E. MAIN STREET, HERMISTON, OR 97838 — (503) 567-3331

(*) Address replies to this office

August 31, 1978

75-105

Mr. Steven F. Gardels
 Regional Manager, Eastern Region
 Department of Environmental Quality
 P.O. Box 1538
 Pendleton, OR 97801

Re: Stipulation and Final Order
 Moratorium and Overall Status Report
 Prairie City, Oregon

Dear Mr. Gardels,

Since the execution of the Compliance Agreement this last April, the City has made several good faith attempts to remedy problems in the sewer system and treatment facilities. On the basis of these efforts, we are requesting that the present moratorium on sewer hook-ups and sewer extensions be removed from the Stipulation and Final Order, WQ-ER-78-29, specified on Page 5, lines 1 through 6, inclusive. We are also requesting amendments that we believe recognize the groundwater problems unique to Prairie City.

The City purchased sewer pipeline materials to correct the excessive infiltration that upsets the performance of the treatment plant. The City further negotiated installation costs for the sewerline replacement. Unfortunately, before any corrective work could be accomplished, farmers upstream on the John Day River began flood irrigation and raised the groundwater in the City to, and above ground surface levels. During the flood irrigation season (April - November) it is impracticable to install or repair underground utility lines.

The passing of Public Law 95-217, "The Clean Water Act", now permits funding of cost-effective correction of infiltration/inflow during either Step I or Step II. The City shall be submitting a request for grant funds for cost-effective reduction of infiltration/inflow, which has been already determined to be cost-effective.

On June 28, 1978, the City retained the services of an appraiser to review various treatment sites under consideration. Land acquisition being a very sensitive subject, has taken a considerable amount of time. As sites were individually analysed, reviewed and evaluated, the number of practical sites that remained were the three shown on Exhibit A, attached.

Mr. Steven F. Gardels
Regional Manager, Eastern Region
Department of Environmental Quality
August 31, 1978
Page 2

On August 22, 1978, the City Council unanimously voted to acquire Site No. 1 from the Bureau of Land Management. A few years ago the City acquired another site from the Bureau of Land Management for a sanitary landfill. The time required to acquire the landfill site was less than two months. Also at the August 22, 1978 Council meeting, one of the Councilmen was delegated to contact the Federal Forest Service to obtain the services of their core drill and personnel for deep soil tests. Our survey crew has, by taking limited topographical data, determined that the slope on the benches at Site No. 1 average 2% and are wide enough for the construction of lagoons.

At the August 22, 1978 Council meeting, another Councilman was appointed to contact Mr. Coombs, owner of Site No. 3. The land has subsequently been sold and is in the process of being closed. A representative of the new owners has indicated that the purchasers would be favorably disposed to sell Site No. 3 to the City.

During the months of June and July the City conducted a poll on local support for a local bond issue to extend collection sewers and upgrade the treatment facilities. Out of 132 respondents, 110 indicate they would support such a program, with full knowledge of the potential cost burden. I am enclosing a copy of the questionnaire and letter presented to the Environmental Quality Commission Hearings, held in LaGrande on July 28, 1978.

Local input received from the hearings on Land Use Planning has been beneficial and influenced the decisions on the various treatment sites that were considered.

Bill Gildow has stated in a recent telephone conversation, that a modest amendment to the Facility Plan would be required for approval of Step I. The amendment to the Facility Plan would have to include the following:

1. The establishment of a specific treatment site.
2. Updated cost information.
3. An approvable construction schedule.

We would like to request that the date in the Stipulation and Final Order, Paragraph 8.A.(1).(a) on Page 3, lines 20 and 21, be amended to October 30, 1978, for the completion of the Facility Plan Report and submission of Step II grant application. This should allow sufficient time to have the results of core samples on Site No. 1 (also possibly including Site No. 3), and also a determination on the availability of Site No. 3. This additional information will enable our firm to arrive at a far more accurate determination of estimated costs.

We would further request that Paragraph 8.A.(1).(b), (c), (d) and (e) of the Stipulation and Final Order be amended as follows:

Mr. Steven F. Gardels
Regional Manager, Eastern Region
Department of Environmental Quality
August 31, 1978
Page 3

Paragraph 8.A.(1).(b): Initiate Step II design work for components below on, or before November 1, 1978, and submit complete and biddable final plans and specifications for each of the components as follows:

- i) Infiltration/inflow correction by November 30, 1978.
- ii) Collector and interceptor sewers by November 30, 1978.
- iii) Outfall sewer by May 1, 1979.
- iv) Sewage treatment and disposal by May 1, 1979.
- v) Complete Step III application by May 1, 1979.

Paragraph 8.A.(1).(c): Begin construction within three (3) months of Step III grant offers for each of the following:

- i) Infiltration/inflow correction.
- ii) Collector and interceptor sewers.
- iii) Outfall sewers, sewage treatment and disposal.

Paragraph 8.A.(1).(d): Submit a progress report within eleven (11) months of Step III grant offers for each of the following:

- i) Infiltration/inflow correction.
- ii) Collector and interceptor sewers.
- iii) Outfall sewer, sewage treatment and disposal.

Paragraph 8.A.(1).(e): Complete construction for all Step III work by July 30, 1980.

Step I infiltration/inflow is complete. Step II interceptor design and a substantial portion of collection system design is completed and approved.

The City will hold a bond election on the proposed improvements by December 10, 1978.

We feel that the above schedule could be realistically met and recognizes the high groundwater problem during irrigation season.

In summation, the City is progressing as rapidly as possible and the City Council, in fulfilling their responsibilities, has prudently evaluated the alternatives placed before them. We believe that the City has complied with the requirements and the spirit of the recently signed Stipulation and Final Order. We are therefore requesting that the Environmental Quality Commission lift the moratorium on sewer hook-ups

Mr. Steven F. Gardels
Regional Manager, Eastern Region
Department of Environmental Quality
August 31, 1978
Page 4

and extensions. The community is experiencing a significant housing shortage and we feel that a continuation of the moratorium would be counter-productive in terms of community support, if continued.

Very truly yours,


Stanley G. Walulis, City Engineer

SGW:jgp

Enclosures: (1) Engineering Memorandum to City, dated August 21, 1978, with Exhibit A attached
(Treatment Site Options)
(2) Letter and Map on Sites from Soil Conservation Service
(3) Letter from City Recorder presented to Environmental Quality Commission on
July 28, 1978

cc: City Council, Prairie City
Bill Gildow, DEQ, Portland

City of Prairie City

Prairie City, Oregon 97869

July 27, 1978

Steve Gardels
Department of Environmental Quality
Pendleton, Oregon

Dear Mr. Gardels:

We would like to bring you up to date on some of the things that have been done toward improvements to our sewer system.

A survey was made to determine if the residents would be willing to support a bond issue for this purpose. A copy of the survey is enclosed. 132 questionnaires were returned. 110 persons indicated that they would vote for a bond issue, while 22 said they would not.

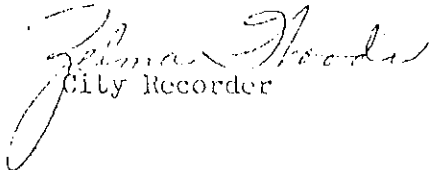
On June 28th the council authorized an appraisal and a review of potential sites, and authorized the Engineer to make a preliminary study of the feasibility of a new site which is currently in progress.

Last Friday a public hearing was held on Land Use Planning for a Comprehensive Plan.

The City will be requesting grant assistance for correction of existing infiltration inflow to be performed this winter. The council is aggressively pursuing a program to remedy and upgrade present sewage treatment and collection facilities.

An election will be held as soon as costs have been determined for sites and improvements.

Very truly yours,
City of Prairie City


City Recorder

enc.

The City of Prairie City, by 1983, must have its sewage into the river, from its sewer facilities. We need to expand the sewer facilities to the South end of town and parts of the North end. This, plus additional improvements and a acceleration of present construction poses the following questions:

Are you in favor of expanding and improving our sewer system?

YES _____ NO _____

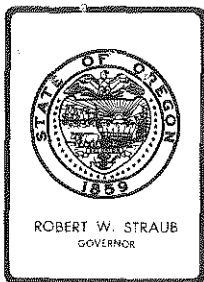
Are you on the sewer at present?

YES _____ NO _____

Passage of a bond issue would enable the City to be eligible for various Government grants of between 75% and 85%. Are you willing to vote for a bond issue to construct and improve the sewer system up to the following amount of approximately \$2.29 per \$1,000.00 of present assessed valuation and an increase in user charges?

YES _____ NO _____

Additional comments would be appreciated.



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, September 22, 1978 EQC Meeting

Open Burning Variance Request - Treasure Valley Opportunities, Inc.

Background

Treasure Valley Opportunities, Inc. (hereafter referred to as TVO) is a non-profit organization which provides various vocational services to the physically and mentally handicapped of Eastern Oregon and southwestern Idaho. TVO was started in 1973 under the sponsorship of the Treasure Valley Association for Retarded and Handicapped Citizens and the Ontario Civitan Club.

TVO is an integral part of a team from Oregon and Idaho that serves the handicapped citizens. This team is made up of the Vocational Rehabilitation Division, Employment Service, Mental Health Division, Public Welfare Division, Department of Health and Welfare, Mental Health and Counseling Center, Blind Commission and public and private schools.

TVO's major sources of revenue are from fees for training and receipts from contracts and grants. They also receive contributions from agencies, individuals, corporations and clubs. Their contracts include Arrow Assembly, manufacturer of pre-cut lumber display racks, snow fence, game control fence, limb spreaders, survey stakes, lath and other wood related products.

TVO has accumulated approximately 125 cubic yards of wood waste--mostly lath and some 2x4's. The wood waste was accumulated prior to 1978. They do give sawdust to local cattle feeders.

Prior to 1978 TVO normally accumulated their wood waste and burned it about once per year. When TVO learned that the wood waste could no longer be burned, they began hauling all newly generated wood waste to a local landfill.

TVO sits inside the southeastern edge of the city of Ontario and among five other small industries that also generate wood waste. These other industries no longer burn their wood waste. (See location map.)

In September of 1977 the ERO began a program to reduce the open burning of commercial and industrial solid waste within special control areas of the Region. The Ontario Fire Department supported and worked with us in controlling this type of open burning in Ontario.



Contains
Recycled
Materials

Prior to 1978 TVO did not know about the prohibition of open burning of commercial and industrial solid waste. They no longer accumulate their wood waste, but had requested to burn the waste that they had accumulated prior to learning of the prohibition. They applied under OAR, Chapter 340, Division 23, Section 045(7) for a letter permit to burn the 125 cubic yards of wood waste.

The Eastern Regional office denied the burn permit because:

1. TVO has the practicable alternative of taking the waste to local landfills.
2. TVO sits among five other industries that also generate wood waste, but are not allowed to open burn their waste.
3. The Ontario Fire Department indicates that the waste should not be burned.
4. The ERO and the Ontario Fire Department feel it is not consistent to allow one of six industries to burn waste and would prefer not to set a precedent of further open burning in this industrial area.

TVO has attempted to bundle and sell some of the waste as fire kindling without success. They have attempted to find an organization that could help them haul it off--without success.

TVO has not stated how much it would cost to have the waste picked up by the local sanitary service or how much the disposal cost would be. TVO has stated that since they are non-profit they had not budgeted for this and the cost would be prohibitive.

Evaluation

Open Burn the 125 Cubic Yards of Wood Waste:

1. Would not cost TVO anything.
2. Would not cause any long-term air pollution.
3. The nearest residences are several blocks away and would probably not cause local nuisances or complaints.
4. Would be inconsistent to five other wood waste generators nearby and could result in more industrial open burning in the area. It would make it harder for the Fire Department and the ERO, in the future, to reduce open burning.
5. The waste could probably be burnt fairly clean.

Do Not Allow the Open Burning of the Wood Waste:

1. Would cost TVO for disposal--a cost not budgeted for.

2. Would be consistent with other industries close by.
3. Would not set a precedent for further commercial and industrial open burning.
4. Would not cause any short-term nuisances.

Social Evaluation:

It is unfortunate that this non-profit and valuable institution has this need to open burn at a time when open burning is trying to be reduced. The single burn event would benefit TVO.

The situation a year ago in Ontario was that many establishments were open burning or using burn cages or incinerators not in compliance with Air Quality Regulations. The following are a few examples:

1. The Catholic Hospital burned its pathological and solid waste in an antiquated incinerator. They were required to install a new approved incinerator.
2. The Ontario Junior High School had caused complaints from their incinerator and has been required to use other means of solid waste disposal.
3. Several major food stores have had to eliminate their burn cages.
4. Skaggs Drug Center has had to upgrade its incinerator.
5. Many gas stations and other commercial establishments have had burn cages. The burn cages are now being eliminated.

The local landfill operator, in conjunction with food stores and other commercial establishments, is now able to salvage and recycle for profit several tons per day of cardboard that once was all open burned in Ontario.

The reduction of open burning in Ontario is now starting to pay off not only in cleaner air, but alternative uses of waste material. It cannot be measured how a single open burning event would effect the overall program of reducing open burning and recycling solid waste in Ontario.

Summation:

1. Treasure Valley Opportunities (hereafter referred to as TVO) is a non-profit organization that produces small wood products by hiring and training the handicapped and mentally retarded.
2. TVO is located inside the city limits of Ontario and is in an open burning control area (340-23-030(11)).
3. Prior to 1978 TVO stored and burned all of its wood waste about once per year.

4. Early in 1978 TVO learned that it could no longer burn its wood waste and began taking all newly generated wood waste to a local landfill in Idaho.
5. Prior to 1978 TVO had accumulated about 125 cubic yards of wood waste.
6. Early in 1978 TVO had applied for a one-time burn permit to burn the accumulated 125 cubic yards of wood waste.
7. The wood waste consists of small pieces of lath and some 2x4's.
8. The ERO denied the burn permit on the basis that a practicable alternative existed--the local landfills.
9. TVO responded that it is too costly to take the waste to a landfill.
10. TVO's income is from fees for training, receipts from product contracts, grants and contributions.
11. TVO did try to find volunteers to help haul the waste away and attempted to sell the waste as firewood kindling without success.
12. The open burning request would not cause long term air quality problems by itself.
13. The open burn area is several blocks from any residences.
14. TVO is situated among five other small industries that produce wood waste. These small industries are not allowed to burn their wood waste.
15. The Ontario Fire Department would prefer that a precedent not be set to allow open burning.
16. The Eastern Region, with the help of the Ontario Fire Department, has stopped the open burning of commercial and industrial waste in Ontario.
17. Sources such as hospitals, schools, food and department stores, gas stations and small wood use industries have now stopped burning in Ontario.
18. Several tons of cardboard a day from commercial establishments is now being recycled where a year ago it was being open burned in burn cages in Ontario.
19. It cannot be determined if a one-time burn by TVO would adversely effect the open burning reduction program of the ERO and the Fire Department.
20. TVO has applied to the EQC for a variance to the open burning permit denial of the ERO.
21. ORS 468.345 gives the Environmental Quality Commission the authority to grant variances to air quality rules and standards only if it finds that strict compliance with the rule or standard is inappropriate

because:

- (a) Conditions exist that are beyond the control of the persons granted such a variance; or
- (b) Special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause; or
- (c) Strict compliance would result in substantial curtailment or closing down of a business, plant or operation; or
- (d) No other alternative facility or method of handling is yet available.

22. The industrial wood waste could be taken to landfills in Oregon and Idaho.

Director Recommendation:

Having found the foregoing facts to be true, I recommend that the open burning variance of Treasure Valley Opportunities, Inc. be denied.

Bill

WILLIAM H. YOUNG

Steven F. Gardels:jlj

276-4063

September 5, 1978

Attachments: 1. Location map
2. Treasure Valley Opportunities, Inc. pamphlet
3. Correspondence between DEQ and TVO (9)

TREASURE VALLEY OPPORTUNITIES INC



SIGNED ROUTES

- INTERSTATE
- U.S.
- ORL

LEGEND

- Post Office
- Public Bldg
- City Hall
- School
- Court House
- R. B. Depot
- Armory
- Library

- Street open to travel
- Street closed to travel
- City limits

ONTARIO

MALHEUR COUNTY, OREGON

PREPARED BY THE
OREGON STATE HIGHWAY DEPARTMENT
IN COOPERATION WITH THE
U.S. DEPARTMENT OF TRANSPORTATION AND
FEDERAL ROAD ADMINISTRATION AND
BUREAU OF PUBLIC WORKS

Population 511

Scale 1" = 1000'

Revised August 1951



SHEET 2

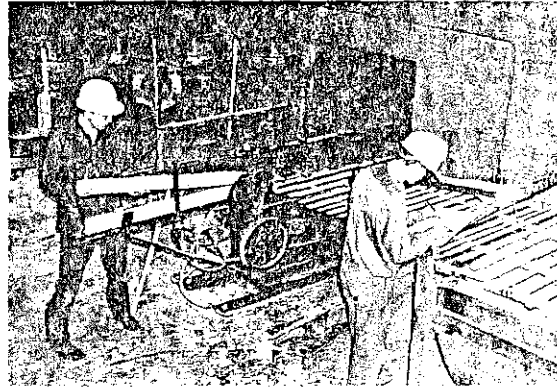
Treasure Valley Opportunities, Inc., is a nonprofit agency which provides various vocational services to the physically and mentally handicapped of Eastern Oregon and Southwestern Idaho. TVO, Inc. is located in Ontario because of Ontario's growth, size and the availability of support services. It was founded under the philosophy that the river separating Oregon and Idaho would not be a barrier to client services.

TVO, Inc., was started in 1973 under the sponsorship of the Treasure Valley Association for Retarded and Handicapped Citizens and the Ontario Civitan Club, with the cooperation and support of many other public and private agencies and individuals.

TVO, Inc., is governed by a Board of Directors made up of interested individuals from the surrounding communities, who contribute their time and skills to provide direction to the program. The overall administration of the program is entrusted to the Executive Director.

The agency is an integral part of a team from Oregon and Idaho, that serves handicapped citizens. This team is made up of the Vocational Rehabilitation Division, Employment Service, Mental Health Division, Public Welfare Division, Department of Health & Welfare, Mental Health and Counseling Center, Blind Commission, and public and private schools. At various times, other agencies and individuals are involved if they are important to the client's progress.

TVO, Inc.'s major sources of revenue are from fees for training, receipts from contracts and grants. TVO also depends on contributed funds from agencies, individuals, corporations, and clubs. These funds enable TVO, Inc. to provide a superior program of service and training.

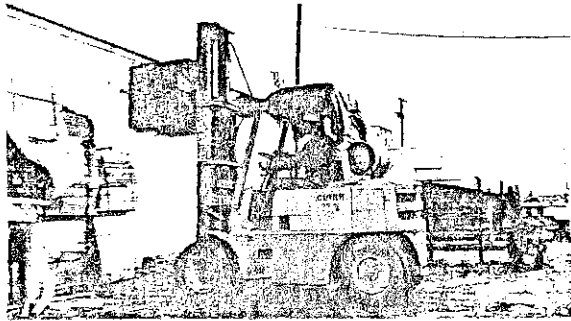


1. **Evaluation:** Assessment of vocational potential of clients; defining potential vocational goals, and defining the steps required to reach the goal.
2. **Work and Personal Adjustments:** Getting used to the day by day process of work and the parameters surrounding it by doing actual work. This also involves working with those behavioral components that surround the job, i.e. handling leisure time, effective use of breaktime, work output spanning, etc. During this period, clients are paid on piece work wages based on the minimum wage for that job or similar jobs within the community.
3. **Vocational Training:** Developing abilities necessary for the attainment of specific employment objectives.

4. **Placement:** Aid in securing a job in the competitive market place for those who have achieved this level.
5. **Follow-up:** Working with the client after employment by offering supportive services to help him retain the job and have a successful home life.
6. **Extended Employment:** Offered for those who cannot be placed in competitive employment, yet are able to function productively in a sheltered setting.
7. **Family, Individual, and Group Counseling:** This is offered either within the facility or by supportive agencies and is offered to improve the client's employability and/or home life.
8. **Education:** Working in conjunction with T V Community College, clients receive training in Adult Daily Living (ADL) and Adult Basic Education (ABE) skills.
9. **Activity Program:** This is geared to the more severely disabled. The program provides personal, social, and emotional development in a group setting which will enable severely handicapped individuals to become more self-reliant and to maximize their incomes in a sheltered setting.
10. **Residential Training Facility:** The Group Home provides living skill training to the formerly institutionalized severely handicapped adult. The ultimate goal of this part of the program is to move the individual into a semi-independent or independent setting within the community-at-large.

Those in the workshop participate in a program of testing, counselling, instruction, and work. Work is the necessary environment which provides both training and income for each participant.

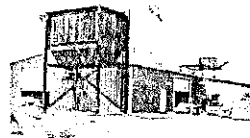
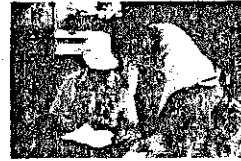
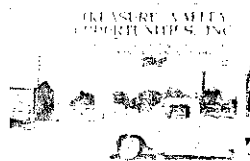
This work is contracted from business and industry to whom the workshop offers quality workmanship under responsible supervision at a reasonable price. Often the workshop provides industry with services which conserve time, space, morale, and money.



Contracts include arrow assembly and the manufacture of pre-cut lumber display racks, snow fence, game control fence, limb spreaders, survey stakes, lathe, and other wood-related products. The shop also offers mailing, assembling, packaging, salvaging, and many other services. All inquiries concerning possible contract services are welcomed.

The work enables the client to participate in the economic life of the community, both as wage-earner and as a contributor of useful service. A Rehabilitation Facility helps the handicapped move from dependence on family and public support to independence and responsibility. The disabled worker in a workshop is providing industry with valuable service and enriching the labor resources of his community.

1. Client must have some handicapping condition which at the present renders him unemployable.
2. Client must have some need of service provided by facility.
3. Client must be willing to participate in his own rehabilitation plan.
4. Client must have had a full medical within one year prior to entering the program.
5. Client must be over the age of 16.



TREASURE VALLEY OPPORTUNITIES, INC.

P. O. BOX 345 1289 S. E. 2ND STREET
ONTARIO, OREGON 97914

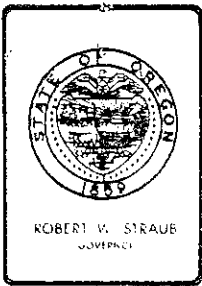
1-503-889-8671

TREASURE VALLEY OPPORTUNITIES INCORPORATED



P. O. BOX 345
1289 S. E. 2nd STREET
ONTARIO, OREGON 97914

PHONE 503-889-8671



Department of Environmental Quality

EASTERN REGION

424 S.W. 6th STREET, PENDLETON, OREGON 97801 PHONE (503) 276-4063
MAILING ADDRESS: POST OFFICE BOX 1538, PENDLETON, OREGON 97801

March 21, 1978

Mr. Don Nicky
Treasure Valley Opportunities
Ontario, Oregon 97914

Re: AQ - Open burning letter permit
Malheur County #23B78001

Gentlemen:

After a staff review of the proposed open burning, permission to burn this material is denied since practicable alternative methods of disposal are available in the area.

This material can be disposed of by hauling to the local landfill.

Sincerely,

Steven F. Gardels
Regional Manager
Eastern Region

LLJ:SFG:jlj

cc: Larry Roberts, Fire Chief
cc: AQ thru FMBolton, RO

COPY



TREASURE VALLEY OPPORTUNITIES, INCORPORATED

P. O. BOX 345
ONTARIO, OREGON 97914

PHONE 503-889-8671

March 30, 1978

Mr. Steven F. Gardels, Regional Manager
Dept. of Environmental Quality
424 S.W. 6th. Street, P.O. Box 1538
Pendleton, Oregon 97801

Dear Mr. Gardels;

I received your letter dated March 21, 1978, and needless to say I am quite surprised with the denial for the burning permit.

During the years 1974 - Sept. 1976, we have burned our waste wood approximately once a year. About four months ago we became aware that we could no longer burn from the local fire Chief. He stated that this law had been in effect since October, 1976. Since we became aware of the burning problem we have been hauling scrap to the dump.

My first question is why did we not receive formal notification that we could no longer burn? This quite obviously would have kept us from getting into the problem that we presently face.

My next question relates to what kind of appeal rights, if any, do we have in relation to this decision?

I realize fully that the material can be hauled to the local fill but not without considerable time and expense.

It would be nice if the people that are effected by laws would be notified before they go into effect.

I await your answers to these questions.

Sincerely,

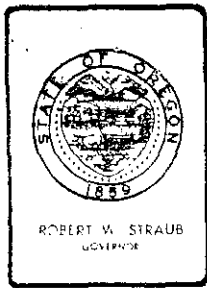
Donald L. Mickey,
Executive Director

CC: William Young, Director Environmental Quality
Larry Roberts, Fire Chief

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAY 10 1978

PENDLETON DISTRICT OFFICE



Department of Environmental Quality

EASTERN REGION

424 S.W. 6th STREET, PENDLETON, OREGON 97801 PHONE (503) 276-4063
MAILING ADDRESS: POST OFFICE BOX 1538, PENDLETON, OREGON 97801

April 11, 1978

Mr. Donald L. Mickey, Executive Director
Treasure Valley Opportunities, Inc.
P.O. Box 345
Ontario, Oregon 97914

Re: AQ - Open burning
Malheur County

Dear Mr. Mickey:

The ruling to which you refer was actually implemented by Administrative Rules adopted in January of 1972. The fact that you were unaware of the prohibition is most unfortunate, as I am sure that you would have participated in the 1976 rule modification procedure.

I will briefly explain our approach to safeguarding the air resources of our state. We are obligated to control, abate and prevent air pollution so as "to restore and maintain the quality of the air resources of the state in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state". This is provided for by the statutes under which this Department operates (ORS 468.280 and 468.285).

Some sources are controlled by rules that require specific control equipment to be added and maintained to limit the amount of air contaminants that are allowed to be emitted. Other sources of air contaminants are controlled by requiring specific processes or operating procedures to be used to limit emissions. In some other instances certain activities are prohibited from occurring because emissions are hazardous or are not readily controlled. Control of open burning of industrial and commercial, as well as construction and demolition, waste generally fall in this latter category of approach to control.

When Oregon's air pollution control program was initiated, open burning was one of the primary sources causing complaints and impact on air quality. After years of experience in dealing with these problems, several things became evident. A large variety of materials were being open burned which individually had a variety of impact on air quality. People, individually, also varied as to their attitudes and their ability to tolerate smoke and nuisance caused by open burning. Open burning complaints and impacts were largely associated with urban areas. Local meteorological and topographic conditions varied throughout the state and specifically meteorological conditions which might allow smoke to disperse at a given time might change

COPY

Mr. Donald L. Mickey
April 11, 1978
Page -2-

fairly rapidly and significantly impact air quality. Organized refuse collection and disposal facilities were available in larger communities. It was and is impractical to control open burning on an individual permit basis with the current or projected manpower for the Department.

Assessing the above and other factors, rules were proposed, including the specific one prohibiting open burning of industrial and commercial wastes within an area in or within 3 miles of incorporated cities having a population of 4,000 or more. Public hearings were held throughout the state and all testimony was considered before final rules were prepared. The proposed rules, with public hearing summaries, were considered by the Environmental Quality Commission, and the rules were adopted in October of 1976.

The alternatives available to you appear to be as follows:

1. Comply with the rule by using available solid waste disposal facilities.
2. Install a portable incinerator which meets the requirements of the rules.
3. Request a variance from the rules under procedures and conditions provided in the statutes; however, it should be pointed out that conditions under which a variance may be granted by the EQC are restrictive.
4. You may petition the EQC for a rule change.

If you have any questions, please contact this office.

Sincerely,

Larry L. Jack
Regional Engineer
Eastern Region

LLJ:jjj

cc: Ed Woods (AQ) thru FMBolton (RO)
cc: Larry Roberts, Fire Chief



TREASURE VALLEY OPPORTUNITIES, INCORPORATED

P. O. BOX 345
ONTARIO, OREGON 97914

PHONE 503-889-8671

April 17, 1978

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 19 1978

Larry L. Jack, Regional Engineer
Eastern Region, Department of Environmental Quality
Post Office Box 1538
Pendleton, Oregon 97801

PENDLETON DISTRICT OFFICE

Dear Mr. Jacks;

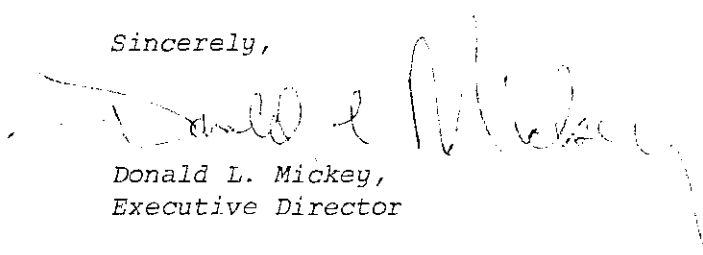
I received your letter dated April 11, 1978, and my questions are essentially the same as addressed in the last letter. Since approximately January 1, 1978, we have been disposing of our waste by utilization of the solid waste disposal facilities. What I would like to request is a one time permit to dispose of the left over wood already collected before that date. Apparently items three and four in your letter address these but you do not explain how I file through these processes.

I fully realize the problems brought about from burning and how this effects the air quality. As pointed out above we are able to get rid of are waste in another way and have done so since we found out about the rule changes. I should also point out that 99% of our waste is wood which (in the past) has burned very clean with little or no visual polution seen.

I also think its a little strange when I see the railroad and the county fair ground (I believe) doing open burning on April 12, 1978. How is it that these individuals can burn and not be effected by the laws? I especially feel its strange in the case of the railroad which had black smoke pouring off of their burn.

I await the answers to the above questions.

Sincerely,


Donald L. Mickey,
Executive Director

DLM/pe

CC: Larry Robert, Fire Chief



Department of Environmental Quality

EASTERN REGION

424 S.W. 6th STREET, PENDLETON, OREGON 97801 PHONE (503) 276-4063
MAILING ADDRESS: POST OFFICE BOX 1538, PENDLETON, OREGON 97801

April 19, 1978

Mr. Donald L. Mickey
Executive Director
Treasure Valley Opportunities, Incorporated
P.O. Box 345
Ontario, Oregon 97914

Re: AQ - Open burning
Malheur County

Gentlemen:

Oregon Administrative Rules (OAR) 340-23-045 (7) states that a singly occurring, or infrequent, open burning may be allowed by a letter permit provided that the following are met:

- a. No practicable alternative method for disposal is available.
- b. Application for disposal of the waste by burning is made in writing to the Department, listing the quantity and type of waste to be burned, and all efforts which have been made to dispose of the waste by other means.
- c. The Department shall evaluate all such requests for open burning taking into account reasonable efforts to use alternative means of disposal,...

The request has been reviewed and denied, based on the facts that alternative methods of disposal are available, i.e. hauling to the local landfill, chipping, etc., and that the site is located in a Special Control area that is experiencing Air Quality degradation.

Neither the Railroad or the County Fair Grounds are allowed to open burn and if they have been, are in violation of the open burning regulation. At the present time, we have just received a letter from the Union Pacific Railroad indicating they will stop all open burning within their Oregon operation.

Sincerely,

Larry L. Jack
Regional Engineer
Eastern Region

LLJ:cmw

cc: Bob Harris (AQ) thru FMBolton (RO)
Larry Roberts, Fire Chief, City of Ontario

COPY



TREASURE VALLEY OPPORTUNITIES, INCORPORATED

P. O. BOX 345
ONTARIO, OREGON 97914
PHONE 503-889-8671

April 24, 1978

Larry L. Jack, Regional Engineer
Department of Environmental Quality, Eastern Region
P.O. Box 1538
Pendleton, Oregon 97801

Dear Mr. Jack;

I received your letter dated 4/19/78 and my response is basically the same. OAR 340-23-045 (7) states that a singly occurring, or infrequent, open burning may be allowed by a letter permit provided that the following are met:

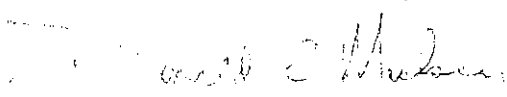
- No practicable alternative method for disposal is available.
- Application for disposal of the waste by burning is made in writing to the Department, listing the quantity and type of waste to be burned, and all efforts which have been made to dispose of the waste by other means.
- The Department shall evaluate all such requests for open burning taking into account reasonable efforts to use alternative means of disposal.

I am applying for a one time only burn permit because there are no practicable means on disposing of the wood waste that has collected. If we would have received notice that we could no longer burn we could have hauled it to the landfill as we are now doing. We can not remove the wood from the back of our lot without equipment to load or 5-10 days of 5 people hand loading trucks. For a non-profit Handicapped Training program that barely has the money to operate these alternatives are not practicable.

In compliance with (B) I am asking for a one time burn permit to dispose of five separate piles of wood waste. Each pile is approximately 20-25 cubic yards. The wood is mixed species pine and fir. All wood waste since January 1, 1978, has been disposed of at the landfill.

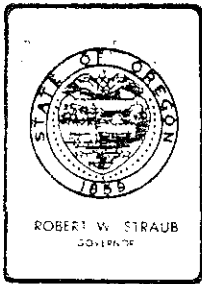
I await your answer.

Sincerely,


Donald L. Mickey,
Executive Director

C.C. Larry Roberts

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
PENDLETON DISTRICT OFFICE
RECEIVED
APR 27 1978



Department of Environmental Quality

EASTERN REGION

424 S.W. 6th STREET, PENDLETON, OREGON 97801 PHONE (503) 276-4063
MAILING ADDRESS: POST OFFICE BOX 1538, PENDLETON, OREGON 97801

April 27, 1978

Mr. Donald L. Mickey, Executive Director
Treasure Valley Opportunities, Inc.
P.O. Box 345
Ontario, Oregon 97914

Re: AQ - Open Burning, Malheur County

Dear Mr. Mickey:

Your request for a one-time burn of waste wood on your property is denied.

Alternative means of disposal are available in the area. The Ontario Landfill will accept wood waste in the local area.

It is possible that the material could be added in small amounts to your new waste going to the landfill. Assistance might also be available through community service groups (i.e. Service Clubs or National Guard) to assist in the hauling.

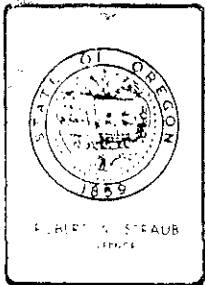
Sincerely,

Larry L. Jack
Regional Engineer
Eastern Region

LLJ:jlj

cc: Larry Roberts, Fire Chief

COPY



LL) —

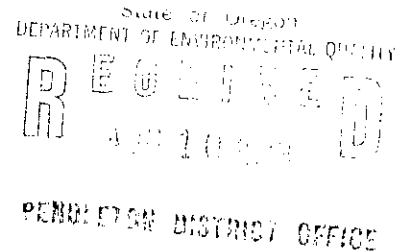
11/9/78
11/9/78

Gardels

Department of Environmental Quality

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5301

August 9, 1978



Mr. Donald L. Mickey, Executive Director
Treasure Valley Opportunities, Inc.
P.O. Box 345
Ontario, Oregon 97914

Dear Mr. Mickey:

Chairman Richards of the Environmental Quality Commission has forwarded your letter of July 25, 1978.

We construe your letter (in the light of Mr. McLaurin's letter to you of July 20 and Mr. Jack's letter to you of April 11) to be a request that the Commission grant you a variance from the open burning rules for you to open burn five separate piles of wood of 20-25 cubic yards each which are located at the mill site of Treasure Valley Opportunities, Incorporated, in or near Ontario, Oregon.

Mr. Richards indicated he would like the Commission to consider your petition and my staff's evaluation of it.

Enclosed is a copy of Oregon Revised Statutes (ORS) 468.345. It sets forth the Commission's authority to grant variances and the conditions under which it may do so.

A recent admonition from the Governor's office to state agencies focused the Commission's attention on travel expenses as a possible area of savings. Having met in LaGrande, Bend, Eugene and other locations away from headquarters in recent months, the Commission has decided that for the next few months its regular meetings will be in Portland to minimize staff and Commissioner travel time and expense.

We will place your variance request on the agenda of the September 22, 1978 Commission meeting, which will be in Room 602 of the Multnomah County Courthouse. We will send you the agenda of that meeting by mid-September. Commission meetings usually commence at 9:00 a.m.

If you wish to appear or have someone appear for you on this issue, you should let us know promptly what time during the morning you would like to be heard.

I've examined the materials that accompanied your letter to Mr. Richards. It occurs to me that, whether you appear in person or submit it by mail, additional information would be helpful to the Commission. Among the items of information that might prove useful are the following:



Mr. Donald L. Mickey

August 9, 1978

Page 2

- 400-500 feet
- 1) The general size of the wood pieces that make up the wood piles.
 - 2) Whether it is feasible to burn each pile separately, perhaps on different days.
 - 3) The distance to nearby homes or occupied buildings, roads, or other areas where people might be present.
 - 4) Whether there is any direction from the site in which the wind could blow the smoke and have a minimal risk of bothering people.
 - 5) Why it is not feasible or desirable to adopt Mr. Jack's suggestion that you arrange to have the wood taken a little at a time to the landfill during the course of your regular trips to the landfill, thus absorbing the cost over a lengthy period of time.
 - 6) Whether you've tried unsuccessfully to gain assistance from community volunteer sources to get the wood wastes removed to a landfill, as suggested by Mr. Jack and Mr. McLaurin.
 - 7) Whether the wastes are saleable as firewood or other fuel.
 - 8) Any other information you have not submitted and find pertinent to the statute.

In copying this letter to Mr. Bolton, Division Administrator for Regional Operations, and Mr. Gardels, Regional Manager of our Eastern Region, I'm asking that they supply such information as they may have and find relevant so this agency may develop a staff report on the subject for the Commission. Such reports are usually ready a week before each Commission meeting. You will be sent a copy when it is complete.

Please let us know if there is further assistance we can give you within the confines of our rules and regulations.

Sincerely,

WILLIAM H. YOUNG
Director

PWM:mef

cc: Joe B. Richards
Phil McLaurin
Fred Bolton
Mike Downs
E. J. Weathersbee
Ray Underwood
Steve Gardels

TREASURE VALLEY OPPORTUNITIES, INCORPORATED

P. O. BOX 345
ONTARIO, OREGON 97914

PHONE 503-889-8671

August 23, 1978

Mr. William H. Young, Director
Department of Environmental Quality
522 S.W. 5th. Avenue
P.O. Box 1760
Portland, Oregon 97207

Dear Mr. Young:

In reference to your letter dated August 9, 1978, the following is addressed to your questions:

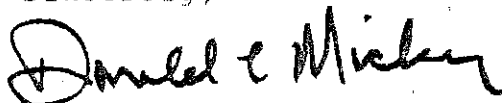
1. General size would be 1/2"x1 1/2"x48" lath, some 2x2 + 2x4 short lengths.
2. Yes the piles could be burned on different days and/or at different times.
3. 60 ft. to a gravel/dirt road and 150 ft to a temporary office building from the closest pile. All wood is located within a fenced compound. Everything else is approximately 200-300 yards away.
4. Minimal risk in just about any direction. In the past we have burned when it was raining. The wood is quite dry and would burn clean. This would leave little visual pollution.
5. We have taken out some of the wood to the landfill with loads that we are hauling out at present. We have found that it is both time consuming and expensive. I point out that had we been notified earlier that we could no longer burn we would have been able to avoid this build up. We have not added to the piles since January 1, 1978, when we learned that we could not burn. We are also trying to clear the land where the wood is and fill and level it. We would like to complete this before Winter so that that area can be used for storage. If we hauled a little at a time to the dump it could go on for a couple of years.
6. We have contacted the Oregon National Guard Unit and were told they have no dump trucks or large trucks and thus could not handle the job. The City also could not offer any help.
7. The size of the wood is usable for kindling and fire starter only. We have advertized in fireplace shops, shopper news and on the radio. Also have bundled and sold to grocery stores, they sold two packages.
8. It is our feeling that if we were able to burn the piles on rainy days there would be very little smoke and residue as it would burn hot and clean because it is so dry. We have done this in the past and never had a problem or complaint. We are asking for a one time variance for open burning to burn this wood.

Mr. William H. Young
August 23, 1978
Page 2

Since January, 1978, we have been disposing of all waste wood in another fashion.

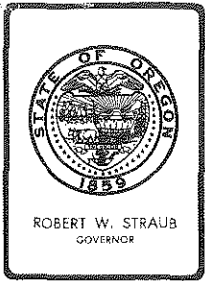
Mr. Young, it is our hope that you and the Commission will look favorably upon this one time request. If there is other information I can supply please let me know. Do to the travel expense I will be unable to attend the Commissions meeting.

Sincerely,

A handwritten signature in black ink that reads "Donald L. Mickey". The signature is written in a cursive style with a large, looped initial "D".

Donald L. Mickey,
Executive Director

DLM/pe



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, September 22, 1978 Meeting

Request by Curry County for Extension of Variance from Rules
Prohibiting Open Burning Dumps OAR 340-61-040(2)(c).

Background

At the September 23, 1977 EQC meeting staff presented a variance request from Curry County to allow continued open burning at two solid waste disposal sites (Brookings and Nesika Beach). At the time of the request, it was the opinion of the staff and county that one year would be sufficient time to find suitable alternatives for these open burning dumps.

The county has contracted with a consultant and has worked closely with the staff in evaluating several alternatives. To date, however, these evaluations have not been completed and the county cannot meet the October 1, 1978 variance expiration date. At a meeting with the staff on September 8, 1978, Curry County Commission Chairman Jack Waldie requested another extension of the variance.

Evaluation

As stated above, the county has made a good faith effort to establish an acceptable solid waste management program. A private consultant was hired to evaluate alternative landfill sites and the feasibility of baling solid waste. The county has also been exploring the possibility of utilizing an incineration system. Recently, a private site operator has approached the county with a proposal to establish a new incineration and landfill site.

In the opinion of the staff, the county is making good progress and a solution to its solid waste disposal problems is forthcoming. Extending the open burning variance will provide for the necessary interim operation of the existing disposal sites while a suitable alternative system is selected and implemented. The existing disposal sites at Brookings and Nesika Beach cannot operate without open burning.



Contains
Recycled
Materials

Summation

1. Curry County has diligently pursued an alternative to its present open burning dumps during the current variance period.
2. The County appears to be close to selecting and implementing an alternative, but cannot do so before the current variance expires.
3. The County has requested an extension of the variance to provide for interim solid waste disposal until a suitable alternative is available. The existing disposal sites cannot operate without burning.
4. To approve the variance request the EQC must make a finding that strict compliance would result in closing of the facilities and no alternative facility or alternative method is yet available.

Director's Recommendation

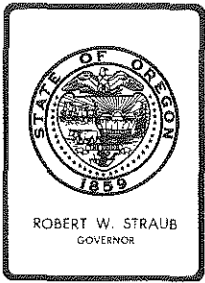
Having found the foregoing facts to be true, I recommend that:

1. Variances for the Brookings Disposal Site and Nesika Beach Disposal Site in Curry County be extended until August 1, 1979. This date will allow for continued open burning through the winter and spring when heavy rains would hinder construction of an alternative facility.
2. The County be required to adopt a solid waste management plan and obtain a suitable alternative disposal site by January 1, 1979. The Department shall be notified in writing by not later than January 15, 1979 that these requirements have been met.
3. The Brookings Disposal Site and Nesika Beach Disposal Site be closed prior to the expiration date of the variance if a suitable alternative becomes available.
4. The EQC find that the variance request meets the intent of ORS 459.225 (3)(c) in that strict compliance would result in closing of the disposal sites and no alternative facility or alternative method of solid waste management is available.

Bill

William H. Young

William H. Dana:mm
229-5913
September 12, 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. J, September 22, 1978, EQC Meeting
Proposed Amendments to the Administrative Rules Governing the
Procedures for Licensing Hazardous Waste Management Facilities
(OAR Chapter 340, Division 6, Subdivision 2).

Background

On May 26, 1978, the Department received Commission approval to conduct a public hearing on certain proposed changes to the subject rules. The purpose of these changes was to incorporate new Legislative authority as well as to modify certain portions of the present rules. Included is the proposed deletion of the requirement that the Commission specifically approve hazardous wastes before they are imported into Oregon for disposal (OAR 340-62-020).

A public hearing was held on July 18, 1978, in Portland. Eight persons were present, of whom two testified. Both statements were confined to opposition to the proposed deletion of OAR 340-62-020.

The rules were submitted to the Commission on August 25, 1978; however, adoption was postponed to allow a review of Sections 62-010(4), (10) and (11) and 62-100(3)(b)(ii). These sections have been modified to reflect Commission concerns and the rules are again submitted for adoption.

Statement of Need for Rule Making

1. The legal authority for these amendments is found in ORS 459.410 - 459.690. Specifically, ORS 459.510(2) requires that the Commission license hazardous waste disposal sites. Rules governing the procedure for obtaining such a license were adopted March 24, 1972, as OAR Chapter 340, Division 6, Subdivision 2.

The 1977 Legislature added several new provisions to the hazardous waste statutes; specifically ORS 459.505(2) and ORS 459.510(3). ORS 459.505(2) requires that hazardous waste collection sites be licensed; while the latter permits the disposal of a specified hazardous waste at a specified solid waste disposal site if authorized by the Department under procedures approved by the Commission.

2. As stated in the May 26 memorandum to the Commission, the need for the proposed rules is to incorporate the new statutes into administrative rule and to modify the procedures for obtaining a disposal license based on six years' Departmental hazardous waste management experience.



Contains
Recycled
Materials

3. No relevant reports or studies were used in preparing these amendments.

Evaluation

The proposed rules are a straightforward attempt to put certain statutes into a form more suitable for implementation.

With regard to the most controversial change, the deletion in OAR 340-62-020, the Department concedes that the opposition at the hearing was well-founded in that more public involvement in Departmental action is needed. To that end, the Solid Waste Division has recently dedicated a person to develop programs to increase public participation in its solid and hazardous waste management decisions. This effort notwithstanding, it is felt that because of the time, effort and expertise needed to evaluate the various disposal requests, the Department should be allowed to integrate the decision process for out-of-State wastes with that used for wastes generated in Oregon.

On June 23, 1978, the U. S. Supreme Court decided a case which appears relevant to this discussion (Slip opinion attached; Court opinion in Department files). A New Jersey statute prohibiting the importation of most wastes was struck down because it discriminated against such wastes solely on the basis of origin. In the opinion of the Department, the deleted rule is virtually a selective importation ban based on origin and thus is of doubtful constitutionality in view of the Supreme Court decision.

Summation

1. No comment has been received on the proposed rules for licensing hazardous waste collection sites, the procedures that the Department is to use for permitting the disposal of a specified hazardous waste at a specified solid waste disposal site, or on any other proposed change save that discussed below.
2. Adverse comment was received on the Department's proposal to delete a portion of OAR 340-62-020. However, aside from the Supreme Court decision against waste importation bans, the Department continues to feel that the checks and guidelines which it has set up to control the flow of wastes into the Arlington site are adequate to also control out-of-State wastes.

Director's Recommendation

Having found the foregoing statements in the Summation to be true, I recommend that the Commission adopt the attached Procedures for Licensing Hazardous Waste Management Facilities as amended, OAR 340-62-005 to -100 inclusive.

Bill

William H. Young

Fred S. Bromfeld:mb
September 6, 1978

Attachments: Proposed Rules
Slip Opinion

HW 1.20

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

CITY OF PHILADELPHIA ET AL. v. NEW JERSEY ET AL.

APPEAL FROM THE SUPREME COURT OF NEW JERSEY

No. 77-404. Argued March 27, 1978—Decided June 23, 1978

New Jersey statute (ch. 363) that prohibits the importation of most "solid or liquid waste which originated or was collected outside the territorial limits of the State . . ." held to violate the Commerce Clause of the United States Constitution. Pp. 4-12.

(a) All objects of interstate trade merit Commerce Clause protection and none is excluded from the definition of "commerce" at the outset; hence, contrary to the suggestion of the court below, there can be no doubt that the banning of "valueless" out-of-state wastes by ch. 363 implicates constitutional protection. *Bowman v. Chicago & Northwestern R. Co.*, 125 U. S. 465, distinguished. Pp. 4-5.

(b) The crucial inquiry here must be directed to determining whether ch. 363 is basically an economic protectionist measure, and thus virtually *per se* invalid, or a law directed at legitimate local concerns that has only incidental effects on interstate commerce. *Pike v. Bruce Church*, 397 U. S. 137, 142. Pp. 6-7.

(c) Since the evil of protectionism can reside in legislative means as well as legislative ends, it is immaterial whether the legislative purpose of ch. 363 is to protect New Jersey's environment or its economy, for whatever the purpose, it may not be accomplished by discriminating against articles of commerce coming from outside the State unless there is some reason, apart from their origin, to treat them differently. Both on its face and in its plain effect ch. 363 violates this principle of non-discrimination. A State may not attempt to isolate itself from a problem common to many by erecting a barrier against the movement of interstate trade, as ch. 363 seeks to do by imposing on out-of-state commercial interests the full burden of conserving New Jersey's remaining landfill space. Pp. 7-11.

(d) The New Jersey statute cannot be likened to a quarantine law which bans importation of articles of commerce because of their innate harmfulness and not because of their origin. Though New Jersey con-

Syllabus

cedes that out-of-state waste is no different from domestic waste, it has banned the former while leaving its landfill sites open to the latter, thus trying to saddle those outside the State with the entire burden of slowing the flow of wastes into New Jersey's remaining landfill sites. Pp. 11-12.

73 N. J. 562, 376 A. 2d 888, reversed.

STEWART, J., delivered the opinion of the Court, in which BRENNAN, WHITE, MARSHALL, BLACKMUN, POWELL, and STEVENS, JJ., joined. REHNQUIST, J., filed a dissenting opinion, in which BURGER, C. J., joined.

7-1

Submitted to EQC
September 22, 1978

CHAPTER 340: DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 6: SOLID WASTE MANAGEMENT

SUBDIVISION 2: PROCEDURES FOR LICENSING HAZARDOUS WASTE MANAGEMENT FACILITIES

~~(Procedures-for-Issuance,-Denial,-Modification-and-Revocation-of
Licenses-for-the-Disposal-of-Environmentally-Hazardous-Wastes)~~

A new Table of Contents is hereby adopted to read as follows:

Table of Contents

<u>Part</u>	<u>Sections</u>
A: General Provisions	62-005 to 62-010
B: Disposal Sites	62-015 to 62-045
C: Collection Sites	62-060 to 62-085
D: Specified Wastes	62-100

(PART A: GENERAL PROVISIONS)

62-005 PURPOSE. The purpose of these ~~(regulations)~~ rules is to prescribe ~~(uniform)~~ procedures for ~~(obtaining-licenses-from-the-Department-of-Environmental Quality-for-establishing-and-operating-environmentally-hazardous-waste-disposal sites-and-facilities-as-prescribed)~~ the issuance, denial, modification and revocation of a license to store or dispose of hazardous wastes as authorized by ORS 459.410-459.690.

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

- (1) "Commission" means the Environmental Quality Commission.
- (2) "Department" means the Department of Environmental Quality.
- (3) "Director" means the Director of the Department of Environmental Quality.

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

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

~~(--(6)--"Environmentally Hazardous Wastes" means Environmentally Hazardous Wastes as defined by ORS 459.410, which includes discarded, useless or unwanted pesticides or pesticide residue, low-level radioactive wastes and receptacles and containers used therefor, that, because of their high concentration and/or persistence of toxic elements or other hazardous properties, and which have not been detoxified or cannot be detoxified by any practical means,~~

~~may be classified by the Environmental Quality Commission as Environmentally Hazardous Wastes pursuant to ORS 340.410, but shall not include Environmentally Hazardous Wastes which have been detoxified by treatment, reduction in concentration of the toxic element or by any other means and formally declassified by the Environmental Quality Commission as no longer hazardous to the environment.~~

- (4) "Dispose" or "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that such hazardous waste or any hazardous constituent thereof may enter the environment or be emitted into the air or discharged into any waters of the State as defined in ORS 468.700. NOTE: The foregoing is not to be interpreted to authorize any violation of ORS Chapter 459 and these rules.
- (5) "Generator" means the person, who by virtue of ownership, management or control, is responsible for causing or allowing to be caused the creation of a hazardous waste.
- (6) "Hazardous waste" means discarded, useless or unwanted materials or residues in solid, liquid, or gaseous state and their empty containers which are classified as hazardous pursuant to ORS 459.410 and these rules.
- (7) "Hazardous waste collection site" means the geographical site upon which hazardous wastes are stored in accordance with a license issued pursuant to ORS Chapter 459.
- ~~(8) "Person" means the United States and agencies thereof, any state, any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity~~

~~whatsoever;~~

- (8) "Hazardous waste disposal site" means a geographical site in which or upon which hazardous wastes are disposed in accordance with a license issued pursuant to ORS 459.410-459.690.
- ~~(7)~~ (9) "License" means a written license ~~(issued-by-the-Commission);~~ bearing the signature of the Director, which by and pursuant to its conditions authorizes the licensee to ~~(construct,-install,~~ modify-or) establish and operate specified facilities or conduct specified activities for the storage or disposal of ~~(environ-~~ mentally) hazardous wastes.
- (10) "Person" means the United States, the State or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate, or any other legal entity.
- (11) "Store" or "storage" means the containment of hazardous waste for a temporary specified period of time in such a manner as not to constitute disposal of such hazardous waste.

(PART B: DISPOSAL SITES)

62-015 LICENSE REQUIRED FOR A HAZARDOUS WASTE DISPOSAL SITE

- ~~(1)~~ Delete
- ~~(2)~~ (1) No person shall establish or operate a hazardous waste disposal site without a license therefor issued by the Commission pursuant to ORS 459.410-459.690 and these ~~(regulations)~~ rules.
- ~~(3)~~ (a) Licenses ~~(issued-by-the-Department)~~ shall establish minimum requirements for the disposal of ~~(environmentally)~~ hazardous wastes, ~~(limits-as-to-types-and-quantities-of-materials-to-be-disposed;)~~ minimum requirements for operation, maintenance, monitoring and reporting, and supervision of disposal sites,

and shall be properly conditioned to ensure compliance with pertinent local, state and federal standards and other requirements and to adequately protect life, property and the environment.

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

62-020 NECESSITY FOR A HAZARDOUS WASTE DISPOSAL SITE

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

62-025 APPLICATION FOR A HAZARDOUS WASTE DISPOSAL SITE LICENSE

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

~~(2) -- An application for a license~~ which shall contain or be accompanied by, but not (be) limited to:

- (a) No change
- (b) No change
- (c) The experience of the applicant in construction, management, supervision or development of disposal sites for ~~(environ-~~
~~mentally)~~ hazardous wastes and in the handling of such substances.
- (d) No change
- .
- .
- .
- (j) No change

~~((3) -- License application must contain or be accompanied by the following:)~~

- ~~(a)~~ (k) No change
- ~~(b)~~ (l) No change
- ~~(c)~~ (m) No change
- ~~(d)~~ (n) No change

(2) An application to renew or modify a disposal site license shall consist of eight (8) copies, signed by the applicant or his authorized representative, which shall contain or be accompanied by such items of subsection (1) of this Section as shall be deemed pertinent by the Department.

~~(4)~~ (3) The Department No change

~~(5)~~ (4) Applications No change

62-030 ENGINEERING PLANS REQUIRED FOR A HAZARDOUS WASTE DISPOSAL SITE

Before a No change

62-035 HEARINGS AND ISSUANCE OR DENIAL OF A HAZARDOUS WASTE DISPOSAL SITE LICENSE

(1) Upon receipt of an application, the Department shall cause copies of the application to be sent to affected state agencies, including the State Health Division, the Public Utility Commissioner, the State Fish and Wildlife Commission, and the Water Resources Director. ~~(the Fish Commission of the State of Oregon; the State Game Commission; the State Engineer and to such other agencies or persons that the Department deems appropriate. --ORS-459.410-459.690)~~ ORS 459.570 provides that each agency shall respond by making a recommendation as to whether the license application should be granted. If the State Health Division recommends against granting the license, the Commission must deny the license.

(2) No change

- .
- .
- .

(6) No change

62-040 RENEWAL, MODIFICATION, TERMINATION OR EXPIRATION OF A HAZARDOUS WASTE DISPOSAL SITE LICENSE

(1) An application for renewal, modification or termination of a license or to allow a license to expire shall be filed in a timely manner, but not less than ninety (90) days prior to the expiration date of the license. ~~(Procedures for)~~ Sections

62-035(4) to (6) pertaining to the issuance of a license . . . No change.

(2) In the event . . . No change

62-045 SUSPENSION OR REVOCATION OF A HAZARDOUS WASTE DISPOSAL SITE LICENSE

(1) Whenever No change

(2) No change

(3) In the event that it becomes necessary for the Commission to suspend or revoke a disposal site license due to . . . No change

(PART C: COLLECTION SITES)

A new OAR 340-62-060 is hereby adopted to read as follows:

62-060 LICENSE REQUIRED FOR A HAZARDOUS WASTE COLLECTION SITE

(1) Except as provided in ORS 459.505(3), no person shall establish or operate a hazardous waste collection site without a license therefor issued by the Department pursuant to ORS 459.410-459.690 and these rules.

(a) Licenses shall establish minimum requirements for the storage of hazardous wastes, minimum requirements for operation, maintenance, monitoring and reporting, and supervision of collection sites, and shall be properly conditioned to ensure compliance with pertinent local, state and federal standards and other requirements and to adequately protect life, property and the environment.

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

- (2) The Department may exempt certain _____ collection sites operating for less than 60 days from having to obtain a collection site license. However, prior to establishment, such sites shall obtain written authorization from the Department and shall comply with such rules as may be indicated therein.

A new OAR 340-62-065 is hereby adopted to read as follows:

62-065 APPLICATION FOR A HAZARDOUS WASTE COLLECTION SITE LICENSE

- (1) An application for a new collection site license shall consist of a written report, signed by the applicant or his authorized representative, which shall contain or be accompanied by, but not limited to:
 - (a) The name and address of the applicant and person or persons to be directly responsible for the operation of the collection site.
 - (b) The experience of the applicant in the handling of hazardous substances.
 - (c) The management program for the operation of the collection site, including the proposed methods of storage, and the proposed emergency measures and safeguards to be provided for the protection of the public, the site employees, and the environment.
 - (d) A schedule and description of sources, types and quantities of material to be stored and special procedures, if any, for their handling.
 - (e) A description and preliminary engineering sketch of the size

and type of facilities to be constructed, including the height and type of fencing to be used; the size and construction of structures or buildings, warning signs, notices and alarms to be used; the type of drainage and waste handling facilities and maximum capacity of such facilities; the location and source of each water supply to be used and the location and the type of fire control facilities to be provided at such site.

- (f) The exact location and place where the applicant proposes to operate and maintain the collection site.
 - (g) A proposed program for continuous surveillance of the collection site and for regular reporting to the Department.
 - (h) A proposal and supporting information justifying the amounts of liability insurance proposed to protect the environment and the health, safety and welfare of the people of this State, including the names and addresses of the applicant's current or proposed insurance carriers and copies of insurance policies then in effect.
- (2) An application to renew or modify a collection site license shall consist of a written report, signed by the applicant or his authorized representative, which shall contain or be accompanied by, such items of subsection (1) of this Section as shall be deemed pertinent by the Department.
- (3) The Department may require the submission of such other information as it deems necessary to make a decision on granting, modifying or denying the license.

- (4) Applications which are incomplete, unsigned, or which do not contain the required information, may be excluded from consideration by the Department at its discretion. The applicant shall be notified in writing of the deficiencies.

A new OAR 340-62-070 is hereby adopted to read as follows:

62-070 PLANS REQUIRED FOR A HAZARDOUS WASTE COLLECTION SITE

Before a collection site is established, constructed, maintained or substantially modified, an applicant or licensee must submit to the Department final detailed plans and specifications covering construction and operation of the collection site and all related facilities; and receive written approval of such final plans from the Department.

A new OAR 340-62-075 is hereby adopted to read as follows:

62-075 ISSUANCE OR DENIAL OF A HAZARDOUS WASTE COLLECTION SITE LICENSE

- (1) Upon receipt of an application, the Department shall make such investigation as it considers necessary to determine whether or not a license should be issued. The determination of the Department, including proposed license provisions and conditions if the Department recommends issuance of a license, shall be forwarded to the applicant and, at the discretion of the Department, to other interested persons for comment. All comments must be submitted in writing within fourteen (14) days after mailing of the Department's determination, if such comments are to receive consideration prior to final action on the application.
- (2) After fourteen (14) days have elapsed since the date of mailing of the Department's determination and after considering all

comments received, the Department shall notify the applicant of its decision by certified mail at the address designated by him in his application.

- (3) If the Department refuses to issue a license, it shall state the reasons for such action and advise the applicant that he may request a hearing before the Commission or its authorized representative. Such a request for hearing shall be made in writing to the Director within 20 days of the date of the refusal and shall state the grounds for the request. Any hearing shall be conducted pursuant to the regulations of the Department.

A new OAR 340-62-080 is hereby adopted to read as follows:

62-080 RENEWAL, MODIFICATION, TERMINATION OR EXPIRATION OF A HAZARDOUS WASTE COLLECTION SITE LICENSE

- (1) An application for renewal, modification or termination of a license or to allow a license to expire shall be filed in a timely manner, but not less than sixty (60) days prior to the expiration date of the license. Section 62-075 pertaining to the issuance of a license shall apply to renewal, modification, termination or expiration of a license. A license shall remain in effect until final action has been taken by the Department on any appropriately submitted and complete application pending before the Department.
- (2) In the event that the Department finds it necessary to modify a license due to changed conditions or standards, receipt of additional information or any reason it deems would threaten public health and safety, the Department shall notify the licensee or

his authorized representative by certified mail. Such notification shall include the proposed modification and the reasons for modification. The modification shall become effective twenty (20) days from the date of mailing of such notice unless within that time the licensee requests a hearing before the Commission. Such a request for hearing shall be made in writing and shall include the reasons for such hearing. At the conclusion of any such hearing the Commission may affirm, modify or reverse the proposed modification.

A new OAR 340-62-085 is hereby adopted to read as follows:

62-085 SUSPENSION OR REVOCATION OF A HAZARDOUS WASTE COLLECTION SITE LICENSE

- (1) Whenever, in the judgment of the Department from the results of monitoring or surveillance of the operation of any collection site, there is reasonable cause to believe that a clear and immediate danger to the public health and safety exists from the continued operation of the site, without hearing or prior notice, the Department shall order the operation of the site halted by service of the order on the site superintendent. Notice of such suspension or revocation must state the reasons for such action and advise the licensee that he may request a hearing before the Commission or its authorized representative. Such a request for hearing shall be made in writing to the Director within 90 days of the date of suspension and shall state the grounds for the request. Any hearing shall be conducted pursuant to the regulations of the Department.

- (2) In the event that it becomes necessary for the Department to suspend or revoke a collection site license due to violation of any provision of ORS 459.410-459.690, noncompliance with these rules or the terms of the license, the threat of degradation of a natural resource, unapproved changes in operation, false information submitted in the application or any other cause, the Department shall notify the licensee by certified mail of its intent to suspend or revoke the license and the timetable and procedures to be followed. Such notification shall include the reasons for the suspension or revocation. The suspension or revocation shall become effective 20 days from the date of mailing of such notice unless within that time the licensee requests a hearing before the Commission or its authorized representative. Such a request for hearing shall be made in writing to the Director and shall state the grounds for the request. Any hearing held shall be conducted pursuant to the regulations of the Department.

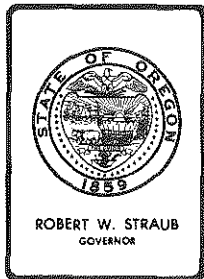
(PART D: SPECIFIED WASTES)

A new OAR 340-62-100 is hereby adopted to read as follows:

62-100 DISPOSAL OF A SPECIFIED HAZARDOUS WASTE AT A SPECIFIED SOLID WASTE DISPOSAL SITE

- (1) Pursuant to ORS 459.510, the Department may authorize the disposal of a specified hazardous waste at a specified solid waste disposal site established and operated in accordance with ORS 459.205-459.265 and the rules adopted thereunder.

- (2) Such authorization will generally be limited to wastes that are ignitable, corrosive, infectious, or reactive, but not toxic according to OAR Chapter 340, Division 6, Subdivision 3.
- (3) Such authorization is to be granted by the Department as a Solid Waste Permit, or amendment thereto, issued in accordance with the procedures of OAR Chapter 340, Division 6, Subdivisions 1 and 4, and in accordance with the following:
 - (a) The applicant must demonstrate that the disposal will not pose a threat to the public health and safety or the environment due to the properties of the waste, characteristics of the disposal site, the proposed handling procedure, and other relevant circumstances.
 - (b) The waste generator must demonstrate that:
 - (i) All practicable steps have been taken to eliminate or minimize the generation of the waste and to recover, concentrate, or render the waste non-hazardous.
 - (ii) The disposal of the waste at a hazardous waste disposal site is burdensome to an extent which makes such disposal severely detrimental to the generator's activities without providing commensurate environmental benefits.



Department of Environmental Quality

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

August 3, 1978

To: Environmental Quality Commission
From: Hearing Officer
Subject: Hearings Report: July 18, 1978 Public Hearing on Proposed Revision of Rules for Licensing Hazardous Waste Management Facilities

Summary

Pursuant to public notice, the hearing commenced before the undersigned hearing officer at 1:00 pm on July 18, 1978 in the Department's conference room 3A, Portland, Oregon.

Over 90 hearing notices were mailed. Eight outside persons were present at the hearing, of whom two testified.

Summary of Testimony

Testimony was given by Mr. William C. Cox, a Portland attorney representing himself, and Ms. Jane P. Hawkes, a legal assistant, representing the Oregon Environmental Council. Both objected to eliminating the part of Section 62-020 that requires the Commission to specifically approve hazardous wastes before they are imported into Oregon for disposal. They believe that by so doing, the State would not be able to adequately control the wastes that may be imported. Also, any chance for citizen review of pending actions would be eliminated.

Copies of both statements are attached. Mr. Cox has had several previous letters and discussions with DEQ seeking to reduce or halt the importation of hazardous waste into Oregon which he also requested be made part of the record.

Recommendation

No recommendation based on the hearing testimony.

Respectfully submitted,

Fred S. Bromfeld
Hearing Officer

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Enc. (2)



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Make all previous comments, letters, etc part of record

①

STATEMENT OF WILLIAM C. COX

JULY 18, 1978

RE: Proposed Revision of Rules for Licensing
Hazardous Waste Management Facilities

ISSUE: Should specific EQC approval for disposal of foreign sourced hazardous wastes be eliminated leaving the decision solely the responsibility of DEQ and the importer?

The DEQ is a quality organization with dedicated and environmentally conscious management and staff. DEQ management should be complimented for their efforts to make DEQ's operations more efficient and economical. There is a point however, where the need for independent review of an agency's actions outweighs the need for streamlined operations. That point is reached when the safety and well being of Oregonians are sacrificed in the name of efficiency. DEQ's proposal sacrifices the safety and well being of Oregonians and should be rejected.

The main beneficiary of this proposed elimination of EQC approval is not the people of Oregon nor is it DEQ, but rather it is Chem-Nuclear, Inc., the principal hazardous waste disposal licensee in this State.

DEQ presently relies heavily on the data supplied by Chem-Nuclear in making its decisions regarding the extent of hazard the chemical and wastes Chem-Nuclear wishes to import represent. In fact, the head of Chem-Nuclear's Oregon operations recently was in DEQ management as head of the Hazardous Waste Section. This combination of control of

Statement of William C. Cox

Page Two

Chemical statistics and inside influence gives Chem-Nuclear nearly carte blanc control of DEQ's analysis of hazardous waste material and its subsequent decision making. To counter this EQC must retain its oversight function.

In addition, by EQC retaining this oversight function, better control of transportation of hazardous materials into the State is accomplished. By obtaining prior knowledge of what is to be brought into the state, plans can be formulated to deal with potential problems.

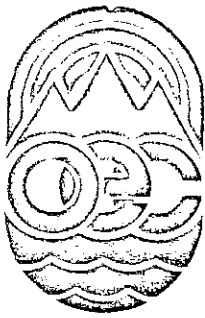
Further, Chem-Nuclear is a profit oriented business which is benefited by increasing the markets for its services as much as possible. We have seen Chem-Nuclear reach out to Washington, Idaho and now even Canada to solicit more hazardous materials for storage in Oregon. Without EQC oversight there will be little or no control over the extent to which Chem-Nuclear will solicit hazardous materials from foreign sources. Already 60% of the materials stored at the Chem-Nuclear Arlington site originate outside the State of Oregon.

Oregonians were far sighted enough to foresee the need for a hazardous waste disposal program. We should not now be punished for that innovativeness by, in effect, opening our doors to whatever hazardous materials Chem-Nuclear can find to import.

Statement of William C. Cox

Page Three

EQC needs to retain its oversight function and even strengthen its by requiring anyone wishing to export hazardous wastes to Oregon for disposal or storage to submit a statement of need. Such a requirement should be oriented at making Oregon a disposal and storage site of last resort. This can be accomplished by requiring the source state or country to show why it can't dispose of or store the material itself.



OREGON ENVIRONMENTAL COUNCIL

2637 S.W. WATER AVENUE, PORTLAND, OREGON 97201 / PHONE: 503/222-1963

July 18, 1978

Environmental Quality Commission
Yeon Building
Portland, Oregon

To the Commissioners:

The Oregon Environmental Council is a coalition of recreation, health and labor organizations and about 3,000 concerned citizens. We would like to comment on the proposed revision of rules for the licensing of hazardous waste management facilities and appreciate the opportunity to do so.

We are most concerned with the proposal to give the Department of Environmental Quality authority to approve the disposal of out-of-state hazardous wastes in Oregon without approval by the EQC. By removing the requirement for EQC approval, the DEQ would be virtually eliminating the chance for widespread public notice of pending decisions on such disposal. Assuming for the moment that the site at Arlington is as good and safe as it is made out to be and that it, indeed, serves necessary and important functions for Oregon and other states which do not have such appropriate disposal sites, the people of Oregon deserve to know the nature and the amount of hazardous wastes generated outside the state to be disposed within their state.

It is through such public notice and subsequent citizen participation that the state will be able to maintain regular checks and re-evaluation on its policy to store hazardous wastes in Oregon. It is said that to require EQC approval would needlessly encumber the decision process. Granted, providing for public notice and for hearings will involve more work and time; however, does anyone have the right to say that such additional effort is "needless" when, in fact, it involves the management of material

- ALTERNATIVE FUTURES Tqard
- AMERICAN ASSOCIATION OF UNIVERSITY WOMEN
Portland Chapter
- AMERICAN INSTITUTE OF ARCHITECTS
Portland Chapter
- Southwestern Oregon Chapter
- AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS
Oregon Chapter
- ASSOCIATED GENERAL CONTRACTORS OF AMERICA
Central Oregon, Corvallis
- AUDUBON SOCIETY
Portland, Salem
- BAY AREA ENVIRONMENTAL COMMITTEE
Coos Bay
- B R I N G
- CENTRAL CASCADES CONSERVATION COUNCIL
CHEMEKETANS, Salem
- CITIZENS FOR A CLEAN ENVIRONMENT
Corvallis
- CITIZENS FOR A BETTER GOVERNMENT
- CLATSOP ENVIRONMENTAL COUNCIL
- EAST SALEM ENVIRONMENTAL COUNCIL
- ECO-ALLIANCE, Corvallis
- EUGENE FUTURE POWER COMMITTEE
- EUGENE NATURAL HISTORY SOCIETY
- FRIENDS OF THE EARTH
- FUR TAKERS OF AMERICA, Conby
- GARDEN CLUBS of Cedar Hill, Corvallis
- McMinnville, Nahalem Bay, Scappoose
- GREENPEACE OREGON
H.E.A.L., Astoria
- LAND, AIR, WATER
Eugene
- LEAGUE OF WOMEN VOTERS
Central Lane
Coos County
- McKENZIE FLYFISHERS, Eugene
- McKENZIE GUARDIANS, Blue River
- NORTHWEST ENVIRONMENTAL DEFENSE CENTER
- NORTHWEST STEELHEADERS COUNCIL OF TROUT
UNLIMITED, Crater Lake, Corvallis
- UNLIMITED, Tignard, Willamette Falls
- OBSIDIAN, INC., Eugene
- 1,000 FRIENDS OF OREGON
- OREGON ASSOCIATION OF RAILWAY PASSENGERS
- OREGON BASS AND PANFISH CLUB
- OREGON GUIDES AND PACKERS
- OREGON HIGH DESERT STUDY GROUP
- OREGON LUNG ASSOCIATION, Portland & Salem
- OREGON NORDIC CLUB
- OREGON PARK & RECREATION SOCIETY
Eugene
- OREGON ROADSIDE COUNCIL
- OREGON SHORES CONSERVATION COALITION
O.S.P.I.R.G.
- PLANNED PARENTHOOD ASSOCIATION, INC.
Lane County
Portland
- PORTLAND RECYCLING TEAM, INC.
P.U.R.E., Bend
- SANTIAM ALPINE CLUB
Salem
- SELLWOOD-MORELAND IMPROVEMENT
LEAGUE, Portland
- SIERRA CLUB
Pacific Northwest Chapter, Eugene
- Columbia Group, Portland
- Klamath, Klamath Falls,
Mary River, Eugene
- Marv's Peak, Corvallis,
Mt. Jefferson, Salem,
Rogue Valley, Ashland
- SOLV
- STEAMBOATERS
- SURVIVAL CENTER, U of O, Eugene
- TEAMSTERS FOOD PROCESSORS
- THE TOWN FORUM, INC.
Cottage Grove
- UMPUJA WILDERNESS DEFENDERS
- WESTERN RIVER GUIDES ASSOCIATION, INC.
- WILLAMETTE RIVER GREENWAY ASSOCIATION

Environmental Quality Commission
July 18, 1978

Page 2

which by definition is deemed hazardous to health and safety of people? We think not. Therefore, the Oregon Environmental Council requests that decisions regarding the disposal of out-of-state hazardous wastes be made through the deliberative body of the EQC.

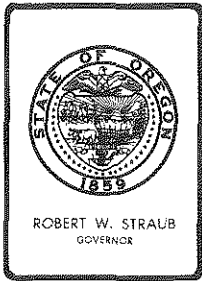
The fact that a former DEQ staff member is now with the industry and still maintains friendly relations with DEQ, we believe, is further grounds for the additional controls to be provided by the EQC. Thus, the unpleasant issue of conflict of interest could be well avoided.

Again, we appreciate the opportunity to express our views on this very important issue.

Sincerely,

Jane P. Hawkes
Legal Assistant

JPH:alh



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. K, September 22, 1978, EQC Meeting

Rule Required for the Used Oil Recycling Program by HB3077

Background

The 1977 Legislature passed HB 3077 (ORS 468,862), the "Used Oil Recycling Act." This act became effective on January 1, 1978.

This legislation requires:

That the DEQ carry out a public education program including:

- a. Establishing a public information center, and
- b. Encouraging the establishment of voluntary oil collection and recycling facilities.

That the Environmental Quality Commission adopt a rule requiring sellers of more than 500 gallons of lubricating oil to post signs with specific information about recycling.

That the DEQ enforce existing statutes to prevent the improper disposal of used oil to Oregon's air and water.

Statement of Need for Rule Making

a. The Environmental Quality Commission is authorized by ORS 468.862 Chapter 483, Section 6 to adopt a rule requiring signs be posted that give information on how, where and why recycle used oil.

b. Last year 5 million gallons of used motor oil were improperly disposed of to Oregon's sewers, drainage ditches, rivers, back yards, and vacant lots or wastefully burned.

Most of this oil comes from automobile owners who change their own motor oil. In Oregon 50% of all automobile owners change their own oil. Not only is this a source of pollution but a waste of a non-renewable resource.



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At present there exists a system of used oil recycling depots through out the state. These are new car dealerships, retail stores, full time recycling depots and volunteer gas stations. The problem faced by the Used Oil Recycling Program is a lack of information by the public as to where and how they can recycle their used oil, and why it is important to recycle. The posting of signs, with this information will provide Oregonians with a environmentally sound method for disposing of used motor oil and conserving energy. The rule is necessary to make certain the signs are posted.

c. The principal document relied upon is a unpublished report entitled "Waste Oil Recycling" by the Metropolitan Service District. A copy is available for viewing at the Solid Waste Division offices, DEQ.

Evaluation

The proposed rule is a straight forward attempt to put a statute into a form suitable for implementation. (Attachment 1)

Summation

Used Motor Oil is a valuable natural resource that can not afford to be wasted.

Used Motor Oil is improperly disposed of to the environment causing pollution.

HB3077 has directed the EQC to adopt a rule requiring signs be posted by retail sellers to give information on why, how and where to recycle used oil.

Director's Recommendation

Having found the foregoing facts to be true, I recommend the Environmental Quality Commission authorize a public hearing to be held on the proposed rule for sign posting.



WILLIAM H YOUNG

Ernest Schmidt:mt
229-5913
September 11, 1978
Attachment: (1) Proposed Rule

Agenda Attachment #1 to EQC Agenda Item

Proposed Rule for the Posting of Signs in Retail Stores

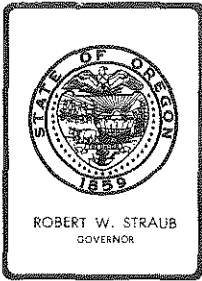
A NEW OAR 340-61-062 is hereby adopted to read as follows:

61-062 WASTE OIL RECYCLING SIGNS.

Retail sellers of more than 500 gallons of lubrication or other oil annually, in containers for use off premises, shall post and maintain durable and legible signs, of design and content approved by the DEQ, in plain view of the point of sale or display. The sign shall contain information on the importance of proper collection and disposal of used oil, how to recycle oil, and the name, location and hours of operation of a conveniently located used oil recycling depot.

The DEQ recommends the use of the following items for the signs, which are available from the DEQ-Recycling Information Office.

- A. Oil Recycling Logo.
- B. Information on the energy and environmental benefits gained by recycling used motor oil.
- C. The Recycling Switchboard's Portland number 229-5555 and the toll free statewide number 1-800-452-7813.
- D. Information on how to recycle used oil.
- E. Information on used oil recycling depots.



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. L, September 22, 1978, EQC Meeting

Public Hearing and Consideration of Adoption of Minor Changes to the Vehicle Emission Testing Rules, OAR 340-24-340(10) and OAR 340-24-350(5)(b)

Background

At the Environmental Quality Commission meeting of June 30, 1978, the Commission adopted rule amendments to the motor vehicle emission testing rules. These amendments aligned the definition of owner to that found in statute ORS 481.040, and updated the emission standards to include 1978 model year motor vehicles.

Statement of Need for Rule Making

The Environmental Quality Commission proposes to adopt a minor change to the vehicle emission testing rules. As required by ORS 183.335(7), the following are set forth:

- a. Legal authority: ORS 183.341 and ORS 468.370.
- b. Need for rule: Housekeeping changes omitted during last rule update.
- c. Documents relied upon: The motor vehicle emission testing rules OAR 340-24-300 through 24-350. The proposed changes will be consistent with the remaining rules.

Evaluation

The proposed rule changes included as Appendix A are consistent with the definitions in the inspection rules including that of "owner" and that of "motor vehicle fleet operation." At the public hearing of May 31, 1978 when "owner" and "motor vehicle fleet operation" definitions were modified, there was no testimony on these items.

As required by ORS 197.180, it has been determined that these proposed rule changes do not affect land use.



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Summation

The proposed rule changes are minor housekeeping amendments. The public hearing was authorized at the Commission meeting of July 28, 1978. The adoption of this amendment will correct an oversight in the emission testing rules governing motor vehicle fleet operations.

Director's Recommendations

Having found the foregoing facts to be true, subject to such testimony as may be given in this public hearing, I recommend that the proposed rule amendments be adopted.



William H. Young

William P. Jasper:as
5081
August 16, 1978
Attachments

APPENDIX A

OAR 340-24-340(10) is amended as follows:

To be licensed as a motor vehicle fleet operation, the applicant must:

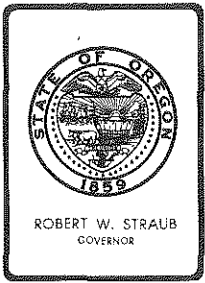
(a) Be the (~~in~~) owner(~~ship, control, or management, or any combination thereof~~) of 100 or more Oregon registered in-use motor vehicles, or 50 or more publicly owned vehicles registered pursuant to ORS 281.125.

(b) Be equipped with an exhaust gas analyzer complying with criteria established in section 24-350 of these rules.

(c) Be equipped with a sound level meter conforming to "Requirements for Sound Measuring Instruments and Personnel" (NPCS-2) manual, revised September 15, 1974, of this department.

OAR 340-24-350(5)(b) is amended as follows:

(5) (b) The unit is no longer owned (~~, controlled or managed~~) by the motor vehicle fleet operation to which the license was issued.



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 , September 22, 1978, EQC Meeting

Status Report Contractor Operation v.s. State Operation
of the Motor Vehicle Emission Testing Program.

Background

The Environmental Quality Commission through the Department of Environmental Quality has the responsibility of conducting a motor vehicle emission inspection program in the greater Portland metropolitan area. This activity is part of the State's Implementation plan required by the Clean Air Act. In developing the current inspection program, one of the options considered was that of having a private contractor or a franchise operator operate the program for the State.

In 1972 the Department's Motor Vehicle technical advisory committee concluded that state owned and operated inspection stations would be the most practical and effective inspection system, but added that the option of allowing state owned inspection stations to be privately operated under strict state supervision, or franchise inspection stations, should be further considered. During and immediately after that time there was little interest from the private sector, for private contractor operation as the whole area of Inspection and Maintenance (I/M) Programs was new and undeveloped. Additionally, current legislation clearly optioned private garage testing which the Commission rejected for a variety of reasons.

As the Department implemented and developed the inspection program there was no change in this perception. So when the Commission adopted the inspection program rules in 1975, the State became the operator of the program.

On July 1, 1975 the mandatory phase of Oregon's I/M program began. The requirements for compliance were tied to vehicle registration, and thus testing and compliance for autos was required every two years in conjunction with license renewals.

In 1976 the Speaker of the Oregon House appointed a task force to study the effects and operation of the Department's inspection program. The task force concluded that the inspection program was a reasonable control for automotive air pollution in the Portland metropolitan area. The task force also concluded that the private contractor operation was an alternative to the State's operation.



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Materials

In the Commission's Report on the inspection program to the 1977 Legislature, the Commission concluded that private contractor operation was a viable alternative to the State's operation. ORS 468.377 (HB2298), attached as Appendix A, requires the Commission to determine the most cost effective method of conducting the motor vehicle emission inspection program. This act provides that upon finding that savings to the public and increased efficiency would result and that the quality of the program would adequately be maintained, the Commission may contract with the private sector for the operation of the inspection program.

The Legislature has left to the Commission the determination of the methodology of the inspection program and has directed the Commission to evaluate a private contractor operation. The Legislature has reserved to itself, however, the maximum allowed inspection fee, the testing frequency, the inspection area boundaries, and all of the other statutory structure within which the program must operate.

For the purposes of this analysis no conjecture as to Legislative action will be made. There are too many variables such as annual program operation, boundary re-evaluation, fee structure and other non-attainment areas to attempt to estimate the various scenarios.

Based upon ORS 468.377 there are two options for the Commission's consideration:

State Operated System

Private Contractor

ORS 468.377 (HB2298) established the following criteria for evaluation:

Savings to the Public.

Increased Efficiency.

Quality be adequately maintained.

Evaluation

In evaluating the major alternatives, state operation and private contractor operation, it is necessary to determine the various benefits and liabilities that accrue from each system. For the purposes of this presentation it is assumed that there are no differences in air quality benefits between approaches and that all existing statutory restraints remain. A listing of the major benefits and liabilities for the two options will be made and will include a brief discussion of the various items.

STATE OPERATION

With the current state operated system, the following are listed as benefits:

It is an existing and established program.

It is State operated and there is no service industry conflict.

There is a sound technical application of a solution to the problem.

There is no general fund expenditure.

The program has flexibility.

As an existing and established I/M program, the program is operating and doing its job. The citizens in the area (the Portland area MSD) know that it is required, where the stations are, and are aware of what is expected. As the program is operated by the state, there is a definite line drawn between the testing and compliance and the automotive service industry.

While there were some start up costs for the voluntary program, the program is currently self supporting through the fees received. Only those citizens who live in the affected area pay fees which support the testing and compliance efforts. There are no monies appropriated from the State's general fund and as such, the program does not affect the overall tax structure.

While considering the alternatives, program flexibility is a benefit to consider. This flexibility has allowed the Department to participate in various federal studies such as the EPA Portland Project, a survey on the use of unleaded fuel, changes in operating schedule to provide improved service to the public, and the ability to reduce service when the demand drops, as it does because of Oregon's biennial registration. The internal flexibility also allows us to monitor our own quality control and expand internal studies.

With the current state operated system, the following are listed as liabilities:

It is another state bureaucracy.

Program appearance is compromised to keep costs within budget.

Public relations promotions are limited.

The program operates with limited resources.

A discussion of the appearance of government and bureaucracy could, especially in this time of extreme tax consciousness, go on indefinitely. However, as a government agency, the Department must operate its inspection program within the laws, rules, regulation and procedures of the State. Hiring, firing and layoffs are done under very specific procedures. Purchasing of equipment and supplies are all done under the guidelines and requirements of Dept. of General Services (DGS). The leasing of facilities (all DEQ test stations, except Powell St., are privately owned and on the tax rolls) again falls under very specific procedures from DGS. The above are procedural limitations that affect state government operation. But just the perception of the bureaucracy by the public itself is often a liability.

Operational and cost considerations have resulted in a compromise solution to facilities appearance. This is listed as a liability because impressive facilities often have a tendency to set the motorist at ease. However, one consultant who recently visited Portland to study our program, stated that she was impressed with our "imaginative and thorough utilization of existing facilities and resources".

Public relations is the one area where a state operated system could be said to be deficient. State government historically has relied upon the news media and public service announcements to convey information to the public. Philosophically government tries to provide adequate information to its citizens for them to make a decision. Contrasting this, a private sector is in the position to "sell" or "merchandise" its product or service and therefore can advertise and sell the program to an extent that may not be appropriate for the State.

The program as constituted operates within limited resources. The program is funded only by the fees received. There is no additional funding by the Legislature. With the State's biennial budget process, all expenditures are planned for the two year budget period. This budget is approved by the Legislature.

PRIVATE CONTRACTOR OPERATION

Private Contractor operation of the state mandated inspection program has been implemented in Arizona and California. Arizona's program has been in operation for several years. California's program is scheduled to commence January 1, 1979. In a private contractor operation, the state contracts to the private sector for the total operation of the inspection program to state specifications. The following would be a listing of the major benefits of a contractor operation:

Less inconvenience to the motorist.

Potentially improved diagnostics.

Automated test equipment.

Better geographic coverage.

Potentially better or more uniform
appearing facilities.

Better merchandising of program.

Reduced State Budget.

Non-government jobs.

A private contractor as part of a final contract might be able to improve service over the State operation through more and better locations, improved hours and staffing, and automated equipment. These items would need to be detailed in the contract so that the overall effect would be to improve the test-motorist interface and bring about less inconvenience and better service to the motorist while the same time of meeting air pollution goals.

The automation of the test procedure and data collection and analysis has many desirable aspects. There is no indication that the overall test time would be reduced. Automation would, however, totally structure the test and the pass-fail decision would be removed from the inspection personnel and be made by machine. This would remove the concern that an individual inspector could personally bias a test result. The implementation and degree of automation would be specified in the contract and could materially affect contract cost.

A private contractor should be able to provide better geographic coverage of an area than the State. The contractor, having contractual obligations to fulfill, being guaranteed of a long term operation, and having amortization as a tool, would be able to set up in areas that are currently outside of the existing financial capability of the State. This would be true for some areas currently in the program boundaries and other areas should program boundaries change. The station density and geographic coverage would be part of the contract.

A potential benefit that would result from a private contractor operation would be a more uniform appearance of the testing facilities and better geographic coverage of the area. Judging from existing contractor programs (Arizona and California), facilities appearances would be improved. In each of these states, the contractor undertook a major capital program in terms of facilities construction. Design criteria and station locations would need to be part of the contract specifications and may affect the total cost.

Increased public awareness and understanding of program objectives may result from private contractor operation of the state's I/M program. Here the private contractor can draw on resources usually unavailable to the state. The private contractor would be in the position to merchandise this service and increase public awareness and understanding of the purpose of the program. The degree of advertising, public relations, and promotions could be part of the contract between a private firm and the State.

A major benefit would be the reduction in State budget. This would not necessarily affect Oregon's General Fund, since the program is currently operating on fee income (dedicated funds). It would reduce this dedicated fund and thus the overall State budget since the State would no longer be collecting the fees, administering the program, hiring the inspectors and caring for the facilities. The State would derive some income from a contractor operated I/M program. The monies derived would be subject to the final contract negotiations, and would have to be sufficient to cover the State's surveillance costs so as not to require any general fund support.

As currently constituted, the program if operated by a contractor would provide for the elimination of some 15-70 government jobs. The number varies because of the biennial nature of the program. Arizona's totally automated lanes require about $2\frac{1}{2}$ persons per lane for a computer controlled dynamometer test. Currently, Oregon averages about $2\frac{1}{2}$ persons per lane over the year for a manual idle test. The contractor operation would provide for an approximately equivalent number of jobs in the private sector.

The following would be the liabilities or disadvantages of the contractor operation.

- Lack of flexibility due to contract terms.
- Change in program format.
- Fixed contract length.
- Fee structure.
- Expansion of system.
- State staff audit team.
- Potentially increased costs to cover profit.
- Increased testing lanes and queuing without additional facilities.

Here the discussion turns to supposition based upon a preliminary proposal submitted by a potential contractor, Hamilton Test Systems. While the Proposal is dated, the basics in that proposal point out some of the advantages and disadvantages of a private contractor operation. The document is attached as Appendix B.

Once a contract is signed with a private contractor, the contract becomes the performance document. Any required change in performance due to Commission action, Legislative mandate, or operation requirements would require contract modification and contract renegotiation. Each contract modification potentially could affect the cost of the contract.

Changing the program operation from a state operation to one operated by a private contractor could promote an adverse reaction from the public. The terms and transition would have to be detailed in the contract. Sufficient public information would need to be disseminated to adequately inform the public of the changes in operator, the reasons for the change, and any other procedural changes that might occur as a result of private contractor.

A contract would be entered into between the State and a private contractor. Should the Legislature decide to abolish the program or cancel the contract, for whatever reason, there would be buy-out costs unless the contract were to run its full term. Arizona's contract is for five years. Associated close out costs would be a function of the contract.

The current fee structure allows for a \$5 charge. Current Department practice interprets this as \$5 charge for each certificate of compliance issued. While Department projections indicate that we may have to change that policy and charge for testing as opposed to certificates only, a charge per test is currently the method of funding existing contractor inspection programs. In Arizona the fee structure is \$5 fee which includes one free retest. In California the inspection fee is estimated at \$13.00 per certificate with free retests.

With the contractor operation there would be the requirement of the State audit team. While a variation of this is being done in the existing regime, it would be necessary to continue on a more formalized and structured basis an audit of quality control. The limits and extent of this audit of the contractor would be detailed in any contract. Also included in a contract would be details covering contractor payment schedules, testing rates, and performance levels.

If the program were contracted to the private sector and assuming costs remained the same or cost reductions over current practices were implemented, the private sector requires a return on its investment. As a measure of the magnitude of that profit the PUC currently provides for a "fair" return on investment for the major public utilities. The contracting of the program to a private contractor could be considered similar to the establishment of a public utility.

Appendix B was provided to the State and is based upon biennial operation. Biennial operation versus annual operation is a legislative option. Unless a contract specifies geographic coverage and test lane density, a contractor could consolidate existing operations and provide more centrally located higher volume testing facilities. This would have the disadvantage of providing longer distances and more inconvenience to the public. This matter, however, would be one of prime concern during contract negotiation.

The evaluation has listed some of the various benefits and liabilities of the state operated and private contractor inspection programs. These pluses and minuses all have varying impact on the operation of the inspection program. The purpose in analyzing these various items and trying to put them into perspective is to provide the Commission information to determine whether the alternatives to state operation of the inspection program are available and feasible within the existing statutory restraints on the program. It can be argued that the only way

to actually determine the costs associated with various options to the Commission is to draft and issue a request for proposal (RFP) or other document which will detail all specifications. But because of the statutory limitations of the program, a preliminary evaluation as to the feasibility of implementing a program change is all that is presented.

If the Commission were to recommend the implementation of a private contractor operated inspection system, it would set into operation a complex system of specification, evaluation, selection, negotiation, and implementation. During this period, the Department would need the assistance of lawyers, accountants, and financial evaluators that currently are not on Department staff. One approach that should be considered would be to have the assistance of the Public Utilities Commissioner's staff. In implementing the private contractor approach the state is in essence creating a privately operated public utility. The offices of the PUC are among the more capable of various state agencies in interfacing with this section of the private sector to judge whether adequate service is being provided, whether fees and profits are reasonable, and whether contract terms are fair to the people and the state.

ORS 468.377(HB 2298) provides three criteria for the comparisons of state versus contractor operation of the inspection program. Any change must provide a savings to the public, provide increased efficiency, and quality must be adequately maintained.

1) Savings to the Public.

The inspection program is funded through fees received and does not rely on general fund monies for its operation. With the current \$5 fee structure it would be necessary to split the monies received to cover the contractor's expenses and the cost of the State's surveillance or to rely on general fund support. In the report attached as Appendix B, Hamilton Test Systems outlined a \$4.50/.50 split on inspection fees; \$4.50 to the contractor and \$0.50 to the State. This fee split was propositioned on taking over our current inspection system and automating the process. No additional changes or services were to be provided. The \$4.50/.50 figure is two years old and has not been re-estimated to provide for inflation. If the program were to be taken over by a private contractor there would be no fee reduction and if there was to be no additional support from the general fund, the \$0.50 would need to supply all of the Department's inspection program surveillance of the contractor and other related staff activities.

For the almost half million cars registered in the Metropolitan Service District area, that \$0.50 per car fee would provide a budget of approximately \$125,000 per year for contractor program surveillance and the other air quality areas related to motor vehicle pollution control. That dollar amount without a supplement does not appear to be adequate for the surveillance and other activities. It would be necessary to raise the fee to cover costs or to obtain support from the general fund.

2) Increased Efficiency.

The inspection program currently is operating with a capacity of 14 lanes. In the proposal, dated as it is, Hamilton Test Systems proposed, at the current fee structure, to take over the existing system and to automate it. Any program improvement or change in program directions would require specifications in the contract possibly affecting either or both performance and cost.

3) Quality be Maintained.

The degree to which the quality of the program operation would be maintained is a function of the contract specification and the surveillance and ability to document contractor performance. The state with the \$0.50 per car income cannot adequately guarantee and document that quality will be maintained.

SUMMATION

The evaluation listed and discussed the alternatives of contractor and state operation of the Department's motor vehicle emission inspection program. Hard dollar figures on cost differences between the two programs are not available without the issuance and evaluation of a request for proposal (RFP). The actual level of interest from the private sector to take over Oregon's inspection program can not be known without the issuance of an RFP. The costs for the preparation and evaluation of a RFP can be significant.

The 1979 Legislature will be meeting soon and may consider significant changes in program operation affecting annual inspections, program boundaries, and other related inspection program legislation. Changes in these areas could significantly affect the viability of a contractor operation of the inspection program. However, given the indicators that exist today and within the limits of the statutory structure of the program, the following conclusions are made.

1. Savings to the Public.

There is no indicator that the costs to the public, as measured by the fee charged, would be reduced through the contracting of the inspection program to the private sector. There would, however, be a reduction in State Budget. Supplemental appropriations from the general fund to the Department may also be required if the program were to be contracted.

2. Increased Efficiency.

Efficiency of program operations should not materially change with a private contractor operation of the inspection program. All details, however, of any program operations would be subject to the contract negotiation.

3. Quality be Maintained.

With an estimated fee split of \$4.50/.50 between the contractor and the state, there does not appear to be adequate revenue to fully document that the quality of the program would be maintained.

Director's Recommendation

Having found the foregoing facts to be true, I recommend that the Commission enter a finding on the matter of private contractor operation in comparison to state operation of the I/M program that given the indicators available and within the current statutory structure of the inspection program there is 1) little indication that there would be a savings to the public, 2) that the Department would have inadequate resources to monitor the maintenance of program quality, 3) that there would be no deterioration of program efficiency, 4) that the costs involved in the issuance and evaluation of an RFP are not justified at this time because of statutory limitations on program operation, 5) that the concept of a contractor operation is still a viable alternative to state operation, 6) and that following the 1979 legislative session, the Department shall reevaluate for the Commission's consideration the alternative of a private contractor operation of the motor vehicle emission inspection program.



WILLIAM H. YOUNG

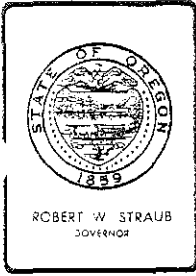
William P. Jasper:jo/dc
229-6235
9/6/78

Appendix A (ORS 468.377)

Appendix B (Attached to Commission copies only. A copy of this document is available for review at the Department Offices and at this Commission meeting.)

Appendix A

ORS 468.377 Cost effective inspection program; contracts with private firms for inspection. The commission shall determine the most cost effective method of conducting a motor vehicle pollution control system inspection program as required by ORS 468.375. Upon finding that savings to the public and increased efficiency would result and the quality of the program would be adequately maintained, the commission may contract with a private individual, partnership or corporation authorized to do business in the State of Oregon, for the performance of tests or other services associated with conducting a motor vehicle pollution control system inspection program.



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. 0, September 22, 1978, EQC Meeting

Authorization to Hold a Hearing on Proposed Volatile Organic Compound Rules and Amending the State Implementation Plan

Background

The Federal Clean Air Act Amendments of 1977 (CAAA) require that reasonably available control measures be added to State Implementation Plans (SIP) if the photochemical oxidant standard is not predicted to be attained by December 31, 1982. EPA guidelines require that in order to avoid sanctions (such as withholding of highway and sewage treatment plant grants) the SIP revision, due January 1, 1979, must contain Volatile Organic Compound (VOC) emission limits for 11 stationary source categories for which EPA has issued emission limit guidelines.

VOC rules have been developed for the 11 source categories following the EPA guidelines for Oregon's four oxidant nonattainment areas. Air quality projections due to be completed in October 1978 may show that an extension of compliance with the oxidant standard is not needed for the Salem and Eugene areas hence VOC rules would not be required. If this is the case, they will be deleted before the October public hearing or before final passage by the Commission in December. The CAAA also requires application of Lowest Achievable Emission Rate (LAER) to all major new and modified sources in nonattainment areas.

Oxidant nonattainment areas in the State and the number of days the standard was violated in 1977, are:

<u>Oxidant Nonattainment Area</u>	<u>Days Exceeding Oxidant Standard in 1977</u>
Medford-Ashland Air Quality Maintenance Area (AQMA)	39
Portland-Vancouver AQMA	41
Eugene-Springfield AQMA	3
Salem, City of	16



Contains
Recycled
Materials

These areas are experiencing levels of photochemical oxidant which exceed Federal and state ambient air standards. Volatile organic compounds, together with nitrogen oxides and strong sunlight, are the cause of photochemical oxidant.

The sources for which emission control guideline documents were prepared are:

<u>Source</u>	<u>Document</u>
Service Stations, Stage 1 Degreasing ("Solvent Metal Cleaning")	No EPA document number EPA-450/2-77-022
Bulk Gasoline Terminals	EPA-450/2-77-026
Three Petroleum Refinery Processes	EPA-450/2-77-025
Cutback Asphalt Paving	EPA-450/2-77-037
Surface Coating, Vol. II 5 Categories	EPA-450/2-77-008
Large Appliance Manufacture	EPA-450/2-77-034
Magnet Wire Insulation	EPA-450/2-77-033
Gasoline Bulk Plants	EPA-450/2-77-035
Metal Furniture Manufacture	EPA-450/2-77-032
Petroleum Liquid Storage	EPA-450/2-77-036

An August 4, 1978, draft of the proposed rules was mailed in August to 70 parties affected by the rules. The current draft, which incorporates many of the changes recommended by these parties, is attached to this memorandum. A public hearing is being scheduled for these VOC rules at: Portland, Monday, October 16, 2 and 7 p.m., State Office Building, basement auditorium. See the attached Notice of Public Hearing.

The staff will evaluate the public comments and offer a VOC rule to the Commission for passage at the December EQC meeting. This will meet EPA's schedule for passage of rules to control these VOC sources.

Statement of Need

The Environmental Quality Commission is requested to consider adoption of the attached, proposed VOC rules (OAR, Chapter 340, Sections 22-100 to 22-201).

- a. Legal Authority: ORS 468.020 and 468.295(3); Federal Clean Air Act Amendments of 1977--P.L. 95-95 (August 7, 1977), Section 172.
- b. Need for Rule:
 1. To reduce VOC being discharged into the atmosphere where they are causing oxidant to form and concentrate in excess of Federal (40 CFR 50.9) and state (OAR 340-31-030) ambient air quality standards.
 2. To prevent EPA sanctions which may result in withholding the Department's and State Highway funds for failure to pass VOC rules on schedule.
 3. To increase the Department's authority to require pollution control equipment not only of highest and best practicable treatment (OAR 340-20-001) but also of lowest achievable emission rate where ambient air standards are being violated.

4. To reduce VOC being discharged into the atmosphere by certain sources which also create a nuisance by their odor.
- c. Documents Relied Upon:
1. "Design Criteria for Stage I Vapor Control Systems Gasoline Service Stations," EPA, November 1975.
 2. "Control of Volatile Organic Emissions from Solvent Metal Cleaning," EPA-450/2-77-022, November 1977.
 3. "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals," EPA-450/2-77-026, October 1977.
 4. "Control of Refinery Vacuum Producing Systems--Wastewater Separators: Process Unit Turnarounds," EPA-450/2-77-025, October 1977.
 5. "Control of Volatile Organic Compounds from Use of Cutback Asphalt," EPA-450/2-77-037, December 1977.
 6. "Control of Volatile Organic Emissions from Existing Stationary Sources - Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008, May 1977.
 7. "Control of Volatile Organic Emissions from Existing Stationary Sources, Volume V: Surface Coating of Large Appliances," EPA-450/2-77-034, December 1977.
 8. "Control of Volatile Organic Emissions from Existing Stationary Sources, Volume IV: Surface Coating for Insulation of Magnet Wire," EPA-450/2-77-033, December 1977.
 9. "Control of Volatile Organic Emissions from Bulk Gasoline Plants," EPA-450/2-77-035, December 1977.
 10. "Control of Volatile Organic Emissions from Existing Stationary Sources, Volume III: Surface Coating of Metal Furniture," EPA-450/2-77-032, December 1977.
 11. "Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks," EPA-450/2-77-036, December 1977.
 12. Bay Area Air Pollution Control District (San Francisco), current regulations, received May 24, 1978.
 13. South Coast Air Quality Management District (Los Angeles), current rules, received May 25, 1978.
 14. State of California Air Resources Board, "Certification and Test Procedures for Vapor Recovery Systems at Gasoline Service Stations and Bulk Plants," received July 5, 1978.
 15. Suggested Model Rules, Rule A: Transfer of Gasoline into Stationary Storage Containers, Rule B: Transfer of Gasoline into Vehicle Fuel Tanks, Rule C: Transfer of Gasoline at Bulk Storage Facilities, Rule D: Storage of Gasoline, received July 7, 1978, from Jim Presten of Chevron USA Inc., San Francisco.

16. "Emission Standards and Controls for Sources Emitting Volatile Organic Compounds," draft of Washington State rules, received July 26, 1978, from Washington State Department of Ecology.
17. Letter from G. J. Beuker, The Asphalt Institute, received August 1, 1978, draft of liquid asphalt rule, proposed OAR 340-22-125.
18. "Oregon Air Quality Report 1977," State of Oregon, Department of Environmental Quality, Air Quality Division, Appendix 1C, Photochemical Oxidant Summary.
19. "Control and Prohibition of Air Pollution by Volatile Organic Substances," justification for rule by the New Jersey Department of Environmental Protection, received May 4, 1978.
20. "A Review and Survey of Hydrocarbon Emission Sources in the Medford AQMA," Pacific Environmental Services under EPA contract, May 1977.
21. "Photochemical Oxidant Air Quality Profile and Evaluation for the Oregon Portion of the Portland-Vancouver Air Quality Maintenance Area (AQMA)," DEQ, June 1978.

Evaluation

Medical Effects of Oxidants and VOC

A surprising amount of studies have been found which describe the carcinogenic and toxic effects of VOC. Besides their effects on humans, oxidants and VOC have effects on plants also.

Transport of Oxidant

Since oxidant takes time to form, rural places like Canby are experiencing higher oxidant levels than places where the precursors are released, such as the northwest industrial area of Portland.

History of Strategies

The practice of substituting less photochemically reactive VOC for more reactive has not been very successful elsewhere. Therefore, Oregon's proposed rules, as suggested by EPA, will require control of all reactive organics.

Cost Effectiveness and Energy Considerations

The cost per ton/year of VOC captured is being explored for each of the rules proposed. The energy expended to capture the VOC will also be investigated.

Overall Oxidant Control Strategy

The total VOC emission reduction needed to achieve compliance with Air Quality Standards will be addressed in the Transportation Control Strategy (TCS) Development Program which is the responsibility of local lead agencies. The VOC emission reductions required by these stationary source rules will be a part of the TCS.

VOC Reduction from Rule

The following table indicates the staff's best estimates of reductions from passage of the rules.

VOC Reductions, Tons/Year

Rule OAR 340-22-	Portland	Medford	Salem	Eugene
-110 Gasoline Stations	2,800	200	200	500
-115 & -120 Bulk Gasoline Plants & Terminals	4,200	100	small	small
-125 Liquid Asphalts	unknown	unknown	unknown	unknown
-130 Petroleum Refineries	none	none	none	none
-135 Organic Liquid Storage	small	small	none	small
-140 Surface Coating in Manufacturing (and -201)	unknown	3,400	none	none
-145 Degreasers	unknown	unknown	unknown	unknown
-150 Roofing Tars	unknown	unknown	unknown	unknown
<hr/>				
Total Reductions	7,000	3,700	200	500
Present Estimated VOC Emissions	65,000	12,000	10,000	22,500
% Reduction	11%	31%	2%	2%

Conclusions

1. EPA, following the Clean Air Act Amendments of 1977, is requiring Oregon to pass rules to control certain VOC sources.
2. VOC emissions in four urban areas of Oregon must be reduced to meet photochemical oxidant health standards.
3. VOC rules, developed from EPA guidelines and coordinated with the State of Washington, must be reviewed in a public hearing, and adopted by the EQC to assure continuance of certain grants from the Federal Government to Oregon's highways and sewage treatment plants.

Director's Recommendation

Having found the foregoing facts to be true, I recommend that the Commission authorize a public hearing for the attached VOC rules for October 16, 1978, in Portland and consider the rules for adoption at the Commission's December 1978 meeting.



WILLIAM H. YOUNG

PBBosserman/kz

229-6278

September 12, 1978

Attachments:

VOC Proposed Rules

Hearing Notice

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

of the

STATE OF OREGON

NOTICE OF PUBLIC HEARINGS ON A PROPOSED RULE GOVERNING THE EMISSION OF VOLATILE ORGANIC COMPOUNDS IN NON-ATTAINMENT AREAS OF OREGON AND APPLICATION OF LOWEST ACHIEVABLE EMISSION RATES

NOTICE is hereby given that public hearings will be conducted before a hearing officer of the Environmental Quality Commission on proposed permanent rule OAR Chapter 340, Sections 20-002 and 22-100 through 22-201 pertaining to Volatile Organic Compound General Emission Standards. Application of lowest achievable emission rates for major new and modified particulate emission sources, as regulated by the Clean Air Act Amendments of 1977 is also addressed. Adoption of this rule would constitute an amendment by adding new sections to the State's Clean Air Act Implementation Plan.

PURPOSE: The hearing will be to receive testimony on the Department's proposed Volatile Organic Compound (VOC) General Emission Standards. These standards would regulate certain sources of VOC which contribute to the formation of photochemical oxidants, commonly known as smog.

Non-attainment areas where the rules would apply are:

1. Medford-Ashland Air Quality Maintenance Area
2. Portland Air Quality Maintenance Area
3. Eugene-Springfield Air Quality Maintenance Area
4. Salem City Limits

Since oxidant standards are not violated in Oregon from November through March (because of insufficient solar energy), the rules allow a limited exemption for control device operation during the winter months. Since much of the state is considered in attainment with oxidant standards, sources in "clean" areas are exempted from these rules.

Sources regulated by these rules are:

- Gasoline Stations, underground tank filling
(customer vehicle tank filling to be regulated later)
- Bulk Gasoline Plants

- Bulk Gasoline Terminal Loading
- Cutback Asphalt
- Petroleum Refineries
- Petroleum Liquid Storage
- Surface Coating including paper coating
- Degreasers
- Asphaltic and Coal Tar Pitch
- Miscellaneous
 - Resin Plants
 - Surface Coating of Cans
 - Any new sources exceeding emissions of 100 tons VOC/year.

LAND USE COORDINATION: The proposed rule does not affect land use.

TIME AND PLACE of the hearings will be at 2:00 p.m. and 7:00 p.m. on Monday, October 16, 1978 in the basement, room 36, of the State Office Building at 1400 S. W. 5th Avenue, Portland, Oregon.

TESTIMONY regarding these proposals may be offered by any persons either orally or in writing. Written testimony may be offered by mailing the same prior to October 15, 1978 to the Department of Environmental Quality, Post Office Box 1760, Portland, Oregon 97207, or bringing same to the offices at 522 S. W. 5th Avenue, Portland, Oregon.

COPIES of the proposed regulations, background material, and definitions of affected areas may be obtained from the Department's Air Quality Division at its Portland address.

INQUIRY regarding the hearing and the proposals may be addressed to Mr. Peter Bosserman (229-6278) at the same Portland address. Please inform those persons you feel would have an interest in this matter.

Additions to Oregon Administrative Rules Chapter 340 Division 22:

General Emission Standards for Volatile Organic Compounds

These rules regulate sources of VOC which contribute to the formation of photochemical oxidant, more commonly known as smog.

Since oxidant standards are not violated in Oregon from November through March (because of insufficient solar energy), these rules allow certain control devices to lay idle during the winter months. Since much of the state is considered in attainment with oxidant standards, sources in "clean" areas are exempted from these rules.

Sources regulated by these rules are:

- Gasoline Stations, underground tank filling
(customer vehicle tank filling to be regulated later)
- Bulk Gasoline Plants
- Bulk Gasoline Terminal Loading
- Cutback Asphalt
- Petroleum Refineries
- Petroleum Liquid Storage
- Surface Coating including paper coating
- Degreasers
- Asphaltic and Coal Tar Pitch
- Miscellaneous
 - Surface Coating of Cans
 - Any new source exceeding emissions of 100 tons VOC/year

Definitions

340-22-100 As used in these regulations, unless otherwise required by context (1) "Volatile Organic Compound," (VOC), means any compound of carbon that has a vapor pressure greater than 0.1 mm of Hg at standard conditions (temperature 20°C, pressure 760 mm of Hg). Excluded from the category of Volatile Organic Compound are carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and those compounds which the U.S. Environmental Protection Agency classifies as being of negligible photochemical reactivity which are methane, ethane, methyl chloroform, and trichlorotrifluoroethane.

(2) "Source" means any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties, which is owned or operated by the same person (or by persons under common control), and which emits any VOC. "Source" does not include VOC pollution control equipment.

(3) "Modified" means any physical change in, change in the method of operation of, or addition to a stationary source which increases the potential emission rate of any VOC regulated (including any not previously emitted and taking into account all accumulated increases in potential emissions occurring at the source

since regulations were approved under this section, or since the time of the last construction approval issued for the source pursuant to such regulations approved under this section, whichever time is more recent, regardless of any emission reductions achieved elsewhere in the source).

(i) A physical change shall not include routine maintenance, repair and replacement.

(ii) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:

(a) An increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(b) An increase in the hours of operation;

(c) Use of an alternative fuel or raw material by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(d) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material; or

(e) Use of an alternative fuel by reason of an order or rule under section 125 of the Federal Clean Air Act, 1977;

(f) Change in ownership of the source.

(4) "Potential to emit" means the capability at maximum capacity to emit a pollutant in the absence of air pollution control equipment. "Air pollution control equipment" includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capability of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

Lowest Achievable Emission Rate

OAR 340-22-104 In areas where these rules for VOC are applicable, all new or modified sources, with potential volatile organic compound emissions in excess of 100 tons per year, shall meet the Lowest Achievable Emission Rate (LAER).

Lowest Achievable Emission Rate or LAER means, for any source, that rate of emissions which reflects the most stringent emission limitation which is achieved in practice or can reasonably be expected to occur in practice by such class or category of source taking into consideration the pollutant which must be controlled. In no event shall the proposed new or modified source emit any pollutant in excess of the amount allowable under applicable new source performance standards.

Exemptions

OAR 340-22-105 Natural gas-fired after-burners and other capture systems installed for the purpose of complying with these rules shall be operated during the months of April, May, June, July, August, September and October. During other

months, the after-burners and other capture systems may be turned off with prior written Departmental approval, provided that the operation of such devices is not required for purposes of occupational health or safety or for the control of toxic substances, malodors, or other regulated pollutants or for complying with visual air contaminant limitations.

OAR 340-22-106 Sources are exempted from the General Emission Standards for Volatile Organic Compounds if they are outside the following areas:

- 1) Portland-Vancouver Air Quality Maintenance Area
- 2) Medford-Ashland Air Quality Maintenance Area
- 3) Eugene-Springfield Air Quality Maintenance Area
- 4) Salem City Limits as of January 1, 1979.

Testing

340-22-107 Construction approvals and proof of compliance will be based on Departmental evaluation of the source and controls. Applicants are encouraged to submit designs and test data approved by the California Air Resources Board, the Bay Area Air Pollution Control District, and the South Coast Air Quality Management District where VOC control equipment has been developed. Certification and Test Procedures are on file with the Department and are the certification and test procedures used by the California Air Resources Board as of August 1977.

Compliance Schedules

340-22-108 The person responsible for an existing emission source subject to 340-22-100 through 340-22-200 shall proceed promptly with a program to comply as soon as practicable with these rules. A proposed program and implementation plan including increments of progress shall be submitted to the Department for review no later than May 1, 1979, for each emission source. Compliance shall be demonstrated no later than the date specified in the individual sections of these rules. The Department shall within 45 days of receipt of a complete proposed program and implementation plan, complete an evaluation and advise the applicant of its approval or other findings.

Transfer of Gasoline to Small Storage Tanks

340-22-110

- (1) (a) A person shall not transfer or permit the transfer of gasoline from any tank truck or trailer into any stationary storage container which has a capacity of more than 400 gallons unless such container is equipped with a permanent submerged fill pipe and unless 90 percent by weight of the gasoline vapors displaced during the filling of the stationary storage container are prevented from being released to the atmosphere.

- (b) The provisions of this Rule shall not apply to:
- (A) The transfer of gasoline into any stationary storage container having a capacity of 2000 gallons or less which was installed prior to January 1, 1979, if such container is equipped with a permanent submerged fill pipe by January 1, 1980.
 - (B) The transfer of gasoline into any stationary storage container which the Department finds is equipped to control emissions at least as effectively as required by this Section.
- (2) The owner, operator, or builder of any stationary storage container which is subject to this Rule and which is installed or constructed after January 1, 1979 shall comply with the provisions of this Rule at the time of installation.
- (3) The owner or operator of any existing stationary storage container subject to 340-22-110(1)(a) shall comply with the provisions of this Rule by April 1, 1981.

340-22-111 Reserved for development in 1979 of rules to control VOC emissions from the filling of vehicle gasoline tanks.

Transfer of Gasoline at Bulk Storage Facilities

340-22-115

- (1) A person shall not load gasoline into any tank, truck cargo tank, trailer, barge, or railroad tank car from any loading facility unless 90 percent by weight of the gasoline vapors displaced during the filling of the delivery vehicles are prevented from being released to the atmosphere.
- (2) Loading shall be accomplished in such a manner that displaced vapor and air will be vented only to the vapor control system. Measures shall be taken to prevent liquid drainage from the loading device when it is not in use or to accomplish complete drainage before the loading device is disconnected.

The vapor disposal portion of the vapor control system shall consist of one of the following:

- (a) An adsorber, condensation, displacement or combination system which processes vapors and recovers at least 90 percent by weight of the gasoline vapors and gases from the equipment being controlled.
 - (b) A vapor handling system which directs vapors to a fuel gas system.
 - (c) Other equipment of equal efficiency, provided such equipment is submitted to and approved by the Department.
- (3) No person shall store gasoline in or otherwise use or operate any gasoline delivery vessel unless such vessel is designed and maintained to retain returned vapors.

- (4) Loading facilities loading 10,000 liters (2,375 gallons) or less per day on an annual daily average shall be exempted from Sections 1, 2 and 3 of this Rule (OAR 340-22-115).

A person shall not load gasoline into any delivery vessel from any loading facility exempted under this section unless such delivery vessel is loaded through a submerged fill pipe.

Delivery trucks being filled at these exempt bulk plants may not deliver to stationary tanks equipped with a VOC control system which requires capture by the delivery truck and disposal at a vapor recovery system.

- (5) (a) The owner or operator of any stationary storage container or gasoline loading facility which is subject to this Rule and which is installed or constructed after January 1, 1979, shall comply with the provisions of this Rule at the time of installation.
- (b) The owner or operator of any gasoline loading facility subject to this Rule which is operating prior to January 1, 1979, shall comply with the provisions of this Rule by July 1, 1980.

Delivery Vessel Loading at Bulk Gasoline Terminals

340-22-120 After April 1, 1981, no person shall cause volatile organic compounds (VOC) to be emitted into the atmosphere in excess of 80 milligrams of VOC per liter of gasoline loaded from the operation of loading truck tanks, truck trailers, rail tank cars, and barges at bulk gasoline terminals with daily throughputs of greater than 76,000 liters (20,000 gallons) per day of gasoline.

Cutback Asphalt

340-22-125 After April 1, 1979, the use of SC, MC and RC liquid asphalts is prohibited in all pavement construction and maintenance operations and in soil stabilization, mulching and dust control. The only exceptions to this rule will be the use of MC liquid asphalt as a prime coat for aggregate bases, prior to paving, and for the manufacture of stockpile patching mixes used in pavement maintenance.

The liquid asphalt materials referred to are identified in ASTM Specification D-2026-72, D-2027-72 and D-2028-72.

Petroleum Refineries

340-22-130 After April 1, 1979, these regulations shall apply to all petroleum refineries with a through-put capacity greater than 1500 cubic meters (9400 bbl) per day.

(1) Vacuum Producing Systems

- (a) Noncondensable VOC from vacuum producing systems shall be piped to an appropriate firebox, incinerator or compressed and added to the refinery fuel gas.

- (b) Hot wells associated with contact condensers shall be tightly covered and the collected VOC incinerated.
- (2) Wastewater Separators
- (a) Wastewater separators shall incorporate fixed solid covers with all openings sealed totally enclosing the compartmented liquid contents, or a floating pontoon or double deck-type cover equipped with closure seals between the cover edge and compartment wall.
 - (b) Accesses for gauging and sampling shall be designed to minimize VOC emissions during actual use. All access points shall be closed with suitable covers when not in use.
- (3) Process Unit Turnaround
- (a) During process unit turnaround all VOC shall be added to the refinery fuel gas, combusted by a flare or vented to a disposal system.
 - (b) Depressurization of process units to the fuel gas system or flare shall include additional depressurizing to a disposal system when the pressure remaining in the process unit is greater than 5.0 psig.
 - (c) The pressure drop of a disposal system shall be less than 5.0 psig.
 - (d) The vapors in a process unit during turnaround may be vented to the atmosphere at a higher pressure (greater than 5.0 psig) if the concentration of VOC has first been reduced such that the actual emission of VOC to the atmosphere is less than that which would have been released to the atmosphere by the other depressurization procedures. The VOC purged during dilution shall be disposed of by combustion.
- (4) Maintenance and Operation of Emission Control Equipment

Equipment for the reduction, collection or disposal of VOC shall be maintained and operated in a manner commensurate with the level of maintenance and housekeeping of the overall plant.

Liquid Storage

340-22-135 After April 1, 1980 all tanks storing volatile organic compound liquids with a true vapor pressure greater than 10.5 kPa (kilo Pascals) [1.52 psia], but less than 76.7 kPa (11.1 psia) and having a capacity greater than 150,000 liters (approximately 39,000 gallons) shall comply with one of the following:

- (1) Meet the equipment specifications and maintenance requirements of the federal standards of performance for new stationary sources - Storage Vessels for Petroleum Liquids, 40 CFR 60.110, as amended by proposed rule change, Federal Register, May 18, 1978, pages 21616 through 21625.

- (2) Be retrofitted with a covered floating roof or internal floating cover using at least a nonmetallic resilient seal as the primary seal meeting the equipment specifications in the federal standards referred to in (1) above, or its equivalent.
- (3) Is fitted with a covered floating roof or internal floating cover meeting the manufacturers equipment specifications in effect when it was installed.

340-22-136

All seals used in 340-22-135(2) and (3) above are to be maintained in good operating condition and the seal fabric shall contain no visible holes, tears or other openings.

All openings, except stub drains and those related to safety, are to be sealed with suitable closures.

Surface Coating In Manufacturing

340-22-140 After April 1, 1981, the operation of a coating line using more than 2000 gallons of coating a year or 10 gallons an hour shall not emit into the atmosphere volatile organic compounds greater than following values as applied excluding water.

<u>Process</u>	<u>Limitation</u> <u>Grams/liter</u>	<u>lb/Gal</u>
Can Coating		
Sheet basecoat (exterior and interior) and over-varnish; two-piece can exterior (basecoat and overvarnish)	340	2.8
Two and three-piece can interior body spray, two-piece can exterior end (spray or roll coat)	510	4.2
Three-piece can side-seam spray	660	5.5
End sealing compound	440	3.7
Coil Coating	310	2.6
Fabric Coating	350	2.9
Vinyl Coating	450	3.8
Paper Coating	350	2.9

<u>Process</u>	<u>Limitation Grams/liter</u>	<u>lb/Gal</u>
Auto & Light Duty Truck Coating		
Prime	230	1.9
Topcoat	340	2.8
Repair	580	4.8
Metal Furniture Coating	360	3.0
Magnet Wire Coating	200	1.7
Large Appliance Coating	340	2.8

Degreasers

340-22-145 After April 1, 1979, all open top vapor degreasers with an opening greater than 1 square meter (10 square feet) shall be equipped with:

- (1) A powered cover that can be opened and closed easily without disturbing the vapor zone.
- (2) Condenser flow switch and thermostat.
- (3) Spray safety switch.
- (4) One of the following:
 - (A) The freeboard ratio must be greater than or equal to 0.75 times the maximum horizontal dimension.
 - (B) Refrigerated chiller.
 - (C) Enclosed design so that the cover or door opens only when the dry part is entering or exiting the degreaser.

340-22-146 After April 1, 1979, all open top vapor degreasers with an opening greater than 1 square meter (10 square feet) shall have a permanent, conspicuous label summarizing the operating procedures. These procedures shall include:

- (1) Keep cover closed at all times except when processing work loads through the degreaser.
- (2) Minimize solvent carry-out by the following measures:

- (A) Rack parts to allow full drainage.
 - (B) Move parts in and out of the degreaser at less than 3.3 m/sec (11 feet per minute).
 - (C) Degrease the work load in the vapor zone at least 30 seconds or until condensation ceases.
 - (D) Allow parts to dry within the degreaser for at least 15 seconds or until visually dry.
- (3) Do not degrease porous or absorbent materials, such as cloth, leather, wood or rope.
 - (4) Work loads should not occupy more than half of the degreaser's open top area.
 - (5) The vapor level should not drop more than 10 cm (4 inches) when the work load enters the vapor zone.
 - (6) Never spray above the vapor level.

340-22-147 After April 1, 1979, all the following operating requirements apply to all open top vapor degreasers with an opening greater than 1 square meter.

- (1) Repair solvent leaks immediately, or shut down the degreaser.
- (2) Do not dispose of waste solvent or transfer it to another party such that greater than 20 percent of the waste (by weight) will evaporate into the atmosphere. Store waste solvent only in closed containers.
- (3) Exhaust ventilation should not exceed $20 \text{ m}^3/\text{min}$ per m^2 (65 cubic feet per minute per square foot) of degreaser open area, unless necessary to meet safety or insurance requirements. Ventilation fans should not be used near the degreaser opening.
- (4) Water should not be visually detectable in solvent exiting the water separator.

Asphaltic and Coal Tar Pitch Used for Roofing Coating

340-22-150

- (a) A person shall not operate or use equipment after April 1, 1980 for melting, heating or holding asphalt or coal tar pitch for the on-site construction or repair of roofs unless the gas-entrained effluents from such equipment are:
 - (1) Incinerated at temperatures of not less than 790°C (1454°F) for a period of not less than 0.3 second, or

- (2) Filtered in such a manner determined by the Department of Environmental Quality to be equally or more effective for the purpose of air pollution control than (1) above, or
 - (3) Processed in such a manner determined by the Department of Environmental Quality to be equally or more effective for the purpose of air pollution control than (1) above.
- (b) A person operating equipment subject to this rule shall provide, properly install and maintain in good working order, devices capable of correctly indicating and controlling operating temperatures.
- (1) Incinerated at temperatures of not less than 790° C (1454°F) for a period of not less than 0.3 second, or
 - (2) Filtered in such a manner determined by the Department of Environmental Quality to be equally or more effective for the purpose of air pollution control than (1) above, or
 - (3) Processed in such a manner determined by the Department of Environmental Quality to be equally or more effective for the purpose of air pollution control than (1) above.
- (b) A person operating equipment subject to this rule shall provide, properly install and maintain in good working order, devices capable of correctly indicating and controlling operating temperatures.
- (c) Any equipment installed for the purposes of meeting (a) above, must be of a design approved for the purpose by a fire and safety testing organization recognized by the fire department having jurisdiction.
- (d) The provisions of this rule shall not apply to:
- (1) Equipment having a capacity of 100 liters (26.4 gallons) or less; or
 - (2) Equipment having a capacity of 600 liters (159 gallons) or less provided it is equipped with a tightly fitted lid or cover.

Miscellaneous Sources

340-22-200 After April 1, 1982, no person operating sources listed in 340-22-201 shall discharge Volatile Organic Compounds into the atmosphere unless such emissions have been reduced by at least 85% or to the following:

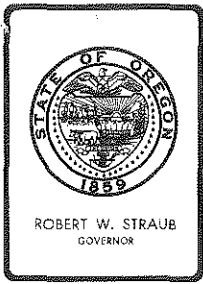
- 1) Volatile Organic Compounds that come into contact with flame or are baked, heat cured or heat polymerized, are limited to 1.4 kilograms (3.1 pounds) per hour not to exceed 6.5 kilograms (14.3 pounds) per day.

- 2) Volatile Organic Compounds that are emitted into the atmosphere that do not qualify as (1) above are limited to 3.6 kilograms (7.9 pounds) per hour, not to exceed 18 kilograms (39.6 pounds) per day. All Volatile Organic Compounds emitted for a drying period of 12 hours following their application shall be included in this limit.

340-22-201 Sources covered by Section 340-22-200:

- 1) Any new or modified source, not covered elsewhere in section 340-22-100 through 340-22-200, that increases actual emissions more than 100 tons of VOC per year, after emission controls, shall be bound by Rule 340-22-200.
- 2) Surface coating of cans
- 3) Surface coating of paper

DRAFT
9/13/78
PBB/kz



Environmental Quality Commission

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

MEMORANDUM

To: ENVIRONMENTAL QUALITY COMMISSION

From: Director

Subject: Agenda Item P, September 22, 1978, EQC Meeting

State Aid to Local Government, Lane Regional Air Pollution Authority

Background

Under the provisions of ORS 468.575 State Aid, subject to the availability of funds, Section 1(b) provides that Regional Air Programs are eligible for state aid not to exceed 50% of the locally funded annual operating cost.

Section 2 provides that application for funds shall be made to the Commission.

Section 3 provides that applications for federal assistance funds must be submitted to the Commission. State and local air program funds are received from the federal government under Section 105 of the Clean Air Act as Amended in 1977. Section 105 provides for support of air pollution planning and control programs. The Department annually makes a consolidated federal grant application, which includes in the air program portion, the program and approved funding needs of the Lane Regional Air Pollution Authority (LRAPA).

The State Biennial Budget for FY 79-81 is currently being prepared and will include requested state and federal funds for both the Department and for the LRAPA as approved by the Commission.

Evaluation

The LRAPA has applied to the Environmental Quality Commission for approval of state and federal funds request in the amount of \$130,000 General Funds and 207,000 of Federal Funds for FY 79-81.

Federal and State funding during the current biennium is \$92,000 of General Fund and \$187,000 of Federal Funds. Summaries for 1977-79 and requested 1979-81 funds are shown below:

	1977-79	1979-81
General Funds	92,000	130,000
Federal Funds	187,000	207,000
Total	279,000	337,000



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Assuming equal distribution of state and federal funds in the biennial years and no difference in fiscal years, local funds and total program are shown below for current and projected program fiscal years.

	1977-78	1978-79	1979-80	1980-81
Federal and State	139,500	139,500	168,500	168,500
Local	<u>140,376</u>	<u>210,562</u>	<u>223,195</u>	<u>236,587</u>
Total	<u>279,876</u>	<u>350,062</u>	<u>391,695</u>	<u>405,087</u>

The 1979-81 request represents approximately a 41.3% increase in General Funds and a 10.7% increase in Federal Funds over 1977-79 allocations. Under ORS 449.575, LRAPA would be eligible for state aid in an amount not to exceed 50% of the locally funded operating cost. The projected locally funded biennial operating costs are projected as \$459,782 so that the requested \$130,000 is well within the eligible amount (50% of \$459,782 or \$229,891).

The Eugene-Springfield AQMA of the LRAPA territory is a non-attainment area for particulate, photochemical oxidant and carbon monoxide. The AQMA boundary designation is the LRAPA Control Area C, excluding Junction City, Coburg and Cottage Grove, and closely approximates the Urban Service Area. The area was established considering the geographic and demographic factors of the territory and is considered satisfactory for AQMA planning purposes.

The Department has entered into Memorandum of Agreements with LRAPA for 1) implementing responsibilities under state and federal acts and 2) a Eugene-Springfield AQMA Work Program Agreement. See Attachments 2 and 3.

The Department finds the problems of the territory are being adequately addressed under these agreements and the requirements of the Clean Air Act as Amended in 1977.

The Department proposes in the coming biennium to specifically audit the LRAPA air program. Currently the audit consists of a review of proposed permits, assistance provided relative to tax credit applications, information and data submitted for compliance assurance and enforcement activities for the EPA quarterly and semi-annual output reports, and joint efforts on AQMA planning and strategy development work. The Department finds these criteria adequate for the present for the purposes of considering the adequacy and effectiveness of the LRAPA program.

Summary

The LRAPA has submitted an application for state General Funds in the amount of \$130,000 and Federal Funds in the amount of \$207,000.

The LRAPA boundary, Lane County and the Eugene-Springfield AQMA boundary are considered adequate for conducting state and local air program activities.

The particular problems of the area are being addressed under current joint efforts required under the Clean Air Act and the adequacy and effectiveness of the program are considered acceptable.

Director's Recommendation

Having found the foregoing facts to be true, I recommend the Commission certify the General Fund request of \$130,000 and the Federal Fund request of \$207,000 for LRAPA as acceptable amounts for inclusion in the 1979-81 Biennial Budget and the appropriate federal grant applications; and the Director be authorized to disburse such funds as may be subsequently appropriated.

Bill

WILLIAM H. YOUNG

H. M. Patterson:h
229-5364
September 11, 1978

Attachments: 1. LRAPA Request
2. Memorandum of Agreement, 1974
3. Memorandum of Agreement, 1977

LANE REGIONAL

AIR POLLUTION AUTHORITY



(503) 686-7618
16 Oakway Mall, Eugene, Oregon 97401

Verner J. Adkison, Program Director

August 29, 1978

Environmental Quality Commission
P. O. Box 1760
Portland, Oregon 97207


Gentlemen:

This is our request for biennial budget funds covering the period July 1, 1979 to June 30, 1981:

General Funds - State Grants-in-Aid	- \$130,000
Federal Grant Funds	- \$207,000

If further information is needed please let us know.

Sincerely,



Verner J. Adkison
Director

VJA/mw

C O P Y

C O P Y

C O P Y

MEMORANDUM OF AGREEMENT

The Department of Environmental Quality (hereinafter called "Department") and the Lane Regional Air Pollution Authority (hereinafter called "Regional Authority"), enter into this Memorandum of Agreement in order to establish that a written agreement has been developed between them, detailing the procedures for implementing responsibilities defined in the Oregon Clean Air Act Implementation Plan and to carry out functions required by the regulations of the Environmental Protection Agency (hereinafter called "EPA"). Responsibilities relating to air pollution control are defined by ORS 468.005 - 468.485 and for Regional Air Quality Control Authorities (hereinafter called "Regional Authorities") in ORS 468.500 - 468.580.

I. RESPONSIBILITIES OF THE DEPARTMENT

The Department is responsible for:

- a. The development and implementation of a state-wide comprehensive air quality control program to attain the objectives of the Federal Clean Air Act and the State Implementation Plan developed under the Federal Act.
- b. The conduct of a comprehensive statewide program within the area of its jurisdiction, including issuance of permits, notices of construction, adoption of compliance schedules and all monitoring of compliance and enforcement activities related to sources within that area.
- c. The conduct of Field Burning Programs and Off-Season Agriculture Programs, including meteorological forecasts in cooperation with the National Weather Service and State Fire Marshal and the annual review of the slash burning management program.
- d. The conduct of the visible plume evaluation training program.
- e. The review, with assistance of the Regional Authorities, and the approval of Tax Credit Applications.
- f. The implementation of transportation control plans as approved by EPA.

- g. The review and approval of all permits, in accordance with the provisions of ORS Chapter 468, to meet objectives of the state-wide program and for submission of compliance schedules to EPA when required.
- h. The development and monitoring of compliance, including inspections and enforcement actions, for kraft pulp or sulfite pulp mill sources.
- i. With the assistance of Regional Authorities develop, maintain, and operate a statewide Implementation Plan air monitoring network.
- j. The maintenance of the Oregon State air quality data bank of emissions and air quality data for the completion of annual trend analysis of emission reductions and air quality.
- k. The development of statewide rules where applicable, including Special Control Areas as so designated in OAR Chapter 340, Section 21-010 and the review of all air quality standards adopted by the Regional Authority prior to its enforcing any such standard.
- l. The completion of reports as required by EPA on the progress and implementation of annual program plans, the achievement of reductions in emissions, and air quality, with assistance from the Regional Authorities.
- m. The maintenance of the Oregon Clean Air Act Implementation Plan including submittal of any revisions as required for review and approval by EPA.
- n. The supervision and implementation, with the assistance of the Regional Authorities, of the adopted Emergency Episode Plan as provided for in OAR Chapter 340, Division 2, Subdivision 7.
- o. The enforcement as delegated of New Source Performance Standards promulgated by EPA.
- p. The enforcement as delegated of the National Emission Standards for Hazardous Air Pollutants as promulgated by EPA.
- q. The implementation of a program as approved by EPA for the control of indirect sources.
- r. The development of plans for designated areas to assure the maintenance of standards, with assistance of the Regional Authorities.
- s. The maintenance of a technical assistance program for the conduct of source tests and special technical evaluations as required.

II. RESPONSIBILITIES OF THE REGIONAL AUTHORITY

The Regional Authority is responsible for:

- a. Within the area of its jurisdiction to develop an annual air program plan, and a comprehensive air quality control program to attain the objectives of the Federal Clean Air Act, and the carrying out of the air pollution control functions thereunder consistent with Oregon Revised Statutes.

- b. The monitoring of compliance schedules to assure completion of increments of control as specified in the appropriate schedule and initiate appropriate control and enforcement actions to assure compliance; the certification of compliance for those sources in compliance with the Regional Authority's rules.
- c. The submittal of appropriate compliance schedules to the Department for submission to EPA as required.
- d. The maintaining of records of emission reduction accomplished on a monthly basis and submission of a summary report to the Department quarterly.
- e. The submission of status reports on sources on forms provided by the Department for sources by emission size, ie. ≥ 100 T/yr., < 100 T/yr., ≥ 25 T/yr., < 25 T/yr. Such submission and update shall be semi-annually or upon an agreed to schedule to accomplish a specific output.
- f. The requiring of notices of construction to be filed with the Regional Authority, and the review of plans and specifications for all new or modified stationary sources under its jurisdiction, taking appropriate action consistent with maintaining compliance with emission limitations to be achieved.
- g. The preparation and issuance of air contaminant discharge permits, subject to Department review and approval in accordance with ORS Chapter 468.
- h. The submission of approved variances to the Department.
- i. Provide for the initiation and conduct of source tests in accordance with its rules.
- j. The investigating of complaints and the conducting of source surveillance activities and enforcement of its rules, including imposition of civil penalties.
- k. The maintaining of the Implementation Plan air quality surveillance network, in the area of jurisdiction, conducting of such laboratory and field analysis, reporting of results, and the conducting of such coding and validation procedures required to assist the Department in submission of the Quarterly Report.
- l. The completion of emission inventory updates and verifications in accordance with a schedule determined by the Department after consultation with the Lane Regional Air Pollution Authority.
- m. The management of its air quality control program and the submittal to the Department as required budgetary information for development and submission of the consolidated grant application to EPA.

- n. The implementation, the conduct and the enforcement activities of programs relative to indirect sources, NESHAPS, NSPS, and significant degradation as delegated and when promulgated by the Department when requested by the Region.

III. PROCEDURES FOR DEVELOPMENT AND APPROVAL OF ANNUAL PROGRAM PLANS

The Department is responsible for the issuance of annual air quality program guidance to the Regional Authority and for establishing State objectives and providing available State funding for the Regional Authority in accordance with ORS Chapter 468. The Department will advise the Regional Authority of Federal funding established by EPA as available to Regional Authority. The Regional Authority will develop its annual program plan describing the level of commitment of accomplishment planned to be achieved within its functional and resource capabilities. Subject to the provisions of ORS Chapter 468, the Department will make final determination of the statewide program plan and the final budget to be submitted to EPA in the application for Federal program grant assistance.

The Regional Authority will submit to the Department periodic reports regarding its receipt and use of Federal funds.

IV. PROCEDURE FOR TERMINATION OF THIS AGREEMENT

This agreement becomes effective July 1, 1974, and may be terminated by either party upon written notice at least thirty days prior to the intended date of termination. This agreement will be reviewed and reconsidered annually to assure its applicability at the time of each year's program grant award.

Dated this 30th day of July, 1974.

Department of Environmental Quality

By /s/ Kessler R. Cannon
Director

July 22, 1974

Date

LANE REGIONAL AIR POLLUTION AUTHORITY

By /s/ Nancy M. Hayward

Sections II h and i have been modified slightly by agreement with both agencies to update and delete obsolete language for the FY 78 Federal Grant.

EUGENE-SPRINGFIELD AQMA WORK PROGRAM AGREEMENT
Between
LANE REGIONAL AIR POLLUTION AUTHORITY
AND
DEPARTMENT OF ENVIRONMENTAL QUALITY

WHEREAS, the Department of Environmental Quality is the lead agency to protect and enhance Oregon air quality, and

WHEREAS, Lane Regional Air Pollution Authority is the air pollution authority with local knowledge and jurisdiction over the Eugene-Springfield AQMA, the following work agreement is entered into by the DEQ and LRAPA so that Eugene-Springfield AQMA attainment and maintenance planning can be efficiently coordinated with primary responsibilities specified and agreed upon by both agencies. It is the expressed goal of both parties to develop the AQMA attainment strategy by July, 1978, the AQMA evaluation by January, 1979, and an AQMA maintenance strategy by July, 1979.

I. General Responsibilities

- A. The DEQ will undertake management of the overall attainment and maintenance planning process and shall be responsible for:
1. Overall development of the attainment and control strategy, the AQMA evaluation, AQMA control strategy development and associated administrative procedures including appointment of an advisory committee, public hearings, rule adoption, implementation plan revisions and approval by the Environmental Protection Agency.
 2. Technical management of consultant contracts to ensure that the work undertaken will be performed as intended.
 3. Coordinating the work elements such that the AQMA attainment and maintenance plans are completed as scheduled (see Attachment A).
 4. Preparing monthly summaries of activity by the first working day of each month.
- B. The LRAPA agrees to:
1. Advise the DEQ on matters of program direction and to review consultant work relating to the Eugene-Springfield AQMA regarding its technical content.
 2. Provide the staff assistance and resources as needed to carry out the local field work necessary for the attainment and maintenance program development in accordance with the agreed schedule (see Attachment A).
 3. Prepare monthly summaries of activities by the 28th of each calendar month.
 4. Provide public information services related to development of attainment and maintenance plans for the Eugene-Springfield area.

II. Specific Work Tasks

A. Special monitoring tasks (additional HV, impactor and surface meteorological data collection).

1. DEQ agrees to provide the necessary major capital outlay for the additional monitoring equipment, to provide technical assistance, to evaluate the data and prepare a report on findings by December, 1978.
2. LRAPA agrees to provide the technical personnel, staff time and operating resources to operate the special monitoring work and to perform the data reduction necessary to transform all data into standard DEQ format.

a. Responsibility for the operation, maintenance, repair and calibration of:

- (1) Special AQ monitoring instruments (dichotomus impactor, cascade impactor and hi-volume sampler) located at the Springfield Library site, the Eugene Airport or Creswell Airport site and one Springfield Industrial site.
- (2) Special surface meteorological wind speed and direction instruments located at the following sites: Oakway Mall, Coburg, Amazon, Creswell Airport, Springfield Library and Westmoreland School.

b. Staff time required to:

- (1) Transcribe the data into standard DEQ format (see II B).
- (2) Locate the preliminary sites for the special air quality and surface meteorological monitoring equipment, subject to final approval by DEQ.
- (3) Install the special monitoring equipment described in section II A, 2 a.
- (4) Assess and insure the quality of all data collected from the special monitoring network prior to submission to DEQ.

c. Operating resources:

- (1) For the special AQ monitoring instruments, described in section II A, 2 a, LRAPA agrees to supply all filters and to be responsible for electric power costs, repair and maintenance costs and costs associated with instrument calibration.

- (2) For the special surface meteorological monitoring equipment, LRAPA agrees to supply strip chart paper and recorder inks and to be responsible for electric power costs, repair and maintenance costs and costs associated with instrument calibration.
- (3) LRAPA agrees to be responsible for all equipment housing costs except for the Coburg site.

B. Data Digitizing.

LRAPA agrees to digitize historical and current meteorological and air quality monitoring data for submission to DEQ in card deck format. New monthly data will be submitted within 45 days from the end of the month of collection.

C. Consultant Contract Assistance.

1. Seton, Johnson and Odell Emission Inventory Contract:

a. DEQ agrees to provide:

- (1) Funding for the contract.
- (2) Technical assistance to the contractor and to manage the contract as the work is performed.
- (3) Provide new emission inventory data base deck outputs to LRAPA for verification.
- (4) Conduct bi-weekly meetings with the contractor and provide meeting minutes.

b. LRAPA agrees to:

- (1) Code existing TSP point source locations on a 2x2 km grid basis by no later than July 11, 1977.
- (2) Conduct local phone surveys regarding residential wood fuel usage and commercial boiler fuel usage by July 1, 1977.
- (3) Prepare the link coding necessary as an input to ODOT's SAPOLLUTE models by no later than July 15, 1977.
- (4) Validate each Eugene-Springfield AQMA emission inventory developed by SJO. For the years 1974, 1976, 1980, 1985, 1990 and 1995 worst case and to comment in writing within 15 days of receipt of each data base.
- (5) Provide staff to conduct sampling and analysis programs for paved road dust and unpaved road dust in conformance with the sampling design specified by the contractor by no later than 15 days following contractors request.

- (6) Provide coordination between the contractor and local information sources which the contractor needs to contact.

2. Science Applications, Inc., Meteorological Contract.

a. DEQ agrees to:

- (1) Provide funding for the contract, provide technical assistance to the contractor and to manage the contract as the work is performed.
- (2) Submit the LRAPA meteorological data to the contractor on magnetic tape file within 15 days of award of contract.

- b. LRAPA agrees to provide the technical personnel and operating resources required for the surface meteorological sampling (as specified in section 11 A, 2) and to review the contractor report and submit critical comments to DEQ within 15 days of receipt of the Phase 1 and Phase 2 reports.

3. Rockwell International, Inc. Field/Slash Burning Contract.

- a. DEQ agrees to provide funding for the contract, to provide technical assistance to the contractor and to manage the contract as the work is performed.

- b. LRAPA agrees to review the contractor report, submit critical comments to DEQ within 15 days of receipt of the contractor report.

D. Eugene-Springfield AQMA Profile Report as Required by U. S. EPA.

1. LRAPA agrees to prepare, by August 31, 1977, the AQMA Profile Report such that it meets DEQ specifications as described in earlier correspondence.

2. DEQ agrees to provide technical assistance to LRAPA in preparing the revised AQMA profile such that it meets EPA specifications by September 31, 1977.

III. Eugene-Springfield AQMA Control Strategy Development and Plan Development

A. Advisory Committee.

1. LRAPA agrees to:

- a. Assist in coordinating the initial selection of the Advisory Committee in accordance with AQMA guidelines adopted by EPA. The committee structure, members and goals are intended to be a product of local/DEQ joint input and formal action.

- b. Provide needed committee liason with the community, routine informational assistance, coordination, agenda development and meeting minutes.

2. DEQ will:

- a. Assume responsibility for coordination between local jurisdiction and the Director of the Department concerning preparation of a joint agreement between local jurisdictions and DEQ formally establishing the committee, its goals and term of appointment.
- b. Attend committee meetings as the Department representative and provide technical input and to receive and insure action on committee guidance.

B. Attainment Control Strategy Development.

1. DEQ will provide the AQMA dispersion modeling to evaluate alternative control strategies and will submit the modeling analysis of alternative strategies to LRAPA by December, 1977 for comment and guidance.
2. LRAPA will submit critical review of the modeling analysis within 15 days of receipt.
3. LRAPA and DEQ will cooperatively select the most viable alternatives for cost benefit analysis by the Department. LRAPA will then draft for DEQ review a document describing the alternative strategies, the strategy evaluation of cost, energy and effectiveness and the strategy recommended for adoption by March, 1978.
4. LRAPA will be responsible for submission of attainment strategy alternatives to the Advisory Committee for comment and guidance.
5. Based on the Advisory Committee's and joint DEQ/LRAPA strategy selection, LRAPA and the DEQ will prepare rules required to adopt and implement the attainment strategy by March, 1978 and submit them to the EQC and the LRAPA Board for approval. Consideration will be given to joint EQC-LRAPA Board Public Hearings required prior to rule adoption.
6. LRAPA will present the proposed rules to the their Board of Directors for adoption no later than July, 1978.
7. DEQ will submit these rules and SIP revisions to the U. S. EPA for their approval by October, 1978.
8. LRAPA will be responsible for implementing and managing the attainment strategy as adopted by LRAPA and submitted to DEQ and EPA.

C. AQMA Evaluation Report.

1. DEQ is responsible for providing dispersion modeling analysis as input to the evaluation report, will draft the evaluation report by January 1, 1979 and will submit the report to LRAPA for critical review and comment by that date.
2. LRAPA will submit critical analysis of the AQMA evaluation report draft by January 15, 1979.
3. DEQ will submit the AQMA evaluation report to EPA for comment and final approval.
4. Based on the results of the evaluation, DEQ will be responsible for the final decision regarding de-designation of the AQMA (if indicated) and required action with EPA.

D. AQMA Plan Development and Adoption.

1. DEQ will provide the AQMA dispersion modeling (by July, 1978) to evaluate the alternative control strategies developed as part of the AQMA Control Strategy.
2. DEQ will prepare alternative control strategies, modeling to LRAPA based on agreed upon alternatives for analysis.
3. LRAPA and DEQ will cooperatively select the most viable alternatives for cost benefit analysis by the Department.
4. LRAPA will be responsible for submission of selected strategies to the AQMA Advisory Committee for comment and guidance.
5. Based on the Advisory Committee and joint DEQ/LRAPA strategy selection, LRAPA and DEQ will prepare rules and develop land-use agreements required to adopt and implement the Maintenance Control Strategy by May, 1979 and submit them to the EQC and LRAPA Board for approval. Consideration will be given to joint EQC-LRAPA Board Public Hearings required prior to rule adoption.
6. LRAPA will present the proposed rules to their Board of Directors for adoption no later than July 1, 1979.
7. DEQ will submit these rules and SIP revisions to the U. S. EPA for their approval by October, 1979.
8. LRAPA will be responsible for implementing and managing the AQMA strategy as adopted by LRAPA and submitted to DEQ and EPA.

IV. Public Information

- A. LRAPA agrees to serve as the primary source of public information support services in matters related to development of attainment and maintenance plans for the Eugene-Springfield AQMA. LRAPA will advise the DEQ AQMA coordination and DEQ public information staff of all public information activities as they occur.
- B. DEQ agrees to provide technical assistance to LRAPA concerning matters of program content.

Lane Regional Air Pollution Authority and the Department of Environmental Quality jointly agree to furnish their best efforts to meet the responsibilities and schedule described above. Should either agency be unable to meet the obligations or schedules described, it shall notify the other agency in a timely manner to avoid further schedule delays.

The above work agreement is jointly agreed upon by the undersigned:

For Lane Regional Air Pollution Agency

For Department of Environmental Quality

/s/ Verner J. Adkison
Verner Adkison, Director

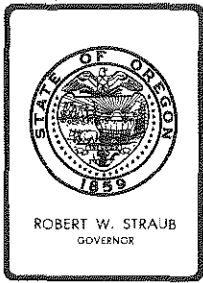
/s/ William H. Young
William H. Young, Director

Date 7-1-77

Date 7-5-77

/s/ Joseph S. Lassiter
Joe Lassiter, Manager

Date 7-1-77



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item Q, September 22, 1978, EQC Meeting

Conflict of Interest Rule: Consider Adoption of Amendments to the Oregon Clean Air Act Implementation Plan to Include Rules Pertaining to Conflict of Interest by State Boards, Required by Section 128 of the Clean Air Act

Background

On August 25, 1978, a public hearing was held before the Environmental Quality Commission (EQC). The hearing was to consider a proposed rule pertaining to conflict of interest by EQC members. No oral or written public testimony was received by the Department prior to the hearing and none was offered at the EQC meeting.

The proposed rule presented at that hearing was drafted using guidance supplied by the U. S. Environmental Protection Agency (EPA). The Department's legal counsel expressed concern over the stringency of the definition for "represent the public interest." The Department had been trying to get EPA to clarify this definition with no success.

In addition, the EQC also had reservations about the definition of "significant portion of income." It was felt that the proposed definitions were strict enough to eliminate virtually anyone in the State from being eligible to serve as a commission member. Thus, the Commission directed the Department to seek alternative definitions and present them at its September meeting.

The attached draft definitions and rule are being offered as the alternatives. This draft has been sent to EPA for comment. Wording changes from the previous draft (underlined) are found in definitions 5 through 7 and in the rule itself. Basically, the revised wording is more realistic in that "any income" is changed to "any significant portion of income from persons subject in Oregon...". Also the new wording defining the phrase "represent the public interest" does not get down to the specifics of who is eliminated from consideration. Rather, it is broader in nature by allowing individuals "that, other than an insignificant portion of income" have no special interests that would preclude them from acting in a fair manner and serving the best interests of the public. In definition 7, "significant portion of income" was changed from "10 percent" to "25 percent."

In the draft rule, 340-20-210, the wording has been changed to specify that a significant portion of income must be derived "directly from persons subject in



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Oregon to permits or enforcement orders under the Clean Air Act." This eliminates wording pertaining to any significant income from any sources subject to permits or enforcement orders under the Clean Air Act.

Statement of Need for Rule Making

The original statement of need as prepared for the July 28, 1978, EQC meeting remains effective.

Evaluation

Department legal counsel believes the proposed draft rule meets the requirements of Section 128 of the 1977 Clean Air Act Amendments. The Department hopes to get confirmation of this from EPA before the September meeting of the Environmental Quality Commission.

Adoption of this rule would result in a submission to EPA as a formal revision to the State Clean Air Act Implementation Plan.

Summation

A public hearing was held at the August 25, 1978 EQC meeting. No public testimony was received. The Department and the Commission expressed concern about undue stringency in the wording of definitions for "significant portion of income" and "represent the public interest."

The Commission directed the Department to offer alternative wording for the definitions and report back at the September meeting.

The Department has drafted alternative wording to satisfy the requirements of Section 128 of the 1977 Clean Air Act Amendments. The draft was sent to EPA for their comments on whether the rule would be able to be approved as a State Implementation Plan revision. The Department will update the Commission after a response from EPA is received.

Director's Recommendation

Having found the foregoing facts to be true, I recommend that, unless a negative response is received from EPA regarding the ability to approve the proposed rule, the proposed conflict of interest rule be adopted as submitted.



WILLIAM H. YOUNG

MEZiolko:h

229-5775

September 11, 1978

Attachments:

1. Proposed Conflict of Interest Rule (8/30/78 draft)
OAR 340-20-200 through 20-215
2. Section 128 of the Clean Air Act

CONFLICTS OF INTEREST

PURPOSE

340-20-200 The purpose of OAR 340-20-200 to 340-20-215 is to comply with the requirements of Section 128 of the federal Clean Air Act as amended August 1977 (P.L. 95-95) (hereinafter called "Clean Air Act"), regarding public interest representation by a majority of the members of the Commission and by the Director and disclosure by them of potential conflicts of interest.

DEFINITIONS

340-20-205 As used in OAR 340-20-200 to 340-20-215, unless otherwise required by context:

(1) ~~"Adequately disclose"~~ means explain in detail in a signed written statement prepared at least annually and available for public inspection at the Office of the Director.

(2) "Commission" means the Oregon Environmental Quality Commission.

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

(4) "Persons subject ^{in Oregon} to permits or enforcement orders under the Clean Air Act" includes any individual, corporation, partnership, or association who holds, is an applicant for, or is subject to any permit, or who is or may become subject

to any enforcement order under the Clean Air Act, except that it does not include (1) an individual who is or may become subject to an enforcement order solely by reason of his or her ownership or operation of a motor vehicle, or (2) any department or agency of a state, local, or regional government.

(5) "Potential conflict of interest" includes (1) any significant portion of income from persons subject in Oregon to permits or enforcement orders under the Clean Air Act, and (2) any interest or relationship that would preclude the individual having the interest or relationship from being considered one who represents the public interest.

(6) "Represent the public interest" means that, other than an insignificant portion of income, the individual has no special interest or relationship that would preclude objective and fair consideration and action by that individual in the best interests of the general public.

(7) "Significant portion of income" means ^{16%} 25 percent or more of gross personal income for a calendar year, including retirement benefits, consultant fees, and stock dividends, except that it shall mean 50 percent ^{or more} of gross personal income for a calendar year if the recipient is over 60 years of age and is receiving such portion pursuant to retirement, pension, or similar arrangement. For purposes of this section, income derived from mutual-fund payments, or from other diversified investments as to which the recipient does not know the identity of the primary sources of income, shall be considered part of

the recipient's gross personal income but shall not be treated as income derived from persons subject to permits or enforcement orders under the Clean Air Act.

PUBLIC INTEREST REPRESENTATION

340-20-210 At least ^{a majority of the} ~~three (3)~~ members of the Commission and the Director shall represent the public interest and shall not derive any significant portion of their respective incomes directly from persons subject in Oregon to permits or enforcement orders under the Clean Air Act.

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

340-20-215 Each member of the Commission and the Director shall ~~adequately~~ disclose any potential conflict of interest.

ATTACHMENT 2

Excerpt from the 1977 Clean Air Act Amendments

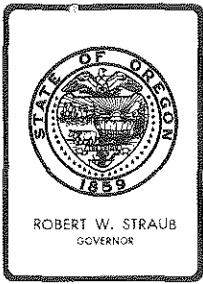
STATE BOARDS

Sec. 128. (a) Not later than the date one year after the date of the enactment of this section, each applicable implementation plan shall contain requirements that—

(1) any board or body which approves permits or enforcement orders under this Act shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this Act, and

(2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

A State may adopt any requirements respecting conflicts of interest for such boards or bodies or heads of executive agencies, or any other entities which are more stringent than the requirements of paragraph (1) and (2), and the Administrator shall approve any such more stringent requirements submitted as part of an implementation plan.



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. R, September 22, 1978 EQC Meeting

Kraft Pulp Mill Particle Size Distribution and Chemical Composition Study

Background

At the May 27, 1977 EQC meeting, the EQC adopted the present kraft mill air quality regulation. The original regulation proposed by the staff required each mill to conduct or participate in special studies sufficiently detailed to identify the particulate matter, chemical composition and size distribution of emissions from each recovery furnace, lime kiln and smelt dissolving tank vent operating in the State; and for each mill to conduct or participate in special studies sufficiently detailed to identify the effect that time, fuel changes and process variables have on control equipment efficiency, the particle size distribution and mass rate of particulate emissions from the recovery furnace, lime kiln and smelt dissolving tank. Also, each mill was required to participate in a study to identify the effect that installing higher efficiency particulate control equipment on recovery furnace, lime kiln and smelt dissolving tank has on the emission of particulate matter less than 3 microns in diameter; and submission of a study program outline for the studies, including the sampling method(s) and the analytical method(s) was to be submitted by December 31, 1977 and approval obtained in writing by the Department before the studies were initiated. These studies were to be completed and reports submitted to the Department by December 31, 1979.

The industry opposed the special studies section of the regulation and suggested that the study be done voluntarily and consist primarily of a literature search with some sampling if necessary. This alternative was approved by the EQC and the particle size distribution test requirements were deleted from the regulation with the understanding that the industry as a group would perform the study and prepare a report within a year. The amended schedule required a meeting not later than six (6) months after the rule adoption to evaluate the study status and assure the revised report would meet the modified objectives. A meeting was held on July 7, 1977 wherein the industry presented the objective and outline of the study, and again on February 7, 1978 representatives of the kraft mill industry met with the Department. The objective and general outline for the study presented to and approved by the Department is shown below:



Contains
Recycled
Materials

OBJECTIVE

To summarize available information and studies in progress on particulate size distribution and chemical composition of emissions from kraft recovery furnace stacks, lime kiln stacks, and smelt dissolving tank vents stressing the capabilities and limitations of the measurement techniques used and available. A report on the above will be submitted to the Department in May 1978.

GENERAL OUTLINE

A. Summarize specifics on methods and techniques considered as current practices by the kraft pulping industry for obtaining particulate size distribution curves for emission sources. Each method will be discussed stressing its capabilities and limitations. Methods not used or in the development stage will also be covered.

B. Summarize and discuss data available from emission sources in the kraft pulping industry that are operating essentially in compliance with existing emission limitations. The data will be obtained from recent literature references, mill files, and work in progress at individual mills as well by research organizations.

At the same time the kraft industry was working on this report, the Department has been collecting particle size information from sources and ambient air in the Portland area. A similar data base study is planned for the Eugene area.

Evaluation

The Department staff was interested in obtaining information on particle size from each major process emission point which might indicate (1) the relative amount of fine particulate being emitted, (2) the contribution of fine and coarse particulate from each source category and (3) if significant, the possible reduction that might be achieved with additional control efficiencies.

The identification of the fine particulate contribution is important as fine particulate is considered likely to have a more significant impact on visibility reduction and to be inhaled. Such information would also allow or indicate a base whereby trends in increasing amounts of fine or large particulate could be periodically assessed.

Similarly, the chemical composition of emission sources has been periodically approximated in the literature, however, a current assessment of Northwest mills was deemed warranted to establish or confirm a base for each of the emission sources.

The National Council for Air and Stream Improvement, Inc. (NCASI) performed the study for the Oregon kraft industry by searching the literature for any available information on particle size distribution from kraft mill emissions. They also requested that their member mills submit any unpublished particle size information. Since the available information was limited, the NCASI performed particle size distribution tests on seven (7) mill sources downstream from associated control devices.

The report submitted by the NCASI lists the various methods and procedures used in particle sizing. Also, results from controlled sources were reported for four (4) recovery furnaces, one (1) combined stack (a recovery furnace, two (2) lime kilns, a smelt dissolving tank vent and two (2) power boilers), two (2) lime kilns and two (2) smelt dissolving tanks. Chemical composition data was reported from samples but were not classified as to size.

The following is summary and evaluation of the results reported:

Methods and Procedures

A considerable amount of the report covers sampling methods, procedures and analysis. The NCASI reviewed the literature and summarized the most reliable methods for particle sizing. The report also summarizes the problems associated with particle sizing. Some of the problems are particle bounce/migration deposition on the inside walls of measuring equipment of the sampler causing the amount of particulate measured to be 95 percent to 75 percent of that captured by an EPA sampling train, and the difficulty of sampling high moisture content sources. The report also mentions other studies underway which are aimed at determining the size of the particulate that actually enters the atmosphere. It should be noted that all the data mentioned in this report is from instack data and may not be representative of what really happens in the atmosphere such as chemical reactions, condensation, and agglomeration. The problems associated with collecting and reporting particle size information were part of the industry's opposition to the originally proposed study.

The staff finds the information submitted acceptable. It is concluded that significant efforts will have to be expended to resolve problems associated with collection, measuring and reporting particle size information (i.e., accepted standard methods) if fine particulate is to be approached from a regulatory specific standpoint.

Recovery Furnace

The average mean particle size diameter measured from recovery furnaces was 2.7 microns and the average particulate concentration was 0.026 grains per standard cubic foot. The range of mean particle size diameter was 7.3 to 0.2 microns. The range of the particulate concentration was 0.053 to 0.002 grains per standard cubic foot. The largest mean particle size was measured in the furnace with the lowest efficiency particulate control equipment, and the smallest mean particle size was found in the furnace with the highest efficiency particulate collector.

The above particulate concentrations can be compared with the Oregon regulatory standard of 0.13 grains per standard cubic foot. The EPA New Source Performance Standard is 0.044 grains per standard cubic foot. The average emission from all Oregon recovery furnaces is 0.078 grains per standard cubic foot.

The data reported would be applicable to 5 of the 12 recovery furnaces in Oregon. If the data from the least efficiently controlled mill reported is applied to the average size Oregon mill, 670 pounds per day of the total particulate emission of 1,690 pounds per day is fine particulate (less than 3 microns).

The results reported on recovery furnaces tend to indicate that as more efficient controls are installed, a larger percentage of the particulate is fine particulate. On the furnace with the most efficient electrostatic precipitator, 96 percent of the particulate was fine particulate and on the furnace with the least efficient particulate control, 39 percent of the particulate was fine. This indicates that the more efficient controls remove a larger percentage of the bigger particulate than they do fine particulate and very high efficiency control systems would be necessary to remove significant portions of the remaining fine particulate.

The chemical composition of the recovery furnace particulate was reported to be 85 percent sodium sulfate and most of the remaining 15 percent sodium carbonate. Also present are small quantities of sodium chloride, sodium sulfite and wood ash. These results were as previously reported in the literature and were expected.

Lime Kiln

The two lime kilns tested had different types of particulate control devices--one had a venturi scrubber as the particulate control device (located outside of Oregon) and the other had an electrostatic precipitator. The mean particle size from the kiln with the venturi scrubber was 0.6 microns and the particulate concentration was 0.057 grains per standard cubic foot. The mean particle size from the lime kiln with the electrostatic precipitator was 0.8 microns and the particulate concentration was 0.014 grains per standard cubic foot.

The above particulate concentrations can be compared with the Oregon regulatory standard of 0.2 grains per standard cubic foot. The EPA New Source Performance Standard is 0.067 grains per standard cubic foot when gaseous fuel is burned and 0.13 grains per standard cubic foot when oil is burned. The average emission from all Oregon lime kilns is 0.13 grains per standard cubic foot.

The data from lime kiln with the electrostatic precipitator would only be applicable to the one Oregon mill, since it is the only mill that has an electrostatic precipitator installed on the lime kiln. The data from the venturi scrubber may not be applicable to Oregon mills since the particulate concentration was below that generally emitted by the Oregon kilns. If we assume that the results are applicable to the average size mill, 490 pounds per day of the 500 pounds per day emitted would be fine particulate.

The chemical composition of the lime kiln particulate was reported to be 55 to 60 percent sodium sulfate and 40 to 45 percent sodium carbonate. Less than 1 percent of the particulate is calcium compounds. These results were as previously reported in the literature and were expected.

Smelt Dissolving Tank

The two smelt dissolving tanks tested had different types of control devices installed. However, the mean particle size reported was nearly the same although the particulate concentration was different by a factor of

two because of more efficient particulate control. The smelt dissolving tank with a packed scrubber installed had a mean particle size of 0.8 microns and a particulate concentration of 0.054 grains per standard cubic foot. The smelt dissolving tank with a venturi scrubber installed had a mean particle size of 0.9 microns and a particulate concentration of 0.027 grains per standard cubic foot.

The above concentrations are not directly comparable to the Oregon regulations because the regulations are based on production (pounds/ton). There is no accurate way to correct the emissions for dilution. It is estimated that the Oregon regulatory standard of 0.5 pounds per air dried ton of pulp produced is equivalent to 0.087 grains per standard cubic foot and the EPA New Source Performance Standard is equivalent to 0.052 grains per standard cubic foot. The average of all Oregon smelt dissolving tank vent emissions is estimated at 0.073 grains per standard cubic foot.

The particle size data should be applicable to the Oregon mills. The average size Oregon smelt dissolving tank would emit 150 pounds per day of fine particulate out of a total of 160 pounds per day.

Eighty (80) percent of the particulate emissions from an uncontrolled smelt dissolving tank were reported as fine particulate. Therefore, as increased efficient controls are installed they are to a great extent controlling fine particulate.

No chemical composition data was reported for the smelt dissolving tanks. It is expected that the chemical composition of the emissions would be the same as the smelt which is approximately 20 percent sodium sulfide and 80 percent sodium carbonate.

Combined Emissions

The Western Kraft stack in Albany was tested by the NCASI for particle size. This stack combines the emissions from the recovery furnace, lime kiln, smelt dissolving tank and two power boilers. The mean particle size from this stack was 1.6 microns. This is in line with the previously mentioned data since the emissions from the combined stack are dominated by the recovery furnace.

The Department has concluded that the data presented by the kraft industry meets the objective of the study and is sufficient for the time being. The Department does not have sufficient ambient air or other data to justify the lowering of particulate emission standards from kraft mills. When the data base studies for the Portland and Eugene Air Quality Maintenance Areas (AQMA) are completed, this program may be reevaluated and additional studies or lower limits might be proposed.

Summation

1. The National Council for Air and Stream Improvement prepared a report for the Department which summarized available information on the particle size distribution of kraft mill emissions and presented the results of tests on seven (7) sources that they tested.

2. The results indicate that current emissions from the lime kilns and smelt dissolving tanks are mostly fine particulate. The emissions from recovery furnaces vary in the percentage of fine particulate from 39 percent to 96 percent depending on the efficiency of the electrostatic precipitator. The more efficient precipitators have the higher fine percentage of fine particulate emitted.
3. The Department has concluded that the data presented by the kraft industry is sufficient for the present and that the kraft mill regulation is not proposed to be modified at this time. The fine particulate emitted from kraft mills will be further evaluated when the Portland and Eugene data base studies are completed.

Director's Recommendation

Having found the report by the kraft industry to meet the objectives of the study as discussed in this report, I recommend the report to be accepted as adequately fulfilling the commitment made by this industry to the Environmental Quality Commission on May 27, 1977.

Bill

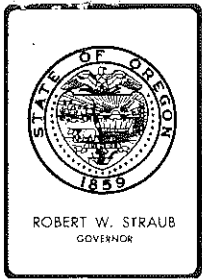
WILLIAM H. YOUNG

CRClinton/kz
229-5749
September 12, 1978

Correction to Agenda Item R

To prevent misinterpretation, the first paragraph of page number 4, Agenda Item R staff report, should be replaced with the following:

The data indicates that 85 percent of the emissions from uncontrolled recovery furnaces is fine particulate. It also indicates that the net result of installing a more efficient electrostatic precipitator is that a greater percentage of fine particulate is emitted. However, it should be noted that both the fine and the large particulate are reduced with a more efficient precipitator. On the furnace with the lowest particulate emission, 96 percent of the particulate was fine particulate and on the furnace with the highest particulate emission, 39 percent of the particulate was fine. It should be remembered that all these furnaces are well controlled. It is concluded that to reduce fine particulate would require very high efficiency control devices and likely would lead to substantial cost.



Environmental Quality Commission

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

To: Environmental Quality Commission
From: Director
Subject: Agenda Item 5, September 22, 1978, EQC Meeting; Indirect Source Rules - Proposed Settlement of Litigation and Request for Authorization to Hold a Public Hearing Regarding Proposed Rule Amendments

Background

In July 1975, Western Environmental Trade Association, Inc., Oregon State Homebuilders Association, International Council of Shopping Centers, Associated Floor Covering Contractors, and Asphalt Pavement Association of Oregon filed a petition for declaratory judgment in Lane County Circuit Court (No. 75-3351) (hereinafter "WETA" case). Named as respondents were the EQC, six of its members, the DEQ and two of its directors.

In December 1975 the Oregon-Columbia Chapter, the Associated General Contractors of America, Inc. ("AGC") filed a petition for judicial review in the Multnomah County Circuit Court (No. 424-274) against the same respondents as in the WETA case.

In February 1976, all the petitioners in the WETA case and Washington Square, Inc. filed a petition for judicial review in the Oregon Court of Appeals (No. 5767) (hereinafter referred to as "ICSC" case) against the same respondents as in the other two cases.

In each of the above cases, petitioners attack the validity of the Commission's indirect source rules on numerous statutory and constitutional grounds. No trial or briefing on the merits has occurred or has yet been scheduled in any of the cases. Rather, the parties have attempted to resolve their differences outside the court rooms.

A proposed settlement has been negotiated by Assistant Attorney General Robert L. Haskins on behalf of the Department, attorney Richard Alexander on behalf of AGC and attorney Bruce Anderson representing the remaining petitioners. The proposed settlement has been formalized in a Settlement Agreement, a copy of which is attached. As of the date of preparation of this report we have received copies of the Settlement Agreement signed by representatives of each petitioner except Asphalt Pavement Association of Oregon. According to Mr. Anderson

the association has signed it, and we will soon be provided a copy by mail. With one exception, the governing body of each petitioner has formally authorized or ratified execution of the Settlement Agreement. A ratifying resolution has not yet been obtained by the International Council of Shopping Centers. According to Mr. Anderson, the matter is scheduled to go before the Council's Executive Committee for action on September 15, 1978 with a "do pass" recommendation from Mr. Anderson and the Council's New York attorneys. We have received copies of the authorizing or ratifying resolutions from each other petitioner except AGC, WETA and the Asphalt Pavement Association. Mr. Anderson indicates that we will soon receive copies of those resolutions in the mail. On September _____, 1978 I executed the Settlement Agreement on behalf of the Department.

Essentially, the settlement agreement provides that, with one exception, the petitioners will dismiss all their litigation if the Commission adopts certain amendments to OAR 340-20-129. The one exception is that the petitioners in the ICCS case would be allowed to pursue their case in the Court of Appeals on one issue, that issue being the amount of "evidence" necessary to support agency rule-making.

A copy of the agreed upon proposed amendments is attached as Exhibit B to the Settlement Agreement. Basically, the proposed amendments establish a short form application for proposed parking facilities of less than 1000 spaces and provide criteria for requiring any additional information from such indirect source permit applicants.

Summary

The Department and petitioners have agreed to a dismissal with prejudice of the WETA and AGC cases and of the vast majority of the issues raised in the ICSC case, contingent upon the Commission adopting certain amendments to OAR 340-20-129.

Recommendation

The Director recommends that the Commission authorize the Director to schedule a public hearing to consider the adoption by the Commission of the proposed amendments to OAR 340-20-129 found in Exhibit "B" to the attached Settlement Agreement.

Bill

WILLIAM H. YOUNG, Director

JAMES A. REDDEN
ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

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

September 29, 1978

Mr. William H. Young, Director
Department of Environmental Quality
522 S. W. 5th Avenue
Yeon Building
Portland, Oregon 97201

Re: Indirect Source Rules

Dear Bill:

Enclosed is the original of my September 14, 1978 letter to you and the original of your memorandum to the Environmental Quality Commission regarding agenda item S for the September 22, 1978 EQC meeting, each of which you gave to me following the EQC meeting on September 22, 1978. Inasmuch as they are the originals, I suggest that you keep them in your records. We have copies thereof.

Sincerely,

Robert L. Haskins
Assistant Attorney General

hk

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

R E C E I V E D

OCT 4 1978

OFFICE OF THE DIRECTOR

Carol

JAMES A. REDDEN
ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

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

AGENDA ITEM S
September 22, 1978
EQC Meeting

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

R E C E I V E D

SEP 14 1978

OFFICE OF THE DIRECTOR

September 14, 1978

Mr. William H. Young, Director
Department of Environmental Quality
Yeon Building
522 S.W. Fifth Avenue
Portland, Oregon 97207

Re: Indirect Source Rules - WETA et al. v. EQC,
AGC v. EQC; ICSC et al. v. EQC

Dear Bill:

Enclosed is a proposed form of staff report for presenting to the Commission the proposed Settlement Agreement regarding the subject cases and for requesting authorization to hold a public hearing to consider adopting the negotiated amendments to OAR 340-20-129. Attached to that report as an exhibit is a copy of the Settlement Agreement with attachments.

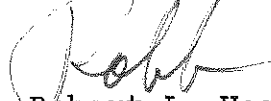
Also enclosed is another copy of the Settlement Agreement with attachments. Please review and if satisfactory date, sign and return to me. You may then fill in that date in the space provided on page 2 of the proposed staff report.

Richard Alexander plans to appear on behalf of all of the petitioners at the September 22, 1978 EQC meeting regarding this matter. He has a deposition in Medford on September 21st and therefore requests that the matter be scheduled as late on the agenda as possible.

William H. Young
Indirect Source Rules
September 14, 1978
Page 2

Please call me if you have any questions.

Sincerely,



Robert L. Haskins
Assistant Attorney General

gp

cc: E. J. Weathersbee
Mike Downs
Howard Harris
Bruce Anderson w/ copy of proposed staff report
Richard Alexander w/ copy of proposed staff report
Michael Williams w/ copy of proposed staff report

W1/J

SETTLEMENT AGREEMENT

This agreement is made by and between: The state of Oregon, Department of Environmental Quality ("Department"); and Oregon-Columbia Chapter, The Associated General Contractors of America, Inc., ("AGC"), an Oregon nonprofit corporation; Western Environmental Trade Association, Inc., ("WETA"), an Oregon nonprofit corporation; Oregon State Homebuilders Association ("OSHA"), an Oregon nonprofit corporation; International Council of Shopping Centers ("ICSC"), an Illinois not-for-profit corporation; Associated Floor Covering Contractors ("AFCC"), a voluntary unincorporated association of Oregon floor covering contractors; Asphalt Pavement Association of Oregon ("APAO"), an Oregon nonprofit corporation; and Washington Square, Inc., ("WSI"), a Washington corporation, on the dates specified below.

W H E R E A S

1. In July, 1975, WETA, OSHA, ICSC, AFCC and APA filed what they denominated as a "Petition for Declaratory Judgment Pursuant to ORS 183.400 (Suit in Equity)" in the Lane County Circuit Court. That case was assigned case no. 75-3351, and was brought against Oregon Environmental Quality Commission, Joe B. Richards, Dr. Morris Crothers, Dr. Grace S. Phinney, Jacklyn L. Hallock, Ronald M. Somers, Commissioners; B. A. McPhillips; Oregon Department of Environmental Quality, and Loren "Bud" Kramer, Director, Oregon Department of Environmental Quality; and Kessler R. Cannon, Respondents.

That case was brought seeking declaratory relief to determine the validity of the Environmental Quality Commission's "Rules for Indirect Sources", OAR 340-20-010 through 340-20-135.

That case is presently pending before the Lane County Circuit Court. No trial has yet been held. That case will be referred to herein as the WETA case.

2. In December 1975, AGC filed in the Multnomah County Circuit Court a "Petition for Review Pursuant to ORS 183.480 (16) [sic]." That case was assigned case no. 424-274. That case was brought against the same individuals and entities as were named Respondents in the WETA case. No trial has yet been held in case no. 424-274, referred to herein as the AGC case.

3. In February 1976, all the Petitioners in the WETA case and WSI filed a "Petition for Judicial Review Pursuant to Or Laws 1975, ch 759, Sec 9 (HB 2068)", in the Oregon Court of Appeals. That case has been assigned no. 5767. That case was brought against the same individuals and entities as were named Respondents in the WETA case. Court of Appeals case no. 5767 has not yet been briefed, heard or decided on the merits. It will be referred to herein as the ICSC case.

4. In each of the above cases, Petitioners have attacked the validity of the State of Oregon, Environmental Quality Commission's indirect source rules, OAR 340-20-100 through 340-20-135, on various grounds and in various respects. The parties hereto, through their representatives, have met informally on several occasions and discussed their differences. They have agreed to resolve the vast majority of their differ-

ences by compromising and settling the above-described cases on the following terms.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

A. Each of the Petitioners in the WETA case agrees to execute simultaneously herewith a Consent Decree dismissing their petition, with prejudice, as against each Respondent therein, without costs to either party. The Order of Dismissal shall be construed in accordance with Paragraph F hereof.

B. Petitioner, AGC agrees to execute simultaneously herewith a Consent Decree dismissing its petition, with prejudice, as against each Respondent therein, without costs to either party. The Order of Dismissal shall be construed in accordance with Paragraph F hereof.

C. Each of the parties in the ICSC case agrees to the filing of an Amended Petition as set forth in Exhibit A attached hereto, with any necessary renumbering of the "Rules for Indirect Sources" paragraphs referred to in Exhibit A, as such renumbering is caused by the amendments contained in Exhibit B; and each of the parties hereto, who are also petitioning organizations in the ICSC case, agree to be barred from raising the issues contained in the original Court of Appeals Petition in that case, except for those still remaining in accordance with Exhibit A attached hereto and by this reference incorporated herein and made a part hereof, as set forth in Paragraph F hereof.

D. The Department shall make a formal proposal to the Environmental Quality Commission ("Commission") of the State

of Oregon, that the Commission adopt amendments to its rule, OAR 340-20-129, identical in substance to those contained in the document entitled "Proposed Amendments to OAR 340-20-129 -- Third Draft, January 9, 1978", a copy of which is attached hereto as Exhibit B and by this reference incorporated herein and made a part hereof. (In Exhibit B language proposed to be deleted is enclosed in brackets []; language which is proposed to be added is underlined.) The Department shall make its best efforts to convince the Commission that it should adopt those amendments.

E. One or more representatives of the Petitioners in each of the three cases described above shall make his or her best efforts to encourage the Commission to adopt the proposed amendments. Each such Petitioner shall state its support of the proposed amendments on the record in the Commission's rule-making proceeding and hereby authorizes the Department to represent to the Commission the Petitioner's support on that record.

F. This Settlement Agreement is intended to resolve all differences between the parties regarding the subject matter of the above-described cases, except as expressly reserved herein. This Settlement Agreement is intended to supersede each and every previous oral and written agreement and understanding between the parties. This Settlement Agreement may be separately signed in multiple counterparts; but this Settlement Agreement shall not be binding upon any of the parties until authorized representatives of all of the parties listed above have signed a duplicate original of this Settlement Agreement. Each of the parties hereto agrees that this Settlement Agreement

shall be interpreted and construed under the laws of the State of Oregon, and that each of the parties is bound hereby. Each of the parties hereto agrees that except as stated in Paragraph C hereof, and Exhibit A attached hereto, they, as organizations, shall be barred from raising the issues that are the subject of the cases being dismissed as a result of this Settlement Agreement, and the issues originally presented in the ICSC case that are not contained in Exhibit A attached hereto, in any and all courts, and before all administrative agencies, of the State of Oregon and of the United States, as such issues apply to the wording of the "Rules for Indirect Sources" of the State of Oregon, as amended in accordance with Exhibit B attached hereto. Provided, however, that nothing contained in this Settlement Agreement, or in the Orders of Dismissal applicable to the WETA and the AGC cases, shall be construed as prohibiting any individual, partnership or corporation that is a member of any of the parties hereto from contesting the lawfulness of any provision of the "Rules for Indirect Sources" of the State of Oregon, as applied to that individual, partnership or corporation, in the course of a contested case hearing or other administrative, quasi-judicial or judicial proceeding involving the terms and conditions of an Indirect Source Construction Permit applicable to that individual, partnership or corporation.

G. The Petitioners' obligations under this Settlement Agreement, as set forth in Paragraphs A, B and C above, shall not be effective until the Commission has adopted the substance of the proposed amendments contained in Exhibit B attached hereto. The Commission shall have six (6) months from the

effective date of this Settlement Agreement, which shall be the date that such Settlement Agreement is signed by the last party hereto, to adopt the substance of the proposed amendments contained in Exhibit B attached hereto. Should the Commission fail to adopt such proposed amendments within the time specified, then this Settlement Agreement shall be of no further force and effect.

DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF OREGON

Dated this _____ day
of _____, 1978,
at Portland, Oregon.

By: _____
William H. Young
Director

OREGON-COLUMBIA CHAPTER, THE ASSOCIATED
GENERAL CONTRACTORS OF AMERICA, INC.

Dated this _____ day
of _____, 1978,
at _____.

By: _____
(signature)
Name of signator: _____
(type or print)
Title of signator: _____
(type or print)

WESTERN ENVIRONMENTAL TRADE ASSOCIATION,
INC.

Dated this _____ day
of _____, 1978,
at _____.

By: _____
(signature)
Name of signator: _____
(type or print)
Title of signator: _____
(type or print)

OREGON STATE HOMEBUILDERS ASSOCIATION

Dated this _____ day
of _____, 1978,
at _____.

By: _____
(signature)
Name of signator: _____
(type or print)
Title of signator: _____
(type or print)

INTERNATIONAL COUNCIL OF SHOPPING
CENTERS

Dated this _____ day
of _____, 1978.
at _____.

By: _____
(signature)
Name of signator: _____
(type or print)
Title of signator: _____
(type or print)

ASSOCIATED FLOOR COVERING CONTRACTORS

Dated this _____ day
of _____, 1978.
at _____.

By: _____
(signature)
Name of signator: _____
(type or print)
Title of signator: _____
(type or print)

ASPHALT PAVEMENT ASSOCIATION OF OREGON

Dated this _____ day
of _____, 1978.
at _____.

By: _____
(signature)
Name of signator: _____
(type or print)
Title of signator: _____
(type or print)

WASHINGTON SQUARE, INC.

Dated this _____ day
of _____, 1978.
at _____.

By: _____
(signature)
Name of signator: _____
(type or print)
Title of signator: _____
(type or print)

IN THE COURT OF APPEALS OF THE STATE OF OREGON

INTERNATIONAL COUNCIL OF SHOPPING
CENTERS; OREGON STATE HOMEBUILDERS
ASSOCIATION; WESTERN ENVIRONMENTAL
TRADE ASSOCIATION, INC.; ASSOCIATED
FLOOR COVERING CONTRACTORS; ASPHALT
PAVEMENT ASSOCIATION OF OREGON;
WASHINGTON SQUARE, INC.,

Petitioners,

v.

OREGON ENVIRONMENTAL QUALITY COM-
MISSION, JOE B. RICHARDS, DR. MORRIS
CROTHERS, DR. GRACE S. PHINNEY,
JACKLYN L. HALLOCK, RONALD M. SOMERS,
Commissioners; OREGON DEPARTMENT OF
ENVIRONMENTAL QUALITY and WILLIAM H.
YOUNG, Director, OREGON DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Respondents.

Case No. CA 5767

AMENDED PETITION FOR JUDICIAL REVIEW OF
THE VALIDITY OF ADMINISTRATIVE RULES
PURSUANT TO ORS 183.400

Petitioners seek judicial review of those Administrative Rules or Regulations, hereinafter in this Petition referred to as the "Rules for Indirect Sources" or "the Indirect Source Regulations," adopted by Respondent Oregon Environmental Quality Commission on or about November 22, 1974, as subsequently amended on or about February 28, 1975, on or about March 12, 1976, and on or about August 11, 1976, and known or identified as OAR Chapter 340, Sec. 20-100 through 20-135.

At all times mentioned herein, the status of Petitioners was and is as follows: Petitioner, International Council of Shopping Centers, was and is a voluntary membership organization organized as a not-for-profit corporation under the laws of the state of Illinois, with principal offices in New York City, New York, and with members throughout the United States and certain foreign countries, including the Oregon members thereof, who at all times mentioned herein, were and are owners, developers or builders of shopping centers, or operators of retail businesses within shopping centers, within the state of Oregon, such shopping centers being treated by Respondents as falling within the definition of indirect source as contained in Sec. 20-110 of the Rules for Indirect Sources. Petitioner, Oregon State Homebuilders Association, was and is a voluntary membership organization organized under and pursuant to the laws of the state of Oregon, whose members are directly engaged in the construction, within the state of Oregon, of those indirect sources falling under the definition

contained in Sec. 20-110(14)(g) of the Rules for Indirect Sources, as well as the residential subdivisions that are treated by Respondents as falling under and within the requirements of the Rules for Indirect Sources. Petitioner, Western Environmental Trade Association, Inc., was and is a voluntary membership organization organized under and pursuant to the laws of the state of Oregon, composed of business organizations, labor organizations and professional persons. who do business within the state of Oregon, such organizations and individuals being directly involved in the ownership, development or construction of the various types of indirect sources as defined in the Rules for Indirect Sources or as treated by Respondents covered by such Rules. Petitioner, Associated Floor Covering Contractors, was and is a voluntary, unincorporated membership association consisting of floor covering contractors doing business in the state of Oregon who take part in the construction of indirect sources as defined in Sec. 20-110(14)(b), (c), (d), (e), (f), (g), (h), (i) and (j) of the Indirect Source Regulations, as well as those additional improvements treated by Respondents as covered by such Regulations. Petitioner, Asphalt Pavement Association of Oregon, was and is a voluntary membership organization, organized under and pursuant to the laws of the state of Oregon, whose members construct highways, roads, parking facilities and the paved portion of airports, all of which such improvements constitute indirect sources within the definition of an Indirect Source as contained in Sec. 20-110(14) of the Rules for Indirect Sources. Petitioner, Washington Square, Inc., was and is a Washington corporation doing business in, and qualified to do business in, the state of Oregon and owning a substantial portion of a shopping center located in Washington County, Oregon. With the exception of Petitioner, Washington Square, Inc., all Petitioners have ten or more members in their association doing business within the state of Oregon and all such Petitioners are suing on behalf of their Oregon members. Petitioner, Washington Square, Inc., is suing on its own behalf.

Petitioners are adversely affected by the Indirect Source Rules as follows:

(a) Compliance with the Rules for Indirect Sources causes and will cause the Oregon members of Petitioner, International Council of Shopping Centers, increased construction costs and increased operational costs, and has in some instances caused potential tenants or other occupants to be unwilling to enter into a lease or other occupancy agreement for space in one or more shopping centers owned or operated by Petitioner's members.

(b) In several instances, certain of the members of Petitioner, Western Environmental Trade Association, Inc., have been substantially delayed in carrying out their desire to participate in the construction, operation or development of indirect sources due to the requirements of, and cost for compliance with, the Rules for Indirect Sources. During the periods of time covered by these delays, the cost for constructing and operating indirect sources rose significantly, resulting in increased costs to, and decreased profits for, those of Petitioner's members involved in such construction or operation.

(c) Compliance with the Rules for Indirect Sources, has required and will continue to require the members of Petitioner, Oregon State Homebuilders Association, to expend additional front-end costs and suffer delays in the construction of improvements covered by the Rules for Indirect Sources, therefore increasing Petitioner's members' construction costs for such improvements and accordingly increasing the costs of such improvements to the general public and decreasing the Petitioner's members' potential market for those improvements.

(d) The existence of the Rules for Indirect Sources has caused potential builders or developers of improvements covered by such Rules to either postpone the construction of such improvements or modify the floor space involved therein in such a manner as to decrease the amount of work and profit otherwise to be gained by the members of Petitioner, Associated Floor Covering Contractors.

(e) The Rules for Indirect Sources have caused the owners or developers of improvements covered thereby to postpone or modify the construction of the improvements in such a way as to affect the amount of work available to, and the profits otherwise to be gained by, the members of Petitioner, Asphalt Pavement Association of Oregon.

(f) Compliance with the predecessor of the present Indirect Source Regulations, which said preceding Regulations were much less demanding and involved in their requirements than the present Regulations, caused Petitioner, Washington Square, Inc. to incur additional costs in the approximate amount of \$200,000.00 to date, which but for these Regulations would not have been incurred. Petitioner, Washington Square, Inc., may need to apply for additional Indirect Source Construction Permits under the present Rules for Indirect Sources; and due to the increased requirements of such present Rules, as opposed to their predecessor, Petitioner anticipates even greater additional costs directly related to complying with the provisions of the present Regulations.

Petitioners ask that the Court declare the sections of the Rules for Indirect Sources listed below, and therefore the Rules for Indirect Sources themselves, invalid for the following reasons:

(1) The Rules for Indirect Sources, and in particular the finding and declaration stated in Section 20-100 thereof that "the regulation of Indirect Sources is necessary to control the concentration of air contaminants which results from Motor Vehicle Trips and/or Aircraft Operations associated with the use of Indirect Sources" were adopted without compliance with applicable rulemaking procedures, as they were adopted without a statement by the Respondent, Environmental Quality Commission, of the factual basis for, and reasoning from such factual basis resulting in, the promulgated declaration and rules.

(2) The finding by Respondent Environmental Quality Commission in Section 20-105 of the Rules for Indirect Sources that "the complexity or magnitude of Indirect Sources require statewide regulation," and, therefore, Respondent Commission "assumes or retains jurisdiction thereof," was adopted without compliance with applicable rulemaking procedures, because the Respondent Commission set forth neither the factual basis nor the reasoning for such finding.

(3) The determination of those Indirect Sources as to which there must be an application for Indirect Source Construction Permits for Parking Facilities or other Indirect Sources with Associated Parking set out in Section 20-115(2)(a), (b) and (c) were adopted without compliance with applicable rulemaking procedures because the Respondent Commission set forth neither a factual basis nor reasoning therefrom as to how it concluded that such approved Indirect Source Construction Permits should be required for such Indirect Sources but not for other parking facilities of other sizes and in other geographic areas.

(4) The provision of Section 20-129(1)(a)(H) requiring measurement and estimation of lead concentrations for Indirect Sources other than highway sections and airports resulting in total parking capacity of 1000 or more vehicles was adopted without compliance with applicable rulemaking procedures because Respondent Commission set forth neither a factual basis nor reasoning therefrom as to why it may reasonable require such measurement and estimation.

(5) The requirements of Sections 20-129(1)(a)(J), 20-129(1)(c)(L), 20-129(1)(d)(K) and 20-129(1)(d)(N) were adopted without compliance with applicable rulemaking procedures because Respondent Commission set forth neither the factual basis for nor reasoning therefrom in support of its conclusion that facility-by-facility review of air quality impact on a regional basis can be successfully accomplished.

(6) The provisions for application requirements for Parking Facilities and other Indirect Sources with Associated Parking, other than Highway Sections and Airports, Sections 20-129(1)(a) and 20-129(1)(b), were adopted without compliance with applicable rulemaking procedures because the Respondent Commission set forth neither a factual basis nor reasoning therefrom as to the reasonableness of requiring applicant information when parking areas will total 1000 or more spaces that is different from that information required when resulting parking areas will total 150 to 1000 spaces, regardless of whether any such parking areas are within or without areas in which air quality is or may become a serious problem requiring more stringent controls of sources of air contamination.

DATED this ____ day of JUNE, 1977.

COONS, COLE & ANDERSON

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PROPOSED AMENDMENTS TO
OAR 340-20-129
THIRD DRAFT
January 9, 1978

340-20-129 INFORMATION AND REQUIREMENTS APPLICABLE TO
INDIRECT SOURCE(S) CONSTRUCTION PERMIT APPLICATION WHERE NO
APPROVED PARKING AND TRAFFIC CIRCULATION PLAN IS ON FILE.

(1) [Application Information Requirements: (a) Parking
Facilities and other] For all Indirect Sources for which an
Indirect Source Construction Permit is required [with Associated
Parking], other than Highway Sections and Airports, [with planned
construction resulting in total parking capacity for 1000 or more
vehicles, the following] a completed Short Form Application
[information] shall be submitted containing the following
information:

[(A) Items (A) through (E) of subsection 340-20-125(1)(a):]

[(B) Subsection 340-20-125(2) and (3) shall be applicable.]

(a) A map showing the location of the site;

(b) A description of the proposed and prior use of the site;

(c) A site plan showing the location and quantity of Park-
ing Spaces at the Indirect Source and Associated Parking area,
point of motor vehicle ingress and egress to and from the site
and Associated Parking;

(d) A ventilation plan for subsurface and enclosed parking;

[(C)] (e) An estimate of the annual average and annual
maximum daily vehicle trips detailed in the highest one and eight
hour periods of the day, generated by the movement of mobile

sources to and from the Parking Facility and/or Associated Parking Facility for the [following time periods:]

[(i) First, fifth and tenth years after completion of construction of each planned incremental phase of the Indirect Source and having a total parking capacity of more than 5000 parking spaces.]

[(ii) First] first and fifth years after completion of each planned incremental phase of the Indirect Source [having a total parking capacity of 5000 or less parking spaces].

[(D)] (f) A description of the availability and type of mass transit presently serving or projected to serve the proposed Indirect Source. This description shall only include mass transit operating within 1/4 mile of the boundary of the Indirect Source.

[(E) A description of the Indirect Source Emission Control Program if such program is necessary in order to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).]

(g) (A) Within 15 days after the receipt of an application for an Indirect Source Construction Permit or any addition thereto, the Department (or Regional Authority having jurisdiction) shall mail or deliver to the applicant a written demand for any additional information which the Department (or Regional Authority having jurisdiction) requires as a condition precedent to making a final determination to issue or deny a permit.

(B) An application shall not be considered complete

until all the required information is received by the Department (or Regional Authority having jurisdiction). If no timely written demand is made for additional information, then the application shall be considered complete.

(C) Such additional information may be required when there is reasonable basis for concluding:

(i) that the Indirect Source may cause or contribute to a violation of the Clean Air Act Implementation Plan for Oregon;
or

(ii) that the Indirect Source may cause or contribute to a delay in the attainment of or a violation of any applicable ambient air quality standard after December 31, 1982; or

(iii) that the Indirect Source may cause or contribute to a delay in the attainment of or a violation of any applicable ambient air quality standard by any other Indirect Source or system of Indirect Sources after December 31, 1982; or

(iv) that the information is necessary to determine whether the proposed Indirect Source may cause or contribute to any such delay or violation.

The Department shall base such conclusion upon any reliable information, including ambient air monitoring, traffic volume, traffic speed, and air quality projections based thereon, or on any other reliable information.

(D) The additional information that may be required as a condition precedent to issuance of a permit may include any of that information required to be submitted in a Long Form

Application to OAR 340-20-129(2).

(2) For Indirect Sources, other than Highway Sections and Airports, proposed to be constructed or modified to create new or additional parking capacity of 1000 or more parking spaces in or within five miles of the municipal boundaries of Portland, Salem, Eugene or Medford, the following Long Form Application information shall be submitted:

(a) all the information required by the Short Form Application by OAR 340-20-129(1) (a) through (g).

~~[(F)]~~ (b) An estimate of the Average Daily Traffic, peak hour and peak eight hour traffic volumes for all roads, streets, and arterials within 1/4 mile of the Indirect Source and for all Freeways and Expressways within 1/2 mile of the nearest boundary of the Indirect Source for the time periods as stated in ~~[subsections]~~ subsection 340-20-129(1) [(a) (C) (i)] (e) [and 340-20-1
(1) (a) (C) (ii)] and as exist at the time of application.

~~[(G)]~~ (c) An estimate of the gross emissions of carbon monoxide, lead, reactive hydrocarbons and oxides of nitrogen based on the analysis performed in subsections 340-20-129(1) ~~[(a)]~~ (e) [(G)] and 340-20-129] (1) (a) (F)] (2) (b).

~~[(H)]~~ (d) Measured and [or] estimated carbon monoxide and lead concentrations at Reasonable Receptor and Exposure Sites. Measurements shall be made prior to construction. ~~[and estimates]~~ Estimates shall be made for the first, fifth and tenth years after the Indirect Source and Associated Parking are completed or fully operational. Such estimates shall be made for the average and peak operating conditions.

~~[(I)]~~ (e) Evidence of the compatibility of the Indirect

Source with any adopted transportation plan for the area.

[(J)](f) An estimate of the additional residential, commercial, and industrial developments which may occur concurrent with or as the result of the construction and use of the Indirect Source. This shall also include an air quality impact assessment of such development pursuant to 340-20-129(2)(d).

(g) A description of the Indirect Source Emission Control Program if such program is necessary in order to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).

[(b) For Parking Facilities and other Indirect Sources with Associated Parking, other than Highway Sections and Airports, with planned construction of parking capacity for 150 to 1000 vehicles; the following information shall be submitted:]

[(A) Items (A) through (E) of subsection 340-20-125(1)(a) and items (C) through (D) of subsection 340-20-129(1)(a). The Department will request item (E) of subsections 340-20-130(5)(a) where it is necessary in order to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).]

[(B) Subsections 340-20-125(2) and (3) shall be applicable. Such additional information may include such items as (F) through (J) of subsection 340-20-129(1)(a).]

[(c)](3) For Airports, the following information shall be submitted:

[(A)](a) Items (A) through (E) of subsection 340-20-125(1)(a).

[(B)](b) Subsections 340-20-125(2) and (3) shall be applicable.

[(C)](c) A map showing the topography of the area

surrounding and including the site.

[(D)] (d) Evidence of the compatibility of the Airport with any adopted Transportation Plan for the area.

[(E)] (e) An estimate of the effect of the operation of the Airport on total vehicle miles traveled.

[(F)] (f) Estimates of the effect of the operation and use of the Airport on traffic patterns, volumes, and flow in, on or within 1/4 mile of the Airport.

[(G)] (g) An estimate of the average and maximum number of Aircraft Operations per day by type of aircraft in the first, fifth and tenth years after completion of the Airport.

[(H)] (h) Expected passenger loadings in the first, fifth and tenth years after completion.

[(I)] (i) Measured or estimated carbon monoxide and lead concentrations at Reasonable Receptor and Exposure Sites. Measurements shall be made prior to construction and estimates shall be made for the first, fifth and tenth years after the Airport and Associated Parking are completed or fully operational. Such estimates shall be made for average and peak operating conditions.

[(J)] (j) Alternative designs of the Airport, i.e., size, location, parking capacity, etc., which would minimize the adverse environmental impact of the Airport.

[(K)] (k) An estimate of the additional residential, commercial and industrial development which may occur within three miles of the boundary of the new or modified Airport as the result of the construction and use of the Airport.

[(L)] (l) An estimate of the area-wide air quality impact

analysis for carbon monoxide, photochemical oxidants, nitrogen oxides, and lead particulate. This analysis would be based on the emissions projected to be emitted from mobile and stationary sources within the Airport and from mobile and stationary source growth within 3 miles of the boundary of the Airport. Projections should be made for the first, fifth and tenth years after completion

[(M)] (m) A description of the availability and type of mass transit presently serving or projected to serve the proposed Airport. This description shall only include mass transit operating within 1/4 mile of the boundary of the Airport.

[(d)] (4) For Highway Sections, the following information shall be submitted:

[(A)] (a) Items (A) through (C) of subsection 340-20-125(1)(a).

[(B)] (b) Subsection 340-20-125(2) shall be applicable.

[(C)] (c) A map showing the topography of the Highway Section and points of ingress and egress.

[(D)] (d) The existing average and maximum daily traffic on the Highway Section proposed to be modified.

[(E)] (e) An estimate of the maximum traffic levels for one and eight hour periods in the year in which the maximum air quality impact is projected and the first and last years the Highway Section is projected not to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).

[(F)] (f) An estimate of vehicle speeds for average and maximum traffic volumes for the year in which the maximum air quality impact is projected and the first and last years the

Highway Section is projected not to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).

[(G)](g) A description of the general features of the Highway Section and associated right-of-way.

[(H)](h) An analysis of the impact of the Highway Section on the development of mass transit and other modes of transportation such as bicycling.

[(I)](i) Alternative designs of the Highway Section, i.e., size, location, etc., which would minimize adverse environmental effects of the Highway Section.

[(J)](j) The compatibility of the Highway Section with an adopted comprehensive transportation plan for the area.

[(K)](k) An estimate of the additional residential, commercial and industrial development which may occur as the result of the construction and use of the Highway Section, including an air quality assessment of such development.

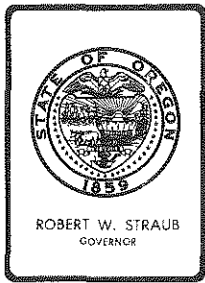
[(L)](l) Estimates of the effect of the operation and use of the Indirect Source on major shifts in traffic patterns, volumes, and flow in, on or within 1/4 mile of the Highway Section.

[(M)](m) An analysis of the area-wide air quality impact for carbon monoxide, photochemical oxidants, nitrogen oxides, and lead particulates for the year in which maximum air quality impact is projected and the first and last years the Highway Section is projected not to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c). This analysis would be based on the change in total vehicle miles traveled in the area selected for analysis.

[(N)](n) The total air quality impact (carbon monoxide and

load) of maximum and average traffic volumes. This analysis would be based on the estimates of an appropriate diffusion model at Reasonable Receptor and Exposure Sites. Measurements shall be made prior to construction and estimates shall be made for the year in which the maximum air quality impact is projected and the first and last years the Highway Section is projected not to be in compliance with the requirements of subsections 340-20-130(5)(a), (b) and (c).

[(O)](o) Where applicable and requested by the Department, a Department approved surveillance plan for motor vehicle related air contaminants.



Department of Environmental Quality

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207

September 7, 1978

MEMORANDUM

To: Environmental Quality Commission

From: William H. Young

Subject: Management Training Needs Assessment Study

This past January the Personnel Division of the Executive Department applied for and received a Federal grant to conduct a Management Training Needs Assessment Study. This study, hopefully, is to develop a comprehensive methodology to learn these needs. There is no such academic method known now. Agencies have had to resort to "shoot from the hip" on deciding management training needs.

We and the Corrections Division were chosen as pilot agencies. Our Personnel Officer, Thelma Hetrick, is a member of a small task force who developed the methodology and then administered the assessment study in DEQ.

Briefly, these are the steps used:

1. Questionnaire to about 5% (72 DEQ Managers) of the (5) manager levels based on the ten major areas of managerial knowledge state managers "need to know."
2. Follow-up questionnaire to #1 above to determine the extent to which executives and administrators agree with the middle managers priority lists and the extent which middle managers agree with the choices of first line supervisors.
3. An outside consultant interviewed "outsiders" to learn various associated groups/individuals perceptions of the management skills of the agency. The format for interviewees suggested legislators, budget analysts, personnel analysts, legislative fiscal, pressure groups, like agencies, commissions, etc.

The consultant for DEQ (at the Director's suggestion) interviewed a legislator, two administrators and some of their staff from other resource agencies, a legislative fiscal analyst, and Joe Richards.

4. Internal Interviews - The consultant interviewed a sample of the managers/supervisors who participated in the questionnaires to verify or dispel discrepancies discovered from the questionnaires.
5. Finally, the Task Force will meet in mid-September to analyze the study. The Summary Report and identified Management Training needs will be published about September 30.

The report from no. 3 above is attached.

WILLIAM H. YOUNG
Director

TMH:ahe
Attachment



Contains
Recycled
Materials

OUTSIDE INTERVIEWS
REPORT FOR MANAGEMENT NEEDS
TRAINING STUDY

June 1978

Interviewed:

Legislator (1)
Legislative Fiscal (1)
Commission Chairman (1)
Natural Resource State
Agency Administrators and staff (3)
Other (1)

General Observations

The interview sample is far too limited to reach global conclusions. The comments are made to open issues and encourage further study and discussion. The participants were cooperative and all shared the understanding that the agency is faced with a complicated and difficult mission. In each instance a variety of both positive and negative observations were made.

Relationships Internally, relationship agency to Commission, relationship to other interacting agencies.

There was a general statement of concern regarding the internal structure of the operations as externally perceived. The various sections were seen as self-centered and often preoccupied with self-maintenance. This was described as a part of specialization and as a part of the need to protect from outside intrusion. Some interpreted the strong divisional identification as part of a defense system. An agency often criticized and with a history of short-term leadership might react by establishing firm boundaries. Some of the movement is believed to be simply a matter of internal competition. Some, internally, may view their area as more critical in terms of overall goals. Strong leadership in divisions may also see themselves as better equipped to conduct the agency's goals than the series of administrators they have observed.

The agency is seen as made up of distinct, sometimes competitive sections that fail to present an integrated position with respect to major issues. This appears in interagency communication, in communication with the public, and the Legislature.

The Commission is much less understood from the standpoint of those interviewed. Some believed that the Commission had become too distant from the actual observations of operations. This has led to a lack of manager accountability. There was some strong feeling that the Commission should actively pursue questions of integration and review the output of staff with respect to very specific objectives. The Commission was also thought to have the potential of providing a more understandable set of organizational goals. It was also believed, in a few instances, that the Commission should make more effort to distinguish state and federal requirements.

Most believed the agency shared the general problem of inadequate coordination with other relevant agencies. All expressed concern with the inability to gain simplification of service response; none offered any major resolutions. Most say DEQ is similar to other governmental agencies with respect to this problem.

Related agencies identified with the role of DEQ in dealing with difficult issues and sympathized with the consistent stress. Some saw the present mandated effort to coordinate as useful and perceived the DEQ staff as honest and cooperative. The size and complexity of DEQ is noted as an impediment to coordination.

Decentralization was seen as a useful device to enhance communication and coordination at the local level. Some believe that the local offices are no better than the central office because of arrogance of staff and because appeals are ineffective. (The suggestion is made that although decentralization is an effective concept, it is overridden by staff attitudes.) Some others believe that the decentralization is incomplete and that those at the site have a limited ability to conclude.

Perceptions of technical competence, interpretative competence.

There is a general belief that the staff are technically competent. Some specific areas are noted as particularly competent. Others are seen as less strong and in need of specification of goals and regular review. Some see the professional engineering staff as being pulled from their areas of competence into administrative roles in which they are incompetent. The agency is seen, by some, as being eaten up by paper processing with the loss of engineering focus. This is believed to have diminished the ability of the agency to initiate research or generate original technical work. The agency, from this view, is crisis-oriented and reactive.

In general, the staff is viewed as technically competent but sometimes in positions which do not utilize the expertise and expose administrative weakness.

The leadership is characterized as presently competent to deal with the complex external relationship but handicapped internally by the middle-managers and strong sub-system structure. More active intervention by the leadership and Commission is suggested. Some believe a direct, rather demanding approach is desirable. Some see the intervention based on clear statement of goals and objectives and on regular progress reviews. Consistency in leadership is universally perceived as critical. Some see the present leadership as moving in a generally positive direction, both externally and internally. Some see the leadership as less effective in legislative contacts and promoting more distant relationships by professional staff. All see the leadership role as demanding and extremely handicapped by the history of the agency.

All see the need for careful consideration of the ability of all DEQ representatives to interpret goals in an understandable and thoughtful fashion. Almost all see problems in the ability of the staff to handle public interactions effectively. Some see the staff as cold, removed, and tactless. Others believe that the staff are defensive and appear arrogant. Some have the greatest regard for the staff relationships. All believe that the approaches can be improved. Some believe this can occur by imposition of directive, some see the need for extensive training and re-orientation. Almost all believe that the service role is not sufficiently emphasized presently. Citizens need to understand the reasons for actions and need to receive some advice concerning resolutions. It is believed that the manner in which these sensitive matters are handled can make a major difference in reactions.

Some express concern about the confusion between an ideological position as distinct from facts based on the technical competence. Some believe that the agency staff must take the time and be open in exploring alternative responses.

Integration of Operations and goal definitions.

It appears that external actors get a view of the agency that leads them to conclude that more needs to be done to insure goal agreement between sections. It is recognized that the professional staff have well developed areas of expertise and are preoccupied with their area. It is also believed that competition exists between units and between some middle-managers and the administrator.

Careful delineation of goals and objectives are believed to be vehicles for better integration, for better understanding of the goals by publics, and for more careful performance review by the administrator and Commission.

The agency also needs to carefully consider its regulatory role and its service role. The service role is seen as an area that needs elaboration.

Mention was made of special planning that appeared not to be integrated with on-going activities. It was stated that perhaps DEQ was developing a "think tank" approach without considering the impact on basic operations.

Special Issue; staff vulnerability.

Some raised issue about the opportunity for staff to be influenced because of the impact of their decisions. Suggestions were made that special legislation be introduced which would deny a staff member the ability to be employed by an affected operation for a stated period following severance from DEQ. Others believed that this issue was not of special importance and that any penalty would detract from the ability to employ competent professionals.